

North York Moors National Park Authority

District/Borough: Westworth Ward
Parish:

Application No. NYM/2018/0470/NM

Proposal: Non material amendment to planning approval NYM/2017/0505/MEIA to allow reintroduction of ventilation shaft

Location: Woodsmith Mine (Doves Nest Farm and Haxby Plantation), Sneatonthorpe

Decision Date: 7 September 2018

Consultations

Borough/District (Environmental Health Officer) – Has no objection

Parish - Eskdaleside cum Ugglebarnby Parish Council has confirmed that it does not intend to respond. Sneaton Parish Council has not responded.

Environment Agency – Has no objection subject to updated schemes of ground and surface water monitoring, groundwater management, remedial action plan and construction environment management plan being approved though the discharge of conditions attached to the substantive mine permission prior to commencement of construction of the ventilation shaft.

Natural England – Has no objection provided that conditions attached to the original permission remain in place.

Health and Safety Executive - Refer to standing advice relating to developments within the consultation distance of a hazardous installation (not applicable in this case).

Coal Authority – Has no objection subject to inclusion of an Informative Note as the development lies within a coal mining area (Development Low Risk Area) which may contain unrecorded coal mining related hazards.

North Yorkshire Moors Association (NYMA) – State that their original objections to the mine development remain in place and comment that the mine head site development is contrary to policies in the development plan, that the development is now a large blot on the landscape of the National Park, with the main construction period yet to start and that the additional spoil generated by the ventilation shaft, to be accommodated within the 'Bund C' area, will alter the landform and raise the height of this bund. NYMA also comment that, as it appears that the Lady Cross intermediate MTS shaft is no longer to be constructed, this means that the tunnel drive from the mine head will extend to the Lockwood Beck intermediate site, leading to an additional 255,000m³ of pyritic mudstone spoil needing to be accommodated at the mine head site, and that no provision is indicated for this in the planning application or in the previous Section 73 application.

NYMNP ecology – have no objection.

Director of Planning's Recommendation

Approval subject to the following condition(s):

1.	PLAN03	The development hereby approved shall only be carried out in accordance with the amended plans, which comprise the construction of a ventilation shaft and associated underground structures in accordance with the application details
----	---------------	---

		dated 17 July 2018 and the supplementary information contained in the Hydrogeological Assessment of Changes to the Ventilation Structure (document reference 40-FWS-WS-70-PA-AS-0001) received on 14 August 2018. Otherwise the development shall be carried out completely in accordance with the approved plans and imposed conditions of planning permission NYM/2017/0505/MEIA.
--	--	---

Informative(s)

1.	For the avoidance of doubt the non-material amendment hereby approved does not convey any authorisation for deposit of excavated material within the Woodsmith Mine surface site at a volume in excess of the maximum volume authorised under planning permission NYM/2017/0505/MEIA dated 6 February 2018.
2.	For the avoidance of doubt it is clarified that further details of matters relating to development of the ventilation shaft are required to be agreed through the discharge of planning conditions attached to planning permission NYM/2017/0505/MEIA dated 6 February 2018, as relevant.
3.	The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Background

Planning permission for development of a new polyhalite mine in the National Park was first granted in 2015. That permission authorised development of a mine head within the National Park, on land at Doves Nest Farm and Haxby Plantation (now referred to as Woodsmith Mine). The development permitted in 2015 included provision for construction of a fan house substructure chamber and ventilation shaft to a combined depth of approximately 100 metres below ground level, with an external shaft diameter of 11 metres, connecting to the deep service shaft via a horizontal tunnel, in order to facilitate ventilation of the Mine during the construction and operational stages.

In February 2018 planning permission was granted for material minor amendments to the mine head development, reflecting changes proposed by the applicant in order to achieve more efficient construction techniques and other improvements to the mine design. One such amendment included removal from the scheme of the separate ventilation shaft, with ventilation arrangements instead to be provided within the main service shaft headframe structure. The amended scheme has now been implemented and, in effect, has superceded the 2015 permission.

Following more recent input from new mine contractors, the developer is now seeking to re-introduce a separate ventilation shaft into the development, in essentially the same form as the arrangement permitted in 2015, which in their view will simplify and shorten construction programmes. The proposed shaft and fan house subsurface chamber would have a combined depth of 125 metres, with an external diameter of 9 metres. The applicant has indicated that no above ground changes to the development permitted in February 2018 are involved, other than a requirement to accommodate an additional 65,550m³ of excavated material generated by construction of the ventilation shaft and associated underground structures.

The shaft would be constructed using a vertical shaft sinking machine, as currently approved for excavation of the Minerals Transport System shaft. The fan house substructure chamber would utilise a secant piled wall and pre-grouting for groundwater mitigation purposes. No changes to operation of the established mine site groundwater management measures are proposed in association with the additional works, which would remain in place in accordance with planning conditions imposed on the 2018 permission. Further details of construction works for the ventilation shaft would need to be submitted for approval in advance of works taking place, in line with the phased approach to discharge of construction stage conditions also imposed on the 2018 permission.

Main Issues

In the context of the permitted mine project generally, and the mine head site specifically, the ventilation shaft represents a very small element of the overall development and is considered to represent a non-material amendment to the scheme when considered on that basis. It is noted that National Planning Practice Guidance states: *There is no statutory definition of 'non-material'. This is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application under section 96a of the Town and Country Planning Act 1990.*

It is also noted that the acceptability in principle of a separate ventilation shaft in the same location, and to substantially the same design, was established relatively recently through the original grant of permission for the mine development in October 2015.

Planning Practice Guidance clarifies that applications under section 96a are not subject to the requirements of section 38(6) of the Planning and Compulsory Purchase Act 2004, through which applications must be determined in accordance with the policies in the development plan unless material considerations indicate otherwise.

In considering an application under section 96a, Planning Practice Guidance states that the local planning authority must have regard to the effect of the change, together with any previous changes to the development made under section 96a. In this particular case only one other non-material amendment to the February 2018 permission has been approved. This relates to the installation of a Northern Power Grid kiosk structure at the western side of the mine head site. This is a relatively small containerised structure, separated from the main mine head development area by a screen fence. It is not considered that the presence of that structure either separately, or in association with the remainder of the main mine head development, has any adverse implications for the acceptability of otherwise of the proposed ventilation shaft.

As the ventilation shaft structures will be located underground they are not in themselves expected to give rise to any significant adverse impacts on the environment or amenity, noting that all existing planning conditions attached to the February 2018 permission would continue to apply to the development as amended by any further approval granted under section 96a. This includes conditions relating to monitoring and mitigation of any impacts on groundwater and any consequential implications for ecological receptors. The applicant has submitted a qualitative hydrogeological assessment of the implications of changes to the ventilation structure. The Environment Agency has confirmed that they have no objection in principle to the development, provided that updated schemes for ground and surface water monitoring, management and remedial action are agreed through the discharge of conditions prior to the commencement of works. Construction impacts associated with the ventilation shaft and management of related extracted material would be subject to existing conditions

applying at the mine head to control construction stage activity, including those relating to matters such as noise, dust and vibration.

The main issue relevant to the proposal relates to the arrangements for the management of material extracted during construction of the ventilation shaft. The February 2018 permission allows for a range of final volumes of excavated material to be accommodated in a landscaping mound to the south of the shaft platform area (referred to as 'Bund C') which is intended as a 'balancing' area for storage of excavated material, reflecting the fact that some engineering design matters, impacting on the total volume of extracted material produced, are still being finalised. In particular, the diameter of the two main deep shafts was indicated in the application approved in February 2018 to fall within the range 6.5 to 9.5 meters, leading to an expected minimum and maximum total volume of excavated material for deposit on site of 853kt and 968kt respectively. The February 2018 permission contains a condition requiring final details of shaft diameter and spoil volumes to be submitted for approval. For comparison, the maximum figure authorised under the 2018 permission (ie 968kt) is substantially lower than that approved via the original 2015 permission (now superseded) of 1,230kt.

The reintroduction of the ventilation shaft and associated underground structures into the scheme permitted in February 2018 would lead to a total volume of material requiring accommodating on site of between 919kt and 1,033kt, based on the potential shaft diameter range referred to above. However, the applicant has indicated that, whilst the intended diameter of the main shafts is still being finalised, current engineering plans involve adopting a shaft diameter of around 6.7 metres, ie very much at the lower end of the expected range. In this eventuality the overall volume of material to be accommodated, following re-introduction of a separate ventilation shaft, would fall within the range already authorised through the February 2018 permission. However, to maintain appropriate planning control over this matter, it is considered that any approval for the non-material amendment now sought should make clear that it does not convey any approval for the deposit of excavated material at the Woodsmith Mine site at a total volume in excess of the upper limit approved via the February 2018 permission. This will ensure that the substantive 2018 permission remains the principal mechanism for controlling this matter, including via condition 97 requiring submission of final details for approval of shaft diameters and spoil volumes, and condition 98 which requires details of the final ground levels in the 'Bund C' area to be submitted and approved.

This approach should also assist in addressing concerns raised in the representation received from the North Yorkshire Moors Association, relating to the implications of the ventilation shaft proposal for overall volumes of excavated material to be accommodated at the Woodsmith Mine site, and the consequential landscape impacts of this. Whilst it is noted that the Association also raise concern in their response about the implications of potential further changes to the Minerals Transport System tunnel arrangements on requirements for storage of extracted material at the mine head site, such changes do not form part of the current proposal.

In summary, it is considered that the proposal represents an acceptable non-material amendment to the development already permitted and that approval should be granted. Such approval should be subject to conditions and informative notes to clarify that the decision does not convey any approval for deposit of an overall volume of excavated material in excess of that already authorised through the February 2018 permission reference NYM/2018/0505/MEIA; that all existing planning conditions attached to permission NYM/2018/0505/MEIA continue to apply to the development as amended; that submission of further details relating to the construction of the ventilation shaft be provided through the discharge of relevant conditions on the 2018 permission, and; that an informative note be included relating to coal mining hazards, as required by the Coal Authority.

Contribution to Management Plan Objectives

Approval on the limited basis proposed 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-application discussions with the developer to discuss requirements relating to the submission and the issues that arise.