

**North York Moors National Park Authority**

<p><b>Parish:</b> Brompton, Broxa-Cum-Troutdale, Burniston, Cloughton, Danby, Darncombe-Cum-Langdale End, Egton, Eskdaleside-Cum-Ugglebarnby, Fylingdales, Glaisdale, Goathland, Grosmont, Hackness, Harwood Dale, Hawsker-Cum-Stainsacre, Hutton Buscel, Irton, Lockwood, Newby and Scalby, Newholm-Cum-Dunsley, Silpho, Sneaton, Staintondale, Suffield-Cum-Everley, West Ayton, Whitby, Wykeham</p>	<p><b>App No. NYM/2017/0505/MEIA</b></p>
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**Proposal:** Variation of condition 5 of planning permission NYM/2014/0676/MEIA to allow minor material amendments relating to that part of the development at the Woodsmith Mine site (formerly known as Doves Nest Farm and Haxby Plantation), including; re-design of foreshafts and shaft construction methodology, changes to building layout and shaft access arrangements, revisions to construction and operational shaft platform levels, revisions to location and layout of surface water attenuation ponds, revisions to groundwater management arrangements and amendments to internal access road arrangements

**Location:** Land at Woodsmith Mine (formerly Doves Nest Farm & Haxby Plantation), Sneatonthorpe (minehead); underneath 252 km<sup>2</sup> of the NYMNPA (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)  
NYM/2014/0676/MEIA

**Applicant:** Sirius Minerals Plc, Mr Robert Staniland c/o Agent

**Agent:** Lichfields, 14 Regent's Wharf, All Saints Street, London, N1 9RL

**Date for Decision:** 15 December 2017

**Grid Ref:** NZ 489495 505142

**Director of Planning's Recommendation**

**Approval** subject to completion of Section 106 agreements and to the schedule of approved plans and drawings set out in Appendix One and to the schedule of terms and abbreviations, conditions and informatives set out in Appendix Two. (See Section 10 for full officer recommendation).

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## **1. Background**

### **1.1 The October 2015 planning permission**

1.1.1 Members will recall that planning permission was granted in October 2015 for development of a major new polyhalite mine, to be located within the National Park, with a Mineral Transport System and associated infrastructure extending beyond the Park boundary. In summary, the main elements of the approved development comprise:

- Development of a mine head at Dove's Nest Farm/Haxby Plantation, in the National Park, and extraction of polyhalite from a large area beneath the east of the National Park (determined by the North York Moors National Park Authority – application reference NYM/2014/0676/MEIA);
- An underground mineral transport system to move the extracted mineral from the mine to Teesside, comprising a series of linked conveyors within a 37 kilometre tunnel at an average depth of 250 metres below ground level, supported by 3 intermediate shaft sites to be located at Lady Cross Plantation (in the National Park), Lockwood Beck (located immediately adjacent to the National Park) and Tocketts Lythe (in Redcar and Cleveland Borough outside the National Park) (determined by the North York Moors National Park Authority and Redcar and Cleveland Borough Council for those elements which lie within their respective areas);
- Materials Handling Facility at Wilton, Teesside (determined by Redcar and Cleveland Borough Council) and a harbour facility at Bran Sands, Teesside (determined by the Planning Inspectorate under the National Strategic Infrastructure Project arrangements);
- Extraction of polyhalite from beneath the sea bed (licence application determined by the Marine Management Organisation in 2013).

- 1.1.2 The officer report to Committee on the application determined by the National Park Authority in 2015 is available here <http://www.northyorkmoors.org.uk/planning/York-Potash-Sirius-Minerals-Polyhalite-Mine/York-Potash-Special-Planning-Committee-Report.pdf> and sets out comprehensive information on the background, context and issues relevant to the approved development. The minutes recording the decision made by the Authority can be viewed here <http://www.northyorkmoors.org.uk/planning/York-Potash-Sirius-Minerals-Polyhalite-Mine/Resolution-3.pdf> .
- 1.1.3 In resolving to grant permission for the development, members considered that:
- (a) The potential economic benefits from the proposal represents a transformational opportunity for the local and regional economy;*
  - (b) The likelihood of establishing a global market for polyhalite fertiliser is such that Phase 2 production levels will be achievable, resulting in economic benefits that are significant at a national level;*
  - (c) The innovative nature of the mine design and associated landscaping result in an acceptable reduction in the long term environmental impacts of the development;*
  - (d) There was no realistic scope for locating the development elsewhere outside the designated area;*
  - (e) Members attach greater weight to these benefits than the environmental impacts during the construction period and the long term harm to the Special Qualities of the National Park at the minehead site and consider that:*
    - (i) the proposal represents exceptional economic circumstances which outweighs the extent of the conflict with the Development Plan;*
    - (ii) therefore the public interest lies in approving the application.*
- 1.1.4 The permission granted by the Authority is subject to 95 conditions in order to secure appropriate planning control during implementation of the development. It is also accompanied by a legal agreement under Section 106 of the Town and Country Planning Act 1990, setting out a range of legal obligations on the developer, which the Authority considered were necessary to make the development acceptable by securing mitigation and compensation for many of the residual adverse effects of the development on the National Park. The main focus of these obligations is to ensure that appropriate contributions are made by the developer in relation to:
- Carbon offsetting via the planting of substantial new areas of mixed deciduous woodland throughout the construction and operational stages to support delivery of the objectives of Core Policy D (Climate Change) of the NYM Local Development Framework Core Strategy and Development Policies;
  - Addressing and/or compensating for the residual impacts of the development on landscape, tranquillity, special qualities or ecology;
  - Compensating for and mitigating impacts on the perception of the National Park for tourism arising from development of the Mine.
- Work is now taking place to ensure the delivery of these and other obligations contained in the agreement.
- 1.1.5 The 2015 planning permission notice can be viewed here: <http://planning.northyorkmoors.org.uk/MVM.DMS/Planning%20Application/811000/811019/a%20Part%20000%20NYM2014-0676-MEIA%20Decision%20Notice.pdf> . The Section 106 agreement between the NPA, the developer and other relevant parties can be viewed here: <http://www.northyorkmoors.org.uk/planning/York-Potash-Sirius-Minerals-Polyhalite-Mine/Final-NYM-S106.pdf> .
- 1.1.6 Separate S106 legal agreements are in place between the developer and North Yorkshire County Council and Redcar and Cleveland Borough Council, to address additional requirements including road traffic management, improvement of rail services and infrastructure on the Esk Valley Line and provision of support for local training and economic development measures, amongst other matters.

## **1.2 Progress on the development since October 2015**

- 1.2.1 Since the grant of permission in 2015, progress has been made with the discharge, or partial discharge, of planning conditions relating to pre-commencement and early construction stage matters and this work is continuing. Following completion of the necessary financial security provisions relating to default re-instatement works and provision of payment security for financial contributions required via S106 obligations, the development formally commenced on 4 May 2017.
- 1.2.2 In addition to progress with the discharge of planning conditions, a number of applications for non-material amendments to the 2015 permission have been submitted and determined under the provisions of Section 96a of the Town and Country Planning Act 1990. Amendments approved through such applications comprise:
- Realignment of the main internal access road linking the approved welfare building complex and mine shaft site and minor amendments to shaft platform levels;
  - Revisions to temporary access arrangements for construction purposes;
  - Use of localised diaphragm walling techniques for initial foreshaft construction purposes, in place of previously approved grouting and cast concrete walling.
- 1.2.3 Work undertaken on the development so far has been concentrated at the main mine head site in the National Park (now referred to as Woodsmith Mine) and at the Lockwood Beck intermediate shaft site, located outside but immediately adjacent to the Park boundary. Activities at the Woodsmith Mine site have included construction of the main site access and partial construction of the main internal access road; construction activities for formation of shaft platforms; erection of temporary concrete batching plant to support construction activity; initial temporary screen mound construction; drainage works, and; provision of temporary site welfare infrastructure and accommodation. Off-site highway improvement works along the construction traffic access route have also been undertaken.
- 1.2.4 Following the securing of initial funding for the development, and the appointment of main contractors for the construction works, the developer has identified a number of opportunities to construct certain elements of the Mine in a more efficient and, in their opinion, improved way. The proposed changes are now reflected in the planning application subject of this report.

## **1.3 Section 73 application proposals and decision making context**

- 1.3.1 The application relates to proposed minor material amendments to the development permitted on 19 October 2015 (as amended by the subsequent approved non-material amendments referred to in Paragraph 1.2.2 above). The proposed amendments relate solely to the main Woodsmith Mine site and therefore only directly affect land within the National Park.
- 1.3.2 The application has been submitted under Section 73 of the Town and Country Planning Act 1990 to vary condition 5 of the existing permission, which requires that the development only be carried out in complete accordance with approved plans accompanying the 2015 permission. The effect of the application is to seek minor material amendments to the permitted development by substituting a number of new plans for those already approved, reflecting the changes sought.
- 1.3.3 A permission granted under Section 73 of the 1990 Act is a new permission which would exist alongside the permission being amended. National Planning Practice Guidance (NPPG) indicates that any permission pursuant to Section 73 should carry forward relevant conditions from the original decision notice, unless they have already been discharged. New conditions may also be imposed where they meet the

various tests for conditions set out in NPPG. Guidance also indicates that where a planning permission contains a condition specifying the time period within which the permission must be implemented (a three year period in this instance) the same period must be imposed on the modified permission.

- 1.3.4 Whilst there is no statutory definition of a minor material amendment, NPPG states that it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved. The Guidance further indicates that pre-application discussions will be useful to judge the appropriateness of this route.
- 1.3.5 Officers have held pre-application discussions with the applicant and have sought legal advice. This advice confirms that it is for the Authority to satisfy itself that the amendments proposed are of a scale and/or nature which would result in a development which is not substantially different when compared to the one that has been approved. The advice further indicates that the proposals are likely to meet this requirement. In forming an opinion on this matter, officers note that the proposed amendments would not lead to any alteration to the key principles of the mine development as established through the October 2015 permission; relate only to one part of the total permitted area for the development; would not lead to any changes in the extent of the area permitted for development, and; that it is appropriate to consider the significance of the proposed amendments in the context of the very substantial scale and complex nature of the development already permitted. Officers therefore consider that Section 73 provides an appropriate mechanism for consideration of the proposed amendments.
- 1.3.6 In determining an application under Section 73, NPPG indicates that the application must be judged against the development plan and material considerations, as well as the conditions attached to the existing permission. It states that: *“Local planning authorities should, in making their decision, focus their attention on national and development plan policies, and other material considerations, which may have changed significantly since the original grant of permission.”* (PPG 016 ID: 17a-016-20140306). The Guidance also states that: *“In deciding an application under Section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application.”* (PPG 013 ID: 21a-013-20140306).
- 1.3.7 Legal advice to the Authority on the approach to determining this application has further clarified that:
- It remains necessary to consider the overall scheme, as proposed to be amended by the revised plans, in accordance with wider policy considerations including the current development plan, and other material considerations;
  - The decision by the Authority in 2015 to grant permission for the development now subject of proposed amendments, and the subsequent implementation of that permission, are themselves material considerations which should be taken into account in determining the Section 73 application.
- 1.3.8 It follows from the above that members will need to consider the application as a whole in the context of the development plan and other material considerations, including national planning policy. However, in doing that it will be important to focus on whether there have been any substantive changes to policy, or to other important matters including, in particular, any changed impacts as a result of the amendments now proposed. From that assessment, members should consider whether it would lead them that to a different conclusion on the acceptability of the overall development as proposed to be amended, in comparison with the development permitted by the Authority in 2015.

- 1.3.9 In any event the development under the 2015 permission has commenced. Therefore, at least until such time as any permission granted in pursuance of the Section 73 application is implemented, so as to make it impossible to continue to develop the original scheme or to make the development on the ground inconsistent with the original permission, the 2015 permission will remain extant independent of any decision taken on this new application.
- 1.3.10 Case law also clarifies that this Committee can impose additional or revised conditions on a new planning permission granted pursuant to Section 73 but only if those conditions could lawfully have been imposed on the original permission, so that the new conditions would not amount to a fundamental alteration of that permission, judged as a matter of fact and degree.
- 1.3.11 The application is accompanied by an Environmental Impact Assessment submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. This is in the form of a Supplementary Environmental Statement (SES) to that accompanying the development permitted in 2015. The original Environmental Statement, including supplementary information provided by the applicant, forms an appendix to the SES submitted with the Section 73 application. Following a request by the Authority, further information relating to the SES was submitted by the applicant in October and November 2017 and was made available for consultation purposes in accordance with the Regulations.
- 1.3.12 National targets for determination of planning applications accompanied by EIA require such applications to be determined within 16 weeks, unless otherwise agreed in writing with the applicant. The applicant has agreed an extension of the time period for determination of this application until 15 December 2017.
- 1.3.13 The applicant has also undertaken a 'shadow' assessment of the proposals under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). Under Regulation 61 of the Habitats Regulations a competent authority (in this case the NPA) must, before deciding to give permission for a project which is likely to have a significant effect on a European nature conservation site or a Ramsar site, make an appropriate assessment of the implications of the project for the integrity of that site in view of the site's conservation objectives. The purpose of the shadow assessment provided by the applicant is to assist the NPA in fulfilling its obligations under the Habitats Regulations.
- 1.3.14 As noted earlier in this report, the current permission is accompanied by Section 106 legal agreements requiring a substantial package of measures and contributions, which were considered necessary to compensate or mitigate for the residual adverse effects of the development on a range of important matters, including those relating to the requirements of Core Policy D of the Local Development Framework Core Strategy and Development Policies, landscape and ecology matters and tourism.
- 1.3.15 The applicant is proposing that the legal obligations contained in the relevant S106 agreements (ie those contained in the agreements between the developer and the National Park Authority and between the developer and North Yorkshire County Council) be carried forward in the same terms, via deeds of variation, to any new permission granted pursuant to the current application.

## **2. Proposed amendments to the permitted development**

### **2.1 Summary of proposed material minor amendments**

- 2.1.1 The applicant states that the proposed amendments result from the identification of more efficient construction techniques and the potential for other improvements to the layout and design of the development at the main mine head site, following the original grant of permission and the appointment of main contractors.

- 2.1.2 All the proposed amendments relate to the Woodsmith Mine site itself (formerly referred to as Doves Nest Farm and Haxby Plantation). There are no proposals in this application to revise the development already permitted for the three intermediate shaft sites, the underground Minerals Transport System linking the Woodsmith Mine site with handling and harbour facilities at Teesside, or to change the extent of the proposed underground working area.
- 2.1.3 In summary, the minor material amendments now proposed at the Woodsmith Mine site comprise:
- Use of alternative construction methods and creation of amended sub-surface structures, including revision to shaft diameters, shaft access arrangements, and groundwater management measures;
  - Amendments to size and orientation of some mine head buildings and timing of their construction;
  - Revisions to shaft platform size and configuration;
  - Consequential minor changes to configuration of spoil storage arrangements;
  - Realignment of part of the approved internal access road;
  - Revisions to the location and configuration of surface water attenuation capacity.
- 2.1.4 A number of the proposed changes are inter-related and arise as a consequence of intended revisions to shaft design and construction methodology. In particular, this includes the early utilisation of permanent shaft winders and headframes for the two main shafts (men and materials shaft and minerals shaft), thereby avoiding the need for use of 45m high temporary (construction stage) winding towers for these two shafts. This and related changes require redesigned foreshafts, to facilitate access and ventilation and to allow the removal of spoil during shaft digging, leading to a consequential need for changes to mine head building sizes and orientation.
- 2.1.5 More information about each of the proposed changes is set out below.

## **2.2 Construction methods and sub-surface structures**

- 2.2.1 The main elements of these changes comprise:
- a. The early utilisation of permanent shaft winders and headframes for the mineral shaft winder and men and material shaft winder, thereby replacing the need for temporary winding arrangements, using 45m high winding towers, for these two shafts during the construction stage. The use of a temporary 45m high winding tower during construction of the much shallower Minerals Transport System (MTS) shaft would be retained as currently permitted. The maximum height above Ordnance Datum (AOD) of this temporary winding tower, as approved under the current permission, would not be affected by proposed changes to shaft platform levels, as this tower would be located on the lower eastern section of the construction platform.
  - b. Use of permanent shaft winders at the outset requires an alternative means of access to the shafts during the construction stage, including for spoil removal purposes. It is therefore proposed to incorporate wider diameter foreshafts, to a depth of approximately 60m below ground level, incorporating lifting systems. These foreshafts would have a diameter of approximately 35m (men and materials shaft) and 32m (minerals shaft).
  - c. Foreshaft construction would involve the installation of circular diaphragm walls around the perimeter of the foreshaft, to prevent ingress of groundwater. Diaphragm walling involves the excavation of deep narrow trenches using specialised cutting equipment, with temporary support for the resultant trench being provided by pumping a bentonite clay-based slurry into the trench, prior to eventual displacement of the slurry with concrete. It is a well-established construction technique and has been used for example during construction of the

Cross-rail project and during dam construction. Approval for diaphragm walling to a depth of 60m, in place of conventional grouting as approved via the 2015 permission, has been given via the non-material amendment referred to in Paragraph 1.2.2 above. Diaphragm walls are now also proposed to be continued to a depth of 120m below platform level, to facilitate construction of the upper part of the main shafts (ie below the foreshafts) as part of the proposals within this Section 73 application. This would require the continued use of up to three diaphragm walling rigs with a maximum height of 26.2m, with associated cranes (up to two per rig) and other supporting infrastructure including bentonite storage tanks, de-sanding plant, de-watering and groundwater monitoring equipment and related contractor workshop and welfare facilities. Diaphragm wall construction would take place on a 24 hour/day basis over a total period of approximately 12 months.

- d. As a result of continuing refinements to the detailed design of the sub-surface engineering and construction elements of the scheme, the applicant has identified the potential for a reduction in the currently permitted 9.5m internal diameter of the two main shafts (men and materials and minerals shafts), although the applicant is not yet in a position to finalise the specific shaft diameters, pending the outcome of continuing geotechnical investigations. The application therefore seeks approval to construct the shafts to an internal diameter in the range between 6.5m and 9.5m. This and other proposed construction changes have implications for the amount of spoil generated (see section 2.5 below).
- e. A further change to sub-surface construction arrangements is the removal from the scheme of the currently permitted drift access to the men and materials shaft, together with the associated underground tunnels and structures. The removal of the drift access arrangements and use of diaphragm wall construction for the foreshafts, in association with minor raising of the shaft platform levels, would avoid the need for the proposed grout curtain wall that is currently permitted for construction around the entire western and southern margins of the shaft platform, in order to prevent groundwater ingress.
- f. Removal of the drift access would result in a requirement for surface vehicular transport for the full distance between the welfare building and the men and materials shaft building for the purposes of mine workers accessing the shaft. This would be achieved via the internal access road already permitted between the welfare building and shaft platform. Under the currently permitted arrangements, transport would be via the access road at surface level as far as the drift portal, with subsequent movements taking place within the drift itself.

### **2.3 Mine head buildings layout and timing of building construction**

- 2.3.1 The intended changes to below ground foreshaft arrangements would result in a need to re-orientate and amend the shape of the men and materials shaft winder building. Changes to the proposed winder design and use of a smaller cage would also result in a proposed reduction in floor area from 4,419m<sup>2</sup> to 3,738m<sup>2</sup>. The general location of the building remains unchanged as this is dictated by the location of the shaft itself, which remains the same as for the permitted scheme under the 2015 permission.
- 2.3.2 The minerals shaft winder building would be re-orientated to reflect the revised foreshaft design and use of permanent winders at the outset. The need for changes to the design of the permanent winders would result in a substantial increase in the size of this building, from 1,642m<sup>2</sup> to 4,231m<sup>2</sup>. The applicant has indicated that this substantial increase in size is a result of the need to accommodate an adequate separation distance between the winder drum/motor and the shaft entrance, as well as to allow adequate space for maintenance and to change winder ropes. As with the men and materials shaft, the location of the building would remain unchanged.

- 2.3.4 The Minerals Transfer System (MTS) shaft building would be increased in size to accommodate an emergency shaft winder, resulting in an increase in floor area from 449m<sup>2</sup> to 640m<sup>2</sup>. It should be noted that a temporary 45m high winding tower would still be required to facilitate construction of this shaft.
- 2.3.5 The intake ventilation equipment building would be relocated closer to the men and materials shaft winder building to reduce power draw from ventilation fans. This building would also be reduced in size from 1,442m<sup>2</sup> to 717m<sup>2</sup>, reflecting revised mine ventilation arrangements.
- 2.3.6 The backup generator building would be reduced in size from 1,024m<sup>2</sup> to 341m<sup>2</sup>.
- 2.3.7 In combination, the proposed changes to building sizes would lead to a net increase in floor area of 691m<sup>2</sup>, representing less than 6% of the total built floor space (including the welfare facility) authorised by the permitted development. It should be noted that the welfare building, to be located towards the southern end of the site, would remain unchanged in size, design and location.
- 2.3.8 The applicant has confirmed that the changes to mine-head building sizes and layout (and other proposed changes to shaft platform arrangements) would not result in any increase in the currently approved maximum ridge heights above ordnance datum (AOD) of +212.8m for the men and materials and minerals shaft winder buildings and +208.7m for other mine head buildings.
- 2.3.9 Use of permanent shaft winders at the outset for the men and materials and minerals shafts would result in the need for construction of the two largest mine head buildings (ie the minerals shaft winder and men and material shaft winder buildings) at an earlier stage in the project than under the permitted scheme. The men and materials shaft building is now proposed for completion by spring 2019. The minerals shaft building would be constructed in two phases, with the north and central parts complete in summer 2018 and the remaining southern part completed in spring 2019. Under the permitted scheme, construction of these buildings would have taken place following removal of the temporary winding towers, towards the end of the construction phase.

## **2.4 Revisions to shaft platform**

- 2.4.1 In combination with the above changes, minor revisions are also proposed to the height and precise configuration of the main shaft platform. Revisions approved via an application for non-material amendments have already authorised a slight raising of the northern part of the platform, resulting in a two tier platform. That change reduced the need for excavation and retains the platform above the mean groundwater table. At that time the applicant was not in a position to finalise the proposed level of the southern platform area. It is now proposed, via the Section 73 application, to raise this platform to a level compatible with that of the northern platform area. The proposed width of the operational stage platform has also been reduced. The applicant has confirmed that these changes will not impact on the maximum height AOD of the ridgeline of buildings constructed on the platform, compared with those approved through the current permission, as the buildings would be set further into the finished shaft platform level.

## **2.5 Management of spoil arisings and storage of spoil**

- 2.5.1 A reduction in shaft diameter, in combination with other proposed changes referred to above, including removal of the drift access arrangements, use of wider diameter foreshafts and alterations to shaft platform levels, would have implications for the total volume of spoil generated during construction.

- 2.5.2 Information provided by the applicant indicates that, under a scenario where the internal shaft diameter remains at 9.5m (as currently approved), the net effect of the other proposed changes would be to reduce the total quantity of spoil arising at the Woodsmith Mine site from 1.23 million tonnes (mt) (permitted scheme) to 0.97mt. A reduction in shaft diameter to 6.5m, in combination with other proposed changes, would result in a further reduction in the total quantity of spoil to 0.85mt. Information provided by the applicant indicates that most of the reduction in overall spoil volume is accounted for by revisions to surface and near surface preparation works and removal from the scheme of the drift portal and access tunnel.
- 2.5.3 Changes in quantity and precise timing of spoil arising would have some consequential implications for the construction of related spoil storage mounds. The scheme permitted in 2015 includes provision for permanent storage of a substantial volume of spoil in a storage mound to the south of the shaft platform area, referred to by the applicant as Bund C. It should be noted that Bund C is not intended to provide a specific screening function for the development. The amended scheme now proposes that this area be used as a 'balancing area' for spoil storage, reflecting the potential for this area to accommodate a range of spoil volumes depending on the exact amount of spoil generated by the development. The applicant has submitted drawings showing minimum and maximum spoil disposal scenarios for Bund C. Under the maximum scenario, the currently approved height for Bund C of 218.5m AOD would be reduced to 214.5m AOD. Under a minimum scenario the requirement to permanently accommodate a significant quantity of spoil within the Bund C area would no longer arise.
- 2.5.4 The various construction changes proposed, particularly the slight raising of shaft platform levels, would lead to some reduction in availability of arisings of spoil in the early construction stages. This would lead to a consequential reduction in the initial rate of formation of permanent spoil mounds in the north western, northern and eastern parts of the site, although temporary mounds to the north west, north and north east of the shaft platform would be in place at an early stage of construction for screening and noise attenuation purposes. An extension of temporary screen mounding along the north western boundary of the site is also proposed in order to accommodate arisings of spoil from the diaphragm walling process.

## **2.6 Internal access road alignment**

- 2.6.1 Revisions to the alignment of the main internal access road have already been approved through an application for non-material amendments (see paragraph 1.2.2 of this report). A further revision is now proposed via the Section 73 application to connect the access road to the shaft platform via a new ramp. The location of the security gatehouse has also been amended to reflect the revised alignment of the road.

## **2.7 Surface water drainage attenuation ponds**

- 2.7.1 The permitted development provides for the construction of two surface water drainage attenuation ponds and an associated surface water wetland area, serving the northern part of the site. These were to be located within an area currently occupied by a coniferous plantation known as Whinny Wood. The Section 73 application seeks retrospective permission for the re-location of attenuation capacity and the associated wetland area into a field immediately to the north of Whinny Wood, thereby allowing retention of 2.2ha of established woodland which would otherwise have been removed, as well as avoiding the need for diversion of a power line. The field already falls within the permitted surface area for the mine head site and, under the permitted scheme, was identified for potential temporary storage of spoil. This is no longer required.

2.7.2 In association with this change, increased attenuation capacity is provided through an additional pond, leading to an increase in capacity of around one-third. An additional silt trap would also be provided.

### 3. Consultations

#### 3.1 Sirius Minerals pre-and post-submission community consultation activity

3.1.1 Prior to and following submission of the application the applicant has undertaken a range of community consultation activity, including:

- Publication of two press releases in the local press outlining the Section 73 application – one prior to and the other one after the application was submitted;
- Continuing community relations activity, including regular visits to site neighbours to update on progress and to inform what will be happening in the near future, including informing neighbours of the proposed Section 73 amendments;
- Attendance at parish council meetings over the period since May 2017 to inform them of the application and answer questions relating to it, including meetings of Whitby Town Council and Sneaton, Hawsker-cum-Stainsacre, Eskdaleside-cum-Ugglebarnby, Fylingdales and Lockwood Parish Councils;
- A site visit on 13 September 2017 for parish councillors from Sneaton, Hawsker-cum-Stainsacre, Eskdaleside-cum-Ugglebarnby and Fylingdales Parish Councils;
- The Section 73 application was discussed at the Community Liaison Group Forum meeting held on 11 July 2017;
- Outline information about the proposals has been available on the Sirius Minerals website;
- Public drop-in events in Sneaton and Hawsker in November 2017 to provide information about current and intended future construction activities.

#### 3.2 Statutory consultation

3.2.1 Statutory consultees' responses are summarised below and can be viewed in full on the Authority's website.

3.2.2 **Scarborough Borough Council (Planning):** Following consideration of the submitted information and noting the number of amendments to buildings, working practices and other engineering works the Borough Council has concluded to raise **no objections** to the proposed modifications. The Borough Council has confirmed that it has no comments to make on further information provided by the applicant following submission of the application.

3.2.3 **Scarborough Borough Council (Environmental Health):** raise **no objections** on environmental health grounds.

3.2.4 **North Yorkshire County Council (Highways Authority):** raise **no objections** on highways grounds.

3.2.5 **North Yorkshire County Council (Lead Local Flood Authority):** **No objections** are raised with respect to surface water management.

3.2.6 **Redcar and Cleveland Borough Council:** Confirmation has been provided that the Borough Council has **no comments** to make.

- 3.2.7 **Responses from Parish and Town Councils:** Direct consultation has taken place with those Parish and Town Councils in closest proximity to the Woodsmith Mine site. These include Sneaton, Eskdale cum Ugglebarnby, Hawsker cum Stainsacre and Fylingdales Parish Councils and Whitby Town Council.
- 3.2.8 **Sneaton Parish Council and Eskdale cum Ugglebarnby Parish Council:** No objections.
- 3.2.9 **Hawsker cum Stainsacre and Fylingdales Parish Councils:** Support the application as they consider it would be better for the environment.
- 3.2.10 Whitby Town Council has **no objection**
- 3.2.11 A further 22 Parish Councils within the wider Sirius Minerals polyhalite mine project area in the National Park were sent an informative letter advising them of submission of the application, providing a link for further information and details of how to make representations if required. **No representations** have been received from these Parish Councils.
- 3.2.12 **Environment Agency (EA):** Confirmation is provided that the EA has reviewed the hydrogeological risk assessment and that it **is satisfied** that it adequately outlines those changes to the works that may affect groundwater. The EA confirms that it understands that further detailed groundwater quantitative assessments will be carried out as part of future discharge of conditions and/or environmental permit submissions. Confirmation is also provided that there are **no concerns** from a flood risk or water quality perspective.
- 3.2.13 In response to consultation on further long- term hydrogeological modelling information received in October and November 2017, the EA has confirmed its view that this shows that any impacts on groundwater dependent receptors will be minimal and that **no objections** are raised. The EA provide further comments to the effect that additional information will be needed, as the project progresses, to confirm the effectiveness of the groundwater recharge trench, proposed by the applicant to mitigate impacts on sensitive groundwater receptors, and that this should involve more detailed evaluation of ground conditions and the final design of the recharge trench, as well as information on maintenance and monitoring of the trench throughout its lifetime.
- 3.2.14 **Natural England (NE) - Objects** to the application on landscape grounds and impacts on special qualities. It does not consider that the minor material amendments proposed significantly alter the advice or basis for objection provided by NE in respect of the permitted development (to the effect that the proposed amended development would continue to have a significant adverse impact on the landscape and setting of the National Park during the construction period and would impact adversely on the special qualities of the Park, including; remoteness, tranquillity, wildness and undeveloped “skylines”, and that there would be significant visual impact on the heritage coast during the construction phase). NE notes that the number of temporary winding towers has been reduced from three to one but understands that the timescale for the remaining winding tower has not changed from the approved scheme. NE agrees with the conclusion in the SES that this will not change the overall scale or contrast of visible construction activity within available views when compared with the approved scheme. NE also express some concern about the adequacy of photomontages submitted with the SES but does not consider that further updating or revising of the photomontages would change NE’s advice on landscape matters.
- 3.2.15 With reference to hydrogeology, NE initially indicated that it had concerns regarding the lack of long-term modelling of the hydrogeological impacts of the development and the potential impacts on the North York Moors SAC, SPA and SSSI at Ugglebarnby Moor. In response to further information provided by the applicant, NE

has now confirmed that, subject to imposition of conditions to ensure long term monitoring and management of proposed groundwater recharge mitigation measures, it has **no objection** and that it is satisfied that the Habitats Regulations Assessment of the proposal can conclude no adverse effects on the integrity of the SPA, SAC and SSSI.

3.2.16 With regard to protected species, NE refer to their published Standing Advice on protected species.

3.2.17 **Historic England (HE)** - refers to the advice it provided on the permitted development (to the effect that the proposal generated harm to heritage assets, specifically the heritage assets on the Whitby Abbey Headland, but that the harm was temporary and should be weighed against the public benefits of the proposal in accordance with advice at para. 134 of the National Planning Policy Framework). With regard to the current proposals, HE accepts that the proposed reduction from three to one temporary winding tower will have a reduced visual impact, but there will still be an impact on heritage assets, albeit temporary. HE therefore continues to **have concerns** regarding the construction phase of the scheme. HE express surprise that there has been no additional or amended heritage assessment included in the SES and that they are unclear whether the additional elements of the variation request will have an impact on the timetable and sequencing of the agreed archaeological mitigation strategy. HE recommends that the Authority should satisfy itself that the omission of an amended or updated heritage assessment is not a substantive matter in the context of the advice in Paragraphs 128 and 134 of the NPPF. HE also states that, in determining the application, the Authority should bear in mind the statutory duty to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

3.2.18 Further views received from HE in November 2017 suggest that the Authority seeks advice from its specialist conservation and archaeological advisers, as relevant. Members are asked to note that the views of the Authority's archaeological adviser are summarised later in this report at paragraphs 5.14.7 and 5.14.8.

3.2.19 **The Coal Authority** - has **no objections**.

3.2.20 **HM Chief Inspector of Mines (part of the Health and Safety Executive):** Comment that in mining engineering terms the proposed changes are minor and there are no matters which appear to impact adversely on the health and safety of the workforce, or to members of the public. Therefore **no objections** are raised.

3.2.21 **North Yorkshire Moors Association (NYMA):** NYMA consider that:

- The changes proposed in the application amount to more than minor changes, representing instead a radical departure from the original application and will be part of the permanent industrial complex at the mine head site and therefore question whether an application for minor material amendments under Section 73 is the appropriate mechanism for dealing with the changes proposed (*Officer note – Use of Section 73 as a mechanism for considering the amendments proposed is addressed in paragraphs 1.3.4 and 1.3.5 of this report*);
- The changes to size, shape and orientation of mine head buildings creates a more obvious building mass in the landscape and two main mine head buildings will be highly visible during their construction for a period of up to three years and also visible in the wider landscape for much longer. The re-configuration and changes to the buildings re-enforce NYMA's view that they would be inappropriate development in the National Park and contrary to policy;
- The proposed diaphragm walling rigs and associated cranes would have an equal or worse impact than the static winding towers currently permitted. NYMA do not agree with the conclusions in the SES that the diaphragm walling rigs are slender

and transparent at a distance and express concern that the SES does not provide updated photomontages for all viewpoints originally assessed, including from locations on the Coast to Coast Walk;

- Clarity should be provided as to why a final decision on shaft diameter has not been made at this stage in the project;
- Expected changes to development of the MTS and intermediate access shaft sites will lead to a need for a substantial volume of additional spoil disposal at the mine head and proposals for this are not included in the Section 73 application;
- There will be a major adverse impact on the special qualities of tranquillity and dark skies extending through the construction period of five years and NYMA believe this would also extend through the operational period. NYMA considers that the SES has seriously underestimated the magnitude of night-time impacts which should be described as *major* rather than *moderate* adverse;
- Use of diaphragm walling rigs will lead to an increase in noise levels associated with the development, further increasing impacts from noise during the construction period. There may also be a problem with noise during the operational period;
- The retention of Whinny Wood is welcomed;
- The changes do not mitigate or reduce the adverse impact of the development on the landscape of the National Park and on balance will worsen the impact during the construction period. The proposed changes represent a cost-cutting exercise rather than changes which are motivated by an attempt to lessen the harm to the immediate environment of the area around the mine head and to the wider landscape;
- In conclusion NYMA consider that the application **should be refused or a decision deferred** until there is clarity about the effects of changes to the Minerals Transport System and the consequences of the need for additional spoil disposal at the mine head site for the proposals in the application (*Officer note – consideration of this matter is set out in paragraphs 5.1.1 and 5.1.2 of this report*).

### 3.3 Third Party Representations

- 3.3.1 At the time of preparing this report the Authority has received two letters of representation from third party respondents (residents of Goathland and Glaisdale respectively).
- 3.3.2 **Objections** are raised on grounds of: General concern about the adverse impacts of the Mine on the environment of the National Park. Specific matters are also raised in relation to concern that, in future, people will not be able to enjoy the same experience of, and benefit from, the North York Moors and Whitby Abbey as the respondent has. The respondent considers that the enjoyment and emotional benefit that people receive in visiting the area has simply been viewed as a business opportunity for Whitby, rather than as the purpose for which the National Park was established, and as such the larger business opportunity has taken precedence. An area of very beautiful, peaceful and uplifting countryside with very special long distance views of Whitby Abbey from the Moors will no longer be available without the jarring disturbance of the mine development. The respondent supports the responses and advice provided on the application by Natural England and Historic England.

- 3.3.3 Representations have also been received from **Campaign for National Parks (CNP)**: CNP asks that the application **be refused and that determination is deferred** until such time as the full impacts of changes to the Minerals Transport System can be taken into account.
- 3.3.4 CNP refer to their objection to the permitted development and state that they remain extremely concerned about the impacts of such a significant development on the National Park, which they consider to be completely incompatible with National Park purposes.
- 3.3.5 CNP consider that the proposed changes amount to more than minor changes and question whether Section 73 is an appropriate mechanism for addressing the changes for the following reasons:
- The amendments to the orientation, shape and sizing of the minerals shaft building and men and materials shaft building, in combination with an increase in size of the Minerals Transport System, will result in a more obvious building mass in the landscape and represent a significant collection of large industrial buildings in the National Park;
  - The replacement of temporary winding towers by more visually intrusive mobile diaphragm walling rigs and cranes will significantly increase the impacts of shaft construction;
  - The changes would lead to increased levels of noise during the construction phase;
  - There is lack of clarity on the amount of spoil generated and this has implications for landscaping of the site and the visual and landscape impacts of the mine during operation;
  - Changes to the MTS system will lead to a need for increased disposal of spoil and other changes at the mine head site and the absence of information in the Section 73 application on these matters is a significant omission which should be resolved before the application is determined.
- 3.3.6 CNP raises **specific objections** on grounds of:
- The proposed changes are contrary to the statutory purposes of National Parks as they would increase the adverse impacts of the development on the landscape and special qualities of the National Park;
  - The proposal is contrary to the National Park Authority's planning policies, specifically:
    - i) Core Policy A (*Delivering National Park Purposes and Sustainable Development*) as the development would have an unacceptable level of harm on the landscape, quiet enjoyment, peace and tranquillity of the National Park;
    - ii) Development Policy 1 (*Environmental Protection*) as the changes would increase adverse environmental impacts from the project as a result of increased noise, and increased potential for pollution and traffic impacts as a result of lack of clarity relating to spoil disposal needs arising from changes to the MTS;
    - iii) Development Policy 3 (*Design*) as the changes including the likely increase in size of the landscaping mounds will not enhance views into or out of the National Park and will therefore not contribute to the character and quality of environment within it. Furthermore, that an increase in the size of buildings and increased visibility of infrastructure during the construction phase make the project even

more incompatible with the surrounding area and increase the adverse effect on the adjacent landscape;

iv) Development Policy 14 (*Tourism and Recreation*) as there will be increased adverse impacts on tourism and recreation facilities in the area, increased impact on visitors including users of the Coast to Coast walk and other rights of way as a result of increased visual impact and noise during construction.

- The proposal is contrary to national planning policy giving the highest status of protection to National Parks in relation to landscape and scenic beauty as the applicant has not demonstrated that the additional adverse effects on landscape, visual amenity and biodiversity will be satisfactorily mitigated. The increased impacts on landscape and visual amenity and from noise during construction and operation will directly impact on the National Park's special qualities and the likelihood of increased levels of traffic will adversely affect tranquillity;
- There will be increased adverse impact on both residents and visitors to the Park during both the construction and operation of the mine, including as a result of increased visibility during construction and the potential for increased numbers of HGV movements and this will impact upon the enjoyment of the National Park and the qualities for which it was designated;
- The proposed changes are not appropriate for consideration as a Section 73 application which is intended to cover only minor modifications. CNP also state that consideration should be given to other changes to the project which are not covered by this application but which are likely to have significant impacts on the National Park, including increased levels of spoil and anticipated increase in HGV movements as a result to changes to the MTS.

## **4. Planning Policy and Guidance**

### **4.1 National Park purposes and the planning status of National Park Authorities**

4.1.1 The North York Moors National Park Authority was made the sole local planning authority for the National Park under section 4A of the Town and Country Planning Act 1990. This confers on it all the responsibilities of a local planning authority, including minerals and waste planning and development management functions. This is because the town and country planning system is a key instrument in the achievement of National Park purposes and ensures that there is a strong link between the statutory purposes of Planning (Planning and Compulsory Purchase Act 2004 and The Town and Country Planning Act 1990), which is the delivery of sustainable development, and the statutory purposes of National Parks which are to:

- a. Conserve and enhance the natural beauty, wildlife and cultural heritage of the area;
- b. Promote opportunities for the understanding and enjoyment of the special qualities of the area by the public (National Parks and Access to the Countryside Act 1949).

4.1.2 In pursuing these purposes a National Park Authority have a duty to foster the economic and social well-being of local communities within the National Park.

4.1.3 Section 11A of the National Parks and Access to Countryside Act 1949 states that if it appears that there is a conflict between these purposes which cannot be resolved, greater weight shall be attached to the purposes of conserving and enhancing the natural beauty, wildlife and cultural heritage of the Park.

4.1.4 These purposes and, in their pursuance, the duty, are an important material planning consideration but they are also fundamentally interwoven into the National Park Authority's Local Development Framework. In assessing the proposal, the Authority

therefore has an additional responsibility to consider whether it contributes to the statutory purposes and duty. It is this particular dual statutory role of the National Park Authority which sets it apart from other local planning authorities, as planning decisions should ideally contribute to the achievement of National Park Purposes.

## **4.2 Determination of Planning Applications in accordance with the Development Plan**

4.2.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. This is set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 which states that *“If regard is to be had to the development plan for the purpose of any determination under the planning acts the determination must be made in accordance with the plan unless material considerations indicate otherwise”*. This effectively establishes the primacy of the ‘development plan’ in the planning system and the Government has confirmed this in the National Planning Policy Framework, which sets out that the planning system should be ‘genuinely plan-led’ (Paragraph 17).

## **4.3 The Development Plan**

4.3.1 The development plan for the National Park consists of the North York Moors National Park Authority Core Strategy and Development Policies (November 2008), the Whitby Business Park Area Action Plan (adopted November 2014) and the Helmsley Local Plan (prepared jointly with Ryedale District Council and adopted in July 2015). There are no Neighbourhood Development Plans yet adopted in the National Park and the Yorkshire and Humber Regional Strategy has now been abolished. Work has commenced on preparation of a new Local Plan for the National Park which will, when adopted, replace policies in the Core Strategy and Development Policies (November 2008), other than those policies relating to minerals and waste development. These latter policies will be replaced by a Minerals and Waste Joint Plan for North Yorkshire, York and the North York Moors National Park, which is also in preparation.

4.3.2 Since publication of the National Planning Policy Framework (NPPF), due weight should be given to relevant policies in existing development plans according to their degree of consistency with the Framework; the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given. In this respect the Authority undertook a self-assessment of the Core Strategy and Development Policies in October 2012, which concluded that the Plan as a whole is in general conformity with the NPPF and should therefore be given full weight beyond the transitional period set out in the NPPF. Appeal decisions since the publication of the NPPF have not indicated otherwise.

## **4.4 Core Strategy and Development Policies (November 2008)**

4.4.1 In assessing the Section 73 application against the Core Strategy and Development Policies, and any other relevant elements of the development plan, there is a need to look at the development plan as a whole and have regard to its overarching strategy and aims, as well as consider the proposal in relation to any directly relevant policies. The document includes both strategic policies and more specific detailed development policies to take forward the vision, objectives and spatial strategy for the North York Moors National Park. In particular, Core Policy A sets out an overarching approach, applicable to all proposals, which seeks to deliver National Park purposes through sustainable development.

4.4.2 The most relevant policies in the Core Strategy and Development Policies document are:

Core Policy A: Delivering National Park Purposes And Sustainable Development  
Core Policy B; Spatial Strategy

Core Policy C: Natural Environment, Biodiversity And Geodiversity  
Development Policy 1: Environmental Protection  
Core Policy D: Climate Change  
Development Policy 2: Flood Risk  
Core Policy E: Minerals  
Development Policy 3: Design  
Development Policy 7: Archaeological Assets  
Core Policy H: Rural Economy  
Development Policy 10: New Employment And Training Development  
Development Policy 23: New Development And Transport

- 4.4.3 Core Policy E is of particular significance as it relates specifically to proposals for minerals extraction. The text of this Policy is set out in full below:

*Core Policy E, Minerals*

*Minerals extraction in the National Park will enable the provision of materials necessary for preserving traditional buildings and for maintaining and enhancing the character of settlements and the countryside of the National Park. Minerals extraction or the re-working of former quarries will be permitted where:*

- 1. It is of a scale appropriate for its location in the National Park and is for meeting a local need for building stone.*
- 2. There are no suitable sources of previously used materials to meet the identified need.*
- 3. Any waste materials from extraction will be re-used or recycled wherever possible.*
- 4. A scheme for restoration and after-use of the site based upon protecting and enhancing the special qualities of the National Park forms an integral part of the proposal.*

*Development which would compromise the future extraction of important building stone at existing or former quarries will not be permitted.*

*All other minerals developments will be considered against the major development tests.*

*The continued extraction of potash at Boulby will be permitted provided that any detrimental effect on the environment, landscape or residential or visitor amenity is not unacceptable in the context of any overriding need for the development.*

- 4.4.4 Core Policy E essentially permits only small scale mineral extraction to meet a local need for building stone and the continued extraction of potash at Boulby Mine subject to environmental safeguards, in recognition of the national need for potash as a fertiliser. All other minerals development, including that proposed in the Section 73 application is, in the context of this Policy, to be considered against the 'major development tests'.

## **4.5 Draft Minerals and Waste Joint Plan**

- 4.5.1 Work is currently taking place, in partnership with North Yorkshire County Council and City of York Council, towards preparation of a joint Minerals and Waste Plan. When adopted, relevant new policies in the Joint Plan will replace equivalent policy contained in the Core Strategy and Development Policies document. The Joint Plan is at a relatively advanced stage of preparation, with submission for Examination in Public taking place in late November 2017.
- 4.5.2 The National Planning Policy Framework states that decision-takers may give weight to relevant policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies, and their degree of consistency with policies in the NPPF. In the context of this advice, it is noted that although the draft Joint Plan is at an advanced stage of preparation, and is

considered to be generally consistent with the NPPF, there are unresolved objections to relevant elements of the Plan. It is therefore considered that only very limited weight should be applied to it at this stage.

- 4.5.3 Policy M22 of the draft Joint Plan addresses proposals for potash, polyhalite and salt. The relevant element of this draft Policy (as proposed to be changed by modifications agreed by the three Authorities) states:

*Proposals for the extraction of potash and salt from new sites within the North York Moors National Park and renewed applications for the existing sites at Boulby Mine and Doves Nest Farm beyond their current planning permissions will be assessed against the criteria for major development set out in Policy D04.*

*Proposals for new surface development and infrastructure associated with the existing permitted potash, and salt mines in the National Park, or their surface expansion, which are not considered to be major development, will be permitted provided they meet the requirements of Policy D11 and Policy I02 and that no unacceptable impact would be caused to the special qualities of the National Park, its environment or residential or visitor amenity in the context of any need for the development. Proposals for new surface development and infrastructure which are considered to represent major development will be assessed against the criteria for major development set out in Policy D04.*

- 4.5.4 The relevant element of draft Policy D04: Development affecting the North York Moors National Park and the AONBs states:

*Part 1) – Major minerals and waste development*

*Proposals for major development in the National Park, Howardian Hills, Nidderdale, North Pennines and Forest of Bowland Areas of Outstanding Natural Beauty will be refused except in exceptional circumstances and where it can be demonstrated it is in the public interest. The demonstration of exceptional circumstances and public interest will require justification based on the following:*

- a) The need for the development, which will usually include a national need for the mineral or the waste facility and the contribution of the development to the national economy; and*
- b) The impact of permitting it, or refusing, it upon the local economy of the National Park or AONB; and*
- c) Whether the development can be technically and viably be located elsewhere outside the designated area, or the need for it can be met in some other way; and*
- d) Whether any detrimental effect on the environment, the landscape and recreational opportunities, can be moderated to a level which does not significantly compromise the reason for the designation.*

*Where there are exceptional circumstances and the proposal is considered to be in the public interest, every effort to avoid adverse effects will be required. Where adverse effects cannot be avoided, harm should be minimised through appropriate mitigation measures. Appropriate and practicable compensation will be required for any unavoidable effects which cannot be mitigated.*

- 4.5.5 The effect of draft Policy D04 is to clarify and refine the requirements of the Major Development Test, as expressed in national policy (see Paragraph 4.9.2 below), by placing it in a local context as part of the development plan, although the broad principles remain unchanged.

## **4.6 Draft North York Moors Local Plan**

- 4.6.1 Preparation of the new Local Plan is still at a relatively early stage and it would not be appropriate to give weight to any potentially relevant policies.

## 4.7 Helmsley Local Plan

4.7.1 This adopted Plan does not contain any policies material to the application.

## 4.8 Material considerations: The National Planning Policy Framework (NPPF)

4.8.1 Material considerations are important issues relevant to planning which will be specific to each planning case and need to be considered in determining an application. They can be of such importance as to override planning policy, including that contained in the development plan. The NPPF was published in March 2012. It sets out the Government's planning policies for England and how these are expected to be applied and is an important material consideration in determining applications. As the NPPF clarifies in paragraph 6, the policies in the document (in paragraphs 18-219) taken as a whole, constitute the Government's view of what sustainable development means in practice for the planning system. The Framework is therefore to be considered as a whole. However, as with the development plan, certain policies are of particular relevance and in the context of minerals extraction and protected landscapes these are as follows:

### PARAGRAPH 143

"In preparing Local Plans, local planning authorities should:

- *Identify and include policies for extraction of mineral resource of local and national importance in their area...."*

4.8.2 Annex 2 of the NPPF identifies a wide range of minerals which are necessary to meet society's needs and are considered to be of local and national importance. Potash is included in this definition.

### PARAGRAPH 144

"When determining planning applications, local planning authorities should:

- *Give great weight to the benefits of the mineral extraction, including to the economy."*

4.8.3 The above references indicate the importance the Government attaches to society's need for potash and the economic benefits of mineral extraction generally. They are however generic in the sense that they are not location-specific and therefore need to be considered in context. Paragraph 115 of the NPPF sets out the importance of the National Park first purpose in the planning system and as such is a key consideration when considering any development within a National Park. It states:

*"Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks and the Broads."*

4.8.4 The potential tension between these two national policy objectives (ie to give great weight to both the economic benefits of mineral extraction and to the need to conserve National Parks and the individual conservation assets they contain) needs to be interpreted in the context of further qualifying text in para. 144 which states that:

"When determining planning applications, local planning authorities should:

- *Ensure, in granting planning permission for mineral development, that there are no unacceptable adverse impacts on the natural and historic environment..."*

4.8.5 It is clear therefore that the need to give great weight to the economic benefits of mineral extraction should not override unacceptable environmental harm, particularly in areas which have statutory landscape, cultural and biodiversity protection.

#### **4.9 The 'Major Development Test'**

4.9.1 It is long established government policy that major development should be refused in National Parks except in exceptional circumstances and where public interest can be demonstrated. The 'Major Development Test' remains as a strategic government policy, and is now set out in the NPPF. Because of the reference to the 'major development tests' in Core Policy E this important government policy is both part of the 'development plan' and also a key material planning consideration.

4.9.2 Paragraph 116 of the NPPF sets out how major development should be assessed within these designated areas. The policy represents one of the very few policy approaches in the entire planning system where a presumption against development forms the starting point (in the sense that the default position is that permission should be refused). This reflects the fact that major development by definition is likely to have an unacceptably harmful effect on designated areas due to its scale and nature and as such is intrinsically in conflict with the purposes for which these areas are designated. Approval should therefore be given only in exceptional circumstances and where there is demonstrable public interest. Paragraph 116 of the NPPF is set out below:

*"Planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Consideration of such applications should include an assessment of:*

- *the need for the development, including in terms of any national considerations and the impact of permitting it, or refusing it, upon the local economy;*
- *the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and*
- *any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated."*

#### **4.10 Officer conclusion on the significance of changes in development plan policy and national planning policy since the grant of permission in October 2015**

4.10.1 As referred to in the introduction to this report, national Planning Practice Guidance (NPPG) states that, in determining an application under Section 73: *"Local planning authorities should, in making their decision, focus their attention on national and development plan policies, and other material considerations, which may have changed significantly since the original grant of permission"*.

4.10.2 Although progress has been made towards updating relevant elements of the development plan since October 2015, for the reasons set out earlier in this report (see Paragraphs 4.5.2 and 4.6.1 above), it is not considered that draft policies have yet reached the stage where significant weight can be attached for the purposes of determining the Section 73 application. Furthermore, there have not been any significant changes in relevant national planning policy compared with the position in October 2015. It is therefore concluded that there have not been any material changes in development plan policy, or national planning policy, since determination of the previous application.

4.11.1 The Government's national Planning Practice Guidance is a material consideration in planning decisions. The Guidance states that minerals can only be worked where they naturally occur. As a result, options for the economically viable and environmentally acceptable extraction of minerals may be limited.

4.11.2 With reference to development in a National Park, the Guidance states that planning permission for major development should be refused except in exceptional circumstances and where it can be demonstrated to be in the public interest. Whether a proposed development should be treated as a major development, to which the Major Development Test should apply in accordance with the NPPF (Paragraph 116) will be a matter for the relevant decision taker, taking into account the proposal in question and the local context. The NPPF is clear that great weight should be given to conserving landscape and scenic beauty in these designated areas, irrespective of whether the policy in Paragraph 116 is applicable.

#### **4.12 Material considerations: Defra Circular 2010 – English National Parks and the Broads**

4.12.1 The English National Parks and the Broads UK Government Vision and Circular 2010 is the Government's most recent policy guidance specifically on the English National Parks and the Broads and replaces DoE Circular 12/96. It is cross-referenced in the NPPF in Paragraph 115, through footnote 25.

4.12.2 The Circular sets out that the Government expects National Park Authorities to be exemplars in achieving sustainable development, which they should deliver through their statutory purposes. Specifically it states that: *Sustainable development is about ensuring a better quality of life for everyone, both now and for generations to come. Within the Parks, conserving and enhancing the landscape, biodiversity, cultural heritage, dark skies and natural resources, and promoting public understanding and enjoyment of these should lie at the very heart of developing a strong economy and sustaining thriving local communities* (para. 29).

4.12.3 This advice confirms that achieving sustainable development within National Parks is intrinsically linked to the delivery of National Park purposes and the public's enjoyment of the special qualities of the National Park. Importantly it also sees this as fundamental to developing strong economies and vibrant National Park communities. In the context of the polyhalite mine project it is important to consider whether this meets the definition of sustainable development within National Parks and indeed its degree of conflict with the achievement of National Park purposes as set out above. Paragraph 31 of the Circular restates the Government's policy on major development in National Parks.

4.12.4 The Circular also provides advice on the duty to seek to foster and maintain thriving rural economies in the Parks, recognising that National Park Authorities have key statutory responsibilities in areas with some of England's lowest wages and low levels of economic productivity. Paragraph 74 of the Circular makes it clear that the Government sees the Authorities' role as focusing on developing those businesses which can help contribute and gain value through the delivery of National Park purposes : *"The Authorities' role (and that of local and regional partners) in fostering a positive environment for sustaining and developing business in the Parks should be cognisant of those sectors and activities which are most likely to sustain their communities, are appropriate to their setting and maximise the benefits of a high quality environment."*

4.12.5 The application needs to be assessed in the context of these Government expectations and an awareness of the clear and close relationship between the purposes of National Park designation and the Authority's duty to foster the social and economic wellbeing of National Park communities. The Environment Act 1995 makes it clear that the duty is to be achieved through the delivery of the statutory purposes rather than being a stand-alone economic development function in itself.

#### **4.13 Material considerations: 8 Point Plan for England's National Parks (DEFRA 2016)**

4.13.1 In March 2016 DEFRA published an '8 Point Plan for England's National Parks'. The Plan does not constitute planning policy but sets out the Government's intended approach to the protection and enhancement of National Parks, identifying 8 main aims:

- Connect young people with nature;
- Create thriving natural environments;
- National Parks driving growth in international tourism;
- Deliver new apprenticeships in National Parks;
- Promote the best of British Food from National Parks;
- Everyone's National Parks;
- Landscape and heritage in National Parks;
- Health and wellbeing in National Parks.

#### **4.14 Material considerations: The National Park Management Plan, 2012 (as reviewed and amended in 2016)**

4.14.1 The National Park Management Plan was adopted by the Authority in June 2012 (with an update in 2016) and sets out the vision, strategic policies and outcomes for the National Park over a long term period.

4.14.2 It is the overarching management framework for the Park and represents an important material consideration in the determination of planning applications. National Planning Practice Guidance states that Local Planning Authorities should have regard to National Park Management Plans where they raise relevant issues, as the outcome of each planning decision will cumulatively impact on the achievement of some of the plan's aspirations.

4.14.3 The Management Plan is the key programme for setting out the delivery of National Park purposes in their wider context. As such, the Plan recognises the outputs and role of key parts of the rural economy and how these can deliver wider benefits to the nation, within the context of National Park purposes generally and without detriment to the Park's special qualities specifically. This approach reflects the principles of 'ecosystem services' so, for example, it looks at how the Park can be managed to provide more locally produced food, clean water and air, improved health benefits, increased tourism, more woodland and how it can contribute towards mitigation of and adaptation to climate change.

4.14.4 Amendments to the Management Plan incorporated in 2016 include references to the increased value of tourism to the economy of the National Park and references to the aims contained in DEFRA's '8 Point Plan for England's National Park's' (DEFRA, March 2016) (see above).

#### **4.15 Material considerations: The York, North Yorkshire and East Riding Local Enterprise Partnership Strategic Economic Plan**

4.15.1 The York, North Yorkshire and East Riding Local Enterprise Partnership produced an updated Strategic Economic Plan in July 2016. This retains the overall ambitions of the Plan to deliver 21,900 new jobs and £1.4 billion GVA growth in the LEP area by 2021, in line with ambitions included in the equivalent 2014 Plan. The Plan continues to make specific reference to the expected contribution of the Sirius Minerals development proposals to the economy of the area.

#### **4.16 Officer conclusion on the significance of changes in other material plans and strategies since the grant of permission in October 2015**

4.16.1 Whilst there have been some changes to other relevant plans and strategies since October 2015, it is concluded that these do not materially alter the strategic context to the development.

#### **4.17 Summary of planning policy and guidance**

4.17.1 Both the development plan and the NPPF, which is an important material consideration, need to be considered as a whole, including the relevant sections on minerals. It is clear that the development plan and Government policies in both the National Park Circular and the NPPF give pre-eminence to the protection of National Parks, and that, whilst each Park contains living and working communities, the scale and nature of development should be appropriate to and ideally contribute to National Park purposes unless there are exceptional reasons not to. Sustainable development in National Parks is closely linked to the achievement of National Park purposes and the rural economy should be strengthened and diversified through opportunities which arise through the maintenance of a high quality environment and the public enjoyment of it which in turn delivers economic benefits. In essence there needs to be a different approach to economic development and sustainable development in these areas. Importantly, the long established principle that major developments which by their nature are likely to result in harm to National Parks should be refused in all but exceptional circumstances remains in place.

#### **4.18 National Park Authority consideration of the previous application against development plan policy**

4.18.1 Following detailed assessment of the development permitted in October 2015 against planning policy, officers concluded that that proposal was in **conflict** with the following development plan policies:

Core Policy A: Delivering National Park Purposes and Sustainable Development  
Core Policy B: Spatial Strategy  
Core Policy C: Natural Environment, Biodiversity and Geodiversity  
Development Policy 1: Environmental Protection  
Core Policy D: Climate Change  
Core Policy E: Minerals (note this policy includes reference to the Major Development Test)  
Core Policy G: Landscape, Design and Historic Assets & Development Policy 7: Archaeological Assets  
Development Policy 3: Design  
Core Policy H: Rural Economy & Development Policy 10: New Employment and Training Development  
Development Policy 14: Tourism and Recreation  
Development Policy 23: New Development and Transport

4.18.2 Notwithstanding the officer conclusion on conformity of the proposals with elements of development plan policy, as well as with national policy aimed at protecting National Parks, in making a positive determination of the application in 2015 members determined that other material considerations outweighed the policy conflicts identified by officers and that the development was acceptable when considered in relation to the major development tests set out in Core Policy E. Specifically, these considerations were:

a. *That the potential economic benefits from the proposal represents a transformational opportunity for the local and regional economy;*

- b. *That the likelihood of establishing a global market for polyhalite fertiliser is such that Phase 2 production levels will be achievable, resulting in economic benefits that are significant at a national level;*
- c. *That the innovative nature of the mine design and associated landscaping result in an acceptable reduction in the long term environmental impacts of the development;*
- d. *That there was no realistic scope for locating the development elsewhere outside the designated area;*
- e. *Members attach greater weight to these benefits than the environmental impacts during the construction period and the long term harm to the Special Qualities of the National Park at the minehead site and consider that:*
  - (i) *the proposal represents exceptional economic circumstances which outweighs the extent of the conflict with the Development Plan;*
  - (ii) *therefore the public interest lies in approving the application.*

4.18.3 As the application now for determination is for minor material amendments to the permission granted in October 2015, it is relevant to focus on whether the proposed changes, and therefore the revised scheme as a whole, would lead to an alternative conclusion on the consistency of the development with development plan policy.

## **5. Main Issues**

### **5.1 Scope of the application**

5.1.1 Representations have been received which question whether the Section 73 application should include information on how potential changes to the Mineral Transport System (MTS) would impact on development requirements at the Woodsmith Mine site. Members will recall that the MTS forms part of the wider development project and comprises a 37.6km underground tunnel and conveyor system, linking the main mine head site with mineral handling facilities at the Wilton International Complex at Teesside. The existing permissions granted separately by the National Park Authority and Redcar and Cleveland Borough Council authorise the construction of three intermediate shaft sites along the route of the MTS tunnel, to provide access for MTS tunnel construction purposes. One of these sites (Lady Cross Plantation, near Egton) is located within the National Park. Work is in progress at the Lockwood Beck intermediate site, located outside but immediately adjacent to the National Park boundary but has not yet commenced at the two remaining sites. Spoil excavated during MTS tunnel construction would be accommodated at the intermediate shaft sites and at the Woodsmith Mine site. The development permitted in October 2015 provides for deposit of an estimated 306,000m<sup>3</sup> of spoil at the Lady Cross Plantation site.

5.1.2 The representations refer to a need to accommodate a significant amount of additional spoil at the Woodsmith Mine site as the developer no longer intends to construct the Lady Cross Plantation intermediate shaft site. Objectors consider that the implications and impacts associated with this should be addressed in the current application. In this respect, officers understand that the mine developer has not taken any final decision on whether it is intended to develop the project without one or more of the intermediate shaft sites. Members are advised that the implications of any such change, in terms of revised or additional development requirements at the Woodsmith Mine site, or elsewhere, would be a matter to be considered should any specific proposals come forward. It would not, therefore, be appropriate to give weight to this matter in determining the current application.

## 5.2 Consideration of the Section 73 application against the Major Development Test (MDT)

5.2.1 The MDT, as currently expressed in national policy and incorporated into the development plan through the requirements of Core Policy E, requires an assessment of the proposals in relation to three main elements; the need for the development including in terms of any national considerations and the impact of permitting it, or refusing it, upon the local economy; the cost of, and scope for, developing elsewhere outside the National Park, or meeting the need for it in some other way, and; any detrimental effect on the environment, landscape and recreational opportunities and the extent to which such impacts could be moderated. Assessment against these elements is required in order to establish whether the proposed development represents exceptional circumstances and is in the public interest, such that the presumption against major development in the National Park can be outweighed. The degree to which the proposals contained in the Section 73 application may impact on the conclusions previously reached by the Authority, in terms of compliance with each of the main elements of the MDT, is considered further below.

a) The need for the development including in terms of any national considerations and the impact of permitting it, or refusing it, upon the local economy

5.2.2 In so far as this element is concerned, members determined in 2015 that:

- *The potential economic benefits from the proposal represents a transformational opportunity for the local and regional economy;*
- *The likelihood of establishing a global market for polyhalite fertiliser is such that Phase 2 production levels will be achievable, resulting in economic benefits that are significant at a national level;*
- *The proposal represents exceptional economic circumstances which outweighs the extent of the conflict with the Development Plan.*

5.2.3 The applicant considers that the justification provided in respect of the development permitted in 2015 remains relevant to consideration of the Section 73 application. They further consider that the need for polyhalite is best evidenced by the continued investment being made in the project and the subsequent implementation of the October 2015 planning permission.

5.2.4 Officers acknowledge that the securing of initial funding for construction of the Mine, and the commencement of the development, provides substantial confidence in the commercial viability of the project. However, this element of the MDT is focussed on the need for the development and its impact on the local economy, rather than considerations of commercial viability. It is not expected that the amendments proposed in the Section 73 application would, in themselves, have any bearing on the need for the mineral, or give rise to any significant changes to the economic impact of the mine on the local or wider economy. It is therefore not considered that there is any basis to alter the previous officer assessment of the performance of the development against this element of the MDT. This concluded that the development would result in significant economic benefit to the hardest hit parts of the urban economies outside the National Park but in doing so would cause long term harm to the tourism economy of the National Park and Whitby. Equally, it is considered that there is no reason for members to alter their previous determination, made on the basis of the proposals permitted in 2015, that the potential economic benefits of the development represent exceptional economic circumstances which, in the judgement of members, outweighed the extent of the conflict with the development plan.

b) The cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way

5.2.5 In so far as this element is concerned, members determined in 2015 that:

- *There was no realistic scope for locating the development elsewhere outside the designated area;*

5.2.6 The material minor amendments now proposed relate to surface and near surface construction methods and consequential changes to the detailed design and layout of the mine head site. It is considered that these changes would not provide any basis for revising the previous officer assessment or member determination of the performance of the mine development in relation to this element of the MDT, which concluded that there was no robust evidence of a viable option to build the mine head in the Whitby enclave outside the National Park, due to the probable geological conditions and associated mining feasibility constraints.

- c) Any detrimental effect on the environment, landscape and recreational opportunities and the extent to which such impacts could be moderated

5.2.7 In so far as this element is concerned, officers concluded that the permitted development would lead to a wide range of environmental effects, especially in terms of visual, landscape and traffic impacts which would be significant across all sites during the prolonged construction period and beyond, before restoration proposals take effect. It was also concluded that there would be ongoing and permanent harm to the Special Qualities of the National Park in terms of loss of tranquillity, loss of the Park's special Ice Age landforms, and its sense of wildness and remoteness which cannot be replaced. The impact of the period of construction was concluded to have an effect across a large part of the National Park and the main access road into it from the north and inevitably cause harm to the tourism industry, the mainstay of the local economy, the extent and duration of which is not possible to predict.

5.2.8 It should be noted in the context of these previous officer conclusions that, whilst they reflect the position having regard to proposed mitigation and compensation measures to be provided through Section 106 obligations, the agreed section 106 measures are never the less considered to be very significant in compensating for the harm caused by the development. These measures are now being implemented and, in some cases, are considered likely to provide long term benefits to the delivery of objectives identified in the Management Plan for the National Park. In this respect key S106 obligations include those contributing to Core Policy D requirements through extensive planting of deciduous woodland planting for carbon off-setting purposes; those contributing to delivery of Management Plan objectives relating to landscape and ecology, and; those which support initiatives to promote tourism within the National Park at a local, regional and national level.

5.2.9 In determining the application in 2015, members considered that:

- *The innovative nature of the mine design and associated landscaping result in an acceptable reduction in the long term environmental impacts of the development;*
- *Members attach greater weight to (the benefits of the development) than the environmental impacts during the construction period and the long term harm to the Special Qualities of the National Park at the minehead site.*

5.2.10 With reference to assessment of the Section 73 proposals against this third main element of the MDT, the remainder of this part of the report reviews the key changes proposed, in the context of any revisions to the nature, extent or duration of impacts that would arise, taking into account information contained in the Supplementary Environmental Statement (SES) accompanying the application and other relevant matters. The general structure of this part follows that used in the officer report to Committee of 30 June 2015 in respect of the current permitted development.

## 5.3 Site layout and design

### ***Relevant policies***

*Core Policy A, Delivering National Park Purposes and Sustainable Development sets out key principles of sustainable development for the National Park which include providing a scale of development and level of activity that will not have an unacceptable impact on the wider landscape or the quiet enjoyment, peace and tranquillity of the Park, providing for development in locations and of a scale which will support the character and function of settlements, applying the principles of sustainable design and energy use to new development and strengthening and diversifying the rural economy.*

*Core Policy B sets out the spatial strategy for the National Park and lists types of development that would be supported in open countryside.*

*Core Policy H aims to strengthen and support the rural economy in line with the spatial strategy set out in Core Policy B.*

*Development Policy 3, Design aims to maintain and enhance the distinctive character of the National Park and covers matters such as the scale, form and massing of proposed development together with sustainable design, landscaping, security and access.*

- 5.3.1 The proposed amendments to the development would lead to a relatively small net increase (less than 6%) in the overall footprint occupied by mine head buildings. Whilst some buildings (specifically the men and materials shaft winder building, intake ventilation equipment building and backup generator building would decrease in floor area, others would increase. In particular the mineral shaft winder building would more than double in area. An increase in the overall footprint of buildings of industrial scale and function would, to the extent that they can be seen from viewpoints outside the site during the construction period, add further to the presence of incongruous development within the National Park. This issue is considered further in Section 5.11 of this report, in the context of landscape and visual impact. However, officers note that the general location, design principles and construction materials for the range of buildings to be constructed would not change and that, in particular, the maximum height of the building ridge lines AOD would not increase compared with that currently permitted. As a result, screening of the structures by proposed landscaped spoil mounds and tree and shrub planting would not be any less effective than for the permitted scheme, once the proposed landscaping measures have been completed.
- 5.3.2 Removal of the drift access arrangements to the men and materials shaft would lead to a consequential increase in the distance above ground required to be travelled by vehicles transporting mine employees from the welfare facility to the shaft. It also has consequential implications for the alignment of the internal haul road and the detailed configuration of spoil storage mounds in that part of the site. The applicant's assessment states that the potential for increased operational stage effects due to visibility of vehicles moving overland has been mitigated through the amended design of spoil mounding and associated landscape planting to the east of the internal access road. The applicant therefore considers that this proposed amendment is not expected to be of significance in terms of impacts on receptors outside the site.
- 5.3.3 Whilst this is noted and accepted in terms of impacts from the east, it is considered that there is some residual uncertainty in terms of the potential for additional adverse impact at the operational stage during periods of darkness, when vehicles using the realigned haul route to access the shaft would be using headlights, which could lead to a degree of additional light emission from the site, as perceived from users of the

B1416 to the west. This is potentially significant in the event of a minimum spoil storage scenario in the Bund C area to the west of the access road. The applicant's assessment states that existing road side planting and proposed woodland and scrub planting across the Bund C area would be adequate to mitigate potential impact from this source. However, the applicant has also indicated that they would be willing to accept a planning condition requiring the implementation of additional screening and landscaping measures along the route of the internal access road if necessary. Officers recommend that such a condition be imposed if permission is granted.

- 5.3.4 Other minor changes, including revisions to the detailed configuration of the shaft platform, associated further re-alignment of the internal haul road in the vicinity of the shaft platform and relocation of surface water drainage attenuation capacity are not considered to give rise to adverse implications in terms of layout and design when compared with the permitted development.
- 5.3.5 It is considered that relevant planning conditions contained in the October 2015 planning permission, relating to site layout and design, should be carried forward to any permission granted pursuant to the Section 73 application. This would ensure that an effective planning control could be maintained over these matters.

## **5.4 Landscaping and restoration proposals**

### ***Relevant policies***

*Development Policy 3, Design (criterion 6) requires a satisfactory landscaping scheme as an integral part of development proposals.*

- 5.4.1 Landscaping principles would also remain unchanged, with the objectives of assimilating new landforms into the local landscape, screening or filtering views of mine head buildings, reinforcing existing landscape character and supporting establishment of new habitat and biodiversity opportunities. The retention of an additional 2.2ha of coniferous plantation within Whinny Wood, enabled by the relocation of surface water attenuation capacity, would be of minor benefit in retaining the established screening function provided by this woodland. Proposed changes to spoil storage arrangements in the Bund C area would lead to retention of a further 0.84 ha of coniferous woodland in Haxby Plantation that would otherwise be removed. This is also considered to be of minor benefit in helping to assimilate the site into the existing landscape setting.
- 5.4.2 Of potential significance is that changes to the availability of spoil for permanent spoil mound formation in the early stages of construction would lead to the later commencement of associated soft landscaping works (seeding and scrub planting) on some storage mounds. This issue is considered in more detail in the next section.
- 5.4.3 Agreed restoration principles for the development are not affected by the proposed amendments. The applicant's proposed deeds of variation to the existing S106 agreements, the purpose of which are to ensure that all existing legal and security provisions are carried forward, would enable existing financial security arrangements for reinstatement to be maintained. Any revision to the costs of default reinstatement works, arising as a result of changes to the development, would need to be reflected in subsequent re-evaluation of the level of reinstatement security provided and a mechanism for this is in place under arrangements already agreed, which would also need to be carried forward if permission is granted.
- 5.4.4 Whilst it is not considered that the proposed amendments give rise to unacceptable impacts in terms of their implications for landscaping and restoration, relevant planning conditions, contained in the October 2015 planning permission, relating to planning control over landscaping and restoration, should be carried forward to any permission granted pursuant to the Section 73 application to ensure an appropriate level of planning control.

## 5.5 Treatment of spoil and feasibility of construction proposals

### ***Relevant policies***

*Development Policy 3 seeks, amongst things, to ensure that good quality sustainable design and construction techniques are incorporated into development proposals.*

- 5.5.1 The main construction principles for the development remain unchanged, with low-level winding gear, shaft top buildings of limited height and an underground mineral clearance system via the MTS. The construction changes proposed via the Section 73 application represent, in the context of the overall development currently permitted, minor changes to the delivery of these key principles. The potential for design amendments to come forward following the appointment of contractors was noted through the review of the previous proposals undertaken for the Authority by Amec Foster Wheeler and drawn to the Authority's attention as being highly likely.
- 5.5.2 Proposed revisions to the construction methodology and detailed sub-surface arrangements, in combination with other surface changes including revisions to the height and configuration of the shaft platforms, would lead to consequential changes in the quantity and precise timing of generation of spoil. The net effect of these changes would be a reduction in the amount of spoil compared with the permitted scheme, with the reduction falling within the range of approximately 20 to 30%. Assessment of the specific implications of this reduction is affected by the applicant's proposal to retain flexibility to construct the main shafts within a range of internal diameters (9.5m maximum to 6.5m minimum diameter), with corresponding uncertainty at this stage about the exact volume of spoil that would be generated. This change should be viewed in the context of officer views expressed in respect of the previous application, to the effect that the amount of spoil likely to be generated had been underestimated and that there were concerns about the constrained nature of the mine head site and the resultant need for earthworks in a relatively confined space.
- 5.5.3 The permitted scheme identifies an area of permanent spoil storage to the south of the shaft platform, referred to as Bund C, which would have a maximum height of 8m above ground level. This bund was not intended to serve a screening function. This area is now proposed as a 'balancing' area for permanent spoil storage, as well as providing capacity for temporary storage of spoil during construction. Under a maximum spoil scenario (Section 73 scheme) this bund would have a reduced maximum height of around 4.5m. Under a minimum scenario, only a very small amount of permanent spoil storage capacity would be required in this area, amounting to a volume of less than 2,000m<sup>3</sup>. The SES concludes that amendment to the height of Bund C would not lead to any change in the degree of assessed impact on landscape character, compared with that assessed for the existing scheme and officers agree with this conclusion. The applicant has also confirmed that sufficient spoil would be available under the minimum spoil scenario to enable construction of screen mounding in accordance with the permitted scheme.
- 5.5.4 Slight raising of the southern shaft platform levels proposed in the Section 73 application would reduce the need for excavation, and subsequent storage, of in situ material underlying the platform area. As shaft platform construction is an early stage construction activity this material would have been generated at a correspondingly early point in the progress of the development. For the approved scheme, initial excavation and lowering of the construction platform area would create sufficient spoil to form screen mounds to final contours at the north west corner of the shaft platform, as well as partial mounds along the eastern edge, by month 6 of construction. This would be followed by progressive completion of the outer eastern face of the eastern screen bund up to Spring 2019, with remaining sections of the northern, eastern and Bund C areas completed by mid 2021 as spoil becomes available during shaft sinking.

- 5.5.5 Under the Section 73 proposals, temporary screen bunds, seeded to grass, would be formed in the North West corner, northern edge and north east corner of the shaft platform area to provide temporary visual and acoustic screening. These bunds would be partially re-modelled into permanent landforms as spoil becomes available during subsequent construction stages. Permanent screen bund construction to the north east of the construction platform, and to the east as far south as the former Doves Nest Farm building, would be completed by Spring 2020, with progressive completion of the remainder of the eastern bund by 2022. Completion of the permanent bund in the North West corner and northern edge would be achieved by spring 2021. These changes to the timing of permanent screen bund construction would result in a corresponding delay to the establishment of permanent landscape planting in those parts of the site where remodelling of temporary bunds would be required prior to completion of permanent landforms.
- 5.5.6 As a result of these changes, the proposed operational year one impact on landscape character, in the context of the Coast and Coastal Hinterland (4b) Whitby-Cloughton Landscape Character Area, has been re-assessed by the applicant to be *minor adverse*, rather than *neutral*. Impact at year 15 is assessed as being *neutral* for both the approved and Section 73 schemes. In respect of the Moorland (1b) Central and Eastern Moors Landscape Character Area, the operational year one impact has been reassessed as *minor moderate* adverse rather than *minor*. In terms of visual impact from rights of way, access land and road receptors at the immediate north west corner of the site, and from the property Parkdown, the changes are assessed as giving rise to *minor adverse* impact (operational stage year one) compared with *neutral* for the approved scheme. Further assessment of impacts associated with proposed changes to bund construction is contained in the section on Landscape and visual impact, later in this report.
- 5.5.7 Delivery of effective arrangements for management of spoil is considered to be an essential element in the successful implementation of the development. It is therefore considered that relevant planning conditions, contained in the October 2015 planning permission, relating to planning control management and storage of spoil, should be carried forward to any permission granted pursuant to the Section 73 application. Officers also consider that, if permission is granted, it would be appropriate to impose further conditions requiring submission for approval of final details of the proposed landform in the Bund C area, as well as details of specific shaft diameters and associated overall spoil volumes and storage arrangements.

## 5.6 Provision of services

### ***Relevant policies***

*Development Policy 1 seeks to conserve and enhance the special qualities of the Park by ensuring new developments and any associated infrastructure to meet the needs of the development will only be permitted where it will not have an unacceptable adverse impact on surface and groundwater, soil, air quality and agricultural land; it will not generate unacceptable levels of noise, vibration activity or light pollution; there will be no adverse effects arising from sources of pollution which would impact on the amenity of the public; and where land stability can be achieved without causing unacceptable environmental or landscape impact. There should be sufficient infrastructure capacity to accommodate the demand generated by the development.*

*Core Policy D seeks to address the causes of climate change in part by generating energy from renewable sources on-site, where environmentally appropriate, equivalent to displacing at least 10% of the predicted CO<sup>2</sup> emissions.*

- 5.6.1 The proposed amendments would not give rise to any significant changes to requirements for electrical power, water supply or foul drainage compared with the permitted scheme. The high energy use required for the project is considered to justify the continued need for the mitigation and compensation measures contained in the existing S106 agreement, in order to support the delivery of CO<sup>2</sup> emissions offsetting consistent with the requirements of Core Policy D.
- 5.6.2 It is also considered that relevant planning conditions, contained in the October 2015 planning permission, relating to planning control over provision of services should be carried forward to any permission granted pursuant to the Section 73 application.

## 5.7 Amenity Impacts

### *Relevant policies*

*Development Policy 1 deals with Environmental Protection and seeks to conserve the special qualities of the Park. Development will only be permitted where it does not involve unacceptable levels of noise, vibration, activity or light pollution and where there will be no adverse effects on public amenity.*

- 5.7.1 The proposed amendments to construction methodology and design, including the use of diaphragm walling plant and equipment, give rise to the potential for changes in construction stage impacts on amenity compared with those assessed for the scheme permitted in October 2015. The proposal to remove the drift access arrangements and utilise over ground road transport between the welfare building and men and materials shaft building also gives rise to the potential for changes to impact on amenity at the operational stage. The main consideration is the potential for any significant changes to levels of impact from noise, vibration and blasting.
- 5.7.2 **Noise impacts:** The current planning permission contains conditions specifying noise limits at the curtilage boundary of residential properties and at a number of other noise sensitive locations. These identify day-time, evening and night-time periods for which the specific limits apply. Conditions also require approval of a Noise and Vibration Management Plan including details of monitoring of noise levels.
- 5.7.3 In summary, permitted noise levels are:
- 55dB<sub>LAEQ, 1hr</sub> daytime (0700-1900);
  - 65dB<sub>LAEQ, 1hr</sub> for the demolition of buildings and erection of new structures;
  - Up to 70dB<sub>LAEQ, 1hr</sub> for temporary noisy operations to provide noise-reducing earth bunds and/or barriers;
  - 42dB<sub>LAEQ, 1hr</sub> for evening and night-time (1900-0700).
- 5.7.4 The SES utilises these conditioned limits as a baseline for assessment of any changed impacts from noise. The SES considers a 'worst case' construction stage scenario, based on activities expected to take place in Spring 2018, including operation of diaphragm walling equipment and associated plant, operation of the temporary concrete batching plant and general construction and earthworks activity. The applicant also states that further specific mitigation measures, to be agreed through updated Noise and Vibration Management Plans submitted under the requirements of planning conditions, would be applied during the construction stage to mitigate noise impact, including: additional soundproofing or restrictions on use of particular noisy plant during night-time periods; restrictions on use of concreting activities, batch plant or crane activities during evening or night-time periods, and; enclosure or screening of batch plant and bentonite plant generators using temporary or semi-permanent acoustic screens. Significant changes in operational stage noise levels are not predicted.

- 5.7.5 Information contained in the SES indicates that modelled noise levels arising as a result of implementation of the Section 73 amendments would remain within existing limits imposed on the October 2015 permission (as summarised above). However, officers note that there would be an increase in predicted worst-case construction stage noise levels at some receptors, and at some stages of construction activity, compared with those modelled for the development permitted in 2015, although to a limited extent this would be offset by reduced noise levels at other receptors which would otherwise have been impacted by activity associated with construction of the drift access, to be deleted by the amended proposals.
- 5.7.6 Officers note that the Environmental Health Officer has not raised any objection to the proposed amendments on grounds of noise impact. Nevertheless, it is considered important that the potential for further construction stage noise mitigation measures, to be agreed through updated Noise and Vibration Management Plans required by planning condition, is retained as part of any permission granted pursuant to the Section 73 application.
- 5.7.7 Although officers concluded in respect of the development permitted in 2015 that it was not practicable to deliver, through S106 obligations, wider mitigation or compensation for noise impacts on the National Park associated with the development, as there is no realistic mechanism for delivery of this, the existing permission is nevertheless accompanied by a Section 106 obligation setting out an agreed commitment to delivery of additional noise mitigation for individual neighbouring properties, where necessary during the construction stage. In view of the acknowledged potential for noise impacts during the construction stage, it is considered important that an equivalent obligation be carried forward should permission be granted, in order to help address any residual harm.
- 5.7.8 **Vibration:** The SES considers the potential for changes in vibration levels as a result of the proposed amendments. As with the ES accompanying the permitted development, the only potential source of perceptible vibration off-site that has been identified is HGV movements. As the volume of HGV movements is not expected to change as a result of the proposed amendments, corresponding changes in the assessed level of vibration impact are not predicted, for either the construction or operational stages.
- 5.7.9 **Blasting:** The development permitted in October 2015 authorises the use of blasting for shaft digging purposes, with limits on vibration imposed via condition. The proposed amendments do not result in changes to the proposed use of blasting for shaft digging purposes and significant changes to vibration and related impacts from this or other sources, compared with the permitted scheme, are not expected. It will be important to ensure that existing planning conditions, including a requirement for submission of a scheme for the monitoring of blasting, are carried forward to any new permission pursuant to the Section 73 application.

## 5.8 Highways, traffic and road safety

### ***Relevant policies***

*Development Policy 23, 'New Development and Transport' aims to effectively minimise the overall need for journeys and reduce the environmental impacts of traffic on the National Park. Among other criteria, the policy supports development of a scale which the adjacent road network has the capacity to serve without detriment to highway safety or the environmental characteristics of the locality.*

- 5.8.1 The amendments proposed within the Section 73 application would not lead to additional traffic movements on the highway, compared with those already authorised through the October 2015 permission. A Construction Traffic Management Plan has been approved by the Authority and is being monitored, including through the Traffic Management Liaison Group established by Sirius Minerals under the requirements of

the existing Section 106 agreement. The current permission also requires submission of an operational stage travel plan. It will be important to ensure that these arrangements and other relevant planning controls relating to transport, are carried forward should permission be granted for the amendments now sought. Officers note that the Highways Authority has not raised any objection to the application.

## 5.9 The water environment – hydrology and hydrogeology

### ***Relevant policies***

*Development Policy 1 seeks to conserve the special qualities of the National Park and permits development only where it will not have an unacceptable adverse impact on surface and ground water and where there will be no adverse effects arising from sources of pollution which would impact on the health, safety and amenity of the public and users of the development. There should be sufficient infrastructure capacity to accommodate the demand generated by the development and land stability can be achieved without causing unacceptable environmental impact.*

*Development Policy 2, Flood Risk, permits development only where it will not lead to an increase in flood risk elsewhere.*

- 5.9.1 **Surface and foul drainage:** The proposed amendments include re-location and revision of the main surface water attenuation capacity for the mine head development. Officers expressed concern in respect of the proposals determined in October 2015 that the surface water drainage scheme was designed to provide for operational stage drainage and may not be adequate to accommodate surface water and silt runoff from areas of bare ground during construction. The amendments now proposed include provision of a third surface water attenuation pond, providing a corresponding increase in attenuation capacity. Planning conditions attached to the October 2015 permission include requirements for monitoring and, where necessary, further mitigation of surface water drainage impacts. Whilst officers consider that the proposed increase in capacity is a positive measure, in that it would provide greater potential to manage surface water run-off for high rainfall events occurring during both the construction and operational stages, it is nevertheless important that requirements for monitoring and mitigation are carried forward to any new permission granted pursuant to the Section 73 application. This would help ensure that implementation of further measures can be required should they prove necessary as the development continues to take place. Officers note that the Environment Agency has not raised any concerns from a flood risk or water quality perspective.
- 5.9.2 **Hydrogeology:** Key changes associated with the proposed amendments, including raising of the shaft platforms, revisions to the foreshaft design, removal from the scheme of the drift access arrangements and associated changes to the specific construction methodology, have implications for management of groundwater during the constructions stage. In combination, these changes are expected to lead to a reduced need for direct excavation into groundwater bearing strata and a reduced extent of de-watering activity within the site compared with the approved development. In particular, the applicant is no longer proposing to construct a grout curtain wall around the full western and southern margins of the shaft platform, with associated groundwater relief drain. Instead, localised and temporary de-watering would be needed in conjunction with diaphragm wall construction for each of the individual shafts and for construction of shallow sub-structures within the underlying Moor Grit aquifer.
- 5.9.3 Other elements of mitigation for hydrogeological impacts, agreed as part of mitigation measures for the permitted development, would be retained, including; provision of a drainage blanket to collect spring issues beneath the north eastern spoil mound; provision of a groundwater recharge trench around the western perimeter of the bund C area and; on-site treatment of groundwater prior to discharge via an on-site deep

reinjection well or by tankering off-site. Monitoring of groundwater levels and quality would continue in accordance with requirements already agreed pursuant to conditions on the October 2015 permission. These would need to be carried forward should permission be granted pursuant to the Section 73 application to ensure that appropriate controls can be maintained.

- 5.9.4 An updated hydrogeological risk assessment has been provided in the SES. This provides a qualitative assessment of the impacts of the proposed changes, including the expected impact at sensitive off-site ecological receptors, including ecological systems within the Ugglebarnby Moor SAC. Additional information, supplied by the applicant in November 2017, includes quantitative modelling of the long term and cumulative impacts of the proposed changes, as part of a further updated risk assessment, as well as additional information to demonstrate the effectiveness of proposed mitigation measures. The assessment addresses the potential impact on sensitive groundwater receptors, including domestic spring water supplies and a spring flush ecosystem within the SAC which is partially supported by groundwater flow. It concludes that the amended development would result in a *negligible* adverse physical and chemical impact on sensitive hydrogeological receptors and that mitigation measures agreed in respect of the permitted development, including in particular the provision of a ground water re-infiltration trench to ensure adequate recharge of ground water into the underlying Moor Grit aquifer from the bund C area, remain appropriate.
- 5.9.5 The Environment Agency has confirmed that the long term and cumulative hydrogeological risk assessment shows that any impacts on groundwater dependent receptors will be minimal and has not raised any objection. The EA request that the applicant provide further information, as the project progresses, to demonstrate the effectiveness of the proposed groundwater re-infiltration trench and to provide for monitoring and maintenance of the trench. It will therefore be important to ensure that planning conditions relevant to groundwater management, monitoring and mitigation are carried forward to any new permission granted pursuant to the Section 73 application.
- 5.9.6 Officers note that there is a clear inter-relationship between the impacts of the proposed amendments on hydrogeology, and the potential for impacts on ecological receptors dependent, or partially dependant, on groundwater. This issue is considered in more detail in the following section on Wildlife and habitat protection.

## **5.10 Wildlife and habitat protection and assessment of the proposals under the Conservation of Habitats and Species regulations 2010**

### ***Relevant policies***

*Environmental protection is central to the National Park's first statutory purpose and is articulated in Core Policy C, Natural Environment, Biodiversity and Geodiversity. The policy aims to ensure that the quality and diversity of the natural environment is conserved and enhanced and conditions for biodiversity maintained and improved. Protected sites and species should be given the highest level of protection and priority is also given to local aims and targets for the natural environment. Conditions for priority habitats and species identified in the NYM Local Biodiversity Action Plan should be maintained and where appropriate enhanced. Opportunities for enhancement of ecological or geological assets should be maximised and any necessary impacts of developments should be mitigated through appropriate habitat creation, restoration or enhancement on site or elsewhere.*

- 5.10.1 A wide range of sensitive ecological receptors are present in close proximity to the site. These include areas designated as being of international and national importance, statutorily protected species and locally important habitats and wildlife. Of particular significance is the close proximity of Ugglebarnby Moor and

Sneaton Low Moor, to the west and south west, which form part of the North York Moors SPA/SACs, and the North York Moors SSSI. Areas designated as SPA/SAC are of European importance and are protected under the Conservation of Habitats and Species Regulations 2010 (as amended 2012). The North York Moors SAC was designated because of the expanse of 'Annex I' habitat that forms the upland heather moorland, including both North Atlantic wet heath and European dry heath vegetation. The North York Moors SPA was designated for its populations of golden plover and merlin. The North York Moors SSSI was notified due to the national importance of its mire and heather moorland vegetation communities and the national and international importance of its breeding bird populations which rely on open moorland habitats. The notified species include curlew, golden plover, hen harrier, merlin, peregrine, redshank, ring ouzel, short-eared owl and winchat.

- 5.10.2 A further biological SSSI, Littlebeck Wood SSSI, is located just under one kilometre away from the mine head site and is managed as a Nature Reserve by the Yorkshire Wildlife Trust.
- 5.10.3 Other habitats of value in the immediate area of the mine head site are the woodland/moorland mosaic along the eastern edge of Haxby Plantation, the broadleaved Section 3 woodland at Sneatonthorpe Wood, heathland remnants within Haxby Plantation (more for their potential for recovery than their current value) and two stretches of wild flower-rich roadside verges at Redgate and Raikes Lane covered by the Authority's 'Species Rich Road Verges' Habitat Action Plan.
- 5.10.4 In terms of the potential for revisions to the development arising from the proposed Section 73 amendments to lead to changed impacts on ecological receptors, including habitats and species, officers note that the overall development footprint would not alter as a result of the proposed amendments. The proposed amendments are not considered likely to give rise to significant changes in impact on wildlife or habitats within the site itself. Existing measures, required by conditions on the October 2015 permission, to ensure monitoring, mitigation and enhancement in relation to wildlife and habitats within the mine head site, would need to be carried forward to any new permission granted pursuant to the Section 73 application.
- 5.10.5 The potential for the proposed amendments to give rise to significant changes to impacts outside the mine head site is an important consideration. Changes to the local hydrogeological regime, or which give rise to increased levels of noise or other disturbance, could lead to a changed degree of impact on sensitive ecological receptors outside the site.
- 5.10.6 In relation to the potential for changed impacts from noise and other disturbance, officers note that information presented in the SES indicates that levels of noise and vibration are predicted to remain within limits imposed on the October 2015 permission. It is not expected that the amendments would lead to any significant changes in levels of dust emission, or other emissions to air. These matters are also subject of conditions on the existing permission, which would need to be carried forward should permission be granted pursuant to the Section 73 application to ensure that appropriate controls remain in place.
- 5.10.7 Natural England (NE) in its initial consultation response indicated that it has no concerns with regard to short-term hydrogeological impacts on the adjacent SPA, SAC and SSSI, as previously modelled. However, NE also requested that the Authority satisfies itself that there are sufficient safeguards and remedial mechanisms in place to avoid or mitigate any potential long-term hydrogeological impacts on the SAC, SPA and SSSI. As a result of this concern, an updated hydrogeological risk assessment, containing long term and cumulative modelling

of the proposed Section 73 amendments, has been provided by the applicant. NE has confirmed that it is satisfied with the updated assessment.

- 5.10.8 With regard to the potential for changes to the local hydrogeological regime to impact on ecological receptors outside the site, officers note that the SES predicts that the residual impacts of the proposed development, at both construction and operational stages, would be slightly reduced groundwater levels within the Moor Grit to the west of the mine site in the non-hydrogeologically supported northern dry heath and the central wet heath area of Ugglebarnby Moor SAC/SPA, and; slightly reduced groundwater levels within the Scarborough and Cloughton Formations to the east of the shaft platform. The predicted magnitude of impact on these receptors, identified in the SES, is *negligible*.
- 5.10.9 An important consideration is the presence of a hydrogeologically supported terrestrial ecosystem (a spring flush) within the SPA/SAC at Ugglebarnby Moor. This feature is of high sensitivity to any reduction in groundwater levels. Assessment of potential impact on the spring flush arising from the currently permitted development was based on a modelled assumption that the flush was wholly supported by groundwater flow from the underlying Moor Grit aquifer. The applicant states that subsequent baseline and early construction phase monitoring now leads to the conclusion that the flush is supported by a combination of surface water runoff and seasonal and intermittent flows from both superficial deposits and the Moor Grit aquifer. The applicant therefore considers that the spring flush is of lower sensitivity to changes in groundwater levels in the Moor Grit aquifer than originally predicted, albeit that the degree of sensitivity is still high.
- 5.10.10 The updated modelling provided by the applicant indicates a predicted fall in groundwater level in the Moor Grit aquifer in the vicinity of the spring flush of less than 0.05m as a result of the development. It further identifies that the baseline (ie pre-development) seasonal fluctuation in levels is around 1.5m. Officers note that the modelled change in groundwater level as a result of the development, taking into account proposed mitigation measures, is very low in comparison with the magnitude of seasonal variation, and that the spring flush is sourced mainly from run-off from superficial deposits, with only a partial contribution from the underlying Moor Grit aquifer. Specifically, the assessment concludes that *the cumulative and long term effects of the development will cause a very low physical change in the groundwater levels in the Moor Grit or Scarborough Formations underlying the hydrogeologically supported spring flush ecosystem and a low physical change in the groundwater levels and spring flow rates at the Moorside and Soulsgrave Farm spring water supplies. This very low change in groundwater levels is typically at times of the year when groundwater levels are low and where flow from the spring flush has been observed to be intermittent and dominated by contribution of recharge to the Moorside Farm spring via superficial deposits which would not be affected by mine site development.* The assessment therefore concludes that there would be a very low predicted magnitude of change against the natural baseline seasonal variation and the impact on the spring flush receptor would therefore be *negligible*, as also assessed for the permitted scheme.
- 5.10.11 The Habitats and Species Regulations 2010 require that a competent authority (in this case the NPA), before granting permission for a project which is likely to lead to a significant effect on a European nature conservation site and that project is not required directly in connection with, or necessary to, the management of that site, must make an appropriate assessment of the implications of the project for the nature conservation site in view of the site's conservation objectives. Such an assessment process is referred to as a Habitats Regulations Assessment (HRA). To assist with this process the applicant has submitted a 'shadow' HRA, reviewing the potential for Likely Significant Effects (LSE) of the development on the adjacent SAC and SPA. Case law indicates that the threshold for screening in potential effects for further assessment is low, in accordance with the

precautionary principle. Where LSE are identified, more detailed assessment must take place to identify whether, after taking into account mitigation measures, the project would lead to adverse effects on the integrity of a European nature conservation site.

- 5.10.12 The shadow HRA screens in the potential for LSE on the SAC as a result of changes to groundwater levels. However, more detailed assessment based on the updated hydrogeological risk assessment and long term hydrogeological modelling undertaken by the applicant (see paragraph 5.10.10 above), together with mitigation measures already agreed in relation to the approved development, which are proposed to be carried forward to any new permission, has led to the conclusion that there would be no adverse effect on integrity. A review of the 'shadow' HRA has been undertaken for the NPA by Savills. This review has concluded that, subject to minor amendments which have now been incorporated, it is suitable for adoption by the Authority in accordance with the relevant Regulations. The review also recommends that, as the shadow HRA submitted with the Section 73 application focusses on the impact of the amended proposals, and as the grant of permission for the Section 73 application would result in a new permission for the development as a whole, it would also be necessary for the Authority to continue to adopt the HRA undertaken in 2015 for the development currently permitted, as this remains relevant for those elements of the wider project not affected by the Section 73 proposed amendments.
- 5.10.13 In response to consultation on the further hydrogeological modelling and shadow HRA provided by the applicant NE has indicated that, subject to monitoring and maintenance of the effectiveness of the groundwater recharge trench, proposed by the applicant as the key mitigation measure, it has no objection to the conclusion in the shadow HRA that there would be no effect on the SAC/SPA. Officers therefore conclude that the shadow HRA, provided by the applicant in November 2015, is appropriate for adoption by the Authority in combination with the HRA adopted in 2015.
- 5.10.14 It is noted that schemes of monitoring and mitigation for impacts on groundwater dependent ecological receptors have been agreed through the requirements of conditions imposed on the October 2015 permission. These establish the key elements of mitigation, including a requirement for provision of a groundwater recharge trench to help ensure that groundwater levels in the Moor Grit aquifer are maintained. Further conditions require submission of detailed schemes of ecological monitoring and provision of additional mitigation measures if required. Schemes agreed so far in relation to the existing permission only relate to early stage construction activity and do not cover construction activity involved in shaft sinking, or subsequent stages. This is a result of the phased approach being followed to deal with the wide range of detailed matters to be agreed under the terms of conditions on the 2015 permission. Subject to it being considered by the Authority that the scheme can proceed having taken into account the Habitats Regulations Assessment and relevant information in the SES, officers consider it important that these conditions are carried forward to any permission granted pursuant to the Section 73 application, to ensure that a robust approach to monitoring and mitigation of related impacts is maintained through subsequent stages of the development.
- 5.10.15 Officers note in particular that conditions 46 and 47 of the existing permission already require the submission of detailed information relevant to groundwater management, monitoring and mitigation. In view of the specific points raised by the EA and NE, it is recommended that these conditions be revised to make direct reference to the submission of further information relating to monitoring and maintenance of the proposed groundwater recharge trench.
- 5.10.16 The wider sensitivity of the site's location in terms of wildlife and habitat protection is further considered to justify the carrying over of other relevant conditions

relating to ecology, if permission is granted, including those relating to protected species management plans, provision of updated breeding bird surveys and implementation of a landscape and ecological management plan. Existing Section 106 obligations make provision for mitigation and compensation of residual adverse impacts on ecology. In officers opinion this provision remains necessary and justified in the context of the proposed amendments now sought, which are not considered to lead to a significant change in the scale, nature or distribution of impacts as identified for the permitted scheme.

## 5.11 Landscape and visual impact

### ***Relevant policies***

*Core Policy A recognises the importance of landscape and its contribution to the special qualities of the National Park and supports development only where it will not have an unacceptable impact on the wider landscape.*

*Core Policy G states that the landscape, historic assets and cultural heritage of the North York Moors will be conserved and enhanced. High quality design will be sought which conserves or enhances the landscape setting, settlement layout and building characteristics of the North York Moors Landscape Character Areas.*

- 5.11.1 Main amendments in the Section 73 scheme that could result in changes in visual impact or impact on the landscape, compared with the development already permitted, include:
- raising of the shaft platform level;
  - reduction in number of temporary 45m high winding towers from three to one;
  - use of diaphragm walling plant and equipment including three diaphragm walling rigs up to 26.2m high, with up to six associated cranes, over a 12 month period;
  - increase in size and changes to orientation of mine head buildings;
  - changes to the timing of mine head building construction (specifically the earlier construction of the main men and materials and minerals shaft buildings);
  - changes to the timing of permanent spoil mound formation (particularly the proposed slower rate of formation of the eastern mound);
  - relocation of surface water attenuation ponds to an open field immediately to the north of Whinny Wood and the consequential retention of Whinny Wood;
  - changes to internal surface access arrangements resulting from the removal from the scheme of the drift tunnel.
- 5.11.2 The SES contains updated Zone of Theoretical Visibility (ZTV) mapping and a limited number of updated photomontages. The updated ZTV mapping is presented with the objective of identifying whether there is any significant change in the visual envelope of the proposed Section 73 scheme compared with the permitted scheme. The updated photomontages initially provided in the SES have, according to the applicant, been selected to represent the two worst case viewpoint locations identified in the original ES. These are from the B1416 to the immediate North West of the site and from an open, elevated position on the A171 approximately 2.5km to the east of the site. Following a formal request by the Authority for further information, two additional photomontages have been provided. These represent the view from access land and the Coast to Coast long distance walk, near Normanby Hill Top to the east of the site, and the view from the grounds of Whitby Abbey.
- 5.11.3 **Visual impact and impact on Landscape Character:** The updated ZTV mapping compares the extent of the visual envelope for diaphragm walling rigs and the single temporary 45m high winding tower against that associated with the three 45m high winding towers permitted in the current scheme. It should be noted that cranes would also be utilised during foreshaft construction under both the permitted development and that proposed in the Section 73 application, although it is

expected that a larger number of cranes would be needed over a temporary 12 month period in association with diaphragm walling activity (photomontages provided in the SES show 6 cranes in use during diaphragm wall construction, whereas 4 are depicted on equivalent construction stage photomontages provided for the development currently permitted). Building heights would not exceed those permitted under the current scheme and therefore the ZTV for these structures remains unchanged.

- 5.11.4 In considering the degree of change to landscape and visual impact (and the interaction between these and other impacts including on relevant special qualities) it is also relevant to consider the duration over which impacts are predicted. In this respect it should be noted that the temporary 45m high winding towers authorised by the existing permission would be in place for an estimated period of 48 months (minerals shaft winding tower), 37 months (men and materials shaft winding tower) and 27 months (MTS shaft winding tower). It is this latter tower which is proposed to be retained via the proposed amendments. By contrast, the diaphragm walling rigs and associated cranes proposed in the Section 73 application would be in use for approximately 12 months.
- 5.11.5 The updated ZTV mapping shows that the broad extent of intervisibility between the diaphragm walling rigs and surrounding Landscape Character Areas would be very similar to that identified for the proposed temporary winding towers. The applicant states that, although the diaphragm walling rigs and associated cranes are less solid structures than the temporary winding towers and could therefore be expected to have a lesser influence on wider landscape character, they are mobile and there is potential for attention to be drawn to them as they move within the construction platform. Overall, the SES concludes that adverse landscape character impacts would arise over a similar area to that identified for the approved scheme, but at a slightly reduced level of impact. Officers agree with this assessment.
- 5.11.6 The SES also indicates that, whilst the reduction in temporary winding towers from three to one would represent a lesser disturbance to the skyline, the single tower would remain a disruptive feature within the landscape, drawing attention within an open landscape in a similar manner to that associated with three towers. On this basis a similar overall level of impact on landscape character is predicted to that identified for the approved scheme. Again, officers agree with this assessment.
- 5.11.7 Comparison of construction stage impacts from the B1416 immediately to the north west of the site shows that large scale intrusive elements, including foreground screen mounding and tall vertical structures (temporary winding towers, generator stacks and cranes for the approved scheme, Diaphragm walling rigs, generator stacks and cranes followed by a single temporary winding tower and cranes for the Section 73 scheme), would replace the existing character of open agricultural fields with a distant wooded backdrop. The SES indicates that for both the approved and proposed schemes these intrusive elements are of a similar scale and extent, with tall elements clearly breaking the skyline and drawing attention. Impacts for both schemes are assessed as *major adverse* (Ugglebarnby Moor local to the site) and *moderate major adverse* (moorland areas east of the site).
- 5.11.8 Comparison of construction stage impact from the east, as demonstrated by photomontages 10 (Access land at Normanby Hill Top near Coast to Coast walk) and 11A (A171 Robin Hoods Bay Road) shows that, for both the approved and proposed schemes, the existing agricultural character of the site would change during the construction period to one of unnatural temporary landforms, temporary buildings and structures, vehicle activity at ground level and tall structures that break the skyline. Impacts for both schemes are assessed as *moderate adverse* generally and *moderate major adverse* local to the site.

- 5.11.9 Construction stage visual impacts on receptors including settlements (Stainsacre, Low Hawsker and High Hawsker, individual residential properties, users of public rights of way and recreational routes including the Coast to Coast long distance path, National Cycle Route 1, Moor to Sea Cycle Route 2 and the Cinder Track) would continue to range from *moderate adverse* to *moderate major adverse*, as with the approved scheme. Tall structures would also be visible in views across open moorland to the south and west of the site, including from Sneaton Low Moor, Low Moor, the western flank of Littlebeck Valley, Sneaton High Moor and Goathland Moor. The worst case impact on visual receptors including users of public rights of way and recreational routes (including the Coast to Coast long distance path), access land, roads, visitors to Blue Bank car park and a number of individual residential properties would range from *moderate adverse* to *moderate major adverse*, as for the permitted development.
- 5.11.10 The earlier construction, and net increase in size, of the two main shaft top Buildings (see Section 2.3 of this report) would, in combination with changes to timing of completion of the eastern spoil mound, mean that these buildings and associated near ground-level construction work and structures would be visible, or partially visible, in relatively distant views at a range of between 2 and 3km from the east through the majority of the remainder of the construction stage (a period of between two and three years). However, officers agree with the applicant's opinion that this impact would be offset by the more visible construction activity that would otherwise be associated with the construction, operation and dismantling of the two 45m high temporary winding towers authorised by the permitted development. Officers also note that these two temporary winding towers would be on site for a period of four years (minerals shaft) and three years (men and materials shaft) and would clearly breach the skyline in views from the east, whereas mine head buildings and associated activity would be at a lower level.
- 5.11.11 In summary, and taking into account that the proposed amendments would also allow the retention of a relatively small area of established woodland that would otherwise be lost, officers agree with the applicant's overall conclusion that there would be a slight reduction in construction stage impact compared with the approved scheme, but that this would not be sufficient to alter the magnitude of the assessed adverse impact (ranging from *moderate major* to *major*) on landscape character for the Coast and Hinterland (4b) Whitby-Cloughton LCA and the Moorland (1b) Central and Eastern Moors LCA. Overall officers therefore conclude that the net effect of such construction stage changes would be broadly neutral.
- 5.11.12 With regard to changes to operational stage impacts on landscape character, the SES concludes that the overall appearance and intervisibility of the Section 73 scheme with surrounding landscape character areas would remain the same as for the approved scheme and impacts on the Coast and Hinterland (4b) Whitby-Cloughton LCA would therefore remain unchanged. Officers note that this conclusion is supported by the fact that following construction of the revised proposals, the vertical relationship between building heights and screening mounds would remain unchanged from the permitted scheme. The SES does however indicate that there would be a localised and temporary increase in early operational stage (year one) impacts on the Moorland (1b) Central and Eastern Moors LCA (from *neutral* to *minor adverse*) as a result of changes to the timing of permanent screen mound formation and a consequential delay to establishment of associated landscape planting at the north west corner of the site. There would therefore be a related temporary increase in the assessed magnitude of impact on views available from rights of way, access land and users of the road network in this area from *neutral* to *minor adverse* at year one of the operational stage.
- 5.11.13 Members will note that Natural England have objected to the application on grounds of landscape impact (they had also objected to the original application on these grounds). NE does not consider that the minor material amendments proposed

significantly alters the advice or basis for objection provided by NE in respect of the permitted development (to the effect that the development would have a significant adverse impact on the landscape and setting of the National Park during the construction period and would impact adversely on the undeveloped skylines in this location and the special qualities of the Park, including; remoteness, tranquillity and wildness, and that there would be significant visual impact on the heritage coast during the construction phase). NE also express some concern about the adequacy of one of the photomontages submitted with the SES but does not consider that further updating or revising of the photomontages would change NE's advice on landscape matters.

- 5.11.14 **Night time impacts:** The potential impact from site lighting is an important consideration, particularly taking into account that 'dark skies at night' is one of the special qualities of the National Park. The SES concludes that construction stage changes would give rise to the same range of potential light sources as for the approved scheme. 24 hours per day construction activity would take place under both schemes and the night time context and setting for construction activities remains unchanged. The magnitude of impact, as assessed by the applicant, remains *moderate adverse*, as for the approved scheme, although officers note that representations have been received to the effect that this understates the magnitude of impact, which should more appropriately be described as *major adverse*. Officers consider that, to the extent the proposed amendments would give rise to potential for some temporary increase in the visibility of near ground level construction activity in views from the east during the earlier stages of construction, there is the potential for a corresponding temporary increase in impacts from lighting as a result of this element of the development. However, officers also note that, as the amended proposals would avoid the need for construction of two of the three temporary shaft winding towers, lighting impacts that would otherwise have been associated with the construction and subsequent removal of these two relatively large structures would no longer arise. Conditions on the existing planning permission require approval of details of site lighting via a Construction Environment Management Plan (CEMP). Initial CEMPs have been approved for work undertaken so far and if permission is granted pursuant to the Section 73 application, it is recommended that this requirement is carried forward to provide for appropriate updating of planning control over future stages of construction.
- 5.11.15 The potential for changed operational stage night time effects is focussed on the proposed changes to internal transport arrangements, involving overland transport of personnel from the welfare building to the men and materials shaft, rather than use of a drift access for part of this journey. Further consideration of potential night time impacts associated with this change has been provided in section 5.3 above, with regard to Site Layout and Design.
- 5.11.16 **Officer conclusion on landscape and visual impact:** Officers accept that the proposed amendments contained in the Section 73 application would not result in a significant overall change in the extent or magnitude of landscape or visual impact. This is broadly in line with the findings of the SES accompanying the application. Whilst there would be some relatively minor changes to the precise timing, duration and nature of landscape and visual impacts from particular locations, including night time impacts, these are not considered to be of such significance as to justify a different conclusion on the acceptability of the development in landscape and visual terms, compared with that reached in respect of the permitted development. As a consequence of these conclusions, the requirements for relevant conditions, as contained in the existing planning permission, relating to planning control over landscape and visual impact remain appropriate. It is further considered that mitigation and compensation of residual impacts on the landscape, as required through obligations contained in the existing Section 106 agreement, remains necessary and justified in the context of the proposed amendments now sought.

## 5.12 Recreational opportunities (including public rights of way)

### ***Relevant policies***

*Core Policy A gives priority to providing a scale of development and level of activity that will not detract from the experience of visitors to the National Park.*

*Development Policy 23 includes a requirement that existing public rights of way (PROWs), linear routes and other access routes for pedestrians, cyclists and horse riders are protected.*

- 5.12.1 The area around the mine head site offers diverse opportunities for outdoor recreation and access both for local people and visitors to the National Park. Caravan sites at Low Moor and Lound House and the popular destinations of May Beck, Falling Foss and Little Beck Wood Nature Reserve are within 1.5km of the site. During the peak summer months many visitors use the B1416 and A171 which also give access to Whitby, Robin Hood's Bay, Ravenscar and the Heritage Coast. The extent and quality of recreational opportunities are integral to the second statutory purpose of the National Park.
- 5.12.2 No PROWs cross the site but there are a number of footpaths and bridleways in the vicinity around Red Gates, Falling Foss and May Beck together with the internationally important Coast to Coast long distance footpath and Bridleway 31366, both of which cross Graystone Hills to the south and east. Bridleway 312029 runs northwest from a point opposite the northern edge of the site and there is a popular horse riding route which passes from May Beck Farm Trail, along the B1416 for approximately 1km and up Raikes Lane towards Whitby. The Coast to Coast cycle route and Route 9 of the Moor to Sea regional cycle route (Langdale End to Whitby) also use the B1416 along the south west site boundary before turning north up Raikes Lane. Adjacent to the site, Ugglebarnby Moor, Sneaton Low Moor and Graystone Hills are areas of open access land.
- 5.12.3 The amendments proposed via the Section 73 application would not lead to any direct impacts on recreational assets. Proposals to create a new bridleway at the mine head site are retained in the amended scheme, although adjustments to the specific routing would be needed to reflect the changed location of surface water attenuation ponds. An existing Section 106 obligation requires creation and dedication in perpetuity of this new bridleway. In order to secure delivery of this it will be necessary to ensure that an equivalent obligation is carried forward should permission be granted.
- 5.12.4 Officer assessment of the development now permitted concluded that construction of the mine head site would harm the recreational experience of users of PROW and access land in the local area as a result of views of the construction site intruding on the landscape, increased traffic along the A171 and B1416 and the likely level of noise, which officers expected to be greater than recognised in the ES accompanying the permitted application. Officers concluded that there would be significant adverse impacts on the Coast to Coast walking route and Moors to Sea Cycle Route 9 which both pass close to the mine site's boundary and that increased numbers of construction vehicles on the B1416 would pose an extra hazard for Coast to Coast walkers and cyclists as well as for local residents including horse riders. Construction activities were also considered likely to affect visitors' desire to use the caravan site at Sneaton Low Moor leading to a diminution of recreational opportunities in the National Park. More distant views of construction activity from popular recreational destinations including Blue Bank panoramic viewpoint and Whitby Abbey were also considered likely to affect distant views. Although the main concerns expressed related to construction stage impacts, it was also concluded that the quality of recreational experience for users of PROW and access land in the vicinity of the mine head site at operational stage would be reduced.

- 5.12.5 To the extent that the amendments now proposed could give rise to some minor changes to the specific degree or duration of impacts on landscape character and visual amenity, there is corresponding potential for minor changes in impact on recreational opportunities. The SES accompanying the Section 73 application addresses the potential for changes to the assessed level of visual impact on recreational receptors, including the Coast to Coast walk and Moor to Sea Cycle Route. This concludes that the overall magnitude of construction stage impact, ranging from *moderate adverse* to *moderate major adverse* as assessed through the SES, would remain unchanged from those associated with the approved scheme and officers accept this conclusion.
- 5.12.6 Predicted noise levels associated with the amendments would remain within limits subject of conditions on the existing permission. Officers note that these conditions define noise limits that apply at a number of recreational receptors, including Falling Foss Tea Room, Lound House Camp/Caravan site, Sneaton Foss Lane Caravan site and at any location on the Wainwright Coast to Coast walk. It will be important that these conditions are carried forward to any permission granted pursuant to the Section 73 application.
- 5.12.7 Taking into account the officer conclusions reached in respect of the effects of the proposed changes on landscape character, visual impact and impacts on amenity, addressed earlier in this report, officers agree that the changes proposed would not lead to a substantive change in the magnitude or nature of impact on recreational opportunities. However, officers also note the predicted temporary increase in the assessed magnitude of impact on views available from rights of way, access land and users of the road network to the immediate north west of the mine head site (from *neutral* to *minor adverse* at year one of the operational stage) as a result of changes to timing of permanent screen mound completion. This would give rise to a very limited degree of increased impact on recreational receptors for a temporary period.
- 5.12.8 As a result of the potential for continued impact on important recreational receptors, the need for mitigation and compensation of residual impacts on the landscape and on tourism in the National Park, as required through obligations contained in the existing Section 106 agreement, remain necessary and justified in the context of the proposed amendments now sought.

### 5.13 **Special Qualities of the National Park**

#### ***Relevant policies***

*Core Policy A confirms that the Local Development Framework seeks to further the National Park purposes and duty by encouraging a more sustainable future for the Park and its communities whilst conserving and enhancing the Park's special qualities.*

*Development Policy 1 outlines principles of development that must be met in order to conserve and enhance the special qualities of the National Park, including the development not generating unacceptable levels of noise, vibration, activity or light pollution.*

- 5.13.1 The impact of the proposed development on the special qualities of the National Park is an important part of the planning consideration and the wider assessment of whether the proposal constitutes sustainable development within the context of National Park purposes. Special Qualities are embodied within the second National Park purpose and therefore have statutory significance. The special qualities of the North York Moors National Park are set out in the Management Plan and underpin the policies of the Local Development Plan.

- 5.13.2 During assessment of the development permitted in October 2015, officers concluded that nine of the National Park's fourteen special qualities would be adversely affected, with the most serious concerns being the introduction of large artificial new landforms and the harm the development would bring to the Park's wide sweeps of open heather moorland, its sense of tranquillity and remoteness and its highly valued dark night skies (SQ2, SQ4, SQ11 and SQ12). It was concluded that these qualities would be seriously compromised in the vicinity of the mine site and more widely across the north-east of the Park during the construction stage because of the cumulative effect of the mine and MTS construction sites. It was noted that although the applicant had incorporated measures to mitigate the effects, the nature and scale of the proposed development is such that there would be substantial residual harm to these special qualities during the five year construction period.
- 5.13.3 With reference to operational stage impacts on special qualities, associated with the approved scheme, it was concluded by officers that these would be less than during the construction stage and that the MTS access shaft sites in particular should not result in harm to special qualities in the long term. However, it was also concluded that, despite carefully considered design and extensive embedded mitigation measures, the main mine head site would become the centre of a major industrial operation and the general level of activity and traffic movements associated with a large scale mining enterprise would have a significantly harmful impact on the tranquillity and sense of remoteness of this part of the National Park and the special Ice Age landforms of the Park throughout the 100 year mining period.
- 5.13.4 In officers' opinion the amendments proposed in the Section 73 application do not amount to major changes to the scale, nature or design principles for the development established in the October 2015 permission. To this extent the previous overall officer conclusions reached on the harmful impact of the development on special qualities remain relevant. The SES concludes that the broad extent of intervisibility and degree of impact associated with ground level construction activities and temporary tall structures would remain very similar to those identified for the permitted scheme, and that likely significant impacts on special qualities are predicted to remain as identified for the approved scheme. Whilst officers generally agree with this conclusion, it is noted that the proposed amendments would lead to some corresponding minor and localised changes to the assessed level of effects on landscape and visual impact during construction and early operational stages. There is also the potential for some temporary increase in construction stage noise levels, although noise is predicted to remain within agreed limits. In combination, these effects give rise to the potential for corresponding minor changes in the degree of temporary impact on related special qualities, particularly special quality 9: A rich and diverse countryside for recreation; an extensive network of public paths and tracks; special quality 11: Strong feeling of remoteness; a place for spiritual refreshment, and; special quality 12: Tranquillity; dark skies at night and clear unpolluted air.
- 5.13.5 In view of the officer conclusion that the relatively high degree of adverse impact on the special qualities of the National Park, which was previously identified, would not be changed significantly as a result of the amendments now proposed, it is considered that provision of mitigation and compensation for relevant residual harmful effects, identified through obligations contained in the existing Section 106 agreement, remain necessary and justified in the context of the proposed amendments now sought.

## **5.14 Historic environment**

### ***Relevant policies***

*Core Policy G, Landscape, Design and Historic Assets states that the landscape, historic assets and cultural heritage of the North York Moors will be conserved and enhanced. High quality sustainable design will be sought which conserves or enhances the landscape setting, settlement layout and building characteristics of the*

*landscape character areas...Particular protection will be given to those elements which contribute to the character and setting of Conservation Areas, Listed Buildings, Historic Parks and Gardens, Scheduled Monuments and other sites of archaeological importance.*

*Development Policy 7, Archaeological Assets states that development that would have an unacceptable impact on the integrity or setting of a Scheduled Monument or other sites or remains considered to be of national archaeological importance will not be permitted. In the case of sites or remains of regional or local importance, development proposals will only be permitted where the archaeological interest is capable of being preserved in situ. Where this is not justifiable or feasible, provision must be made for appropriate preservation by record.*

- 5.14.1 The overall developed footprint of the mine head site would not change as a result of the proposed amendments. Retention of the Whinny Wood Plantation area would avoid disturbance of one historic landscape feature which would otherwise be removed. However, there would still be a direct impact on other identified features and the potential for as yet unknown buried archaeological features to exist within the site remains. Planning conditions contained in the existing permission set out requirements for prior agreement and implementation of a Written Scheme of Archaeological Investigation. As development has commenced this requirement is already being implemented and would need to be carried forward as part of any new permission granted pursuant to the Section 73 application.
- 5.14.2 The potential for the amendments to give rise to impact on heritage assets outside the site boundary, through impacts on their setting, is also relevant. In this context Historic England (HE), in responding to consultation on the application, has drawn specific attention to heritage assets on the Whitby Abbey headland.
- 5.14.3 HE refers to the advice it provided on the permitted development (to the effect that the proposal generated harm to the setting of heritage assets, specifically the heritage assets on the Whitby Abbey Headland, but that the harm was temporary and should be weighed against the public benefits of the proposal in accordance with advice at Paragraph 134 of the National Planning Policy Framework). With regard to the current proposals, HE accepts that the proposed reduction from three to one temporary winding tower will have a reduced visual impact, but there will still be an impact on the setting of heritage assets, albeit temporary. HE therefore has expressed continued concern regarding the construction phase of the scheme. HE express surprise that there has been no additional or amended heritage assessment included in the SES and that they are unclear whether the additional elements of the variation request will have an impact on the timetable and sequencing of the agreed archaeological mitigation strategy. HE recommends that the Authority should satisfy itself that the omission of an amended or updated heritage assessment is not a substantive matter in the context of the advice in Paragraphs 128 and 134 of the NPPF. HE also state that, in determining the application, the Authority should bear in mind the statutory duty to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.
- 5.14.4 Officers note that Paragraph 128 of the NPPF states that, in determining planning applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. It also requires that, where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk based assessment and, where necessary, a field evaluation.

- 5.14.5 Paragraph 134 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 5.14.6 Officers concluded, with respect to the development now permitted, that taken on its own the harm to designated heritage assets at Whitby Abbey would not be sufficient to outweigh the considerable economic benefits of the project, although it was considered to contribute weight against the proposals in the overall planning balance. Since submission of the Section 73 application the applicant has submitted further information, in the form of an updated photomontage demonstrating the visibility of the revised proposals from the Whitby Abbey headland.
- 5.14.7 In relation to the amendments now proposed officers consider that, during the construction phase, the level of impact on setting of heritage assets is neither likely to be greater, or significantly reduced, from that identified in the approved scheme. The number of 45m high temporary winding towers that would be visible on the southern horizon in views from the Whitby Abbey headland would be reduced from three to one. However, it remains the case that the single remaining temporary winding tower would be visible and that other elements of the development, including cranes associated with the diaphragm walling process now proposed, would also be visible, although the substantially lower visual mass of these latter structures would help to minimise any impact compared with the greater mass of the temporary winding towers. Officers note that the southern horizon is not the main focus of the views south from the Abbey complex, with the main focus being upon the foreground and middle distance, with views of the harbour and the town backed by a very 'domestic' landscape of rolling farmland and pasture. Other structures such as telephone masts in the near and middle distance also attract the eye.
- 5.14.8 Following assessment of the implications of this revised application for the historic environment, the Authority's archaeological adviser does not consider that further information is required in order to fully understand the implications of the proposal for the historic environment, and does not consider that the situation has changed with regard to the requirements set out in Paragraph 134 of the NPPF.
- 5.14.9 Officers therefore conclude that the amendments proposed would not change the previously determined position, in that harm would be caused to heritage assets but the level of that harm would be less than substantial (due to its temporary nature) and would not, on its own, be sufficient to outweigh the potential economic benefits of the proposal.
- 5.14.10 The 2015 permission is subject to a condition requiring submission of Written Schemes of Archaeological Investigation prior to commence of works across the mine head site. As areas of the mine head site have not yet been subject to physical disturbance under the terms of that permission, it will be necessary to ensure that an equivalent condition is retained in any permission granted pursuant to the Section 73 application.
- 5.14.11 Officers also consider that the residual impacts of the development, as proposed to be amended, on the historic environment would continue to justify the provision, contained in current Section 106 obligations, for archaeological data collection and recording. It is further concluded that, as the potential for less than substantial harm to historic assets would remain during the construction stage under the Section 73 proposals, there is continued justification for retaining existing Section 106 obligations relating to delivery of Management Plan objectives, to the extent that these can contribute to mitigation or compensation for residual harmful effects.

## 5.15 Housing and social infrastructure

### **Relevant policies**

*Core Policy A, Delivering National Park Purposes and Sustainable Development, sets out the key principles of sustainable development for the National Park, which include enabling access to services, facilities, jobs and technology whilst minimising the environmental impacts of transport.*

- 5.15.1 The proposed amendments are not expected to give rise to any significant changes to requirements for, or impacts on, housing and social infrastructure.

## 5.16 Sustainability and climate change

### **Relevant policies**

*Core Policy A, Delivering National Park Purposes and Sustainable Development sets out key principles of sustainable development for the National Park which include providing a scale of development and level of activity that will not have an unacceptable impact on the wider landscape or the quiet enjoyment, peace and tranquillity of the Park, providing for development in locations and of a scale which will support the character and function of settlements, applying the principles of sustainable design and energy use to new development and strengthening and diversifying the rural economy.*

*Core Policy D, Climate Change expects activities in the National Park to address the causes of climate change by reducing the use of energy and generating energy from renewable sources. There is a specific requirement in point 3 of the policy for on-site renewable energy generation of an appropriate location, scale and design to displace at least 10% of predicted CO<sub>2</sub> emissions from larger developments.*

*Development Policy 3, Design aims to maintain and enhance the distinctive character of the National Park and covers matters such as the scale, form and massing of proposed development together with sustainable design, landscaping, security and access.*

- 5.16.1 The NPPF identifies three dimensions to sustainable development; economic, social and environmental. Although the proposed amendments in the Section 73 application include a number of changes to the construction methodology and to specific elements of the design and layout of the site, the main objectives and principles of the development remain unchanged from that permitted in October 2015. In particular, officers do not consider that the changes have any significant bearing on the performance of the proposals in relation to the economic and social dimensions of sustainability as defined in the NPPF.
- 5.16.2 Whilst a number of the amendments proposed in the Section 73 application would give rise to minor and temporary changes to the assessed magnitude of impact of the development on a number of environmental factors, including landscape and visual impact, the overall nature and extent of positive and adverse impacts that would arise remains broadly unchanged. There is also no basis to assume that there would be any significant difference in the performance of the development, as proposed to be amended, on climate change considerations, although this matter has not been subject to any specific updating in the SES. In the opinion of officers there is therefore no basis to assume a different overall conclusion on the performance of the proposed development in relation to sustainability and climate change matters than was reached in respect of the permitted development. It therefore remains the case that the major increase in use of energy that would result would continue to justify the requirement for mitigation and compensation of impacts for predicted CO<sub>2</sub> emissions, in the form of provision for off-site planting of mixed deciduous woodland, as currently secured through Section 106 obligations. Such provision would also help to address the requirements of Core Policy D.

## 5.17 Cumulative assessment

5.17.1 The SES provides an updated cumulative assessment of combined impacts associated with the development as proposed to be amended. An updated assessment of any combined effects arising from the proposed development in conjunction with other developments in the vicinity of the site has also been carried out. These assessments have not identified any additional, cumulative, impacts arising as a result of the proposed amendments contained in the Section 73 application and the magnitude of assessed cumulative impact at construction stage remains as *major adverse*, as assessed for the permitted development.

## 6. Section 106 contributions

### 6.1 Context

6.1.1 Members will be aware that the October 2015 planning permission is accompanied by a legal agreement with the NPA under Section 106 of the Town and Country Planning Act 1990, setting out a range of legal obligations on the developer, considered necessary to secure mitigation and compensation for the residual adverse effects of the development on the National Park. Whilst a wide range of matters are addressed in the agreement, the main focus of these existing obligations is to ensure that appropriate contributions are made by the developer in relation to:

- Carbon offsetting via the planting of substantial new areas of mixed deciduous woodland throughout the construction and operational stages to support delivery of the objectives of Core Policy D (Climate Change) of the Local Development Framework Core Strategy and Development Policies;
- Addressing and/or compensating for the residual impacts of the development on landscape, tranquillity, special qualities or ecology;
- Compensating for and mitigating impacts on the perception of the National Park for tourism arising from development of the Mine.

Work is now taking place to ensure the delivery of these and other obligations contained in the agreement.

6.1.2 Separate S106 legal obligations between the developer and North Yorkshire County Council address additional requirements including road traffic management, improvement of rail services on the Esk Valley Line and provision of support for local training and economic development measures, amongst other matters.

6.1.3 The applicant is proposing that the obligations contained in the separate agreements between the developer and the NPA and the developer and NYCC are carried forward to any new permission granted pursuant to the Section 73 application. The proposed mechanism for achieving this is a deed of variation to each of the agreements, incorporating a clause to the effect that the parties agree that the existing obligations shall continue in full force and effect and apply to the Section 73 Development as if the Section 73 Development had been carried out pursuant to the 2015 Permission. Members should note that further, separate, obligations contained in an agreement between the developer and Redcar and Cleveland Borough Council relate specifically to the planning permission granted by that Council and are not affected by the proposed amendments in the Section 73 application.

6.1.4 Members should be aware that although planning contributions can be used to make a development acceptable in planning terms, there are very important legal issues which must be adhered to in order to protect the validity of the planning decision which would otherwise be vulnerable to criticism and legal challenge. Government policy on planning contributions is set out in the NPPF, which states that local

planning authorities should consider whether “otherwise unacceptable development could be made acceptable” by using planning obligations. It restates the tests which are set out in Section 122 of the Community Infrastructure Levy Regulations 2010 which makes it clear that planning obligations should only be sought where they meet **all** of the following tests:

- a. The obligation is necessary to make development acceptable in planning terms;
- b. The obligation must be directly related to the development;
- c. The obligation must be fairly and reasonably related in scale and kind to the development.

6.1.5 The following points should also be borne in mind:

- If the planning obligation has some connection with the development which is not ‘*de minimis*’, then regard must be had to it, but the extent to which it should affect the decision is a matter of planning judgment;
- Similarly, it is very much a matter of planning judgment as to whether a particular obligation is reasonably related to the scale and nature of the development;
- In all cases, the issues covered by the obligation must be related to development plan policies and other land use planning matters. These can be linked to the development either thematically, functionally or spatially. Therefore off-site benefits which are addressing matters that are related or connected to the development are material and should be given regard in the planning judgment. Any matters which are included in the S106 which do not fall within the parameters of these tests should be given no weight in the determination process.

6.1.6 Except as provided for in the Helmsley Local Plan, the Authority has no adopted general development plan policies directly relevant to the seeking of S106 contributions for the mitigation or compensation of residual impacts from developments. However, through the process of consideration and determination of the application leading to the October 2015 permission, a range of obligations relating to mitigation or compensation for the residual harms of the proposed development (i.e. those which cannot be addressed through the embedded mitigation as part of the development itself e.g. its design or by planning conditions) were discussed and agreed with the applicant and are reflected in the terms of the existing S016 obligations.

6.1.7 Agreement on the existing obligations was informed by a CIL type compliance assessment, based on planning judgement and recognising that many aspects of the S106 offer are concerned with impacts on matters such as tranquillity, scenic beauty and public enjoyment which are difficult to quantify. The assessment set out a systematic approach to identification of the nature and scope of residual harm expected to arise and how funds to be provided through S106 obligations are to be deployed in response to these impacts.

## **6.2 Main S106 elements for the development permitted in 2015**

6.2.1 The following paragraphs summarise the main elements contained in established Section 106 obligations relating to the development permitted in October 2015.

6.2.2 **Core Policy D contribution:** One of the requirements of the Authority’s climate change policy, Core Policy D, is that larger developments should generate energy from renewable sources on site to displace at least 10% of predicted CO2 emissions. The Authority agreed with the company in pre-application discussions relating to the development already permitted that, in the absence of a geo-thermal arrangement, on site renewable energy on the scale required would not be feasible and woodland planting would be an acceptable alternative way of meeting the policy objective. An

agreed S106 contribution of over £70m is directly related to the development currently permitted and proportionate to the costs of delivery and management of a planting scheme to create in excess of 7,000ha of woodland, helping to meet the requirement of criterion 3 of Core Policy D concerning CO<sup>2</sup> emissions offsetting. Over 7,000ha of woodland creation equates to nearly 5% of the total area of the National Park. Such planting would also serve to deliver substantial long-term benefits to the National Park in terms of landscape and ecology.

- 6.2.3 **Management Plan contribution:** The National Park Management Plan provides an overview of the state of the National Park and sets out a range of environmental aspirational targets which are implemented partly through its grant schemes and partly through the operation of its planning function using appropriate planning conditions and planning agreements. The agreed S106 Management Plan contribution provides funds for schemes which compensate for harmful impacts relating to landscape character, visual impacts, quality of recreational experience and certain special qualities arising from the permitted development. Such schemes would bring positive improvements to the appearance and character of the National Park landscape with associated biodiversity benefits. The level of resources agreed via the S106 would deliver environmental works over the life of the mine and are expected to amount to a substantial benefit to the landscape, local communities and visitors to the National Park, proportionate in extent and nature to impacts expected to arise.
- 6.2.4 **Tourism contributions:** The Authority's tourism policies are set within the context of the second National Park purpose of public enjoyment and also the economic duty, as tourism provides a vital part of the economy of the National Park and wider area. Agreed provision through the existing S106 includes funding for promotional activities at local, regional and national level to address the negative impacts of the development, particularly during the construction period, as well as for promotional campaigns at regional, national and international level as the perception of 'industrialisation' of the National Park could affect the whole NP 'brand'. The agreed contributions provide a guaranteed minimum annual 'base level' amount which could be increased up to an upper limit if evidence from an independent review of tourism data and visitor surveys (also funded through the S106 contribution) shows that the actual impact on the tourism economy was worse than allowed for in the base level amount. All elements of the agreed Tourism contributions are considered directly related to the likely impacts of the permitted development and are considered necessary and reasonable.
- 6.2.5 Officers concluded that the tourism contributions agreed through existing S106 obligations represent a series of useful compensation measures to address residual harm to the tourism economy. Promotional campaigns will assist the National Park as a whole and the tourism economy in areas not directly affected by the development are likely to experience a positive benefit as a result. However, it was considered that such campaigns cannot overcome the fact that the permitted development will, particularly in the shorter term, reduce the existing quality of the National Park's tourism 'offer' and some of the negative impacts of the development which would affect tourism (e.g. the increase in HGV traffic on the A171 and B1416) cannot be overcome by marketing campaigns. Despite the existing S106 measures, officers' view was that, particularly during construction, the tourism economy in areas closest to the development site (including Whitby) and some individual tourism businesses would still be prejudiced.
- 6.2.6 Officers considered that the offers (£22,500pa during the construction period for each) in respect of **Archaeological and Geological** data collection and assimilation into existing records to be commensurate and proportionate to the nature, extent and scale of the destruction of the relevant archaeological and geological resources necessary to complete the major construction project subject of the October 2015 permission, whilst contributing to the ongoing improvement of local knowledge in these fields.

- 6.2.7 In terms of the **Monitoring contribution**, it was officers' estimation that there would be work for one and a half to two dedicated monitoring staff to ensure the embedded and compensation/mitigation required in connection with the permitted development were effectively delivered over a lengthy period of time. Provision has been agreed via the existing S106 obligations for contributions of £150,000 for set up and for the first year, £100,000pa for the next 6 years and £50,000pa for 93 years, representing the amount needed to deliver public scrutiny of the extensive mitigation measures to be incorporated into the implementation subject of the October 2015 permission.
- 6.2.8 Similarly, the organisational and administrative support required to establish a **Liaison Group** to deal with unforeseen construction and operational problems likely to arise during implementation of such a large scale infrastructure project was considered commensurate and proportionate to the nature, extent and scale of the benefits that could be delivered in solving problems raised by local communities and individual residents and businesses.
- 6.2.9 A **Police contribution** of approximately £150,000 to fund a number plate recognition camera scheme, to assist with the mitigation of the impact of increased crime associated with the project, has been agreed through existing obligations. The Police Authority confirmed that this contribution relates in scale, nature and extent to the impacts they considered likely to accrue and officers concurred.
- 6.2.10 An agreed commitment in relation to **Noise mitigation** for neighbours of the construction sites is directly related to the potential for unanticipated construction impacts and goes some way to addressing both identified and unanticipated residual harm.
- 6.2.11 A **Scarborough Employment Opportunities** contribution of £40,000 relates to creation of apprenticeship, training and re-skilling opportunities and development and implementation of a local supply chain engagement strategy.
- 6.2.12 The agreement also requires use of reasonable endeavours to provide a **new length of bridleway** in the vicinity of Doves Nest Farm, linking Raikes Lane with Uglebarnby Moor, to be dedicated in perpetuity.
- 6.2.13 Finally, the agreed NPA Section 106 obligations require provision **of financial security arrangements** to secure reinstatement of the development and to ensure availability of sufficient funds for payments due under Section 106 obligations for a 10 year period. These security arrangements are being delivered through a bond and Escrow account respectively. A Memorandum of Understanding exists between the Authority and the developer, setting out agreed arrangements for provision and maintenance of the required security.
- 6.2.14 **NYCC S106 agreement:** The NYCC agreement contains highway provisions and arrangements for a Traffic Management Liaison Group which have been agreed with the Local Highway Authority. The provisions include a requirement for approval of a scheme which sets out HGV routes, a measure specifically requested by local communities, and up to £50,000pa for speed enforcement or other highway safety measures. The measures were, in themselves, considered to be reasonable and appropriate but were considered by officers to go only some way towards addressing the residual harm caused by the substantial increase in HGV traffic movements during the construction period associated with the permitted development.
- 6.2.15 The NYCC agreement also includes contributions of up to £2.25 million to subsidise the provision of up to four additional services on the Esk Valley railway between Middlesbrough and Whitby, starting by December 2017, together with up to £4.5 million for associated infrastructure works. Additional train services would reduce pressure on the A171 where the majority of traffic impacts would be experienced and provide additional options for visitors to the Park travelling from the Middlesbrough

area. It was considered by officers to be a useful mitigation measure which goes some way towards addressing the residual harmful impacts identified.

6.2.16 The STEM<sup>1</sup> and Local Opportunities contributions in the NYCC agreement were also considered to be useful measures which the applicant has already started putting into place but it was considered that there are inevitably limits to which they can be relied upon to deliver the ambitious target of 80% local employment.

6.2.17 As with the NYMNP Section 106 agreement, the NYCC agreement requires provision of financial security for payments for a 10 year period.

**6.2.18 Conclusions on S106 contributions relating to the permitted development:**

Officers considered that, in the context of the development already permitted, moderate weight should be given to the Archaeological, Geological and Liaison Group provisions within the existing NYMNP/SBC S106 agreement and to the STEM and Local Opportunities provisions in the NYCC and RCBC agreements. Moderate weight should also be given to the provisions for additional rail services on the Esk Valley line. Substantial weight should be afforded to the Core Policy D and Management Plan contributions as these will deliver (incidentally or not) key Management Plan objectives across a large part of the National Park over a very considerable period of time. Substantial weight should also be afforded to the provisions relating to Tourism as it is considered that the offer will provide a significant increase in the public awareness of the National Park through promotional and marketing activity. Officers also considered that there would be some harm to certain tourism businesses in the area of the National Park and surrounding area affected by the development and there was already evidence of these impacts.

**6.3 S106 contributions in the context of the Section 73 application**

6.3.1 With reference to the current planning application, it is noted elsewhere in this report that the proposals are for minor material amendments to the scheme already permitted. Whilst some of the amendments proposed would give rise to minor and localised changes in the assessed level of impact, officers conclude that the overall range, character and magnitude of adverse impacts that would arise as a result of implementation of the Section 73 proposals would be very similar to those arising through implementation of the permission already granted and to which existing Section 106 obligations apply. In this context it is noted that the amendments relate only to development at the main mine head site and that other elements of development within the National Park, forming part of the overall project, would remain unchanged. Requirements for mitigation and compensation of residual effects agreed through existing S106 obligations relate to the totality of the development within the National Park.

6.3.2 In determining whether the applicant's proposal to carry the existing obligations forward unchanged is appropriate in the context of CIL legislation and relevant planning guidance, it has to be considered whether they are necessary to make development acceptable in planning terms; whether they relate directly to the development, and; whether they are fairly and reasonably related in scale and kind to the development. For the reasons set out in this report, officers conclude that the existing agreed obligations remain necessary to provide appropriate mitigation and compensation for the residual adverse effects of the development as proposed to be amended, which in some cases are expected to be very significant. It is further considered that the development, as proposed to be amended, would not be substantially different from that subject of the 2015 permission and therefore the obligations contained in the existing S106 agreements accompanying the October 2015 permission remain directly relevant to the development. It is also officers' judgement that the existing obligations remain fairly and reasonably related in scale

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<sup>1</sup> Aimed at improving awareness of Science, Technology, Engineering and Maths in primary and secondary schools within North Yorkshire.

and kind to the development as proposed to be amended and that the conclusions of the CIL type compliance assessment undertaken in respect of the permitted development remain appropriate and therefore do not require any substantive amendment.

## 7. Planning balance

7.1 National Planning Practice Guidance (NPPG) indicates that applications under Section 73 for minor material amendments must be judged against the development plan and material considerations, as well as the conditions attached to the existing permission. It states that: *“Local planning authorities should, in making their decision, focus their attention on national and development plan policies, and other material considerations, which may have changed significantly since the original grant of permission.”* It further states that: *“In deciding an application under Section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application.”*

7.2 **Taking this Guidance into account, together with legal advice to the Authority on the approach to determining the application, members are advised that they should:**

- **Consider the application as a whole in the context of the development plan and other material considerations, including national policy;**
- **In making that consideration, focus on whether there have been any substantive changes to policy, or to other important matters including, in particular, any changed impacts as a result of the amendments now proposed;**
- **From that assessment, consider whether it would lead members to a different conclusion on the acceptability of the overall development, as proposed to be amended, in comparison with the development permitted by the Authority in 2015.**

7.3 Members are reminded that the 2015 decision to grant permission was based on their judgement that the proposal represented a transformational opportunity for the local and regional economy and would lead to likely significant national economic benefits; that the innovative nature of the mine design and associated landscaping would result in an acceptable reduction in long term environmental impacts; that there was no scope for locating the development outside the designated area, and; that members attached greater weight to these benefits than the environmental impacts during the construction period and the long term harm to the special qualities of the National Park at the mine head site. These considerations led members to conclude that the proposal represented exceptional economic circumstances outweighing the extent of conflict with the development plan and that the public interest lay in approving the application.

7.4 Officers consider that there have not been any significant changes to the development plan, to national planning policy, or to other relevant guidance and strategies since the grant of permission in October 2015. It is further considered that the proposed amendments, contained in the Section 73 application, would not lead to any significantly altered positive or negative impacts on the local, regional or national economy compared with those associated with the permitted development.

7.5 Whilst some of the proposed amendments could be perceived to be broadly beneficial, in terms of helping to reduce the degree of construction stage adverse impact that would arise, particularly the proposal to construct the mine head without the need for two of the three currently approved 45m high temporary winding towers and the retention of established woodland that would otherwise be lost, other

elements of the amendments would serve to offset this potential reduction in impact. Such elements include the earlier construction of mine head buildings prior to completion of some parts of the peripheral spoil mounding and the need for use of new elements of plant and equipment associated with diaphragm wall construction for a period of 12 months during the construction stage. As a result, it is officers' opinion that the effects of the proposed amendments are, in terms of their overall potential to cause adverse construction stage impacts on the environment, landscape and recreational opportunities, and to lead to harm to National Park purposes, broadly neutral when compared with those associated with the permitted development.

- 7.6 Officers therefore consider that the development as a whole remains in conflict with development plan policy, specifically Core Policies A, B, C, D, E, G and H and Development Policies 14 and 23, as well as with national policy protecting National Parks in relation to major development proposals.
- 7.7 Notwithstanding this officer conclusion on compliance with policy, in determining this application members are entitled to give significant weight to their previous decision to grant permission for the substantially similar form of development already approved by the Authority in 2015, for the reasons summarised in Paragraph 7.3 above.
- 7.8 As officers have concluded that there have not been any significant changes to policy since the previous determination, that changes in impacts arising from the proposed amendments to the development would be broadly neutral in effect, and that there are no new significant material considerations relevant to determination of the application, officers are not aware of any justification that would reasonably lead members to a different decision on the development as a whole, compared with that reached by members in 2015. **On this basis officers consider that planning permission should be granted.**

- 7.9 NPPG also indicates that applications under Section 73 should be considered in relation to the conditions attached to the original permission. In this instance the existing permission contains 95 conditions to ensure that effective planning control is available over a particularly large and complex development in a sensitive location. These conditions address a wide range of matters, including requirements for monitoring and mitigation of impacts on the environment, landscape, ecology, local amenity and traffic. The conditions provide very comprehensive planning control and, in officers' opinion, they are essential to ensuring that impacts from the development can be managed effectively. They also remain necessary, in the context of the Section 73 application, to ensuring that the third element of the Major Development Test can be met, requiring consideration of the extent to which any detrimental effect on the environment, landscape and recreational opportunities could be moderated. It will therefore be important to ensure that undischarged conditions attached to the 2015 permission are carried forward to any new permission pursuant to the Section 73 application. Further consideration of requirements for conditions in the event that planning permission is granted is set out in Section 9 below.
- 7.10 For the reasons set out earlier in this report, it is also considered that the range of obligations contained in the existing S106 agreements between the developer and the Authority and, separately, the developer and North Yorkshire County Council, remain necessary to make the amended development now proposed acceptable in planning terms; that they remain directly related to the amended development, and are fairly and reasonably related to it in scale and kind. Officers therefore recommend that, if members are minded to grant permission, this should be subject to a prior requirement for completion of deeds of variation to ensure that all existing legal obligations within the existing legal agreements between the developer and the NPA and the developer and North Yorkshire County Council are carried forwarded to the amended form of development.

## **8. Explanation of how the Authority has worked positively with the applicant**

- 8.1 The Authority has worked extensively with the applicant since the grant of permission for the development in October 2015. Senior members of staff have held meetings with the applicant and offered detailed advice on relevant matters relating to the discharge of conditions on the existing permission and on the process for considering proposed amendments to the development.
- 8.2 Officers have co-operated with the applicant and consultants acting on the applicant's behalf at pre-submission stage in considering the planning application documentation required in relation to the amendments proposed and provided input on the scoping of Environmental Impact Assessment. Officers have discussed the application with the applicant at meetings and have taken part in meetings involving statutory consultees including Natural England.

## **9. Conditions and Informatives**

- 9.1 The application seeks permission for a variation of condition 5 of permission NYM/2014/0676/MEIA dated 19 October 2015, through the substitution of a revised schedule of approved plans forming schedule 1 to the current permission, in order to bring into effect the proposed amendments sought.
- 9.2 National Planning Practice Guidance states that: *"... decision notices for the grant of permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. In granting permission under section 73 the local planning authority may also impose new conditions – provided the new conditions do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier permission."* (PPG 031 ID: 21a-031-20140306).
- 9.3 In this instance, the conditions attached to the original (October 2015) planning permission are wide in scope and, in many instances, cover matters relevant to both construction and operational stages. In a significant number of cases they also include matters relevant to development permitted to be carried out at the Lady Cross Plantation site or on the Mineral Transport System tunnel (for which development has not yet commenced). These factors, in combination with the phased approach to discharge of conditions relating to construction stage activities, means that full discharge of a very large majority of conditions attached to the original permission has not yet been achieved.
- 9.4 Notwithstanding this position, officers note that the sole function of condition 41 of permission NYM/2014/0676/MEIA is to require approval of proposals for the removal of a temporary 'ghost island' on the B1416, which was to have been formed in connection with temporary access arrangements for construction stage development. Separate approval, via an application for a non-material amendment, has now been granted to remove the requirement for formation of this ghost island. Condition 41 requiring removal of this ghost island is therefore no longer necessary and could be deleted from any permission granted pursuant to the Section 73 application. Conditions 53 and 54 of the 2015 permission required surveys for the presence of breeding birds surveys to be carried out for UGGLEBARNBY MOOR, SNEATON MOOR, HAXBY PLANTATION and wooded heath to the east of Haxby Plantation prior to commencement of development at the Woodsmith Mine site. The requirements of these conditions were fully discharged in February 2017. It is therefore not necessary to include these conditions on any amended permission.
- 9.5 For the reasons summarised elsewhere in this report it is considered that, should permission be granted pursuant to the Section 73 application, the remaining conditions attached to the existing permission should be carried forward to ensure

that an appropriately high level of planning control can be maintained. Through their application, the applicant also suggests that a number of minor revisions to existing conditions may be appropriate in order to ensure consistency, reflecting the changes to approved plan references that would occur if permission is granted for a variation of condition 5. These changes include:

- a. revisions to drawing numbers referred to in conditions 61, 62 and 73 and in the Glossary reference to 'Permanent above ground structures';
- b. deletion from condition 39 of reference to the 'ghost island' at the southernmost (B1416) shaft entrance point as approval has already been granted for removal of this from the scheme;
- c. deletion from condition 45 of references to 'grout wall' and replacement with reference to the revised ground water management scheme included within the SES;
- d. insertion into conditions 6, 44, 47, 51, 57 and 79 of references to the SES accompanying the application;

9.6 In Officers' opinion these changes would be appropriate in order to ensure clarity in the event that permission is granted, and to ensure that effective planning control over the development is maintained.

9.7 It is considered that minor changes would also be required to a number of other conditions, to reflect consequential changes required by the proposed amendments. These include condition 1, which would need to be revised to ensure that the time period available for commencement of the amended development is limited to a three year period from the grant of the original permission, in line with national Guidance. Condition 35 would require amendments to delete reference to requirements for those off-site highways improvement works which have already been completed. Conditions 44 to 50, relating to Habitats and Ecology, would require revisions to include reference to the Habitats Regulations Assessment undertaken in respect of the Section 73 application, in addition to the HRA undertaken in 2015 and, specifically with respect to conditions 46 and 47, to require submission of further information relating to the monitoring and management of groundwater recharge measures.

9.8 It is further considered that imposition of three additional conditions would be appropriate, to require approval of:

- a. additional screening measures adjacent to the internal access road between the mine welfare facility building and the men and materials shaft, where necessary for the purposes of mitigation of any unforeseen additional impacts from vehicle movements in the event of a 'minimum' spoil disposal scenario for the bund C area (Reason: In the interests of amenity and to accord with the provisions of NYM Development Policy 1);
- b. final expected internal shaft diameters prior to commencement of main shaft digging works (Reason: To ensure effective planning control over the development);
- c. details of configuration and levels (AOD) of permanent spoil mounding in the Bund C area (Reason: To ensure the satisfactory design of the development and to accord with the provisions of NYM Development Policy 3).

9.9 The draft schedule of terms and abbreviations, conditions and informatives set out in Appendix Two to this report includes revisions to conditions to reflect the proposed changes summarised in paragraphs 9.4 to 9.8 above.

9.10 The existing planning permission notice also contains 19 'Informatives' providing further information to the developer on additional matters, not directly subject of planning control, which the developer should be aware of, or comply with, as

relevant. It is recommended that these should be carried forward should permission be granted.

## 10. Recommendation:

10.1 That, taking into consideration the environmental information submitted with the application, and subject first to the completion of deeds of variation to secure the continuance of all existing obligations between the applicant and the National Park Authority and the applicant and North Yorkshire County Council, contained in the separate Section 106 legal agreements between the applicant and each of those parties (as remain relevant) dated 19 October 2015:

- 1) **Planning permission be granted** for the variation of condition 5 of planning permission NYM/2014/0676/MEIA dated 19 October 2015 by substituting a new schedule of approved plans and drawings as set out in Appendix One to this report;
- 2) The permission be subject to the schedule of terms and abbreviations, conditions and informatives as set out in Appendix Two to this report.

## Appendix One

### Draft Schedule of approved plans and drawings (Planning permission NYM/2017/0505/MEIA)

Schedule 1: Plans approved by this planning permission	Plan or drawing number
Mine and MTS Planning Boundary	Y5154-0102M-CJD1 rev 2
Site Location Plan	YP-P2-CX-550 rev 1
<b>Woodsmith Mine (Doves Nest Farm and Haxby Plantation)</b>	
Doves Nest Farm Existing Site Plan	653-AP-0002 rev 2
Doves Nest Farm Site Plan - Existing Utilities and Borehole Locations	YP-P2-CX-510 rev 0
Doves Nest Farm Proposed Site Plan and Block Plan	653-AP-0005 rev 4
Proposed Welfare Buildings Site Plan	653-AP-0006 rev 3
Proposed Mine Buildings Site Plan	653-AP-0007 rev 11
Doves Nest Farm Proposed Hard Landscaping Plan	653-AP-0060 rev 4
Gatehouse – Proposed Plans, Sections and Elevations - Colour	653-AP-0032 rev 1
Miner's Welfare Facility - Proposed Floor and Roof Plans - Colour	653-AP-0033 rev 0
Miner's Welfare Facility - Proposed Sections & Elevations - Colour	653-AP-0034 rev 0
Miner's Welfare Facility - Elevation Study - Sheet 01	653-AP-0035 rev 0
Miner's Welfare Facility - Elevation Study - Sheet 02	653-AP-0036 rev 0
Mine Building 04 – Back-up Generator Plan, Section and Elevations - Colour	653-AP-0051 rev 5
Mine Building 05 – Intake Ventilation Shaft Plan, Section and Elevations - Colour	653-AP-0052 rev 5
Mine Building 06 – Substation Plan, Section and Elevations - Colour	653-AP-0053 rev 5

<b>Schedule 1: Plans approved by this planning permission</b>	<b>Plan or drawing number</b>
Mine Building 07 – Men and Material Shaft Winder Plan, Section and Elevations - Colour	653-AP-0054 rev 5
Mine Building 08 – Mineral Shaft Winder Plan, Section and Elevations - Colour	653-AP-0055 rev 6
Mine Building 09 – MTS Shaft Building Plan, Section and Elevations - Colour	653-AP-0056 rev 6
Mine Building - Elevation Study - Colour	653-AP-0058 rev 4
Doves Nest Farm - Existing Site Sections Sheet 01	653-AP-0003 rev 0
Doves Nest Farm - Existing Site Sections Sheet 02	653-AP-0004 rev 0
Doves Nest Farm - Proposed Site Sections Sheet 01	653-AP-0008 rev 3
Doves Nest Farm - Proposed Site Sections Sheet 02	653-AP-0009 rev 14
Proposed Minehead – Site General Arrangement MTS Scheme Operation Masterplan	YP-P2-CX-031 rev 13
Proposed Minehead – Site General Arrangement MTS Scheme Earthworks Strategy Earthworks Bunds and Ponds	YP-P2-CX-032 rev 10
Proposed Minehead – Site General Arrangement MTS Scheme Earthworks Strategy Construction Platforms (illustrative)	YP-P2-CX-033 rev 8
Proposed Minehead – Pyritic Mudstone Facilities and Temporary NHNI Waste Storage Facility (illustrative)	YP-P2-CX-036 rev 5
Proposed Minehead – Dove's Nest Farm, Hours of Working	YP-P2-CX-080 rev 2
Proposed Phasing Strategy - Phase 7, Removal of all non-hazardous non inert material off site (illustrative)	YP-P2-CX-506 rev 1
Minehead Site Working Plan - General Arrangement and Earthworks	YP-P2-CX-508 rev 10
Minehead Site Working Plan – General Arrangement and Minimum Earthworks	40-ARI-WS-71-CI-DR-1035
Minehead Site Working Plan - Surface Water Drainage	YP-P2-CX-509 rev 3
Minehead Site Working Plan - Lighting	YP-P2-CX-511 rev 2
Proposed Minehead - Existing Landscape Features	2309.MH01 rev 04
Proposed Minehead - Removal of Existing Landscape Features	2309.MH02 rev 04
Proposed Minehead - Restoration Proposals	2309.MH03 rev 07
Proposed Minehead - Restoration Proposals – Cross Sections	2309.MH04 rev 06
Proposed Minehead - Restoration Proposals – Cross Sections	2309.MH05 rev 06
Proposed Minehead - Restoration Proposals – Cross Sections	2309.MH06 rev 06
Tree protection measures for works in highways at A171/B1416 right turn	2556.473.AIA.Whitby.YPL
Mine head Site Welfare Entrance General Arrangement (From ES Appendix 3.3)	YP-P2-CX-043 Issue 0
Proposed Mine and MTS Sub-Surface Structures	1000-ENV-DFS-DWG-005 Rev4
<b>Ladycross Plantation site</b>	

<b>Schedule 1: Plans approved by this planning permission</b>	<b>Plan or drawing number</b>
Existing Site Plan	653-LC-AP-0201 rev 2
Existing Site Sections	653-LC-AP-0202 rev 0
Proposed Site Plan	653-LC-AP-0203 rev 2
Proposed Compound Site Plan and Block Plan	653-LC-AP-0204 rev 2
Proposed Site Sections	653-LC-AP-0205 rev 0
MTS Building Proposed Plan, Section and Elevations	653-LC-AP-0207 rev 0
Proposed Hard Landscaping Plan	653-LC-AP-0208 rev 3
Proposed Site Earthworks – Ladycross Plantation, Spoil Phasing	YP-P2-CX-443 rev 7
Drainage working plan	YP-P2-CX-528 rev 2
Proposed Phasing Strategy: Phases 1 - 5	YP-P2-CX-542 rev 2
Proposed Phasing Strategy: Phase 6	YP-P2-CX-543 rev 2
Working Plan: General Arrangement and Earthworks	YP-P2-CX-525 rev 2
Ladycross Plantation Drainage - Construction	YP-P2-CX-445 rev 7
Ladycross Plantation Drainage - Operation	YP-P2-CX-446 rev 7
Ladycross Plantation – Proposed Earthworks	YP-P2-CX-447 rev 6
Lady Cross Plantation Site Plan – Existing Utilities and Borehole Locations	YP-P2-CX-532 rev 0
Working Plan: Lighting	YP-P2-EL-503 rev 2
Ladycross Plantation - Existing Landscape Features	2322.LCP01 rev 3
Ladycross Plantation - Removal of Existing Vegetation	2322.LCP02 rev 5
Restoration Proposals	2322.LCP03 rev 4
Restoration Proposals – Cross Sections	2322.LCP04 rev 1
Ladycross Plantation – Construction Masterplan	YP-P2-CX-440 rev 8
Ladycross Plantation – Operational Masterplan	YP-P2-CX-441 rev 8
Ladycross Plantation – Alternative access junction	YP-P2-SK-030-rev 0

## Appendix 2

### Draft revised schedule of Terms and Abbreviations, Planning conditions and Informatives (NYM/2017/0505/MEIA)

<b>Glossary of Terms and Abbreviations</b>	<b>Meaning</b>
<b>Term</b>	
Preparatory Works	<p>Any of the following:</p> <ul style="list-style-type: none"> <li>i. trial holes or other operations to establish the ground conditions, site survey work, or works of remediation</li> <li>ii. archaeological investigations</li> <li>iii. any works of demolition or site clearance (but not including soil stripping other than that in iv below)</li> <li>iv. minor soil stripping for the purposes of the creation of the temporary access and lay down areas and preparation of drill pads</li> <li>v. any structural planting or landscaping works</li> <li>vi. ecological or nature conservation works associated with the Development</li> <li>vii. construction of boundary fencing or hoardings</li> </ul>

	<p>viii. construction of access or highway works (including related drainage works)</p> <p>ix. any other works agreed in writing with the Mineral Planning Authority (MPA) as Preparatory Works</p>
Mineral Transport System (MTS)	Means the method of conveyance of excavated mineral from the Mine at Doves Nest Farm (DNF) to the Mineral Handling Facility at Wilton, Teesside, via a sub-surface tunnel on a mechanical conveyor system.
Commencement of Development	Means the commencement of any development pursuant to this permission excluding Preparatory Works.
Date of Production	Means the date at which polyhalite is placed on the conveyor within the MTS on a continuous production basis other than that polyhalite resulting from the construction of the chambers at the base of the shaft which are required to contain equipment and operations needed in support of subsequent ongoing mining operations.
Doves Nest Farm (DNF) site	Means all land shown edged in red on the 'Doves Nest Farm Existing Site Plan'. Ref Drawing No. 653-AP-0002 Rev 2. References to Doves Nest Farm (DNF) shall be taken to refer to Woodsmith Mine and vice versa.
Lady Cross Plantation / LCP Lady Cross Plantation site	Means all land shown edged in red on the 'Lady Cross Plantation Existing Site Plan' Ref Drawing No 653-LC-AP-0201 Rev 2
Permanent Above Ground Structures	Means all above ground structures shown on the 'Doves Nest Farm' Proposed Site and Block Plan' (Drawing No. 653-AP-0005 Rev 4) or the Lady Cross Plantation Proposed Site Plan (Drawing No. 653-LC-AP-0203 Rev 2) but excluding spoil mounds and bunds
Phase of Construction	A package of construction stage development activity, authorised by this permission, the scope and timing of which is to be determined in advance through discussion between the Operator and the MPA, and which forms the basis for the submission by the Operator of further information required by relevant conditions on this permission.
Prior to the Commencement of Operation	Before the Date of Production – defined above.
Mineral Extraction	The below ground working of polyhalite
Mine Development Plan	A document identifying the broad areas of the surface (kilometre grid squares from OS grid) above which mineral extraction is expected to occur in the subsequent 12 months such other basic information as the depth at which Mineral Extraction is to occur and a broad explanation of the techniques of mining so that the public may be aware of the nature of the mining expected from year to year.
Neighbouring Mineral Planning Permission	<p>The area of NYMNPA planning permission R0030043B related to the neighbouring mine. This may be viewed at</p> <p><a href="http://www.northyorkmoors.org.uk/planning/planning-applications/application-search-map?&amp;inspect_query=appno&amp;inspect_value=R0030043B&amp;drill_down=true&amp;scale=2048&amp;show_layers=appno&amp;hide_layers=Appeals&amp;show_viewfinder=true&amp;x=873794&amp;y=629016">http://www.northyorkmoors.org.uk/planning/planning-applications/application-search-map?&amp;inspect_query=appno&amp;inspect_value=R0030043B&amp;drill_down=true&amp;scale=2048&amp;show_layers=appno&amp;hide_layers=Appeals&amp;show_viewfinder=true&amp;x=873794&amp;y=629016</a></p>
Neighbouring Gasfields	<p>The area of the gasfields subject to DECC Licences PL77 and PEDL120. These may be viewed at</p> <p><a href="https://decc-edu.maps.arcgis.com/apps/webappviewer/index.html?id=29c31fa4b00248418e545d222e57ddaa">https://decc-edu.maps.arcgis.com/apps/webappviewer/index.html?id=29c31fa4b00248418e545d222e57ddaa</a></p>
Mining Exclusion Zone	An area around RAF Fylingdales in which no mining is permitted as shown on SRK Consulting Drawing U5295 (May 2013). The exclusion zone may change reflecting actual monitoring data about underground mining including if monitoring data indicates the Angle of Draw associated with mining exceeds 60 degrees.
Vibration Sensitive Buildings and Infrastructure	Any building or structure or any service infrastructure such as roads, pipes, cables, mains etc at which vibration above the levels referred to in conditions 29 and 30 might cause damage to the fabric of buildings or structures or might adversely affect the utility of the building eg if it is an office, the ability for it to be used as such.
Operator	Any party relying on this planning permission to undertake the development approved by this planning permission.

Angle of Draw	The angle between a vertical line drawn upward to the surface from the edge of underground workings and a diagonal line drawn from the edge of underground workings to the closest point at the surface at which there is no subsidence caused by the underground workings.
<b>Abbreviations</b>	
AOD	Above Ordnance Datum
MOD	Ministry of Defence
MPA	Mineral Planning Authority
NYM	North York Moors
NPA	National Park Authority
NVMP	Noise and Vibration Management Plan
SBC EHO	Scarborough Borough Council Environmental Health Officer

### Explanatory Conditions

1.	<p>The development hereby permitted shall be commenced prior to the 19 October 2018.</p> <p><b>Reason:</b> To comply with the requirements of Section 91 (as amended) of the Town and Country Planning Act 1990</p>
2.	<p>The permission hereby granted authorises the winning and working of the polyhalite form of Potash mineral and trace minerals intermingled with the polyhalite only, the construction of the mine and ancillary development at Doves Nest Farm and the construction of the Mineral Transport System within the National Park including the construction of the Intermediate shaft at Lady Cross Plantation. The winning and working of mineral shall cease after the expiry of a period of 103 years from the date of this permission.</p> <p><b>Reason:</b> To comply with the requirements of Schedule 5 to the Town and Country Planning Act 1990 and to accord with NYM Core Policy A &amp; E.</p>
3.	<p>The Mineral Planning Authority (MPA) shall be notified in writing in advance of the date of Commencement of Development and not less than 21 days in advance of the Date of Production.</p> <p><b>Reason:</b> To enable the MPA to monitor compliance with the conditions of the planning permission and to accord with the provisions of NYM Core Policy E.</p>
4.	<p>Prior to the commencement of each Phase of Construction a plan shall be submitted to and agreed by the MPA setting out the proposed development and any associated temporary operations during that phase. The phasing plan shall be adhered to at all times.</p> <p><b>Reason:</b> In the interests of amenity, highway safety and in accordance with NYM Development Policy 1.</p>

5.	<p>The development hereby permitted shall be carried out in complete accordance with the approved plans set out in Schedule 1 attached to this permission.</p> <p><b>Reason:</b> For the avoidance of doubt and to accord with the provisions of NYM Core Policy A.</p>
6.	<p>Unless otherwise required by other conditions attached to this planning permission, or otherwise agreed by the MPA in schemes related to the discharge of such other conditions, the Key Mitigation Measures described in the mitigation tables presented in Part 2 Section 17 and Part 3 Section 18 in the York Potash Environmental Statement (September 2014 as updated by the Supplementary Environmental Statement dated February 2015) and the Supplementary Environmental Statement dated July 2017 (updated by further information dated October and November 2017) as relevant, save for those relating to development outside of the administrative area of the North York Moors National Park Authority, shall be implemented as part of the development hereby approved unless agreed previously in writing by the MPA.</p> <p><b>Reason:</b> To ensure the satisfactory implementation of mitigation measures identified in the Environmental Statement and to ensure compliance with NYM Core Policies A and B and Development Policies 1, 3, 7 and 23.</p>
7.	<p>No polyhalite shall be transported by road from the Doves Nest Farm site or the Lady Cross Plantation site other than during a period of eight months during the sinking of the Doves Nest Farm shaft and before the commissioning of the MTS. During this period polyhalite may only be removed from the Doves Nest Farm site in covered vehicles.</p> <p>Records of the quantity of polyhalite produced during the whole period of construction and operation of the mine and of the means of its transportation from DNF shall be maintained and made available to the MPA on request and no more than 13 million tonnes of polyhalite shall be produced at the mine during any period of twelve consecutive months (a rolling twelve month period). Each year on the anniversary of the Date of Production a report of the quantities of polyhalite produced in each month of the previous five years shall be submitted by the mine Operator to the MPA.</p> <p><b>Reason:</b> To limit the effects of the project on the local roads system, environment, population and businesses. To ensure that the development here permitted complies with the information submitted with the planning application. In order to comply with NYM Core Policy A and Development Policy 1.</p>
8.	<p>No Mineral Extraction shall take place within the areas cross-hatched blue as the 'Villages excluded from Mine Plan' on 'Mine and MTS Planning Boundary' Drawing submitted with the application. Drawing ref Y5154-0102M-CJD1- Revision 2.</p> <p><b>Reason:</b> For the avoidance of doubt and to accord with the provisions of NYM Core Policy A.</p>
9.	<p>One year from the commencement of production, a plan shall be submitted to the MPA detailing the area that has been worked in the preceding year. Such a plan shall be prepared and submitted every subsequent year for as long as production continues.</p> <p><b>Reason:</b> For the avoidance of doubt and to accord with the provisions of NYM Core Policy A.</p>
10.	<p>The Lady Cross Plantation Shaft constructed to provide access in emergency and for maintenance/ repair purposes shall be used for these purposes only following completion of the construction and the bringing into use of the MTS.</p> <p><b>Reason:</b> For the avoidance of doubt and to comply with NYM Core Policy A.</p>

## Subsidence

11.	<p>There shall be no Mineral Extraction within the Coastal Buffer until a scheme of extraction has been submitted to and approved by the MPA to demonstrate that there will be no increase in the rate of coastal erosion or increase in flood risk. The Coastal Buffer will be 1.5km (measured on a horizontal plane) of the Mean Low Water Mark as shown on OS Mastermap Topography or any other distance the MPA may determine based on the results of monitoring in the Subsidence Monitoring Strategy. The scheme shall include monitoring and remedial measures. Thereafter any extraction within the Coastal Buffer shall only be undertaken in accordance with the approved Coastal Buffer extraction scheme.</p> <p><b>Reason:</b> To prevent an increase in flood risk or the rate of coastal erosion and to accord with the provisions of NYM Development Policy 1.</p>
12.	<p>Notification shall be given to the MPA before Mineral Extraction consented by this planning permission takes place within 1.5 km measured on a horizontal plane, or any other distance the MPA may determine based on the results of monitoring in the Subsidence Monitoring Strategy, of a boundary of:</p> <ul style="list-style-type: none"> <li>i. Neighbouring Mineral Planning Permission</li> <li>ii. Neighbouring Gasfields</li> </ul> <p>Prior to Mineral Extraction consented by this planning permission occurring within 1.5km (measured on a horizontal plane), or any other distance the MPA may determine based on the results of monitoring in the Subsidence Monitoring Strategy, of the boundaries of either of the above a scheme of monitoring and remedial measures shall be submitted to the MPA for approval.</p> <p>For the avoidance of doubt this condition does not apply to works associated with the construction of the MTS tunnel.</p> <p><b>Reason:</b> To ensure managed extraction of all workable minerals in the area and to accord with NYM Core Policy E.</p>
13.	<p>An annual Mine Development Plan, including areas likely to be mined within the forthcoming year, shall to be submitted to the MPA together with any updates on monitoring and remedial measures. The first shall be submitted Prior to the Commencement of Operation.</p> <p><b>Reason:</b> For the avoidance of doubt and for MPA to monitor the progress of the development in accordance with the provisions of NYM Core Policy A.</p>
14.	<p>Detailed schemes for monitoring and reporting of subsidence associated with mining operations which might affect RAF Fylingdales shall be submitted to and approved in writing by the MPA in consultation with the Ministry of Defence (MOD) and the Environment Agency in advance of the commencement of any significant new underground developments such as the construction of shafts and tunnels or new underground chambers or the commencement of Mineral Extraction in new areas or directions. The first such approved scheme shall be implemented before the commencement of shaft sinking.</p> <p><b>Reason:</b> To protect the assets at RAF Fylingdales for National Defence purposes and in the interests of public amenity and to accord with the provisions of NYM Development Policy 1 and to inform the consideration of methods of extraction and mitigate the impacts of subsidence on; flood risk, water resources, coastal erosion, ecology and heritage assets.</p>
15.	<p>No Mineral Extraction shall commence until a Subsidence Monitoring Strategy (SMS)</p>

	<p>to identify subsidence caused by the mine workings here approved has been submitted to and approved in writing by the MPA. The Strategy shall include:</p> <ul style="list-style-type: none"> <li>• Monitoring locations which shall include any affected watercourses, floodplains, flood defences, gauging station, source protection zones, and the coastal zone;</li> <li>• A methodology for monitoring;</li> <li>• Details of any infrastructure needed to facilitate monitoring;</li> <li>• A timetable for implementing the monitoring strategy, including the construction of any monitoring infrastructure.</li> </ul> <p>The approved Subsidence Monitoring Strategy shall thereafter be implemented, with the results and an explanatory report submitted to the Mineral Planning Authority no less frequently than once every quarter. If the subsidence monitoring detects that subsidence has occurred, the Mineral Planning Authority shall be notified. If the level of subsidence is such that it might cause such damage to buildings, infrastructure, drainage or flood defences that might compromise their function any Mineral Extraction within 1.5 km of the subsidence measured on a horizontal plane shall cease as soon as possible and within no more than one month of the monitoring taking place. No more than 8 weeks after subsidence is detected a Subsidence Remediation Strategy shall be submitted to and approved in writing by the Mineral Planning Authority. The Subsidence Remediation Strategy shall include:</p> <ul style="list-style-type: none"> <li>• A comprehensive investigation into the extent of subsidence which has occurred;</li> <li>• An assessment of the impacts the subsidence has caused;</li> <li>• Measures to mitigate the subsidence impacts identified;</li> <li>• Proposals to revise the Mineral Extraction methodology to ensure no further subsidence occurs;</li> <li>• Proposals for more detailed subsidence monitoring in the area affected by subsidence.</li> </ul> <p>Mineral Extraction ceased further to this condition shall only recommence if it can be proven that subsidence was not caused by the mining operations here approved or:</p> <ul style="list-style-type: none"> <li>• Once the remedial measures set out in the approved Subsidence Remediation Strategy have been implemented;</li> <li>• In accordance with the revised extraction methodology set out in the approved Subsidence Remediation Strategy;</li> <li>• Subject to the detailed subsidence monitoring set out in the approved Subsidence Remediation Strategy.</li> </ul> <p><b>Reason:</b> To ensure that Mineral Extraction ceases if potentially damaging subsidence is being caused and to fully accord with NYM Development Policy 1. To ensure resultant effects are fully investigated and mitigated.</p>
16.	<p>If any subsidence is identified within the Mining Exclusion Zone as shown on SRK Consulting Drawing U5295 (May 2013) then the MPA and the MOD shall be notified as soon as possible and within no more than one month of the date of identification. If the subsidence is within 1.5km (measured on a horizontal plane) of areas of active Mineral Extraction then the extraction in those areas shall cease until the cause is identified. If subsidence is proven to be as a consequence of the Operator's mine workings then a subsidence remediation scheme shall be submitted in writing for approval by the MPA, in consultation and agreement with the MOD, no more than 8 weeks after the subsidence was identified. The subsidence remediation scheme shall be implemented as approved before extraction recommences in those areas.</p> <p><b>Reason:</b> To protect the assets at RAF Fylingdales for National Defence purposes and in the</p>

	interests of public amenity and to accord with the provisions of NYM Development Policy 1.
17.	<p>No Mineral Extraction shall take place within the Mining Exclusion Zone as shown on SRK Consulting Drawing U5295 (May 2013). Notification shall be made to the MPA and the MOD when workings are within 1.5Km (measured on a horizontal plane) of the Mining Exclusion Zone. The Mining Exclusion Zone shall be increased accordingly if the Angle of Draw is demonstrated to be greater than 60 degrees.</p> <p><b>Reason:</b> To protect the assets at RAF Fylingdales for National Defence purposes and in the interests of public amenity and to accord with the provisions of NYM Development Policy 1.</p>

## Noise

18.	<p>Prior to the commencement of each Phase of Construction at Dove's Nest Farm or Lady Cross Plantation, a Noise and Vibration Management Plan (NVMP) for the control, mitigation and monitoring of noise and vibration for both construction and operational phases at the two sites shall be submitted to and approved in writing by the MPA in consultation with the SBC EHO. The scheme shall set out the following:</p> <ul style="list-style-type: none"> <li>• Noise-sensitive receptors for which predictions shall be made and at which the noise and vibration limits shall apply and which shall include recreational receptors.</li> <li>• Predicted noise levels at the noise-sensitive receptors from noise and vibration generated at the DNF and LCP sites for the key construction phases during the forthcoming year including any periods in which the higher daytime limit of 70 dB L<sub>Aeq</sub> shall apply (permitted 56 days for temporary works to create noise-reducing bunds and/or barriers as per Conditions 20 and 22).</li> <li>• The best practicable means which will be used to control noise and vibration levels on site including such measures proposed in the York Potash Environmental Statement (September 2014 as updated by the Supplementary Environmental Statement dated February 2015) and the Supplementary Environmental Statement dated July 2017 (updated by further information dated October and November 2017) as relevant. Such measures shall include, but are not limited to: the use of the quietest available plant, equipment and techniques; the regular maintenance and inspection of such plant and equipment; the use of cladding, attenuators and barriers to reduce noise levels from noisy plant and operations; the specification of appropriate reversing alarms to minimise annoyance; and, measures to reduce vibration and air overpressure during blasting.</li> <li>• Details of the noise and vibration monitoring system to be installed around the DNF and LCP sites to continuously log noise levels during construction and operation. The NVMP shall recommend the number and location of noise monitors installed around the boundaries of the Dove's Nest Farm and Lady Cross Plantation sites during different phases of construction and operation and shall include at least four monitors at key residential receptors near the Dove's Nest site and at least three monitors at key residential receptors near the Lady Cross Plantation site. The precise number and location of noise monitors shall be set out in the NVMP. The developer shall use reasonable endeavours to obtain access to the residential receptor properties for the installation of noise monitors and only if access cannot be obtained the number or location of noise monitors may be reduced. The MPA and the SBC EHO and/or their advisers shall be granted access to inspect the noise and vibration data whenever required, records of the data</li> </ul>
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	<p>should be kept for a reasonable period and these records should be accessible by the public.</p> <ul style="list-style-type: none"> <li>• Details of the procedure to be followed in the event that the noise predictions detailed in the NVMP or the noise limits detailed in conditions 20 to 23 are exceeded. Such procedures shall require the investigation of the reasons for the breach of the limits and the cessation of the activity causing the breach until such a time as additional mitigation can be provided.</li> <li>• Details of how the residents will be informed and consulted about the site operations and progress, particularly in regard to blasting and especially noisy operations including details of complaints logging and management procedures and a 24-hour telephone incident hotline. Details of the procedure for investigating complaints and informing complainants of the results of such investigations and of any actions resulting from them.</li> <li>• The NVMP shall be adhered to at all times unless agreed previously in writing by the MPA.</li> </ul> <p>The NVMP shall be updated and agreed whenever appropriate to reflect changes in the programme during construction and operation and at intervals not less than 6 months after the initial start on site and thereafter annually.</p> <p><b>Reason:</b> In the interests of amenity and to accord with the provisions of NYM Development Policy 1.</p>
19.	<p>Mobile earth-moving plant shall not be used between the hours of 19.00 to 07.00 unless otherwise agreed in advance with the MPA in consultation with the SBC EHO and any such operations shall accord with the Noise and Vibration Management Plan and other planning conditions relating to noise.</p> <p><b>Reason:</b> In the interests of amenity and to accord with the provisions of NYM Development Policy 1.</p>
20.	<p>Day-time (07.00 hrs to 19.00 hrs) noise levels <math>L_{Aeq\ 1hr}</math> from mine construction at the Dove's Nest site, excluding blasting operations, shall not exceed 55 dB <math>L_{Aeq\ 1hr}</math> and for short-term, construction activities solely relating to the demolition of existing buildings and erection of new structures excluding earth mound and bunds shall not exceed 65dB <math>L_{Aeq\ 1hr}</math>. An upper limit of 70 dB <math>L_{Aeq\ 1hr}</math> for the purposes of temporary noisy operations to provide noise-reducing earth bunds and / or barriers may be permitted for up to 56 days in any calendar year provided such temporary operations are specified and agreed in the NVMP described in Condition 18. Each calendar day when the higher temporary noise level is exceeded shall be counted as one day. Noise levels shall be measured in accordance with BS 4142: 2014 and the limits apply at the curtilage boundary of residential properties and at the following recreational receptors: Falling Foss tea room, Lound House Camp / Caravan site, Sneaton Foss Lane Caravan site and at any location on the Wainwright Coast to Coast walk footpath as illustrated in drawing number PB1110-P2-7-002 which is Figure 7.2 of Part 2 of the York Potash Project Mine, MTS and MHF Environmental Statement dated September 2014.</p> <p><b>Reason:</b> In the interests of amenity and to accord with the provisions of NYM Development Policy 1.</p>
21.	<p>Evening (19.00 hrs to 22.00 hrs) and night-time (22.00 to 07.00 hrs) noise levels <math>L_{Aeq\ 1hr}</math> from mine construction at the Dove's Nest site, excluding blasting operations, shall not exceed 42 dB <math>L_{Aeq\ 1hr}</math>. Noise levels shall be measured in accordance with BS</p>

	<p>4142: 2014 and the limits apply at the curtilage boundary of residential properties and at the following recreational receptors: Lound House Camp / Caravan site and Sneaton Caravan site.</p> <p><b>Reason:</b> In the interests of amenity and to accord with the provisions of NYM Development Policy 1.</p>
22.	<p>Day-time (07.00 hrs to 19.00 hrs) noise levels <math>L_{Aeq\ 1hr}</math> from mine construction at the Lady Cross Plantation site, excluding blasting operations, shall not exceed 55 dB <math>L_{Aeq\ 1hr}</math> and for short-term, construction activities solely relating to the demolition of existing buildings and erection of new structures excluding earth mound and bunds shall not exceed 65dB <math>L_{Aeq\ 1hr}</math>. An upper limit of 70 dB <math>L_{Aeq\ 1hr}</math> for the purposes of temporary noisy operations to provide noise-reducing earth bunds and / or barriers may be permitted for up to 56 days in any calendar year provided such temporary operations are specified and agreed in the NVMP described in Condition 18. Each calendar day when the higher temporary noise level is exceeded shall be counted as one day. Noise levels shall be measured in accordance with BS 4142: 2014 and shall apply at the curtilage boundary of residential properties and at the following recreational receptors: on the open access land to the north and east of the site at OS Grid Reference locations 816084 and 819077.</p> <p><b>Reason:</b> In the interests of amenity and to accord with the provisions of NYM Development Policy 1.</p>
23.	<p>Evening (19.00 hrs to 22.00 hrs) and night-time (22.00 to 07.00 hrs) noise levels <math>L_{Aeq\ 1hr}</math> from mine construction at the Lady Cross Plantation site, excluding blasting operations, shall not exceed 42 dB <math>L_{Aeq\ 1hr}</math>. Noise levels shall be measured in accordance with BS4142: 2014 and the limits apply at the curtilage boundary of residential properties.</p> <p><b>Reason:</b> In the interests of amenity and to accord with the provisions of NYM Development Policy 1.</p>
24.	<p>Noise levels (air overpressure) from blasting shall not exceed 115dB (linear peak) as measured at any residential properties. No blasting shall take place outside the period 0700 until 2200 unless agreed in advance in writing by the MPA and it can be demonstrated that there will be no significant adverse noise effect on residents.</p> <p><b>Reason:</b> In the interests of amenity and to accord with the provisions of NYM Development Policy 1</p>
25.	<p>Noise levels from either Doves Nest Farm or Lady Cross Plantation, during the operational phase, shall not exceed 42 dB <math>L_{Ar}</math> during the daytime (07.00 to 19.00 hours) and 28 dB <math>L_{Ar}</math> during the evening and night (19.00 to 07.00 hours). In addition, noise from fixed plant and equipment, including fans and winding gear, shall not exceed 25 dB <math>L_{Ar}</math> at any time. Noise levels are to be rated and assessed at the curtilage boundary of residential properties according to BS 4142: 2014.</p> <p><b>Reason:</b> In the interests of amenity and to accord with the provisions of NYM Development Policy 1 and to ensure that noise levels from mechanical plant are controlled in line with predictions in the York Potash Environmental Statement (September 2014 as updated by the Supplementary Environmental Statement dated February 2015) (Part 2, Table 8.9 and Part 3, Table 8.65) and the Supplementary Environmental Statement dated July 2017 (updated by further information dated October and November 2017) as relevant.</p>

## Vibration

26.	<p>Vibration from construction work on site and during operation (but excluding blasting) shall not exceed 0.3mm/s (PPV) at any residential property at any time.</p> <p><b>Reason:</b> In the interests of amenity and to accord with the provisions of NYM Development Policy 1.</p>
27.	<p>Day time (07.00 hrs to 19.00 hrs) ground vibration as a result of underground chamber construction or blasting operations involved in shaft sinking shall not exceed a peak particle velocity of 6 mm/sec in 95% of all blasts measured over any period of 6 months and no individual blast shall exceed a peak particle velocity of 10 mm/s as measured at vibration sensitive buildings. Evening (19.00 to 22.00 hrs) ground vibration as a result of underground chamber construction or blasting operations involved in shaft sinking shall not exceed a peak particle velocity of 4.5 mm/sec in 95% of all blasts measured over any period of 6 months and no individual blast shall exceed a peak particle velocity of 6 mm/s as measured at Vibration Sensitive Buildings and Infrastructure.</p> <p><b>Reason:</b> In the interests of public amenity and to accord with the provisions of NYM Development Policy 1.</p>
28.	<p>Night time (22:00 hrs to 07.00 hrs) ground vibration from construction/blasting shall not exceed a peak particle velocity of 2 mm/s in 95% of blasts at residential properties and no individual blast shall exceed a peak particle velocity of 3 mm/s as measured at Vibration Sensitive Buildings and Infrastructure.</p> <p><b>Reason:</b> In the interests of public amenity and to accord with the provisions of NYM Development Policy 1.</p>
29.	<p>Prior to the commencement of any blasting operations associated with shaft sinking or chamber construction, a scheme for the monitoring of blasting vibration within 1 kilometre of the site shall be submitted to the MPA for approval. Blast monitoring shall take place in accordance with the approved scheme and the results forwarded to the MPA on a quarterly basis until the completion of those blasting operations.</p> <p><b>Reason:</b> In the interests of public amenity and to accord with the provisions of NYM Development Policy 1.</p>
30.	<p>A Blasting and Vibration Management Plan for RAF Fylingdales shall be submitted to the MPA for approval in consultation with the MOD, prior to the commencement of activities with the potential to give rise to significant vibration arising from any underground works. Measures should include:</p> <ul style="list-style-type: none"> <li>• Details of the specific actions that will be taken if the level of vibration at RAF Fylingdales due to the permitted development exceeds 0.023 mm/s;</li> <li>• Details of the specific actions that will be taken if the stated vibration criteria are exceeded;</li> <li>• Technical changes to mining methods if the vibration levels in planning conditions are exceeded; and</li> <li>• Communication of information to affected parties.</li> </ul> <p>The development shall thereafter be carried out in accordance with the approved Blasting and Vibration Management Plan.</p> <p><b>Reason:</b> To protect National Defence interests by ensuring that management planning relating to adverse vibration is in place so that corrective action can be implemented without delay to provide for the proper control of blasting impacts and to accord with the</p>

	provisions of NYM Development Policy 1.
31.	<p>Vibration monitoring equipment shall be installed, maintained and operated on or adjacent to RAF Fylingdales prior to the commencement of blasting, in accordance with the Blasting and Vibration Management Plan detailed plans of which shall be submitted to and approved by the MPA.</p> <p><b>Reason:</b> To protect National Defence interests by ensuring that vibration levels are not detrimental to the operational activities at RAF Fylingdales and to accord with the provisions of NYM Development Policy 1.</p>
32.	<p>Ground vibration from construction/blasting shall not exceed a peak particle velocity of 0.025 mm/s in 95% of blasts as measured at RAF Fylingdales unless otherwise agreed in writing with the MPA in consultation and agreement with the MOD.</p> <p><b>Reason:</b> To protect National Defence interests by ensuring that vibration levels are not detrimental to the operational activities at RAF Fylingdales and to accord with the provisions of NYM Development Policy 1.</p>
33.	<p>A scheme for prior notification of blasting for any of the chamber creations and shaft sinking shall be submitted to the MPA for approval prior to the shaft chamber sinking phase of the development. Such a scheme shall involve the regular provision of a schedule of proposed blasts. The notification shall include the following:</p> <ul style="list-style-type: none"> <li>Location of the blast site;</li> <li>Approximate times of blasting; and</li> <li>Details of any warnings to be given prior to blasting.</li> </ul> <p>Blasting operations shall be carried out in accordance with the blasting schedule. Any changes to the schedule arising through exceptional circumstances must be notified in writing with the MPA.</p> <p><b>Reason:</b> To protect the amenity of adjoining landowners/occupiers of nearby properties, and to accord with the provisions of NYM Development Policy 1.</p>

## Transport

34.	<p>Prior to the commencement of each Phase of Construction a Construction Traffic Management Plan (CTMP), based upon the submitted Framework Construction Traffic Management Plan dated February 2015 shall be submitted to, and approved in writing by the MPA in consultation with the appropriate Highway Authority. The approved Construction Traffic Management Plan shall be adhered to throughout the construction period unless otherwise agreed in writing with the MPA. The CTMP shall provide for:</p> <ul style="list-style-type: none"> <li>• The appointment of a CTMP co-ordinator;</li> <li>• Measures to control the number of employees travelling individually to the sites and their mode of travel;</li> <li>• The Traffic Management Liaison Group agreed level of HGV trips to the site;</li> <li>• Measures to identify HGVs associated with the development travelling to the construction sites;</li> <li>• The links to the Traffic Management Liaison Group;</li> <li>• Signing for HGV routes including prohibitive signing;</li> <li>• Accident record monitoring;</li> <li>• Driver training;</li> <li>• A communications plan;</li> <li>• A complaints mechanism ;</li> <li>• An Incident reporting mechanism including near misses; and</li> </ul>
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	<ul style="list-style-type: none"> <li>• A penalty system for breaches of the agreed CTMP.</li> </ul> <p><b>Reason:</b> To minimise the impact of HGV and employee trips and in the interests of highway safety and to accord with the provisions of NYM Development Policy 23.</p>
35.	<p>Prior to the Date of Production an Operational Travel Plan, based upon the submitted Framework Travel Plan dated August 2014, shall be submitted to and approved in writing by the MPA in consultation with the Highway Authority. Once approved it shall be implemented in full and all actions undertaken within the timescales indicated. This shall include the provision of the Park and Ride access to the DNF site and any infrastructure necessary to deliver the Park and Ride service.</p> <p><b>Reason:</b> To minimise the number of operational phase car based vehicle trips to the Minehead site and in the interests of highway safety and to accord with the provisions of NYM Development Policy 23.</p>
36.	<p>Prior to the Date of Production an Operational Delivery Management Plan shall be submitted to, and approved in writing by, the MPA in consultation with the appropriate Highway Authority. The approved Operational Delivery Management Plan shall be adhered to unless otherwise agreed in writing with the MPA.</p> <p><b>Reason:</b> To minimise the impact of HGV trips and in the interests of highway safety and to accord with the provisions of NYM Development Policy 23.</p>
37.	<p>Prior to any off-site highways works requiring a TRO, details of the following Traffic Regulation Orders (TROs) shall have been submitted to and approved in writing by the MPA in consultation with the Highway Authority:</p> <ul style="list-style-type: none"> <li>• A “clearway” order along the B1416 in the vicinity of the Doves Nest Farm access and secondary construction access;</li> <li>• Temporary speed limits during construction; and</li> <li>• TROs related to the proposed off site highway works.</li> </ul> <p>The approved details shall, at the applicant’s expense, undergo the legal process required. Subject to the successful completion of this legal process the measures will be implemented at the applicant’s cost according to a timetable to be approved in writing by the MPA in consultation with the Highway Authority.</p> <p><b>Reason:</b> In accordance with policy Development Policy 23 and in the interests of highways safety and the general amenity of the area.</p>
38.	<p>The helicopter pad hereby permitted shall only be used for helicopter trips for emergency purposes or in training for emergencies and for no other use other than as may be agreed in writing with the MPA.</p> <p><b>Reason:</b> To minimise the number of aircraft trips to and from the Doves Nest Farm site; in the interests of public amenity and to accord with the provisions of NYM Core Policy A.</p>
39.	<p>Within 6 months of the date of this permission, a programme for the delivery of the off-site highway works shall be submitted to and approved in writing by the MPA in consultation with the Highway Authority. The programme shall have regard to the level of construction employee traffic, HGV deliveries, and base flow traffic movements. It shall include the timing of:-</p> <ul style="list-style-type: none"> <li>• Submissions of detailed designs and all construction documentation for the off-site highway works for approval;</li> <li>• The undertaking of the necessary independent Road Safety Audits of the submitted design shall be carried out in accordance with HD19/15 -</li> </ul>

	<p>Road Safety Audit and any superseding regulations;</p> <ul style="list-style-type: none"> <li>• Formal written approval of the details and all necessary permissions to allow works to commence on site;</li> <li>• The timing of construction of the approved works; and</li> <li>• Temporary traffic movement.</li> </ul> <p>The off-site highways works, which shall be delivered in accordance with the approved details amended to address all issues raised by the Road Safety Audits, to the approved programme, shall include:</p> <ul style="list-style-type: none"> <li>• Normanby Bends A171: Reinforce/widen the carriageway within the existing adopted highway boundaries to optimise the carriageway available for passing HGVs;</li> <li>• A171 at Lady Cross: A permanent 'ghost island right turn lane' on the A171 the junction of the C82 to Egton;</li> <li>• A171 Whitby south of New Bridge: Provision of parking laybys on Helredale Road, north east side only, between Abbott's Road and St Peters Road to remove potential disruption to the free flow of traffic when additional HGVs pass vehicles currently parked half on half off verges.</li> </ul> <p>The undertaking of the Necessary independent Road Safety Audits of the submitted design shall be carried out in accordance with <b>HD19/15</b> - Road Safety Audit and any superseding regulations.</p> <p><b>Reason:</b> In the interests of highways safety and to accord with the provisions of NYM Development Policy 23.</p>
40.	<p>Other than in the event of an emergency and until the completion of the access point at Grid Ref. NE896045 (Haxby Plantation - The welfare access) access to and egress from Doves Nest Farm for all plant and materials delivery vehicles during the construction period shall only be achieved via the improved access at Grid Ref. NE 892054 (Ugglebarnby Moor - Shafts entrance). The original access to Dove Nest Farm shall not be used except to allow access for ecology or archaeology investigations or to carry out maintenance to farm buildings.</p> <p><b>Reason:</b> In the interests of highway safety and to accord with the provisions of NYM Development Policy 23.</p>
41.	Condition 41 deleted
42.	<p>Prior to the commencement of Preparatory Works at Lady Cross Plantation proposals for construction of the access, parking, manoeuvring and turning areas at this site shall be submitted to and approved in writing by the MPA in consultation with the appropriate Highway Authority. The proposals shall include a programme for construction and shall include for:</p> <ul style="list-style-type: none"> <li>• vehicular, cycle, and pedestrian accesses and internal circulation routes;</li> <li>• vehicular and cycle parking;</li> <li>• vehicular turning arrangements;</li> <li>• manoeuvring arrangements;</li> <li>• loading and unloading arrangements;</li> <li>• temporary traffic management; and</li> <li>• downgrading to an occasional use access for HGVs following the Date of Production.</li> </ul> <p>The works shall be carried out in accordance with the approved details and once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times until the Date of Production.</p>

	<p><b>Reason:</b> In accordance with Development Policy 23 and to provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.</p>
43.	<p>Prior to the Date of Production, the access for light vehicles, parking, manoeuvring and turning areas at the Lady Cross Plantation site for vehicles associated with maintenance shall have been constructed in accordance with details submitted to and approved in writing by the MPA in consultation with the appropriate Highway Authority. The proposals shall include for:</p> <ul style="list-style-type: none"> <li>• Vehicular access for HGVs and light vehicles and internal circulation routes;</li> <li>• Vehicular parking;</li> <li>• Vehicular manoeuvring arrangements;</li> <li>• Loading and unloading arrangements; and</li> <li>• Temporary traffic management as needed.</li> </ul> <p>Once created these areas shall be maintained, cleared of any obstruction and retained for their intended purpose at all times.</p> <p><b>Reason:</b> In accordance with Development Policy 23 and to provide for appropriate on-site vehicle facilities in the interests of highway safety and general amenity of the development.</p>

### Habitats and Ecology

44.	<p>At all times during the construction and operation of the mine regard shall be had to the Habitats Regulations Assessment (HRA) prepared by Amec Foster Wheeler dated June 2015, with document reference 35190CGos064R; and as updated by the HRA prepared by Royal HaskoningDHV dated November 2017 with document reference 40-RHD-WS-83-WM-RP-0001 REV4; the York Potash Environmental Statement (September 2014 as updated by the Supplementary Environmental Statement dated February 2015) and the Supplementary Environmental Statement dated July 2017 (updated by further information dated October and November 2017) as relevant, undertaken in respect of the development. The design and mitigation measures to avoid potential adverse effects to the North York Moors Special Protection Area and Special Area of Conservation included in those documents that accompanied the planning application shall be followed at all times.</p> <p><b>Reason:</b> To avoid adverse effects on habitats protected under European legislation and species that use them in accordance with NYM Core Policy C and the first statutory purpose of the National Park.</p>
45.	<p>Prior to commencement of shaft sinking or chamber formation beneath ground at the Doves Nest Farm site and in accordance with the details in the document "York Potash Project: Habitats Regulations Assessment" prepared by Amec Foster Wheeler dated June 2015 with document reference 35190CGos064R, and as updated by the HRA prepared by Royal HaskoningDHV dated November 2017 with document reference 40-RHD-WS-83-WM-RP-0001 REV4, a programme for the implementation of the following shall be submitted to and agreed in writing with the MPA:</p> <ol style="list-style-type: none"> <li>a. A recharge trench to promote re-infiltration of surface runoff to recharge the Moor Grit aquifer up hydraulic gradient of the source area to Moorside Farm Spring;</li> <li>b. Provision of groundwater drainage areas beneath bunds E and F to collect spring water issues from the Scarborough and Cloughton Formations for discharge via the mine site surface water drainage system.</li> </ol>

	<p>The approved measures shall be brought into operation and maintained to the satisfaction of the MPA in accordance with the approved details.</p> <p><b>Reason:</b> To ensure that adverse effects on the groundwater levels within North York Moors SAC/SPA, and in particular Ugglebarnby Moor, are avoided so as to protect the hydrological conditions and related moorland habitats and to accord with the provisions of the Habitat Regulations Assessment and Development Plan Policy 1.</p>
46.	<p>Prior to the commencement of each Phase of Construction at the Doves Nest Farm site, a Revised Hydro-geological Risk Assessment based on the most up to date monitoring data shall be undertaken in accordance with the details in the document "York Potash Project: Habitats Regulations Assessment" prepared by Amec Foster Wheeler dated June 2015, with document reference 35190CGos064R and as updated by the HRA prepared by Royal HaskoningDHV dated November 2017 with document reference 40-RHD-WS-83-WM-RP-0001 REV4; and submitted for approval in writing by the MPA in consultation with Natural England and the Environment Agency.</p> <p>Following the approval in writing by the MPA of the Revised Hydro-geological Risk Assessment, but prior to the commencement of each Phase of Construction at the Doves Nest Farm site, a Construction and Operation Phase Ground and Surface Water Monitoring Scheme shall be submitted to and approved in writing by the MPA in consultation with the Environment Agency and Natural England. The scheme shall include, but is not limited to:</p> <ul style="list-style-type: none"> <li>• Details of the number, type and location of monitoring points;</li> <li>• A protocol for the removal and replacement of any existing boreholes;</li> <li>• Details of the frequency of monitoring during construction and operation;</li> <li>• A list of the ground and surface water determinants to be tested for;</li> <li>• Monitoring of groundwater levels and spring flows;</li> <li>• Monitoring of the effectiveness of groundwater recharge measures for the purposes of maintaining groundwater levels within the Moor Grit aquifer;</li> <li>• Monitoring of surface water quality including sediment, BOD, ammonia, pH;</li> <li>• Geomorphology in Sneaton Thorpe Beck;</li> <li>• A list of the SAC/SSSI habitat measures to be tested for;</li> <li>• Groundwater quality and level triggers;</li> <li>• Surface water quality triggers;</li> <li>• Surface water geomorphology triggers;</li> <li>• SAC/SSSI habitat triggers;</li> <li>• Monitoring of groundwater quality against ground water triggers;</li> <li>• A scheme for periodic review and refinement of the monitoring regime to take account of any approved changes to site layout/design, construction methods and monitoring data;</li> <li>• A protocol for notifying the MPA of any breach of the trigger levels, including the timing of any such notification; and</li> <li>• Details of the method and frequency with which monitoring results will be shared with the MPA, Natural England and the Environment Agency.</li> </ul>

	<p>The approved Construction and Operation Phase Ground and Surface Water Monitoring Scheme for the mine shall thereafter be implemented in full, with monitoring continuing in accordance with the approved scheme until such time that it is agreed in writing by the MPA in consultation with Natural England and the Environment Agency that monitoring may cease.</p> <p>Prior to the Commencement of each Phase of Construction at Doves Nest Farm a Remedial Action Plan, setting out the remedial actions to be taken in the event that any monitoring triggers of the approved Construction and Operation Phase Ground and Surface Water Monitoring Scheme are exceeded, shall be submitted to and approved in writing by the MPA in consultation with the Environment Agency.</p> <p>Should any monitoring results exceed those triggers set out in the approved Construction and Operation Phase Ground and Surface Water Monitoring Scheme, the MPA, the Environment Agency and Natural England shall be informed as soon as possible, and the approved Remedial Action Plan shall thereafter be implemented as soon as possible and within one month of the relevant monitoring trigger having been exceeded. Following remedial action, monitoring in accordance with the Construction and Operation Phase Ground and Surface Water Monitoring Scheme will be undertaken in accordance with a timescale to be submitted to and approved by the MPA in consultation with the Environment Agency, the results of which shall be reported to the MPA within four weeks of the monitoring date.</p> <p><b>Reason:</b></p> <p>To ensure that any monitoring, undertaken since the submission of the planning application, fully informs the production of the Construction and Operation Phase Ground and Surface Water Monitoring Scheme and to accord with the provisions of Development Plan Policy 1; residual impacts on groundwater, surface water or SAC/SSSI habitats are detected; and, to protect groundwater base-flow, nearby springs and flushes, any watercourses they feed, local abstractions and water-dependent natural habitats.</p> <p>To ensure that any above-trigger adverse impacts on groundwater, surface water or SAC/SSSI habitats are detected, remedied and monitored so as to protect groundwater base-flow, nearby springs and flushes any watercourses they feed, local abstractions and water-dependant natural habitats.</p> <p>To enable the early detection of actual or likely effects in order to avoid adverse effects on habitats protected under European legislation and species that use them in accordance with NYM Core Policy C and the first statutory purpose of the National Park.</p>
47.	<p>Following the approval of the Revised Hydro-Geological Risk Assessment but prior to the commencement of each Phase of Construction and Prior to the Commencement of Operation at Doves Nest Farm, a Groundwater Management Scheme (covering construction, operation and post-operation phases as relevant), shall be submitted to and approved in writing by the MPA in consultation with the Environment Agency. The Scheme shall include technical drawings detailing the conceptualised hydrogeology together with the final detailed designs of the proposed mitigation measures, including the groundwater recharge trench to be constructed for the purposes of maintaining groundwater levels within the Moor Grit aquifer, as outlined in the York Potash Environmental Statement (September 2014 as updated by the Supplementary Environmental Statement dated February 2015); the Supplementary Environmental Statement dated July 2017 (updated by further information dated October and November 2017) as relevant; and in accordance with the details in the document York Potash Project: Habitats Regulations Assessment prepared by Amec Foster Wheeler dated June 2015 with document reference 35190CGos064R, as updated by the HRA prepared by Royal HaskoningDHV dated November 2017 with document reference 40-RHD-WS-83-WM-RP-0001 REV4. Such details shall also include the final design details of the lining systems for the proposed shafts. Development shall thereafter proceed only in strict accordance</p>

	<p>with the approved Scheme and a timetable to be included within it.</p> <p><b>Reason:</b>  To ensure that any monitoring, undertaken since the submission of the planning application, fully informs the production of the Groundwater Management Scheme and to accord with the provisions of Development Plan Policy 1; to protect the resource and quality of groundwater base-flow, nearby springs, flushes, any watercourses they feed, local abstractions and any groundwater-dependant/supported SAC/SSSI habitats; and, to ensure that any necessary groundwater management measures remain operational even after the mine has ceased operating and surface infrastructure has been removed.</p> <p>To ensure that adverse effects on the groundwater levels within North York Moors SAC/SPA, and in particular Ugglebarny Moor, are avoided so as to protect the hydrological conditions and related moorland habitats; to minimise the seismic risk of fault reactivation within the aquifer; and to accord with the provisions of the Habitat Regulations Assessment and Development Plan Policy 1</p>
48.	<p>In accordance with the details in the document “York Potash Project: Habitats Regulations Assessment” prepared by Amec Foster Wheeler dated June 2015 with document reference 35190CGos064R and as updated by the HRA prepared by Royal HaskoningDHV dated November 2017 with document reference 40-RHD-WS-83-WM-RP-0001 REV4; dust from polyhalite brought to the surface at the Doves Nest Farm site shall be controlled such that it does not have adverse effects on the special features of the North York Moors Special Area of Conservation. No more than 3,300 tonnes of polyhalite shall be stored on site at any time and storage must be within a three sided concrete bunker within which the height of the stockpile should not exceed the height of the walls. Polyhalite shall be removed from the site as quickly as possible in accordance with dust suppression requirements which shall include that all vehicles transporting polyhalite within and outside the site shall have their loads covered or sheeted and that measures shall be put in place to:</p> <ol style="list-style-type: none"> <li>a. avoid open air handling of polyhalite during periods when weather is dry and windy; and</li> <li>b. dampen polyhalite when necessary to reduce dust emissions.</li> </ol> <p><b>Reason:</b>  To avoid adverse effects on habitats protected under European legislation and species that use them in accordance with NYM Core Policy C and the first statutory purpose of the National Park.</p>
49.	<p>In accordance with the details in the document “York Potash Project: Habitats Regulations Assessment” prepared by Amec Foster Wheeler dated June 2015 with document reference 35190CGos064R and as updated by the HRA prepared by Royal HaskoningDHV dated November 2017 with document reference 40-RHD-WS-83-WM-RP-0001 REV4; dust control shall be undertaken during the construction of the mine at the Doves Nest Farm site to prevent adverse impacts on vegetation within the North York Moors Special Area of Conservation and measures shall be put in place to:</p> <ol style="list-style-type: none"> <li>a. Avoid open air handling of dust emitting material during periods when weather is dry and windy;</li> <li>b. Use rubble chutes to minimise dust generation; and</li> <li>c. Dampen material when necessary to reduce dust emissions.</li> </ol> <p><b>Reason:</b>  To avoid adverse effects on habitats protected under European legislation and species that use them. To enable the early detection of actual or likely effects. To accord with NYM Core Policy C and the first statutory purpose of the National Park.</p>
50.	<p>In accordance with the details in the document “York Potash Project: Habitats Regulations Assessment” prepared by Amec Foster Wheeler dated June 2015 with document reference 35190CGos064R and the HRA prepared by Royal HaskoningDHV dated November 2017 with document reference 40-RHD-WS-83-</p>

	<p>WM-RP-0001 REV4; diesel generators installed at the Doves Nest Farm site during the construction period:</p> <ol style="list-style-type: none"> <li>a. Shall be fitted with Selective Catalytic Reduction (SCR) abatement technology on their exhausts which shall be shown by the suppliers to achieve a reduction in oxides of nitrogen within the generator exhausts of at least 88% when compared to what would be expected without SCR; and</li> <li>b. Shall at all times demonstrably be operated and maintained in a way to ensure a reduction in oxides of nitrogen within the generator exhausts of at least 88% when compared to what would be expected without SCR.</li> </ol> <p><b>Reason:</b> To avoid adverse effects on habitats protected under European legislation and species that use them. To enable the early detection of actual or likely effects. To accord with NYM Core Policy C and the first statutory purpose of the National Park.</p>
51.	<p>At all times in the construction and operation of the mine regard shall be had to the York Potash Environmental Statement (September 2014 as updated by the Supplementary Environmental Statement dated February 2015) and the Supplementary Environmental Statement dated July 2017 (updated by further information dated October and November 2017) as relevant and the Design and Access statements including their appendices relating to the Doves Nest Farm and Lady Cross Plantation sites. The design and mitigation measures included in these documents that accompanied the planning application to avoid potential adverse effects to Sites of Special Scientific Interest and Protected Species and Habitats shall be followed at all times.</p> <p><b>Reason:</b> To avoid adverse effects on SSSI interests. To accord with NYM Core Policy C and the first statutory purpose of the National Park.</p>
52.	<p>Protected Species Management Plans (PSMPs) shall be submitted to the MPA prior to the commencement of each Phase of Construction which shall not commence until the PSMPs have been agreed in writing by the MPA. The agreed details shall subsequently be followed unless modifications are agreed in writing by the MPA. The PSMPs may establish a programme of submissions to the MPA such that details are approved prior to works affecting different species and areas of the sites, shall concern protected species affected directly by works at the Doves Nest Farm and Lady Cross Plantation sites, shall detail minimum requirements for mitigating or compensating for effects on protected species, shall require all licences that may be required in respect of effects on or re-location of protected species and their habitat to be obtained and complied with, and shall include but not be limited to consideration of the following species:</p> <ol style="list-style-type: none"> <li>a. Bats (all species)</li> <li>b. Badger</li> <li>c. Adder</li> <li>d. Common lizard in particular at the western side of the Lady Cross Plantation</li> <li>e. Other protected reptiles</li> <li>f. Water vole</li> <li>g. Common Crossbill</li> <li>h. Goshawk</li> </ol> <p><b>Reason:</b> To ensure protected species are identified and dealt with according to the law. To accord with NYM Core Policy C and the first statutory purpose of the National Park.</p>
53.	Condition deleted
54.	Condition deleted
55.	Breeding birds surveys of the wooded heath north of Lady Cross Plantation to identify the extent of its use as breeding habitat by nightjar must be undertaken and completed prior to the Commencement of Development at the Lady Cross

	<p>Plantation site. Before the results of these surveys are known, noise emitted within the breeding season 15 May to 30 September inclusive must be controlled to levels that would not disturb nightjar breeding on the wooded heath north of Lady Cross Plantation. Should the surveys indicate the presence of nightjar breeding on wooded heath north of Lady Cross Plantation, mitigation measures must be agreed with the MPA and be implemented before noise at levels likely to disturb nightjar during the breeding season 15 May to 30 September inclusive is emitted from development at the Lady Cross Plantation site. The survey methodology shall be agreed with the MPA in advance of the surveys being undertaken.</p> <p><b>Reason:</b> To avoid adverse effects on a bird protected under Annex 1 of European Parliament and Council Directive 2009/147/EC on the Conservation of Wild Birds and in accordance with NYM Core Policy C and the first statutory purpose of the National Park.</p>
56.	<p>Schemes shall be put in place to avoid damage to species rich grassland in roadside verges in the vicinity of Doves Nest Farm and Lady Cross Plantation and Preparatory Works shall not be allowed to commence until these schemes have been established and agreed in writing by the MPA. The schemes shall cover the construction periods and shall identify precisely the species rich grassland roadside verge areas covered by the schemes and the means by which damage shall be avoided, and shall include provision for monitoring by the MPA and appropriate mitigation of any damage that does occur.</p> <p><b>Reason:</b> To minimise harm to valuable natural capital in accordance with NYM Core Policy C and the first statutory purpose of the National Park.</p>
57.	<p>Prior to the commencement of each Phase of Construction, either Doves Nest Farm or Lady Cross Plantation, Landscape and Ecological Management Plans for each site should be submitted to the MPA and approved in writing by the MPA and works should subsequently be undertaken in accordance with them. These plans should relate to land within the two development sites. The plans should set out the means by which the sites will be managed for landscape, ecology and biodiversity throughout the construction and operational phases of the mine. Construction and operational phases shall be dealt with in separate parts of the plans. The plans should cover the matters referred to in the York Potash Environmental Statement (September 2014 as updated by the Supplementary Environmental Statement dated February 2015) and the Supplementary Environmental Statement dated July 2017 (updated by further information dated October and November 2017) as relevant, and the Design and Access Statements including their Appendices and indicate how the designs and mitigation set out in those documents shall be achieved. At the Doves Nest Farm site objectives should include establishment of heathland communities on restored spoil mounds. The details at both sites shall include Arboricultural Method Statements and Tree Protection Plans. The Landscape and Ecological Management Plans shall include provision for reporting to the MPA and set out the process by which remedial measures that the MPA may require should the plans not be fulfilling their objectives are undertaken. The operational phases of the Landscape and Ecological Management Plans shall include long term management proposals throughout the operational life of the mine which will be reviewed on a regular basis, at least every two years.</p> <p><b>Reason:</b> To ensure management of ecology and biodiversity at the DNF and LCP sites through the construction and operation phases in accordance with NYM Core Policy C and the first statutory purpose of the National Park.</p>
58.	<p>Any plants forming part of the landscape and restoration proposals following completion of the construction phases which die within ten years of completion of construction shall be replanted like for like.</p> <p><b>Reason:</b></p>

	To ensure management of ecology and biodiversity at the DNF and LCP sites through the construction and operation phases in accordance with NYM Core Policy C and the first statutory purpose of the National Park.
59.	<p>External lighting of the Doves Nest site and the Lady Cross Plantation site shall not be used until the MPA has given written approval of the designs and proposed lighting arrangements which shall demonstrate how potential adverse effects of external lighting on protected species have been identified and addressed. Operation of external lighting shall be in accordance with the approved designs and arrangements.</p> <p><b>Reason:</b> To ensure management of ecology and biodiversity at the DNF and LCP sites through the construction and operation capital in accordance with NYM Core Policy C and the first statutory purpose of the National Park.</p>
60.	<p>Surface water management at the Doves Nest Farm site during construction shall incorporate measures to slow water flow such that sediment settles out prior to surface water draining from the site into the Sneaton Thorpe Beck. Prior to the commencement of each Phase of Construction the design of the surface water management system at Doves Nest Farm shall be submitted to and agreed in writing by the MPA to ensure it incorporates measures that may be required to prevent sediment entering the Sneaton Thorpe Beck causing harm to the brown trout population present there.</p> <p>Surface water management at the Ladycross Plantation site during construction shall incorporate measures to slow water flow such that sediment settles out prior to surface water draining from the site into tributaries of the River Esk. Prior to the commencement of Preparatory Works the design of the surface water management system at Doves Nest Farm shall be submitted to and agreed in writing by the MPA to ensure it incorporates measures that may be required to prevent sediment entering these tributaries causing harm to the Freshwater Pearl Mussel, Salmon, Brown and Sea Trout populations present in the River Esk.</p> <p><b>Reason:</b> Brown trout is a UK BAP Priority Species and is present in the Sneaton Thorpe Beck. To accord with NYM Development Policy 1. Freshwater Pearl Mussels are fully protected under Schedule 5 of the Wildlife &amp; Countryside Act and listed in Annex II of the Habitats Directive. Atlantic salmon are listed on Appendix III of the Bern Convention and Annex II and V of the EC Habitats &amp; Species Directive. The multi-sea-winter component of the Atlantic salmon population is included in the UK Biodiversity Action Plan Priority Species List. Brown and sea trout are on the UK Biodiversity Action Plan Priority Species List.</p>

### Lighting and Boundary Treatment

61.	<p>Following the Date of Production, other than within the materials lay down area behind the welfare/office block shown on the approved layout plan (drawing 653-AP-0006 rev 3), no storage of materials, machinery, mobile plant, vehicles other than cars, waste or other items shall take place outside the buildings on the Doves Nest Farm or Lady Cross Plantation sites without the prior written agreement of the MPA.</p> <p><b>Reason:</b> In the interests of amenity and to accord with the provisions of NYM Development Policy 1.</p>
62.	Notwithstanding the submitted lighting details reference: York Potash Proposed Mine Head Site, Basis of Design – External Lighting (REP-P2_EL-002, June 2017) and MTS Intermediate Sites, Basis of Design – External Lighting (REP-P2-EL-003, July 2014) details of lighting column positions shall be submitted to and agreed by

	<p>the MPA . Such details shall demonstrate how glare is minimised and demonstrate how potential adverse effects on protected species have been identified and addressed.</p> <p><b>Reason:</b> In the interests of amenity and to accord with the provisions of NYM Development Policy 1.</p>
63.	<p>External lighting for use during the operational period of the mine shall be installed and operated in accordance with the approved details until restoration operations take place.</p> <p><b>Reason:</b> In the interests of amenity and to accord with the provisions of NYM Development Policy 1.</p>
64.	<p>Prior to the commencement of each Phase of construction requiring temporary fencing, full details of the proposed temporary boundary treatment to the Dove's Nest Farm site, including any walls or security fences and the timetable to implement them, shall be submitted to and approved in writing by the MPA. The temporary site boundary works shall then be implemented in accordance with the approved details and maintained for the period of construction.</p> <p><b>Reason:</b> In the interests of amenity and to accord with the provisions of NYM Development Policy 1.</p>
65.	<p>Prior to the commencement of each Phase of Construction, full details of the proposed temporary boundary treatment to the Lady Cross Plantation, including any walls or security fences and the timetable to implement them, shall be submitted to and approved in writing by the MPA. The temporary site boundary works shall then be implemented in accordance with the approved details and maintained for the period of construction.</p> <p><b>Reason:</b> In the interests of amenity and to accord with the provisions of NYM Development Policy 1.</p>
66.	<p>Notwithstanding the details of the boundary treatment submitted under condition 64, the details of the environmental/acoustic fencing at DNF to contain the welfare facility entrance road shall be submitted to the MPA for approval. The approved details shall be implemented in accordance with the approved plans prior to operation of the facility and satisfactorily maintained thereafter.</p> <p><b>Reason:</b> In the interests of amenity and to accord with the provisions of NYM Development Policy 1.</p>

### Design, landscaping, and site restoration

67.	<p>All facilities for the storage of oils and fuels shall be placed on impervious bases with impervious bunds placed around them and with all vents, filling points and hoses contained within the bunds. All tanks are to be double-skinned and the bunded areas shall have a capacity of 110% of the cumulative capacity of the tanks. The bunded areas shall be kept free of precipitation which, if removed, shall be disposed of to a licensed facility.</p> <p><b>Reason:</b> For the protection of the water environment and to accord with the provisions of NYM Development Policy 1.</p>
68.	<p>Final details of all temporary structures, including samples of materials proposed including colour shall be submitted to and approved by the MPA prior to their</p>

	<p>construction. The temporary structures as approved shall be implemented in complete accordance with the details agreed.</p> <p>For the avoidance of doubt this also includes colours of the generator stacks.</p> <p><b>Reason:</b> In the interests of visual amenity and in accordance with DYM Development Policy 3.</p>
69.	<p>The maximum height of the temporary winding tower at Dove's Nest Farm and Lady Cross Plantation shall not exceed 245.07m AOD.</p> <p><b>Reason:</b> In the interests of visual amenity and in accordance with DYM Development Policy 3.</p>
70.	<p>Prior to the commencement of each Phase of Construction at Doves Nest Farm or Lady Cross a scheme shall be submitted to and approved by the MPA showing any existing trees, hedges and other vegetation to be retained, together with any measures for the protection and management/ reinforcement of these areas and also indicating trees, hedges and other vegetation to be removed. This shall include Arboricultural method statement and tree protection plans. These measures shall be implemented before site Preparatory Works occur and retained during construction period.</p> <p><b>Reason:</b> To control the effects on habitats and vegetation and in accordance with NYM Development Policy 1.</p>
71.	<p>Within 6 months of development commencing the details of, and a timetable for, the implementation of both the hard and soft landscaping works shall be submitted to and approved by the MPA in accordance with the details approved under condition 57. The details shall include the advanced planting and final planting, specifying cultivations, plant species, sizes, planting densities and measures for protection for any new areas of planting. The approved details shall be carried out no later than the first planting season following the completion of each construction phase or in accordance with the programme agreed with the MPA.</p> <p>The approved landscape scheme shall be maintained for the life of the mine or unless otherwise agreed by the MPA.</p> <p>Any trees or shrubs planted or retained in accordance with this condition which are removed, uprooted, destroyed or die or become severely damaged or diseased within 10 years of planting shall be replaced to the satisfaction of the MPA within the next planting season.</p> <p><b>Reason:</b> To control the effects on habitats and vegetation and in accordance with NYM Development Policy 1.</p>
72.	<p>Tree protection measures identified on submitted plans relating to highway works (A171/B1416 right turn DWGref 2556.473.AIA.WhitbyYPL and at Lady Cross Plantation A171 right turn DWGref 2556.474.AIA Whitby.YPL) shall be implemented and maintained to the satisfaction of the MPA unless otherwise agreed in writing.</p> <p><b>Reason:</b> To control the effects on habitats and vegetation and in accordance with NYM Development Policy 1.</p>
73.	<p>Prior to the commencement of each Phase of Construction at DNF a scheme to maintain and manage the Haxby and Belt Plantations with the exception of areas agreed for removal as part of the approved works as shown on plan 2309.MH02 rev 04 shall be submitted to and approved by the MPA.</p> <p>The details shall include the phased felling and replanting for long term</p>

	<p>management of the Plantations.</p> <p>The scheme shall be implemented in accordance with the approved details and thereafter maintained for the life of the development.</p> <p><b>Reason:</b> To control the effects on habitats and vegetation and in accordance with NYM Development Policy 1.</p>
74.	<p>Prior to the commencement of construction of the Permanent Above Ground Structures at either Doves Nest Farm or Lady Cross Plantation, the Operator shall submit to the MPA details of the external treatment of the structures, including samples, for approval in respect of the area concerned. The approved Permanent Above Ground Structures shall be constructed in accordance with the approved details and shall be maintained satisfactorily for the life of the mine, unless otherwise agreed in writing by the MPA.</p> <p><b>Reason:</b> To ensure that appropriate design standards are maintained and to accord with the provisions of NYM Development Policy 1 and 3.</p>
75.	<p>The Welfare Facilities Building at DNF shall achieve BREEAM rating of 'very good'. Pre-assessment and post completion certificates for the building shall be submitted to the MPA to confirm this rating. The pre-assessment certificate shall be submitted prior to the Commencement of Development. The post completion certificate shall be submitted prior to the Welfare Facilities Building being brought into use.</p> <p><b>Reason:</b> To comply with NYM Core Policy D and Development Policy 1.</p>
76.	<p>Prior to the commencement of each Phase of Construction, an updated soil management plan shall be submitted to the MPA for approval. This shall set out any circumstances during which soil handling is to be avoided and shall include the following measures:</p> <ul style="list-style-type: none"> <li>• Soil shall be moved when it is in a dry and friable condition as defined in Chapter 16 of the York Potash Environmental Statement (September 2014 as updated by the Supplementary Environmental Statement dated February 2015) and the Supplementary Environmental Statement dated July 2017 (updated by further information dated October and November 2017) as relevant and shall not be moved between 1 October and 31 March unless agreed in writing by the MPA;</li> <li>• All topsoil and subsoil stripped from the surface area of the development shall be retained on site;</li> <li>• No plant or vehicles shall cross any area of un-stripped topsoil except if essential and unavoidable for the purposes of permitted operation;.</li> <li>• No part of the site shall be used for a road or for the stationing of plant or buildings until all available topsoil and subsoil have been stripped from that part;</li> <li>• Soil handling will be in accordance with the 'Construction Code of Practice for the Sustainable Use of Soils on Construction Sites (DEFRA 2009)' and appropriate steps shall be taken to prevent the spread of soil-borne or animal diseases.</li> </ul> <p>Any soil or spoil storage mounds that are to be in place for a period of more than 3 months are to be grass hydroseeded within 4 weeks of substantial completion with seed mix agreed by MPA. At all times during the construction period the approved updated soil management plan shall be adhered to.</p>

	<p><b>Reason:</b> To protect and ensure that there is sufficient soil resource for restoration operations and to accord with the provisions of NYM Development Policy 3.</p>
77.	<p>A scheme of restoration following decommissioning shall be submitted to the MPA, for approval by the earlier of:</p> <ul style="list-style-type: none"> <li>• 3 months from the end of a continuous period of twelve months throughout which the winning and working of mineral has ceased; or</li> <li>• two years before the expiry of this planning permission.</li> </ul> <p>The restoration scheme may be modified only with the written approval of the MPA and shall include, but need not be restricted to;</p> <ul style="list-style-type: none"> <li>• The removal of buildings;</li> <li>• Removal of plant, equipment and above ground concrete structures;</li> <li>• Treatment/capping of mine shafts;</li> <li>• Creation of final landform;</li> <li>• Soil replacement;</li> <li>• Cultivation, seeding and planting measures; and</li> <li>• Removal of roads</li> <li>• Closure of unnecessary accesses to the highway and removal of the ghost island right turn lane at Haxby plantation;</li> <li>• An Aftercare Scheme outlining the steps to be taken in bringing the land to the required standard for use in agriculture including an outline strategy for a five year Aftercare period including annual review meetings with the MPA in accordance with Paragraphs 057 and 058 of Minerals Planning Practice Guidance (March 2014) (Reference ID: 27 – 057 – 20140306 and 27 – 058 – 20140306).</li> </ul> <p>and shall prescribe timescales within which restoration will occur.</p> <p>The restoration scheme shall be implemented as approved.</p> <p><b>Reason:</b> To ensure the restoration of the site following decommissioning and in to accord with NYM Core Policy C and Development Policy 1</p>
78.	<p>There shall be no importation of any controlled wastes to the mine.</p> <p><b>Reason:</b> For the avoidance of doubt and to accord with the provisions of NYM Core Policy A.</p>

## Water Environment

79.

Prior to the commencement of each Phase of Construction at Doves Nest Farm, a detailed Surface Water Drainage Scheme for that Phase of Construction, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, shall be submitted to and approved in writing by the MPA. The drainage strategy must demonstrate that surface water run-off generated up to and including the 1 in 100 critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall include:

- Confirmation that the surface water drainage system is to be built first so that it is available to provide the drainage for the construction phase as well as the completed mine head, and is to be in accordance with “Part 2 Chapter 15 Appendix 15.6 Mine Head Drainage Design Parameters”. Details of the surface water drainage system will include a plan for silt management and reduction during the construction phase;
- In order to construct the settlement facility/facilities some site preparation works have to be undertaken before the settlement facility/facilities are operational - details of temporary silt reduction and management measures shall be included;
- Surface water discharge rates from the impermeable areas of the site are to be limited to greenfield Qbar flows as calculated in Section 4 of the submitted Baseline Surface Hydrology Report (an overall maximum surface water discharge of 119 litres per second distributed over three watercourses);
- Sufficient attenuation storage for up to and including the 1 in 100 storm event plus a 30% allowance for climate change, and surcharging the drainage system can be stored on the site without risk to people or property and without overflowing into a watercourse;
- Details of the design of the attenuation storage basins;
- Details of the outfalls to watercourse(s), including the provision of a penstock, erosion protection measures and measures to ensure velocities are limited to no more than 0.3m per second unless otherwise agreed by the MPA in consultation with the Environment Agency;
- Details of how the whole surface water drainage system will be designed so as to maximise its biodiversity benefits;
- Drainage from the landscaped areas is to drain into the proposed swales, upstream of a check dam where required to reduce velocities;
- Details of the proposed rainwater harvesting system;
- The provision of permeable surfacing on areas where it can be demonstrated that the risk of pollution is low;
- Details of how clean roof water shall be discharged to ground;
- Details of how the entire surface water drainage system will be maintained and managed throughout the lifetime of the development, including the construction phase. This must include details of maintenance to deal with any siltation of the attenuation storage basins and any resultant loss of capacity; and
- A timetable for the implementation of the Surface Water Drainage Scheme, including during the construction phase. This is to include details regarding the phasing of the construction works demonstrating that the storage available during construction is maximised (i.e. that the period of time that only the minimum 1 in 20 standard of protection is kept to the shortest possible).

Development shall thereafter proceed only in strict accordance with the approved Surface Water Drainage Scheme and the timetable included within it. Once

	<p>implemented, the Surface Water Drainage Scheme shall be retained and maintained throughout the lifetime of the development such that it continues to function in the manner intended and so as to ensure identified limits are not breached.</p> <p><b>Reason:</b> To ensure a satisfactory means of surface water drainage; reduce the risk of flooding; and, avoid increases in erosion of any affected watercourses and to accord with NYM Development Policy 1.</p>
80.	<p>No development shall take place at Lady Cross Plantation until a Surface Water Drainage Scheme based on sustainable drainage principles (described in Section 6 and outlined in Appendix A of the FRA) and an assessment of the hydrological and hydro-geological context of the development has been submitted to and approved in writing by the MPA. The Scheme shall demonstrate that surface water run-off generated up to and including the 1 in 100 critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The Scheme shall include:</p> <ul style="list-style-type: none"> <li>• Confirmation that the drainage scheme is to be built first to help minimise run-off from bare ground and to reduce any possible siltation of watercourses. It must also be in accordance with “Part 3, Chapter 15, Appendix 15.10 of the MTS Surface Water Drainage, Basis of Concept Design”. Details of the surface water drainage system shall include a plan for silt management and reduction during the construction phase;</li> <li>• Surface water discharge rates from the impermeable areas of the site shall be limited to greenfield Qbar flows, as calculated in Section 6 of the submitted Baseline Hydrological Assessment;</li> <li>• During the Construction phase flows shall be attenuated up to and including the 1 in 20 event;</li> <li>• Drainage from the landscaped areas shall drain into the proposed swales, upstream of a check dam, where required, to reduce velocities;</li> <li>• During the Operational phase, the SuDS attenuation features will remain the same size as during the construction phase. Due to the decrease in impermeable area, these features shall attenuate flows up to and including the 1 in 100 event plus climate change event. Flow rates will still be restricted to greenfield Qbar flows during this time;</li> <li>• Details of biodiversity enhancement measures within the surface water management arrangements;</li> <li>• Details of how the surface water drainage system will be maintained and managed throughout the lifetime of the development, including the construction phase. This shall include details of maintenance to deal with any siltation of the attenuation storage basins and any resultant loss of capacity; and</li> <li>• A timetable for the implementation of the Surface Water Drainage Scheme, including during the construction phase. This shall include details regarding the phasing of the construction works, demonstrating that the storage available during construction is maximised (i.e. that the period of time that only the minimum 1 in 20 standard of protection is kept to the shortest possible).</li> </ul> <p>Development shall thereafter proceed only in strict accordance with the approved Surface Water Drainage Scheme and the timetable included within it. Once implemented, the Surface Water Drainage Scheme shall be retained and maintained throughout the lifetime of the development, such that it continues to function in the manner intended and so as to ensure identified limits are not breached.</p> <p><b>Reason:</b></p>

	<p>To ensure a satisfactory means of surface water drainage and to reduce the risk of flooding and to accord with NYM Development Policy 1.</p>
<p>81.</p>	<p>Prior to the commencement of the chamber construction work at either DNF or LCP, a Wastewater Management Scheme for the construction phase shall be submitted to and approved in writing by the MPA. The scheme shall accord with the supporting document 'Integrated Water and Wastewater Management Strategy (REP-P2-WSD-003, Rev5, 30 January 2015) and shall include:</p> <ul style="list-style-type: none"> <li>• Full details of the non-domestic waste water treatment area and settlement tanks;</li> <li>• A plan showing the location of the non-domestic waste water treatment area and settlement tanks;</li> <li>• Detailed estimates of the amount of non-domestic waste water to be treated and estimates of the quantities predicted to be reused within the site or used for re-injection into the sandstone aquifer;</li> <li>• Details of how the non-domestic waste water treatment facility will be managed to ensure it functions effectively throughout the lifetime of the mine, including variations in flows over the construction period;</li> <li>• Details of the ongoing maintenance of the non-domestic waste water infrastructure;</li> <li>• Details of monitoring arrangements of the quality of the wastewater to be re-used within the site or re-injected into the sandstone aquifer, and related qualitative triggers;</li> <li>• No discharges of treated domestic or non-domestic waste water to Sneaton Thorpe Beck;</li> <li>• Domestic foul sewage and wheel-wash waste water to be tankered off-site for treatment at a licensed sewage treatment facility; and</li> <li>• A timetable for the implementation of the Waste Water Management Scheme.</li> </ul> <p>Prior to the commencement of the Welfare Building at DNF and LCP, a Foul Drainage Scheme for the operational phase shall be submitted to and approved in writing by the MPA. The scheme shall accord with the supporting document 'Integrated Water and Wastewater Management Strategy (REP-P2-WSD-003, Rev5, 30 January 2015) and shall include:-</p> <ul style="list-style-type: none"> <li>• Full details of the package treatment plant to be provided, including the make, model and size;</li> <li>• A plan showing the proposed location of the package treatment plant and any pre- or post-treatment balancing;</li> <li>• Full details of the proposed discharge via the pumped MTS wastewater discharge provision to the Wilton site;</li> <li>• Details of how the foul drainage infrastructure will be managed to ensure it functions effectively throughout the lifetime of the mine, including variations in flows resulting from the initial creation and growth of the mine, and from the ongoing pattern of shift work;</li> <li>• Details of the ongoing maintenance of the foul drainage infrastructure in accordance with the British Water Code of Practice for Maintenance of Small Waste Water Treatment Systems;</li> <li>• No discharges of treated foul effluent to Sneaton Thorpe Beck; and</li> <li>• A timetable for the implementation of the Foul Drainage Scheme.</li> </ul> <p>Development shall thereafter proceed only in strict accordance with the approved Foul Drainage Scheme and the Wastewater Management Scheme and the timetables included within them. The systems shall thereafter be managed and maintained in accordance with the approved Foul Drainage Scheme throughout the operational lifetime of the development, and with the Wastewater Management</p>

	<p>Scheme throughout the construction phase of the development.</p> <p><b>Reason:</b> To ensure a satisfactory means of foul and wastewater management and disposal during the construction and operational phases of the development, to safeguard the ecology of Sneaton Thorpe Beck and to accord with NYM Development Policy 1.</p>
82.	<p>Surface water draining from areas of permanent hardstanding shall be passed through an oil interceptor or series of oil interceptors, prior to being discharged into any watercourse, pond or soakaway. The interceptor(s) shall be designed and constructed to have a capacity compatible with the area being drained, shall be installed prior to the commencement of each phase of the development and shall thereafter be retained and maintained throughout the lifetime of the development. Clean roof water shall not pass through the interceptor(s). Vehicle washdowns and detergents shall not be passed through the interceptor before passage to the approved SUDS scheme (Condition 53 refers).</p> <p><b>Reason:</b> To reduce the risk of pollution to the water environment and to accord with the provisions of NYM Development Policy 2.</p>
83.	<p>All downpipes carrying rain water from areas of roof shall be sealed at ground-level on completion of individual buildings. The sealed construction shall thereafter be retained throughout the lifetime of the development.</p> <p><b>Reason:</b> To prevent the contamination of clean surface water run-off and to accord with the provisions of NYM Development Policy 2.</p>
84.	<p>Inspection manholes shall be provided on all foul and surface water drainage runs such that discharges can be inspected/sampled if necessary. All manhole covers shall be marked to enable easy recognition. Foul will be marked in red. Surface water will be marked in blue. Direction of flow will also be denoted. Where more than one discharge point is proposed, manholes will also be numbered accordingly to correspond with their respective discharge point.</p> <p><b>Reason:</b> To allow pollution incidents to be more readily traced and to accord with the provisions of NYM Development Policy 2.</p>
85.	<p>Unless otherwise approved in writing by the MPA there shall be no obstructions located over or within 3 metres of the centre line of the public water main across the northern boundary of the DNF site.</p> <p><b>Reason:</b> In order to allow sufficient access for maintenance and repair of public infrastructure and to accord with the provisions of NYM Development Policy 1.</p>
86.	<p>There shall be no importation of clay to the LCP site or DNF site unless otherwise agreed in writing by the Mineral Planning Authority.</p> <p><b>Reason:</b> In order to protect the surface water environment from pollution and to accord with the provisions of Development Policy 1.</p>
87.	<p>Prior to the commencement of each Phase of Construction in connection with either the mine shafts or MTS shaft, at Doves Nest Farm, a programme for the deep reinjection borehole to discharge water to the Sherwood sandstone aquifer shall be submitted to and agreed in writing with the MPA. The formation pressures resulting from reinjection at the groundwater borehole shall not exceed 450 psi above the initial formation pressure.</p> <p><b>Reason:</b> To minimise the seismic risk of fault reactivation within the aquifer; and to accord with the provisions of Development Plan Policy 1 and findings of the Amec Foster Wheeler drafted Technical note: Review of RHDHV Assessment of Potential for</p>

	<p>Fault Activation due to Proposed Water ReInjection at Dove's Nest Farm Mine Site, dated August 2015, Doc Ref: 35190c072</p>
88.	<p>Prior to Commencement of Development for the MTS at Lady Cross Plantation, and informed by the most up-to-date monitoring, a Revised Hydro-geological Risk Assessment shall be submitted to and approved in writing by the MPA in consultation with the Environment Agency.</p> <p>Following approval of the Revised Hydro-geological Risk Assessment, but prior to the Commencement of Development, a Construction and Operation Phase Ground and Surface Water Monitoring Scheme shall be submitted to and approved in writing by the MPA. The scheme shall include:</p> <ul style="list-style-type: none"> <li>• Groundwater quality and level triggers;</li> <li>• Surface water quality triggers, including those necessary to protect the health of the River Esk Peal Mussel beds;</li> <li>• Details of the number, type and location of monitoring points;</li> <li>• A protocol for the removal and replacement of any existing monitoring points;</li> <li>• Details of the frequency with which monitoring points will be monitored during construction and operation;</li> <li>• A list of the ground and surface water determinants to be tested for;</li> <li>• Monitoring of groundwater levels and spring flows;</li> <li>• Monitoring of groundwater quality against ground water triggers;</li> <li>• A scheme for periodic review and refinement of the monitoring regime to take account of any approved changes to site layout/design, construction methods and monitoring data;</li> <li>• A protocol for notifying the MPA of any breach of the trigger levels, including the timing of any such notification; and</li> <li>• Details of the method and frequency with which monitoring results will be shared with the MPA and the Environment Agency.</li> </ul> <p>The approved scheme shall thereafter be implemented in full, with monitoring continuing in accordance with the approved scheme until such time that it is agreed in writing with the MPA that monitoring may cease.</p> <p><b>Reason:</b> To ensure that any monitoring, undertaken since the submission of the planning application, fully informs the production of the Construction and Operation Phase Ground and Surface Water Monitoring Scheme; to accord with the provisions of Development Plan Policy 1; and, that any residual impacts on the water environment are detected.</p>
89.	<p>Prior to the Commencement of Development at Lady Cross Plantation, a Remedial Action Plan, setting out the remedial actions to be taken in the event that any monitoring triggers of the approved Construction and Operation Phase Ground and Surface Water Monitoring Scheme are exceeded, shall be submitted to and approved in writing by the MPA in consultation with the Environment Agency. Should any monitoring result exceed those triggers set out in the approved Construction and Operation Phase Ground and Surface Water Monitoring Scheme, the MPA, the Environment Agency and Natural England shall be informed as soon as practicable, and the approved Remedial Action Plan shall thereafter be implemented as soon as practicable. Following remedial action, monitoring in accordance with the Construction and Operation Phase Ground and Surface Water Monitoring Scheme will be undertaken in accordance with a timescale to be submitted to and approved by the MPA in consultation with the Environment Agency, the results of which shall be reported to the MPA within four weeks of the monitoring date.</p> <p><b>Reason:</b></p>

	To ensure that any above-trigger adverse impacts on the water environment are detected, remedied and monitored, and that mitigation measures are refined as a result; and to accord with the provisions of Development Plan Policy 1.
90.	<p>Following the approval of the Revised Hydro-Geological Risk Assessment for the MTS, but prior to the Commencement of Development of the MTS at Lady Cross Plantation, a Groundwater Management Scheme (covering construction, operation and post-operation phases), shall be submitted to and approved in writing by the MPA. The Scheme shall include technical drawings detailing the conceptualised hydrogeology with the final detailed designs of the proposed mitigation measures outlined in the York Potash Environmental Statement (September 2014 as updated by the Supplementary Environmental Statement dated February 2015). Development shall thereafter proceed only in strict accordance with the approved Scheme and a timetable to be included within it.</p> <p><b>Reason:</b> To ensure that any monitoring, undertaken since the submission of the planning application, fully informs the production of the Groundwater Management Scheme; to protect the water environment and reduce the risk of pollution to ground and surface waters; and, to ensure that any necessary groundwater management measures remain operational even after the mine has ceased operating and surface infrastructure has been removed; and to accord with the provisions of Development Plan Policy 1.</p>

### Emissions to Atmosphere

91.	<p>The final specification and configuration of generators to be employed at Doves Nest Farm and Lady Cross Plantation, such to be fitted with Selective Catalytic Reduction (SCR), or other such emissions control measures as are necessary, will be submitted to the MPA for approval prior to commencement of their use. Results of air dispersion modelling will be submitted at the same time to verify that the identified configuration will lead to nutrient nitrogen and acid deposition at levels no greater than those that were demonstrated in the York Potash Environmental Statement (September 2014 as updated by the Supplementary Environmental Statement dated February 2015) as not leading to a significant effect on the integrity of the North York Moors SAC, SPA and SSSI.</p> <p><b>Reason:</b> To ensure that any residual impacts on the water environment are detected and remedied, and that mitigation measures are refined as a result and to accord with the provisions of the Habitat Regulations Assessment and Development Plan Policy 1.</p>
92.	<p>Prior to the Commencement of each Phase of Construction at either Doves Nest Farm or Lady Cross Plantation, a Construction Vehicle and Plant Management Plan (CVPM) shall be submitted to and approved in writing by the MPA. The CVPM to shall include details of monitoring locations and baseline particulate emissions; predicted traffic movements into/out of the sites including levels at the A171/Mayfield junction; predicted particulate emissions from plant and HGVs during the construction period; proposed particulate control levels; proposed avoidance or mitigation measures to comply with control levels, and arrangements for monitoring over the construction period. Development shall only occur in strict accordance with the measures set out in the CVMP, unless otherwise agreed in writing with the MPA.</p> <p><b>Reason:</b> In the interest of public amenity, to minimise the impact of air pollution and to accord with the provisions of the Habitat Regulations Assessment and Development Plan Policy 1.</p>

## Management of Construction

93.	<p>Prior to the commencement of each Phase of Construction in accordance with the approved Phasing Plan at either Doves Nest Farm or Lady Cross Plantation, an updated CEMP shall be based on the approved Construction Method Statement (CMS) and shall be submitted to and approved in writing by the MPA in consultation with the Environment Agency in respect of the area concerned. The CEMP shall include details of:</p> <ul style="list-style-type: none"><li>• The size, location and design of any site compounds, including how any potentially polluting materials will be stored to minimise the risk of pollution;</li><li>• An Incident Response Plan to deal with any pollution that may occur during the course of construction;</li><li>• A protocol to deal with contaminated ground, should this be encountered, to ensure protection of water resources;</li><li>• Details of how surface water run off shall be passed through a settlement facility or settlement facilities prior to being discharged into any watercourse or soakaway;</li><li>• Plant and wheel washing including that it shall only be carried out in a designated area of hard standing at least 10 metres from any watercourse or surface water drain and that washings shall be collected in a sump, with settled solids removed regularly and water recycled and reused where possible;</li><li>• A scheme for the recycling/disposing of waste resulting from demolition and construction works;</li><li>• Storage of waste not covered by the Mine Waste Directive;</li><li>• Measures to control the glare from on-site lighting;</li><li>• Measures to manage deliveries by HGV including routing and timing for deliveries and details of the penalty system for breaches of the agreed controls;</li><li>• Temporary traffic management;</li><li>• The provision of a Dust Management Plan relating to phase 1 of the construction period (earthworks and bund formation) and Polyhalite handling and stockpiling to include dust generation modelling so as to identify sensitive receptors; likely dust generation and its disposition during the construction phases and operation over time and under different weather conditions; the avoidance and mitigation measures required to ensure dust deposition levels at the sensitive receptors are maintained at the residual levels identified in the approved EIA, and monitoring arrangements. The Dust Management Plan must comply with the criteria set out in the 'Dust and Air Emission Mitigation Measures' best practice guidance for control of dust on construction sites from the Institute of Air Quality Management 2012. The monitoring arrangements will include dust deposition or dust flux or real-time PM<sub>10</sub> continuous monitoring locations; baseline dust monitoring at least three months before construction commences; daily on-site and off-site inspections at monitoring locations with results recorded in a log to be made</li></ul>
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available to the MPA on request, and more frequent monitoring during periods of high dust generation;

- In the event that there is insufficient clay within the Lady Cross Plantation site to form the 1m deep basal layer beneath the spoil storage area, a contingency plan to address the importation of clay, including the source, quantity and quality of such material, and how adverse effects on the water environment would be avoided;
- How the requirements of the approved CEMP will be disseminated to all relevant staff/contractors throughout the construction period;
- The location of the site notice board;
- A scheme for parking, loading, unloading during construction;
- A scheme for security and lighting during construction;
- A protocol for the replenishment of tanks and containers including that all refuelling of vehicles, generators, plant and equipment shall be supervised and shall take place within a suitable bunded, impervious hardstanding;
- Contingency proposals for if fuel cannot be delivered for the generators, e.g. due to adverse weather; and
- How those artificial or historically straightened ephemeral surface water channels referenced in sections 15.7.22-15.7.24 of chapter 15 of part 2 of the ES are to be retained wherever possible, and enhanced to increase their capacity (e.g. through the introduction of meanders) and to increase their ability to capture sediment (e.g. through suitable planting).
- Proposals / contingency plans for waste not managed as part of the Mine Waste Permit comprising the storage and management of temporary mining waste stored on-site for less than three years (e.g. Pyritic Mudstone); non-inert and non-hazardous materials stored for less than one year, and unexpected hazardous waste stored for less than six months, including measures to prevent the dispersal of dust, leachate and surface water runoff.
- A Precautionary Method of Working for Site Clearance (PMWSP) which shall be submitted to and agreed in writing by the MPA prior to commencement of each Phase of Construction and shall be adhered to thereafter. The PMSWP shall set out proposals for tree clearance and the demolition of structures and shall include that between March and September each year surveys of areas to be cleared should occur no less than 48 hours before clearance occurs so that occupied wild bird nests can be identified and prevented from being destroyed.
- Alarms fitted to mobile plant and vehicles for the purposes of warning pedestrians of their movements.

Development shall only proceed in strict accordance with the measures set out in the CEMP, unless otherwise agreed in writing with the MPA. The site construction teams at DNF and LCP should each include a named individual who will be responsible for ensuring compliance with the CEMP and planning conditions.

**Reason:**

In the interest of public amenity, highway safety, to reduce the risk of pollution to

	ground and surface water, to protect the environment of the North York Moors SAC/SPA, and to accord with the provisions of NYM Development Policies 1 and 23.
94.	<p>Prior to the commencement of each Phase of Construction at Doves Nest Farm or Lady Cross Plantation, a Construction Method Statement shall be submitted for that phase, and approved in writing by the MPA, in consultation with the appropriate Highway Authority. Each approved Statement shall be adhered to throughout the construction period. The Statements shall provide for:</p> <ul style="list-style-type: none"> <li>(i) The parking of vehicles of site operatives and visitors clear of the highway;</li> <li>(ii) Loading and unloading of plant and materials;</li> <li>(iii) Storage of plant and materials used in constructing the development;</li> <li>(iv) Erection and maintenance of security fencing;</li> <li>(v) Wheel washing facilities;</li> <li>(vi) An outline construction method for sub-surface works including adherence to the 'rack and pillar' method of mining described in the SEI (14<sup>th</sup> February 2015) and the SRK Subsidence Memorandum (15<sup>th</sup> May 2013);</li> <li>(vii) Buildings and structures associated with the mine and tunnel shafts;</li> <li>(viii) Welfare/office building and security gatehouse;</li> <li>(ix) Screening bunds;</li> <li>(x) Hardstandings;</li> <li>(xi) Shuttle Bus terminal;</li> <li>(xii) Park-and-Ride layby;</li> <li>(xiii) Emergency helipad;</li> <li>(xiv) Lighting columns;</li> <li>(xv) Internal access and haul roads;</li> <li>(xvi) Domestic wastewater (foul sewage) treatment plant;</li> <li>(xvii) Non-domestic wastewater treatment plant and settlement tanks;</li> <li>(xviii) Surface water attenuation ponds, settlement ponds, swales and wetland areas;</li> <li>(xix) Temporary spoil and Polyhalite storage areas; ;</li> <li>(xx) Removal of any temporary structures; and</li> <li>(xxi) Formation of spoil mounds and the establishment of vegetation on them.</li> </ul> <p>The CMS shall contain a construction timetable and order of works noting any construction dependencies; refer to any inherent mitigation to address adverse impacts identified in the EIA, and cross refer to the CEMP in relation to any additional avoidance or mitigation measures.</p> <p><b>Reason:</b> In accordance with NYM Development Policy 1 and 23 and to provide for appropriate on-site facilities during construction, in the interests of highway safety and the general amenity of the area.</p>
95.	<p>Prior to the commencement of each Phase of Construction the Operator shall submit to the MPA for approval, Written Schemes of Archaeological Investigation (WSIs) covering the areas of Dove's Nest Farm and Lady Cross Plantation. The WSIs are required to be submitted and approved prior to site Preparatory Works and implemented in accordance with the agreed programme. The WSIs shall be implemented as approved by the MPA prior to the Commencement of Development and alongside construction operations.</p> <p><b>Reason:</b> To protect the historic environment and to accord with the provisions of the MPA Local Development Framework, specifically: Development Policy 7 – Archaeological</p>

Assets and Core Policy G – Landscape, Design and Historic Assets.	
96.	<p>Prior to the Date of Production the Operator shall submit to the MPA for written approval a scheme of contingency screening and landscaping measures for the purposes of mitigating light emission resulting from surface transport of mine employees from the welfare building to the mine access shaft via the mine head internal access road. Such measures may include both hard and soft screening and landscaping measures, which shall thereafter be implemented in accordance with a timetable to be included in the scheme and subsequently maintained for the duration of the development.</p> <p><b>Reason:</b> In the interests of amenity and to accord with the provisions of NYM Development Policy 1.</p>
97.	<p>Prior to the commencement of shaft sinking details of final expected internal diameters for the Production shaft, Service shaft and Mineral Transport System shaft shall be submitted to the MPA for written approval. Such details shall be accompanied by information demonstrating the expected total volume and tonnage of spoil and a breakdown of the volume and tonnage of the principle types of spoil expected to be generated during the sinking of each shaft and include updated information on the intended arrangements for the management of the spoil in accordance with the requirements of this permission.</p> <p><b>Reason:</b> To ensure effective planning control over the development</p>
98.	<p>Prior to the commencement of permanent spoil disposal in the Bund C area, details of expected final contours and levels above ordnance datum of permanent spoil mounding in the Bund C area (as defined on drawing YP-P2-CX-032 Issue 10) shall be submitted to the MPA for written approval and final ground levels in the Bund C area shall be achieved in accordance with the approved details unless otherwise agreed in writing with the MPA.</p> <p><b>Reason:</b> To ensure the satisfactory design of the development and to accord with the provisions of NYM Development Policy 3.</p>

## Informatives

1. All references to Core Policies or Development Policies are to “North York Moors National Park Authority Local Development Framework Core Strategy and Development Policies November 2008”.
2. Works affecting protected species can require special permission or licences to be issued by Natural England. It is recommended that Natural England be consulted in respect of any such licences that may be required. Under Section 1 of the Wildlife and Countryside Act 1981 (as amended), wild birds are protected from being killed, injured or captured, while their nests and eggs are protected from being damaged, destroyed or taken. In addition, certain species such as the Barn Owl are included in Schedule 1 of the Act and are protected against disturbance while nesting and when they have dependent young. Offences against birds listed in Schedule 1 of the Wildlife and Countryside Act are subject to special penalties. An up-to-date list of the species in Schedule 1 is available from Natural England <http://www.naturalengland.org.uk/ourwork/regulation/wildlife/species/speciallyprotectedbirds.aspx>. Further information on wildlife legislation relating to birds can be found at [www.rspb.org.uk/images/WBATL\\_tcm9-132998.pdf](http://www.rspb.org.uk/images/WBATL_tcm9-132998.pdf).
3. The development consented affects surface land in proximity to and mineral deposits beneath Special Areas of Conservation, Special Protection Areas, and Sites of Special Scientific Interest and notwithstanding the conditions of this planning

permission relating to potential effects on these nature conservation designations the developer should be aware that these designations are protected by other legislation and that in the case of any uncertainty about potential effects on such designated areas it is recommended Natural England be consulted.

4. Traffic Regulation Orders are made by Highway Authorities. The Local Highway Authority for the Lady Cross Plantation and Doves Nest Farm sites is North Yorkshire County Council.
5. Pursuant to Section 106 of the Town and Country Planning Act 1990, two Planning Agreements have been made by York Potash Limited and other parties interested in land affected by this planning permission. The first Agreement is between YPL and those other parties and NYMNPA as Minerals Planning Authority. The second planning agreement is between YPL and those other parties and North Yorkshire County Council as Highways Authority. The Section 106 Agreement with NYMNPA allows for various forms of mitigation of the effects of the development here consented which cannot be subject to planning conditions yet which have been considered necessary to enable NYMNPA to grant planning permission. The Section 106 Agreement with NYCC allows for mitigation of the effects on the highway system of the development here consented which cannot be subject to planning conditions yet which have been considered necessary to enable NYMNPA to grant planning permission.
6. Redcar and Cleveland Borough Council has separately granted planning permission (R/2014/0627/FFM) for development in that Council's jurisdiction as Mineral Planning Authority associated with the development here consented and there is an associated Section 106 Agreement which deals with environmental mitigation.
7. A Development Consent Order has also been applied for aspects of the overall York Potash project that affect the marine environment.
8. The Environmental Protection (Duty of Care) Regulations 1991 for dealing with waste materials are applicable for any off-site movements of wastes. The developer as waste producer therefore has a duty of care to ensure all materials removed go to an appropriate permitted facility and all relevant documentation is completed and kept in line with regulations. The developer must apply the waste hierarchy in a priority order of prevention, re-use, recycling before considering other recovery or disposal options. Government Guidance on the waste hierarchy in England can be found here - <http://www.defra.gov.uk/publications/files/pb13530-waste-hierarchy-guidance.pdf>.
9. All on-site lighting should comply with the 'Guidance Notes for the Reduction of Obtrusive Light GN01:2011' published by the Institute of Lighting Professionals to avoid impacts on residents and 'dark skies' conditions.
10. If any controlled waste is to be removed off site, then the site Operator must ensure a registered waste carrier is used to convey the waste material off site to a suitably permitted facility.
11. The proposed re-injection borehole associated with the construction phase of this development will require an Environmental Permit from the Environment Agency under the Environmental Permitting Regulations 2010.

12. If the applicant intends to abstract more than 20 cubic metres of water per day from a surface water source (e.g. stream or drain) or from underground strata (via borehole or well) for any particular purpose then an abstraction licence will be needed from the Environment Agency. There is no guarantee that a licence will be granted as this is dependent on available water resources and existing protected rights.
13. Any sub-surface grouting works should be undertaken in accordance with:  
Environment Agency Regulatory Position Statement MWRP-RPS-108 Civil engineering activities involving grouts or other media for the purpose of sealing or ground stabilisation;  
Eurocode 7 BS EN 12715 (200) Execution of Special Geotechnical Work: Grouting, and 12716 Jet Grouting;  
CIRIA C515 Groundwater control – design and practice ISBN 0 86017 515 4; and  
Practical Handbook of Grouting, soil, rock and structures. James Warner, P.E. published by Wiley ISBN 978 0 471 46303 0.
14. Under Section 199(2) of the Water Resources Act 1991 (as amended by the Water Act 2003) notice must be provided to the Environment Agency if it is intended to carry out drilling works for the purpose of searching for, or extracting minerals.
15. Any new outfall structures discharging surface water into the Ordinary Watercourses will need prior consent from the Lead Local Flood Authority consent. In this case this will be North Yorkshire County Council.
16. Construction Environment Management Plans should include measures consistent with the following guidance:
  - Environment Agency Pollution Prevention Guideline 1: General Guide to the Prevention of Pollution;
  - Environment Agency Pollution Prevention Guideline 5: Works and Maintenance in or near water;
  - Environment Agency Pollution Prevention Guideline 6: Working at Construction and Demolition Sites;
  - Ciria C532 Control of Water Pollution from Construction Sites – A Guide to Good Practice (2001); and
  - Ciria C692 Environmental Good Practice on Site (third edition).
17. Any outfall structures discharging into the Ordinary Watercourses will need prior consent from the Lead Local Flood Authority.
18. In connection with Condition 95 above, the applicant's attention is drawn to the need to provide appropriate access to the site excavations and spoil to the MPA's authorised archaeologists and geologists.
19. 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 to the Coal Authority. Any intrusive activities which disturb or enter any coal seams, coalmine workings or coal mine entries (shafts and adits) requires the prior written permission of the Coal Authority. Property specific summary information on coal mining can be obtained from the Coal Authority's Property Search Service on 08457626848 Or at [www.groundstability.com](http://www.groundstability.com)