

Appendix 6: NYMNP A EIA Scoping Opinion (30 June 2017)

North York Moors National Park Authority

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Your ref: 50303/04/HS/AFa/14028908v4
Our ref: S.73EiA scoping/RS
Date: 30 June 2017

Dear Ms Farrelly

Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as updated) – Request for a Formal Scoping Opinion – Woodsmith Mine site

I refer to your email letter and attachments of 15 May 2017, together with the additional drawings supplied via email on 30 May 2017, both relating to a request for a formal scoping opinion for proposed EIA development at the Woodsmith Mine site.

The formal response to your request for a scoping opinion is attached with this letter.

Please do not hesitate to contact me if there are any matters that you would like to discuss further.

Yours sincerely

Rob Smith
Senior Minerals Officer



Ref No

Woodsmith Mine, Sneatonthorpe – Response of the North York Moors National Park Authority to a request by Sirius Minerals PLC under Regulation 13 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 for a formal opinion on the scope of an Environmental Statement

1.0 Introduction and context

1.1 This response is made in relation to a request, on behalf of Sirius Minerals PLC, for formal scoping of an Environmental Statement to accompany a proposed Environmental Impact Assessment (EIA) application for development at the Woodsmith Mine site (formerly known as the Doves Nest Farm Mine site), Sneatonthorpe. The request for scoping was received on 15th May 2017 and, in accordance with the transitional provisions contained in Section 76(3) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, falls to be determined under Regulation 13 of the Town and Country Planning (EIA) Regulations 2011 (as amended).

1.2 It is noted that the proposed development, subject of the scoping request, is to be submitted as an application under Section 73 of the Town and County Planning Act 1990 for material minor amendments to the development permitted on 19 October 2015 (NYM/2014/0676/MEIA). It is further noted that the statement proposed to be submitted would be in the form of a Supplementary Environmental Statement (SES), intended to describe the potential for any additional or different environmental effects that may not have been identified through the EIA undertaken for the development permitted on 19 October 2015.

1.3 The Authority acknowledges that, subsequent to the grant of permission in October 2015, a number of proposals for non-material minor amendments to the permission have been approved under Section 96A of the Town and Country Planning Act 1990 and that these are to be reflected in the baseline position for the proposed SES. In summary the approved minor amendments relate to:

- Realignment of the main internal access road linking the approved Welfare Building complex and the mine site;
- Minor amendments to drill pad levels;
- The temporary use of a) the shaft entrance without the right-turn lane and b) the farm entrance for a period of 10 weeks, or until the completion of the haul/welfare road, whichever is the sooner.

1.4 It is also noted that information has been submitted pursuant to the requirements of a number of planning conditions attached to the October 2015 planning permission, seeking to discharge or part discharge various matters of detail associated with site preparation/enabling works and that, where these matters have been approved and are relevant to consideration of the changes to be included in the proposed Section 73 application, they will be reported in the SES. This approach is supported.

1.5 In responding to this request the Authority has taken into account the information submitted on 15th May 2017, together with additional plans submitted on 30 May 2017. In accordance with relevant Regulations, account has also been taken of:

- The specific characteristics of the proposed development;
- The specific characteristics of development of the type concerned;
- The environmental features likely to be significantly affected by the development

1.6 Consultation with relevant statutory bodies has taken place to inform this scoping opinion and, where appropriate, views received have informed its content. The full responses received following consultation with external consultees have already been supplied and are not reproduced with this response. The applicant is advised to have regard to these responses, and to undertake any necessary further discussions with relevant organisations in order to address any significant matters raised, during preparation of the SES.

1.7 The attention of the applicant is also drawn to the specific requirements of Schedule 4 of the EIA Regulations (2011) and the need for the SES to be accompanied by any additional information relevant to the specific characteristics of the proposed development and to the environmental features likely to be significantly affected.

1.8 In accordance with the 2011 Regulations, the Authority reserves the right, following submission of the proposed planning application and SES, to require further information to be submitted concerning the likely significant effects of the development.

2.0 General observations on the scope of the SES

2.1 The rationale for submission of a SES is understood in the context of a proposed submission under Section 73 for material minor amendments to the 2015 permission. Notwithstanding this, the Authority is mindful of the particular scale, complexity and sensitivity (in locational and environmental terms) of the development originally permitted, and the need to ensure a rigorous approach to identification, assessment, and where necessary mitigation of any significant effects associated with the proposed amendments. It is therefore essential that the SES is sufficiently comprehensive, and presented with adequate clarity, to allow all potentially significant effects relating to such amendments to be clearly distinguished from those expected to arise as a result of the development already permitted. Similarly, it will be important that the SES identifies and addresses any implications arising from relevant changes to the environmental baseline (for example proximity or status of sensitive receptors) which may have occurred since preparation of the environmental statement accompanying the application permitted in October 2015. Clear signposting of any such changes in the SES will be important in demonstrating the range and extent of relevant issues and impacts, and is also likely to be of assistance to organisations involved in reviewing and responding to the application and SES.

3.0 Specific matters relating to the proposed scope of the SES (paragraph references in the following sections follow those set out in the scoping request received on 15 May 2017)

3.1 Para. 5.2 makes reference to the fact that the focus of Schedule 4 of the 2011 Regulations is the significant effects and states that lesser impacts need not be addressed as part of the EIA process. Whilst this position is noted, it is considered important that there is clear justification presented in the SES on the rationale for excluding any potentially relevant topics or matters which are not addressed, in order that the absence of significance can be clearly demonstrated. In this context the right of the Authority, following submission of the proposed application and SES, to require further

information to be submitted concerning the likely significant effects of the development is again noted. Further specific comments on matters proposed to be scoped out of the SES are provided later in this response.

3.2 Para. 5.4 refers to the presence of key planning conditions (attached to the October 2015 permission) to ensure the implementation of mitigation and monitoring in relation to measures identified in the original ES. It notes, in the context of the proposed amendments to be sought through the Section 73 application, that some of these conditions may require further consideration and assessment and that, where relevant, analysis of this will be 'scoped in' to the SES to ensure that the Authority are informed on this matter as part of the decision making process. This approach is supported. For clarity, the SES should provide specific signposting to relevant conditions, or elements of conditions, attached to the 2015 permission where they have informed the content of the SES.

Landscape and visual effects

3.3 With regard to considerations relating to spoil volumes arising from changed construction methodology, the scoping request (para 4.11) suggests that no material change in volumes of spoil are expected to arise. Elsewhere (para. 5.14) it is indicated that revised volumes will occur, and it is acknowledged that this may be reflected in revisions to bund height/configuration to the south of the shaft platform. In order that any potential effects arising from revised spoil volumes can be assessed, it is important that any predicted change (or potential range of change if there is uncertainty about the specific volume that would be generated) is quantified so far as practicable and used to inform the assessment of any effects. This should include effects arising from any changes in timing of bund formation resulting from the revised construction methodology, as this may also have consequential implications for landscape and/or visual impact during the earlier stages of development.

3.4 It is noted that 2 selected photomontages used in the original ES (photomontage 06, B1416 and photomontage 11, A171 Robin Hoods Bay Road) are identified for updating to assist in the assessment of construction stage visual and landscape impacts. At operational stage it appears that only the latter would be updated (see para 5.16, 2). However, it is considered that there could be potential for changed visual/landscape impacts at locations other than to the east of the site at operational stage, for example as a result of the expected changes to bund height and configuration to the south of the shaft platform. In this context, the scoping request makes reference to potential changes in night time perceptual effects due to the amendment of operational scheme lighting arrangements and removal of the drift access, and that removal of the drift and replacement with overland access has the potential to cause impact on special qualities, including tranquillity and dark night skies. It will be important that adequate consideration is given to this matter in the SES and that sufficient information is included to enable all potentially significant effects to be characterised and assessed.

3.5 In relation to visual effects at construction and operational stages, it is noted that it is not proposed to undertake a full assessment of individual receptors, with the focus instead being on geographical groups of receptors. It is considered that the need, or otherwise, for assessment of impacts on individual receptors should not be pre-determined at this stage and should be justified

by the outcome of initial assessment of impact on receptor groups during development of the SES. This would help ensure that appropriate consideration is given to any specific impacts on individual receptors and allow development of more targeted mitigation if necessary.

3.6 With reference to Cumulative ZTV mapping at construction stage, it is stated in the scoping request that it is proposed to update the approach used in assessment of the permitted development to reflect the position with a single temporary winding tower at the Woodsmith mine site. Whilst this is understood it is suggested that, if there is potential for the temporary MTS winding tower to be in place simultaneously with d-walling rigs, then this should also be factored into the assessment as the latter, which are substantial structures in their own right, may have the potential to impact on the ZTV. In this context it is further noted that the SES is being scoped on the basis of a scenario where three d-walling rigs would be active. Information provided to the Authority in relation to discharge of planning conditions (construction phase 4)¹ indicates that up to six crawler cranes may be mobilised to the site in connection with d-walling activity. It will be important that the SES addresses a worst case scenario in terms of the potential for landscape/visual and related impacts arising from these sources.

Geology and hydrogeology effects

3.7 Your attention is drawn to the concerns previously expressed by Natural England in the context of your application for discharge of conditions (phase 3 construction works); specifically whether any longer term cumulative impacts on groundwater levels may arise as a result of the presence of shaft platforms and other elements of the constructed development throughout the life of the mine. It will therefore be important that the effects of any changes in construction methodology, and the existence of the modified development throughout the operational stage, arising as a result of the Section 73 proposals, are addressed in the SES and reflected in monitoring and mitigation proposals where necessary. As indicated in previous communications by Natural England on this matter, including their response to consultation on this scoping request, the assessment needs to take into account the potential for any effects on any groundwater dependent ecological receptors, including the spring flush located within Ugglebarnby Moor to the west of the site. This is a potentially significant issue which needs to be given appropriate attention in the SES.

Ecology, Hydrology and flood risk

3.8 With regard to these matters, and further to the comments provided in para. 3.7 above, it is noted that ecological impacts are proposed to be assessed in terms of their links with geology and hydrogeology, and that it is not intended to include a 'standalone' section on ecology in the SES. In view of the presence of particularly important ecological receptors (both species and habitats) in close proximity to the site, it is suggested that it may be appropriate to address effects on ecology as a separate section in the SES, to increase clarity and ensure that interested parties are able to readily identify how effects on ecology have been considered and, where necessary, addressed through mitigation in the SES. Such an approach would also enable clear consideration to be given to the potential for any significant ecological effects arising as a result of other proposed changes to the development. These could for example include any changes to the local noise climate as a consequence of the revised construction methodology, including the proposed use of d-walling rigs,

¹ Method Statement Appendix B – Mobilisation of Diaphragm Walling Equipment

bearing in mind the proximity of the site to the SAC/SPA, or changes to the surface water management regime as a consequence of revisions to the configuration of surface development, noting that valuable aquatic fauna, principally brown trout but also including salmon and pearl mussels, are present downstream from the site. If this approach is not followed, it will be important to ensure that very clear signposting is included in the SES to demonstrate where matters relating to effects on ecology are addressed. Provision of sufficient information regarding effects on ecology will also be of relevance should it be necessary, following any screening under the Habitats Regulations, for an Appropriate Assessment to be undertaken.

3.9 With regard to local flood risk management, it is confirmed that no specific comments on the proposed scope of the SES have been raised by North Yorkshire County Council in their capacity as lead local flood authority.

Noise and vibration

3.10 Para. 5.37 and 5.38 suggest that removal of the drift access arrangements and their replacement with direct surface transfer of personnel to the mine head buildings is likely to be the main change impacting on the noise climate. Whilst this may be the case at operational stage, it is considered that the proposed use of d-walling rigs during the construction phase could also be of significance in terms of their implications for noise and vibration, as these items of plant are likely to be associated with relatively high sound power levels and would be operated over 24 hour periods. It is important that noise and vibration impacts associated with this change and other proposed construction-stage changes are clearly addressed in the SES.

4.0 Issues scoped out of the SES

4.1 The scoping request suggests that it is proposed to scope out effects on ecology (except where these might arise in association with geology/hydrogeology impacts), traffic and transport, recreation and amenity, air quality, socio-economics, above and below ground heritage, land use and soils and effects on the special qualities of the National Park (although it is noted that it is proposed to address interactions between visual and landscape effects, and noise and vibration effects, on special qualities as part of the specific sections dealing with those topics). In the context of issues proposed to be scoped out of the SES, it is also noted that para. 5.2 of the scoping request refers to Schedule 4 of the EIA Regulations 2011, and the intention that the focus of the EIA process is on significant effects. Whilst the principle of this is agreed, it will be important to ensure that sufficient clarity and justification is provided, within the SES, on the rationale for scoping out any particular topics. Such an approach would be consistent with national Planning Practice Guidance, which indicates that an ES should be proportionate and that impacts which have little or no significance for the development will need only very brief treatment, to indicate that their possible relevance has been considered.

4.2 Further specific comments in relation to matters currently proposed to be scoped out of the SES are set out below.

Traffic and transport

4.3 The Highways Authority has confirmed that it is content that traffic and transport be scoped out of the proposed SES.

Recreation and amenity

4.4 The intention to scope this topic out of the SES is noted, although it is understood that impacts on recreation and amenity as a result of any changed landscape and visual effects would be addressed under the section on landscape and visual impact. However, it is considered that the potential for significant effects on recreation and amenity which could arise from other sources or types of impact, particularly including any changes to levels of noise and vibration, can only be judged in the context of the assessment of those impacts via the SES. It may therefore be necessary to give more detailed consideration to effects on recreation and amenity in the SES and to ensure that any such effects are clearly distinguished in the SES.

Effects on special qualities

4.5 It is noted that any effects on the special qualities of the National Park arising as a result of changes to landscape or visual impact, and from noise and vibration, would be dealt with in sections dealing specifically with those topics. However, it is important that the potential for any impacts arising from the proposed changes, on special qualities, is not pre-judged at this stage but should instead flow from the identification and assessment of other significant effects through the SES. It may therefore be necessary to give more detailed consideration in the SES to impacts on other special qualities, or which arise from effects other than landscape and visual matters, or noise and vibration and to ensure that any such effects are clearly distinguished in the SES.

Consideration of main alternatives

4.6 The scoping request does not indicate specifically whether it is proposed to address, in the SES, any main alternatives considered as part of development of the Section 73 proposals (for example in terms of design/layout parameters relating to building footprint and configuration, or the potential use of any other construction technologies alternative to d-walling). Whilst it is acknowledged that permission for the development being scoped is to be sought in the form of an application for material minor amendments to development already permitted, it would be helpful if it is clear, in the application and through the SES, how and why the proposed changes have been derived and, in particular, how the potential for any changed scale or nature of environmental effects has informed the identification of the proposed amendments.