

**Blubberhouses Quarry: Planning application ref : NY/2011/0465/73 Variation of condition 2 of planning permission reference C6/105/6A/PA to allow extraction of silica sand and erection of processing plant at the site until 2036.**

**Points Raised in North Yorkshire County Council email of 14<sup>th</sup> August 2015**

At the meeting of 5<sup>th</sup> January 2016 between Officers of North Yorkshire County Council (NYCC) and representatives of the Applicants and land owners of Blubberhouses Quarry, it was agreed that a response would be provided to the points raised by NYCC in the email of 14<sup>th</sup> August 2015. The delay in providing a response to these points was largely a result of the fact that it was considered imperative that a meeting was held between NYCC officers and the Applicants and Landowners in advance of providing additional information.

The points raised by NYCC are detailed below together with a detailed response.

**NYCC 1. The absence of evidence of national strategic need for the extraction of silica sand at Blubberhouses;**

**Applicant's Response**

- 1.1 The term "national strategic need" is not a term cited in National Planning Guidance in England (or the UK) in relation to minerals development. There are, however, various references to the importance of silica sand as an industrial mineral and the requirement to provide an adequate and steady supply of such, in the planning context, in planning policy documentation and in the context of development management planning.
- 1.2 At the time the application was made to extend the period of operations at Blubberhouses Quarry (2011), Minerals Planning Guidance Note 15 (MPG15): "*Provision of Silica Sand in England*", was the Government guidance note under which development plan policy and planning decisions for the provision of silica (industrial) sand were developed and considered. In MPG15, the concept of "National Need" for silica sand was clearly stated at Paragraph 47 "*Due to the national need for silica sand*". This concept of National Need supported the principle of landbanks for silica (industrial) sand in MPG15. Firstly, Government recognised that the system used to ensure a continuing flow of aggregate materials to industry could not readily be applied to silica (industrial) sand, because of the special features of the silica sand industry and the wide range of grades of material required to meet a range of specialist end-uses. For silica sand, MPG15 required that MPAs should

*“ensure that landbanks of at least 10 years are maintained for individual sites”*. In the case of significant new capital investment by the industry in existing or new sites, it was considered necessary for the plant to be provided with a stock of permitted reserves to provide for at least 15 years, or substantially longer than this, for greenfield sites, depending on the circumstances.

- 1.3 In March 2012, MPG15 was superseded by the National Planning Policy Framework (NPPF). Paragraph 146 of the NPPF deals specifically with Industrial Minerals, including Silica Sand. The reserve requirements reflected in MPG15 are repeated in NPPF requiring MPAs to provide *“...a stock of permitted reserves to support the level of actual and proposed investment required for new or existing plant and the maintenance and improvement of existing plant and equipment, as follows:- at least 10 years for individual silica sand sites; at least 15 years for cement primary (chalk and limestone) and secondary (clay and shale) materials to maintain an existing plant, and for silica sand sites where significant new capital is required.”*
- 1.4 The NPPF identifies Silica Sand as a Mineral of National Importance.
- 1.5 From a strategic perspective silica (industrial) sand is not only recognised in NPPF as a nationally important mineral resource, but is one of a small number of such minerals which can be subject to the Nationally Significant Infrastructure Projects (NSIP) process. The criteria for a minerals project to be considered as a NSIP are that the proposal involves “a strategically important industrial mineral”, or that it is a significant scale, e.g. over 150 hectares. Silica sand clearly fits the first of these criteria and although possibly relevant to other silica (industrial) sand sites Blubberhouses is less than 150ha. Further, the Inspector who reported on the Examination into the Surrey Minerals Plan Core Strategy also referred to silica sand *“As a mineral of strategic significance”*. With reference to the proposed allocation of a Silica Sand resource adjacent to North Park Quarry in Surrey, the Inspector recognised that *“Part is in the Surrey Hills AONB where it is national policy not to permit major mineral developments except in exceptional circumstances”*. The Inspector continued *“The identification of the preferred area reflects the national need for a continued supply of this nationally scarce mineral”*.
- 1.6 In the absence of any clear definition of “national strategic need”, it is right and proper to consider Silica (Industrial) Sand in the context of National Need, National Importance, Significant Infrastructure Projects and Strategic Importance, terms which have all been applied to the mineral in the planning context and importantly in relation to its scarcity and the exceptional circumstances for the development of sites.

**NYCC 2. The existing availability of silica sand from elsewhere to meet current market demand;**

**Applicant's response**

- 2.1 It has long been recognised that MPAs in areas containing silica (industrial) sand deposits need to make an appropriate contribution to national requirements and should therefore aim to maintain landbanks of silica (industrial) sand permissions. The relatively small number of quarries producing silica (industrial) sand, and the range of types of silica sand required for different end-uses, means that reserves to meet the needs of the different consuming industries are bound to fluctuate widely at the local level, depending on the timing and size of individual planning applications. NPPF paragraph 146 requires that MPAs co-operate with neighbouring and more distant authorities to co-ordinate the planning of industrial minerals to ensure adequate provision is made to support their likely use in industrial and manufacturing processes. It is unclear what measures NYCC has pursued to justify the consideration that there is existing availability of silica sand from elsewhere to meet current market demand, however, this assumption does not appear to be reflected in the evidence from other Silica (Industrial) sand producing MPAs.
- 2.2 Silica (industrial) sand from Blubberhouses Quarry meets the strict chemical and physical characteristics to produce a clear glass product. Only 3 sites in England are known to meet this specification, Dingle Bank Quarry in Cheshire, Leziate Quarry, Norfolk and North Park Quarry in Surrey.
- 2.3 Dingle Bank Quarry has been operational for over 80 years. From the 1970s the site was the sole supplier of sand to the Pilkington's float glass plant at St Helens. The site has less than three years reserve life, however, due to the nature of the deposit, glass sand production will cease from this site in 2016, the remaining mineral not meeting the strict specification for glass manufacture. Despite extensive geological investigation and assessment there are no known potential extensions to the site.
- 2.4 Leziate Quarry in Norfolk is again a longstanding site which has now been operation in excess of 100 years. In the early 2000s, the site produced circa 350,000tpa. However, an increase in demand for clear glass, coupled with the closure of Moneystone quarry in Staffordshire marked a significant and steady ramp up of extraction rates from the site. The recent mineral specific consultation by Norfolk County Council indicated a silica (Industrial) sand landbank requirement for the site at 750,000tpa throughout the development plan period, based upon a 10 year average. However, the low starting point and the economic downturn of the late 2000s masks the true picture, with more recent production averaging 790,000 tpa 2012-2014 (3 year average).

- 2.5 North Park Quarry in Surrey lies partly within an Area of Great Landscape Value and partly within the Surrey Hills AONB. The most recent extension to this site at Pendell is in a similar setting to the main production processing plant at North Park Quarry and is connect to the site via a 1.2km field conveyor. The site's AONB location meant that the quarry was subject to the NPPF exception test required under NPPF. On balance, it was concluded that the any harm to the landscape was outweighed by the nature and benefits of the scheme in national and local terms in respect of the provision of the Mineral. The Surrey Minerals Plan 2011 recognises the need for Silica Sand and the limited areas within the UK where the specialist sands are found.
- 2.6 Few Silica (Industrial) Sand sites in England have sufficient reserves to meet the requisite minimum 10 years for individual sites. Delays in the delivery of mineral local plans following the 2004 Act have led to the disturbing position where there are no counties that meet this requirement even including the potential allocations identified in adopted minerals plans.
- 2.7 It is therefore evident that the suggestion that there are existing reserves of silica sand from elsewhere available to meet current market demand, is unfounded.

#### **Exceptional circumstances**

- 2.9 The Nidderdale AONB was designated in 1994 when Blubberhouses Quarry was already established. The designation of the AONB therefore took into consideration the existing quarry development which was not seen to inhibit the landscape designation. Setting the quarry in the context of the AONB, the quarry consent covered an area 83.4ha of which 38.7ha is proposed for extraction. The Nidderdale AONB covers an area of 233 square miles or 60,300ha. The consent boundary represents approximately 0.14% of the AONB area, with the extraction area equating to 0.06%.
- 2.10 The Applicant recognises that the protection of landscape and scenic beauty are clearly very important considerations in AONBs. Therefore, any development proposal within an AONB must have the highest regard for the reasons for the designation and associated conservation objectives. This has been reflected in the EIA accompanying the planning application.
- 2.11 As referred to above, Blubberhouses Quarry contains a reserve of the silica (industrial) sand which is recognised as a mineral of national importance. A key pillar in planning for minerals is that minerals can only be worked where they exist and where the quality is such that saleable products can be produced to satisfy customer requirements. In the case of the proven silica sand reserve at Blubberhouses this deposit is located on the Carboniferous Gritstone and is recognised in the DCLG/BGS Minerals Planning Factsheet for its production of colourless glass sand. The DCLG/BGS Factsheet on Silica Sand (2009) also

provides an overview of the mineral; extraction methods; processing; markets; supply and UK resources of this specialist mineral.

- 2.12 Reserves and resources of silica sand are extremely limited in the UK, with only three quarries in England capable of supplying sand for the manufacture of clear glass products in England. The status of these sites is discussed above.
- 2.13 Paragraph 14 of the NPPF is clear that sustainable development should be approved. Sustainability principles include equal consideration of economic, social and environmental aspects at a local and national level. It is clear that the high quality mineral resource present at Blubberhouses is of national importance and the potential for local effects (positive and negative) have been be balanced against national considerations.

**NYCC 3. The adverse impact of silica sand extraction on the North Pennine Moors Special Protection Area (SPA) and Special Area of Conservation that have European designation status, the west Nidderdale, Barden, Blubberhouses Moors Site of Special Scientific Interest (SSSI) and the loss of ecologically sensitive land and habitat with high conservation interest and sensitivity contrary to NPPF paragraph 118 which states where significant harm resulting from development cannot be avoided permission should be refused:**

**Applicant's response**

- 3.1 It is considered necessary to break this section down in to International and National considerations; and, local considerations. Natural England is the statutory body responsible for ensuring that the natural environment is conserved, enhanced and managed for the benefit of present and future generations. Under this statutory duty NE provides statutory responses to development proposals under "The conservation of Habitats and Species (As Amended) Regulations 2010 Article 16 of the Town and Country Planning (Development management Procedure) Order 2010 and Section 28 of the Wildlife and Countryside Act 1981 (As Amended). In its response dated 28th October 2013 to the consultation on the Applicant's proposals from NYCC, NE stated that it was "*satisfied that.....there would be no adverse effect on the integrity of any European Site.....*" This consideration was reiterated by NE to NYCC in its response dated 15th July 2015. Further in its response dated 25th July 2015 NE advised NYCC that in respect of the West Nidderdale, Barden and Blubberhouses Moor SSSI, it had "No Objection". NE has therefore confirmed there is no adverse impact of silica sand extraction on the North Pennine Moors Special Protection Area (SPA) and Special Area of Conservation (European designation status), nor the west Nidderdale, Barden, Blubberhouses Moors Site of Special Scientific Interest (SSSI)

- 3.2 **Non-energy mineral extraction and Natura 2000** was published in 2011 and is the EC guidance on Natura 2000 for the non-energy extractive industry. The document is clear in that Natura 2000 sites are not intended to be '**no development zones**' and new developments are not automatically excluded. Instead, the Directives require that new plans or projects are undertaken in such a way that they do not adversely affect the integrity of the Natura 2000 site. The confirmation that Natural England has no objection to the proposed development at Blubberhouses Quarry is a clear statement that the development at Blubberhouses Quarry is compatible with the Natura 2000 objectives.
- 3.3 The second part of NYCC3 paraphrases NPPF Paragraph 18, however this paragraph continues beyond where NYCC 3 ends. The continuation is: "*...unless the need for, and benefits of, the development in that location clearly outweigh the loss*". As NE are not raising any objection to direct or indirect effects on the features for which the SPA/SAC/SSSI are designated, whilst upland heathland and blanket bog are recognised as priority habitats for conservation under Section 41 of the NERC Act 2006 and "active" blanket bog a priority habitat on Annex 1 of the Habitats Directive, the area within the site was not included within the SAC/SPA and SSSI designations and so the weight would appear to lie in favour of the development, being demonstrably a mineral of national significance (see above). Further, the ES and subsequent submissions have considered in detail the extent of "*ecologically sensitive land and habitat with high conservation interest*".
- 3.4 The original Phase 1 habitat survey west of the road north of the quarry and silt lagoon, based on the soil survey results and the Phase1 habitat distinction between peat bog (>50cm depth peat) and heathland (<50cm depth peat) classified the vegetation present as predominantly dry heath/acid grassland mosaic with rush dominated vegetation flanking the watercourses down the valley. Whilst to the east of the road there is a wide expanse of heather dominated vegetation, managed as grouse moor by burning (easily seen on aerial photographs). The patchwork comprises recently burned bare peat through to mature almost 100% stands of heather. There are however in the wettest areas stands of cotton grasses. The soil survey found the central third had peat > 50cm and so classified as blanket bog although modified through regular burning. The other two thirds on shallower peat, upland dry heath. Interestingly, the peat on the east side overlies sandy sub soil whilst on the west thick clay. All this is clearly shown on plans provided in the original ES. In contrast to the Phase 1 survey, the MAGIC website shows the east side of the road as upland heath and the west side as mainly blanket bog with an area of upland heath. The distinction based on depth of peat is somewhat arbitrary but is used by Natural England and the Joint Nature Conservation Committee in the Common Site Monitoring Guidance for

Upland Habitats (version July 2009) to distinguish between blanket bog and heathland for monitoring of habitat condition on statutorily protected sites.

**“2.6 Blanket bog and valley bog (upland)**

*Blanket bogs in Britain tend to be dominated by mixtures of Sphagnum bog mosses, other bryophytes, sedges such as cotton-grass (Eriophorum spp)., dwarf shrubs, and occasionally lichens. The grass Molinia can sometimes be abundant in zones of water movement. Extensive areas of flat or gently sloping blanket bog occur where the drainage is poor, in areas of heavy and frequent rainfall, and over acid peat > 0.5 m deep, but which is usually much deeper (normally 1-2 m). Section 2.27 gives plant communities on wet heath (shallow peat i.e. < 0.5 m deep).”*

Where blanket bog is modified through burning and draining, other vegetation types develop on the peat including acid grassland and upland heath. Consultees have also referred variously to the habitats on the site as heath, blanket bog, degraded blanket bog, wet heath often in the same response and have alluded to the fact that these are irreplaceable habitats.

- 3.5 The applicant feels that irrespective of the precise definitions, weight has been given to the value of these habitats and the responses to the original ES out with the comments regarding the SAC/SPA and SSSI, were not the loss of the habitats within the site but rather matters of restoration and storage of peat. Based on the original responses, the applicant in all the subsequent submissions has sought to provide a greater level of detail to address these two matters. Indeed the response from the NYCC ecologist dated the 6<sup>th</sup> December 2012 to the addendum submitted in 2012 on these two matters only raised the matter of detail of peat storage and its re-use and delivery of the management and restoration. Subsequent submissions by the Applicant have sought to address these.

**NYCC 4. The lack of precise detailed information on the impact of the extraction of silica sand on the management and methodology for the removal, storage and replacement of peat and the creation of ‘blanket bog’ and the attendant issues of stability, hydrology and carbon emissions;**

**Applicant’s response**

- 4.1 As outlined in response to NYCC3 above, the applicant has provided further information as requested following each round of consultation and this included prior to the latest responses, a management and restoration plan and a specific peat management plan. This

information has been deemed to be sufficient by Natural England to address the issues raised and hence NE has no objection. Based on the results of the soil survey and the nature and depth of peat across most of the site, the Applicant was advised that the peat that was required to be stored, could be so in bunds up to 1.5m in height, as recommended for sensitive topsoils. Storage is to be kept to a minimum and wherever possible will be stripped and re-laid without storage. The principles for the stripping, storage and replacement of peat is provided in the peat management plan and it is considered that coupled with the management and restoration plan this provides sufficient detail required.

**NYCC 5.The potential loss of irreplaceable deep peat, wet heath, and ‘blanket bog’ that is recognised as a UK priority habitat contrary to NPPF paragraph 118 and is further recognised as having European importance and status;**

**Applicant’s response**

- 5.1 This is essentially the same point made under NYCC 3 and reference is made to the previous response under Section 3.2 above re NPPF Para 118. Additionally, the extract from the UK Biodiversity Action Plan: Priority Habitat Descriptions 2008; updated in 2011 states *“Blanket bog is a globally restricted peatland habitat confined to cool, wet, typically oceanic climates. It is, however, one of the most extensive semi-natural habitats in the UK and ranges from Devon in the south to Shetland in the north. Only "Active" Blanket bog has priority status at a European level with degraded blanket bog such as at Blubberhouses, whilst Annex 1 is a non-priority habitat. Measures being taken elsewhere on Blubberhouses with the assistance and permission of the landowner are to restore conditions suitable for reinstatement of “active” blanket bog.*
- 5.2 Wet heath is not an irreplaceable habitat and does not require deep peat and there are numerous examples of restoration and creation of wet heath on both mineral soils and peat. Examples were provided in the original ES and one such is the Bleak House opencast mine site in the west Midlands where over 40ha of heathland (wet and dry heath) has been created following restoration and now forms part of an SSSI. Following the deep and extensive peat fires on the North York Moors in 1976 and subsequently on other peatland areas such as the Dark Peak in Derbyshire, extensive research and trials have been undertaken on revegetating these tracts of bare and damaged peat. The restoration plan submitted includes the methods that have been used including seeding with a nurse grass crop and use of geojute. There is no shortage of areas from which to recover plant material to seed and plant into the restored land.



**NYCC 6. The requirement for a more robust and detailed Landscape and Visual Impact Assessment to assess the wider impacts of the proposed silica sand extraction on the AONB and wider landscape including the SPA; and**

**Applicant's response**

- 6.1 The application has addressed the impacts on the AONB landscape designation and the information above provides the need for the exceptional circumstances case to be applied to this particular application.
- On 15th March 2012 the NYCC landscape officer issued a consultation response to the planning application following which a meeting was held on the 31st May 2012 with Landscape officers from NYCC and the applicant. On 26th March 2013 an acknowledgment was received from NYCC which confirmed the extent of additional work proposed by the applicant to address the landscape consultation comments.
- 6.2 The submission on 12<sup>th</sup> May 2015 (which followed a meeting on the 24th November 2014 with NYCC) provided additional landscape and visual assessment work. This information was submitted on the basis of the work agreed previously. This information was submitted as an addendum to the original LVIA documents prepared as part of the EIA submitted in December 2011.
- 6.3 We feel that the submission of outstanding lighting detail on any new processing plant can be conditioned by NYCC prior to installation of any new plant or buildings at the site (item 4 of the landscape meeting notes from May 2012). We also are happy to accept the need for the applicant to submit detailed designs of the new processing plant (which will be no higher than the original processing plant) prior to installation of any new processing facility (item 3 of the landscape meeting notes from May 2012).
- 6.4 The latest consultation response from NYCC landscape team dated 27<sup>th</sup> July 2015 has raised new topics that haven't been raised previously and we do feel it appropriate to question the relevance (in the determination of this planning application) for the applicant to now have to consider topics such as the conditional exemption of inheritance tax on the Bolton Abbey Estate.

**NYCC 7. In the absence of existing evidence of need the silica sand reserves can be protected for the future through allocation in the forthcoming Minerals and Waste Joint Plan.**

## **Applicant's response**

- 7.1 We firmly believe that there is a proven need for the mineral based upon the above information. Unfortunately, despite the above comment, NYCC has discounted Blubberhouses Quarry as an allocated site upon information which is flawed. The need for the mineral is clear; submitted details accompanying the planning application clearly demonstrate that mitigation of the site within its landscape context is achievable; and, there is no objection from Natural England, under its statutory responsibilities under the conservation of Habitats and Species Regulations 2010 Article the Wildlife and Countryside Act 1981.
- 7.2 That NYCC has discounted the site is surprising as this is a marked change of direction by NYCC. In November 2007 NYCC produced its Minerals Site Allocations Preferred Options document as part of its Minerals Development Framework. The document indicated Blubberhouses Quarry as a "Preferred Site" (M08) and stated:

### ***"Policy MSA4: Silica Sand Extraction***

*3.68 Planning permission for the continued extraction of silica sand will be granted at the following location, as shown on the Proposals Map, provided that there are no unacceptable adverse effects upon local communities or the environment:*

### ***Blubberhouses Quarry (M08)***

*3.69 Proposals will be expected to take account of the following key issues or requirements:*

*i) An Appropriate Assessment under the Habitats Regulations of the proposed development upon the adjoining Natura 2000 site. The Assessment should indicate the extent to which any impacts on the SAC and SPA interests could be mitigated or compensated for.*

*ii) Develop a clear restoration programme for the site which encourages a return to wild open moorland;*

*iii) Protect and retain the distinctive landscape moorland character and setting in order to maintain a landscape connection between Blubberhouses Moor and Kex Gill Moor."*

The details submitted to NYCC in support of this application and the absence of any objection from Natural England confirms that the stated criteria i) to iii) can be met and the site should be included in the Joint Minerals Plan.

**NYCC 8. I understand there is also a potential proposal for the re-alignment of the A59 that may have implications for future quarrying operations and again I can find no reference to this in the information available with the application. I appreciate this may be a proposal of which you are not currently aware but nonetheless I am of the opinion this possible scheme also needs to be considered in the context of the current application.**

**Applicant's response**

- 8.1 NYCC has now raised the potential diversion of the A59 close to Blubberhouses Quarry as a matter which should be considered in the context of any cumulative impacts. To achieve this consideration is easier said than done. NYCC does not appear to have any published alignment of a potential diversion route for the A59. The current and adopted North Yorkshire Local Transport Plan 2011-16 makes no reference to any potential diversion of the road.
- 8.2 However, further research has indicated that the North Yorkshire County Council Local Transport Plan 2016 – 2045 LTP4 - Draft for Consultation, does now reference potential improvements to the A59 through the introduction of three additional climbing lanes (overtaking opportunities) between Harrogate and Skipton, including a major realignment at Kex Gill which would also address a significant major landslip risk. The status of this document must be emphasised that it is a "Draft for consultation" although there is no proposed alignment within the document. It is unfortunate that no direct consultation has been carried out by NYCC with the landowner over any proposals or indeed the LTP4 draft.
- 8.3 Importantly, the Local Transport Plan LTP4 - Draft for Consultation recognises that *"Transport is essential to the health of our economy. It allows people to travel to work, it allows companies to transport raw materials and finished goods and it allows people to go to the shops."* NPPF states that *"Minerals are essential to support sustainable economic growth and our quality of life"* (paragraph 142). Blubberhouses Quarry has a reserve of silica (industrial) sand (raw material) which is capable of supplying a nationally important mineral to the UK glass industry. Notably, there are significant glass production facilities in the Yorkshire Humber belt, within 60 miles transportation distance of Blubberhouses Quarry.
- 8.4 The Local Transport Plan LTP4 - Draft for Consultation also states that *'Economic opportunity for all parts of the county'* is one of the County Councils five priorities identified in the Council Plan. Similarly NPPF (paragraph 144) requires that *"Local Planning Authorities should: give great weight to the benefits of mineral extraction, including to the economy"*.

- 8.5 In the Strategic Environmental Assessment which accompanies the Local Transport Plan LTP4 - Draft for Consultation, the NYCC has stated that *“wherever possible and subject to funding constraints we will continue to provide efficient and sympathetic transport infrastructure maintenance and improvement works within our national parks and other designated environmental areas as well as elsewhere where environmental assessments highlight an unacceptable impact”*. It is concerning that underlined text indicates that this does not represent a proper commitment to recognising the importance of landscape and conservation designations. Whilst highway improvements, like the provision of nationally important minerals, have strategic implications the commitment to provide such mitigation “subject to funding constraints”, is somewhat hollow.
- 8.6 Further, the SEA indicates states that *“the A59 and A64 could potentially impact on the most valued European nature conservation sites”*. Natural England has already stated that the development at Blubberhouses Quarry will not affect the international and national conservation designations.

**NYCC 9. A matter not raised specifically in the NYCC email of 14<sup>th</sup> August 2015, but raised in conversation at the meeting on 5<sup>th</sup> January 2016 was the need to extend the planning permission for the period of 25 years specified in the planning application.**

**Applicant’s response**

- 9.1 Firstly the original planning consent restricted output from Blubberhouses Quarry to 250,000 tonnes per annum. The remaining reserve at the site is just over 4m tonnes. In addition, industrial sand plants are complex and require significant capital to produce the raw materials to meet glass customer specification. Planning policy requires individual sites to be provided with a stock of permitted reserves of at least 15 years for silica sand sites where significant new capital is required which would be the case for Blubberhouses in order to re-establish an appropriate processing facility for the production of high quality sands for clear glass manufacture.