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Dawn Paton

From: Rob Smith
Sent: 09 October 2017 14:03
To: Planning
Subject: FW: NYMA response to Sirius s73 planning application
Attachments: Section 73 app July 2017 final.docx

NYM/NPA
-9 OCT 2017
RWJ

From: Tom Chadwick
Sent: 26 September 2017 16:34
To: Rob Smith
Subject: NYMA response to Sirius s73 planning application

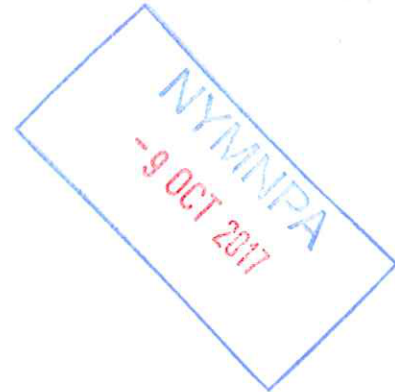
Dear Rob,

Please find attached our response to the planning application NYM/2017/0505/MEIA As we have discussed the response has still to be ratified by our Council and this will not be until a meeting on October 3rd. It is only after that meeting that I will be able to confirm that the response I have sent is complete without any more amendments being added as a result of discussion at our meeting.

Kind regards

Tom Chadwick

Chairman NYMA



"To protect and enhance the characteristic beauty of the North Yorkshire Moors for present and future generations"

North Yorkshire Moors Association founded 1985 Charitable Incorporated Organisation (CIO) N^o 1169240

North Yorkshire Moors Association
4 Station Road, Castleton, Whitby, North Yorkshire YO21 2EG

Sirius minerals Plc Section 73 Planning Application for minor material amendments to planning permission reference number NYM/2014/0676/MEIA

Planning Application NYM/2014/0676/MEIA

The winning and working of polyhalite by underground methods including the construction of a mine-head at Dove's Nest Farm involving access, maintenance and ventilation shafts, the land-forming of associated spoil, the construction of buildings, access roads, car parking and helicopter landing site, attenuation ponds, landscaping, restoration and aftercare and associated works. In addition, the construction of an underground tunnel between Dove's Nest Farm and land at Wilton that links to the mine below ground, comprising 1 No. shaft at Dove's Nest Farm, 3 No. intermediate access shaft sites, each with associated land-forming of associated spoil, the construction of buildings, access roads and car parking, landscaping, restoration and aftercare, and the construction of a tunnel portal at Wilton comprising buildings, land-forming of spoil and associated works at Doves Nest Farm & Haxby Plantation, Sneatonthorpe (proposed minehead); underneath 252 sq km of the NYMNP A (winning & working of minerals); a corridor extending underground from the edge of the NP boundary to Wilton International Complex (mineral transport system); Lady Cross Plantation near Egton, Lockwood Beck Farm near Moorsholm, Tocketts Lythe, near Guisborough (intermediate shaft sites); site with the eastern limit sites of the Wilton International Complex, Teesside (tunnel portal)

Grid Reference 489495 505142

Section 73 Application NYM/2017/0505/MEIA

Application in respect of 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 at Woodsmith Mine (formerly known as Doves Nest Farm and Haxby Plantation), Sneatonthorpe, Grid Reference 489495 505142.

Since the approval of the original application on October 19th 2015, two non-material amendments have been approved by the NYMNPA (under section 96A of the Town and Country Planning Act 1990).

Ref NYM/2016/0845/NM Re-alignment of internal access road and drill pad datum level.

NYMNPA

- 9 OCT 2017

Ref NYM/2017/0255/NM New temporary access track.

A third non-material amendment is currently before the NYMNPA and is awaiting determination. ref. NYM/2017/0399/NM (June 2017). The changes proposed in this submission are also incorporated in the s73 application

Following planning permission which was granted on October 19th 2015 Sirius Minerals are seeking amendments which appear in the s73 planning statement on page 7 as follows;

- 1) The redesign of the fore-shafts within the men and materials and mineral shafts and the adoption of an alternative approach to their construction (diaphragm walling), along with associated changes to the building layouts to enable access and ventilation to be incorporated, removing the need for the Drift Portal and the -45 level road network.
- 2) The removal of the temporary winders/temporary headframes at the Men and Materials and Mineral Shafts during the construction period reflecting the proposed earlier installation of the permanent winders.
- 3) Revised Construction/Operational Platform levels and groundwater management, which removes the need for the previously approved grout curtain around the Platform.
- 4) A reliance on a range of internal Shaft diameters to provide a greater level of flexibility during the construction phase.
- 5) The use of diaphragm wall construction for all shafts (i.e. below fore-shafts), to 120metres below ground-level (approximately 80 metres AOD).
- 6) Reconsideration of the location and layout of the water attenuation ponds within the site and,
- 7) Amendments to the internal road link (partly secured via a s96A consent identified at paragraph 2.6 above) to facilitate movement around the site.

These changes are set out in more detail under **1: Minehead Layout**

The Men and Materials Shaft Winder Building will be re-orientated and amended in shape to match the fore-shaft requirements, removing the need for the 45m temporary headframe and reducing the building size by 681 m².

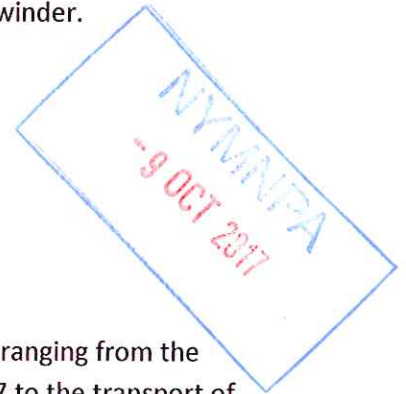
The Mineral Shaft Winder Building will be re-orientated and will increase in size by 2589 m² to accommodate the selected permanent winders and redesigned fore-shaft, removing the need for the 45m temporary headframe.

The Intake Ventilation Equipment Building will be relocated closer to the Men and Materials Shaft Winder Building Shaft Building (to reduce power draw from the ventilation fans) and reduced in size by 781m² the ventilation provided through the Men and Materials Shaft.

The MTS Shaft Building is increased in size by 191 m² to house an emergency winder.

The backup Generator Building will be reduced in size by 683 m²

There are no changes to the Substation and Welfare Building.



NYMA's Response

Over the last five years we have seen this company make confident proposals ranging from the production of 4.1 mtpa of sulphate of potash targeting first production in 2017 to the transport of polyhalite by pipeline to Teesside. Sirius Minerals are engaged in incremental development which is driven by cost cutting. Since the company were granted permission to mine polyhalite in 2015 (NYM/2014/0676/MEIA) they have embarked on numerous changes of plan including significant constructional engineering changes to the MTS. What is now being proposed in the S73 planning application as "minor changes" are significant in the sense that they will be part of the permanent industrial complex at the minehead site. The cumulative effect of the proposed changes to the permission that was granted in October 2015 in our view amounts to more than minor changes. It is a radical departure from the original application because it will change the site layout, buildings, shaft arrangement and methods of shaft construction. For example, the proposed changes to the shaft winder building involve re-orientating it and increasing the size by 2589 m², which is more than double that in the approved plan, (SES Vol 2 table 3.4), it can hardly be described as a minor change. If a planning application for a domestic dwelling was to be increased beyond double its size, and the footprint reconfigured, we suggest that it would not be regarded as a minor amendment.

Building Changes

The re-orientation and significant increase in the size of the Minerals Shaft Winder Building (B08) together with the changes in shape and re-orientation of the Men and Materials Shaft Winder Building (B07) creates a more obvious building mass in the landscape. The two very large industrial buildings will be highly visible during their construction for up to a period of three years (SES Impact during construction 6.24) and also visible in the wider landscape for much longer. These large buildings will be permanent features in the landscape along with seven reconfigured industrial buildings including the MTS Shaft Building which is also increased in size by 191m². We regard this collection of industrial buildings within an engineered artificial landscape as a large "industrial estate". We consider it to be an inappropriate development within the National Park and contrary to National Park Policies. The reconfiguration and changes to the buildings proposed in the s73 application re-enforce this view.

Changes to Shaft Construction

There is a significant change to the construction methods for the Men and Materials Shaft, the Minerals Shaft and to the MTS Shaft. Three fore-shafts and the two inner shafts will be constructed by use of diaphragm wall construction (D-wall). In paragraph 3.13 SES it states that because of this change in construction method, two of the three temporary head frames, which had an identified adverse visual impact will not be needed. However, the temporary winding towers will be replaced

by mobile D-wall rigs and cranes, i.e. three rigs and two cranes for each shaft. D-wall rigs are 26.2 metres high the cranes are higher, in excess of 50m.

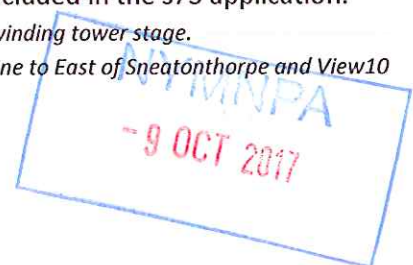
The photomontages,(06A and 11A) which show the D-wall rigs and cranes make it clear that the intrusion of these moving objects will draw attention and will have an equal or worse adverse impact than the static winding towers and in addition there will be an increased noise level (sound power level). A temporary winding tower will still be constructed for the MTS shaft following the D-wall rigs and cranes used in the fore-shaft construction. The update of LVIA impacts during construction (10.11) says that;

“the reduction from three to one temporary winding towers would not significantly decrease the sense of intrusion caused by tall structures during the construction period, with the single winding tower remaining a prominent man-made skyline feature within an open landscape”

We do not agree with the statement, SES technical assessments and appendices 2017 p35 6.21 that *“the D-wall rigs are slender and transparent (at a distance)”*. Illustrations in Document N° 40-AMC-WS-10-SW-RA-0006 and other AMC documents suggests otherwise.

We note that the photomontages submitted in the original ES showing the adverse impact of the temporary winding towers from points on the Coast to Coast walk (View 09 construction view and View 10 construction view) are not included in the s73 application. The LVIA Assessment Methodology (SES p.31) says at 6.3 that the Photomontages remain the same as set out in the original ES, but this is not the case. We question why these have been omitted because it is important to see the full adverse impact of the changes which are detailed in the s73 application and it is especially important because it will affect the enjoyment of people following the course of Wainwright’s long distance walk. Nine other photomontages which are included in the original ES are also omitted from the s73 application. ES (2014) Appendices, Part 2 Chapter 12, 12.6 Photomontages. These include Ugglebarnby Moor, Sneaton Low Moor, Raikes Lane, Whitby Abbey, and others. All of these should be submitted to show the changes included in the s73 application.

*SES Appendix 10 LVIA Photomontage 06A and 11A D-wall construction stage and winding tower stage.
Approved application Photomontages View 09 construction view from Stainsacre Lane to East of Sneatonthorpe and View 10 construction view from Coast to Coast Walk Access land at Normanby Hill top.*



Spoil

The amount of spoil which will be generated at the minehead site has been the subject of widely predicted amounts by Sirius Minerals ranging from the claim in 2012 that the amount would be around 250,000 m³ to the final amount (shown in the February 2015 SEI) as 1.2 million m³.

We suggest that there is still no clarity about the amount of spoil which will determine the appearance of the artificially engineered landscape at the minehead site. Firstly, in the revised spoil quantities described in the s73 application (SES Vol 2 Technical Assessments and Appendices) there is no clear indication which of the shaft diameters will be adopted. Table 3.7 describes maximum amounts with the adoption of 9.5m diameter shafts and minimum amounts if the 6.5m diameter shafts were to be adopted. This gives a range of decrease in spoil amounts between 263,000 m³ and

377,000 m³. Clearly irrespective of shaft diameters there is a reduction in spoil because the Drift Portal has been abandoned as well as a Ventilation Shaft. It is now claimed that the amount of spoil will be reduced to one or other of the amounts shown by shaft diameter to be either 967,760 m³ (9.5m diam. shaft) or 853,285 m³ (6.5m diam. shaft). This is a difference of 114,000 m³. It is not clear why the selection of a shaft diameter for all three shafts has not been made at this advanced stage of planning and requires a more explicit reason other than "allowing for greater flexibility during the construction phase" SES Shaft Diameters and Bunding p13 3.14.

MTS Spoil Omission

Although the MTS spoil arising's does not comprise part of this s73 application we draw attention to the fact that MTS spoil is already included in the bunding arrangements at the minehead. These are shown in the SES, ARUP document (YP-P2-CX-036_5_IFU_2070707) including cross sections of the engineered containment. Sirius Minerals must be aware that considerable amounts of spoil will be generated by the changes they have announced to the MTS and they must also know that this will have to be accommodated at the minehead site. A significant amount of spoil arises which will have to be accommodated at the minehead site because of the abandonment of the Lady Cross Plantation MTS Access Shaft site. The TBM drive from Doves Nest Farm minehead site will extend to the Lockwood Beck MTS Access Shaft. This means that an additional amount of spoil will have to be deposited at the minehead site from the increased length of the TBM drive which will be increased to 15.8 Km. This amount is shown to be 215,484 m³ bulked volume of Redcar Mudstone. (York Potash ES Appendices Part 1 Chapter 3 3.9 Combined MTS Earthworks ARUP Technical Note) This is pyritic mudstone which will have to be accommodated in an engineered containment at the minehead site to avoid acidic run-off. This would amount in volume to the second largest bund on the minehead site.

The revised s73 details of the changes to the bunding arrangement, construction platform extension, attenuation ponds and re-aligned roadway does not show any planned accommodation of this substantial increase in spoil of at least 215,484 m³ of piritic mudstone or of the location and timing for an engineered containment.

SES p32 Updated Assessment Methodology & Significance Criteria. Consultation 6.11 *"The assessment should take account of changes to screening bunds resulting from changes to spoil volumes and construction methodology, including impacts arising from the changes in the timing of bund formation"*.

Special Qualities of the National Park

Lighting

There will be a major adverse impact on the special qualities of tranquillity and dark skies in the National Park. This will extend throughout the construction period of 5 years and we believe that there will be an adverse impact throughout the operational life of the mine. The minehead site was previously an area of dark landscape. At present, even at this early stage of construction (month 4), after dark, it resembles a floodlit football ground and is the most prominent collection of lights in the landscape when viewed from Robin Hoods Bay road.

Night Time Impacts 6.54 SES p.41 *"The night time context and setting for construction activities also remains the same as identified for the approved scheme. Construction stage lighting impact would therefore remain moderate adverse, as identified for the approved scheme"*

We suggest that the description of "moderate adverse" is a serious under-estimate and that major adverse would be a more accurate description. We consider that the construction lighting scheme should be reviewed and efforts made to reduce the glare which can only worsen as the construction phase advances.

Noise

The area around Doves Nest Farm was a quiet area and the changes that have been described in the s73 planning application involve an increase in noise levels caused by the D-wall rigs.

The noise arising from the mine head construction, plant movement on the site and HGV's on the immediate road system transforms the area from one of relative tranquillity to a site of industrial noise 24 hours a day. Fig 10.3 and 10.4 of the WSP Noise Technical Report in the approved application indicate an area affected by noise emanating from the mine head site which will extend up to 4Km during construction. There may also be a problem with noise during the operation of the mine i.e. post- construction WSP 10.2.16.

National and Local Planning Policies

National Planning Policy Framework



Paragraph 123

"Planning policies and decisions should aim to:

- *avoid noise from giving rise to significant impacts on health and quality of life as a result of new development;*
- *Identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason."*

With regards to identifying areas of tranquillity, a planning policy guidance note to para. 123 says;

"There are no precise rules, but for an area to be protected for its tranquillity it is likely to be relatively undisturbed by noise from human caused sources that undermine the intrinsic character of the area. Such areas are likely to be already valued for their tranquillity, including the ability to perceive and enjoy the natural soundscape, and are quite likely to be seen as special for other reasons including their landscape".

Paragraph: 012 Reference ID: 30-012-20140306 Revision date: 06 03 2014

National Park Local Development Framework

Core Strategy and Development Policies

Core Policy A

Delivery of National Park Purposes and Sustainable Development

- (1) *"Providing a scale of development and a level of activity that will not have an unacceptable impact on the wider landscape or the quiet enjoyment, peace and tranquillity of the Park, nor detract from the quality of life of local residents or the experience of visitors."*

Development Policy 14

- 1) *The proposal will provide opportunities for visitors to increase their awareness, understanding and enjoyment of the special qualities of the National Park in a manner that will not undermine the special qualities of the National Park or in any way that conserves and enhances the special qualities.*

- 3) *The development will not generate an increased level of activity, including noise which would be likely to detract from the experience of visitors and the quality of life of local residents.*

Conclusion

We welcome the retention of the whole of Whinny Wood because of the decision to re-locate the attenuation ponds even though as a consequence there will be a loss of 3.8 hectares of pastoral farmland. We regard the changes described in this s73 application as a radical departure from the original application. The changes do not mitigate or reduce the adverse impact of the development on the landscape of the National Park. Taken on balance they will worsen the impact especially during the extensive 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 round Doves Nest Farm and to the wider landscape. The uncertainty about the amount and distribution of spoil at the mine head requires some clarity. A consequence of the planned changes to the MTS and the abandonment of the tunnel access shaft at Lady Cross Plantation the spoil from the tunnel drive to Lockwood Beck which would have been contained at Lady Cross Plantation will now have to be added to the spoil at the mine head. No provision for this is shown in the s73 application even though it must be known at this stage that this will mean further changes to the bunding and screening arrangements at the mine site. The volume of this extra spoil would make it the second largest bund on the minehead site.

We also draw attention to other changes to the MTS which will impact on the minehead site. We understand that it is now the intention to line the MTS tunnel with precast concrete liners for the whole of its length some 36.7Km. This will require a reassessment of the transport needed to deliver this change and to the storage at the minehead of a large amount of these concrete sections. Having obtained approval for the original planning application this should not, in our view, open the door for a string of additional applications under the guise of "minor material amendments". Pushing the boundaries of the existing planning permission in the interest of cost-cutting should not be given approval.

For the reasons we have set out in this response we respectfully ask that this application should be refused or that in any case a decision should be deferred until there is clarity about the effects of changes to the MTS which will result in additional spoil at the mine site and the consequences of this to the changes proposed in this application.

Tom Chadwick NYMA Chairman

