

# City of York, North York Moors National Park, and North Yorkshire County Minerals and Waste Joint Plan (MWJP)

## Examination in Public

Hanson representations in response to Inspectors Draft Matters, Issues and Questions (MIQs) (dated 18 January 2018)

### **Matter 1: Minerals**

**Issue: Whether the vision, objectives and strategic minerals policies seek to provide a sufficient supply of locally and nationally important minerals in an efficient and sustainable manner and whether the proposed allocations are the most appropriate.**

#### Questions:

##### *Silica sand*

**34. With respect to Policy M12 (Continuity of supply of silica sand), the MWJP at paragraph 5.66 says that the resource at Blubberhouses Quarry overlaps with internationally important nature conservation designations. Bearing this in mind and also the national importance of silica sand, should part 2) of the policy make reference to potential impacts on integrity and potential “Imperative Reasons of Overriding Public Interest” (IROPI) subject to securing compensatory measures that ensure the overall coherence of the Natura 2000 network in accordance with *The Conservation of Habitats and Species Regulations 2017*?**

No - Neither the permitted mineral site nor the identified and proven silica sand resource to the north-east overlap with any nature conservation designation. This detail is provided in the planning application for an extension of time of the permitted site submitted in 2011 (Ref NY/2011/0465/73). Part 2 therefore does not need to make reference to IROPI.

Paragraph 5.67 of the Publication Draft (November 2016) correctly recognises the “ ... *proximity of designated internationally important nature conservation sites ...*” (our emphasis)

**35. NPPF paragraph 146 (3rd bullet) requires at least a 10 year stock of permitted reserves to support individual silica sand sites. Is the reference to a “10 year landbank” in paragraph 5.68 of the Plan consistent with national policy?**

No - Paragraph 5.68 is not consistent with national policy. Silica sand national policy is not based on a mineral planning authority having a 10 year landbank. National policy as expressed in NPPF paragraph 146 requires a stock of permitted reserves of at least 10 years and at least 15 years where significant new capital is required on a site by site basis. There is currently no processing plant at Blubberhouses and significant investment would therefore be required.

**37. With respect to the omission site at Blubberhouses Quarry (MJP15), should it be allocated in Policy M12, given the national importance of silica sand in the area for glass manufacture and its national scarcity?**

Yes - The Blubberhouses site should be allocated. Neither the site, nor the identified and proven resource adjacent to the north-east, are coincident with any nature conservation designation.

The Blubberhouses site and the adjacent identified and proven resource do lie within the Nidderdale AONB. However, the location of the site within an AONB is not a reason for non-allocation especially for a mineral of national importance. In addition, the Nidderdale AONB was established in 1994 in full knowledge of and taking account of the presence of the Blubberhouses site which was established in the mid to late 1980's.

In a plan led system it is appropriate that the site should be allocated.

**38. Are the reasons for discounting Blubberhouses Quarry set out in the *Discounted sites summary document, October 2016 (SD18)* justified?**

No - The reasons for discounting Blubberhouses Quarry set out in the Discounted sites summary document, October 2016 (SD18) are not justified.

- The location of the site within an AONB is not a reason for non-allocation.
- The matters of proximity to nature conservation designations have been comprehensively dealt with in the planning application submission for an extension of time (currently undetermined), including the submission of an Appropriate Assessment in Sept 2013. Natural England confirmed in July 2015 that it had no objection to the scheme (copy attached, Appendix 1).
- It is noted in document SD18 that Historic England supported the discounting of the site and yet this statutory consultee has no objection to the time extension planning application (a copy of Historic England's letters of 24 June 2015 and 1 March 2016 are appended, Appendix 2).
- In August 2015, an officer of NYCC Michael Convery invited Hanson to comment on various matters relating to the planning application, and also to consider withdrawing the application in favour of pursuing the allocation of the site in the forthcoming MWJP. A copy of his email of the 14th August 2015 is appended, Appendix 3. Hanson responded in detail in January 2016 and in so doing invited the Council to determine the application. A copy of Hanson's email and submission of 27<sup>th</sup> January 2016 is appended, Appendix 4.
- In discounting the site NYCC appear not to have considered any of the extensive information supplied to them in the ES which accompanied the planning application in 2011 or the subsequent submissions up to and including the comprehensive summary submitted in Jan 2016, which amongst various matters relating to need and nature conservation also highlighted that the discounting of the site was at odds with its

previous allocation as a preferred site (M08) in NYCC's Minerals Site Allocations Preferred Options document (Nov 2007) as part of its Minerals Development Framework. As noted above, a copy of Hanson's email and submission of 27<sup>th</sup> January 2016 is appended, Appendix 4.

**39. The *Discounted sites summary document* indicates that it is not sufficiently clear through a strategic level assessment whether site MJP15 could be developed and whether policy protection of the Nidderdale AONB and North Pennine Moors Special Protection Area (SPA) and Special Area of Conservation (SAC) could be achieved. However, I note from this document that a planning application has been submitted for the site, which presumably included more detailed information. Please confirm the current position and whether more detailed information is available to inform the allocation process.**

Yes - Detailed environmental information is presented in the submitted planning application for an extension of time at the Blubberhouses site.

The Environmental Statement which accompanies the application considers:-

Non-Technical Section

- Framework of Environmental Impact Assessment
- Development Proposals
- Non-technical summary

Technical Section

- Landscape and Visual Impact
- Ecology
- Soils
- Material Assets
- Cultural Heritage
- Hydrogeology and hydrology
- Noise
- Dust
- Vibration
- Transport
- Consideration of alternatives

The application and ES were submitted in Dec 2011.

In response to consultee comments the following additional information has been submitted:

- Breeding Bird Addendum (Oct 2012)
- Habitat Regulations Assessment (Sept 2013)
- Hanson's response to various consultee comments (Sept 2013)
- Revised Working and Restoration plans and addendum to LVIA (May 2015)
- Initial (long term land) Management Plan including Peat Management Plan (May 2015).
- Proposed structure for a Management Advisory Committee (May 2015)
- Submission to NYCC addressing various issues raised by them in August 2015 (Jan 2016).

As noted above Natural England are satisfied that there will be no significant impact on the SPA, SAC or SSSI.

It would appear that the Council's "strategic level assessment" has failed to take account of the information submitted to it within and in support of the planning application.

**40. If the site were to be allocated, could this conflict with *The Conservation of Habitats and Species Regulations 2017 Part 6 (Assessment of plans and projects)*? What information is available on whether the site is likely to have a significant effect on the North Pennine Moors SPA or SAC? Has an Appropriate Assessment been carried out on the site and, if so, with what results? Could any impact on the integrity of the SPA or SAC be justified by IROPI and the securing of compensatory measures that ensure the overall coherence of the Natura 2000 network?**

No - Natural England as statutory consultees have assessed the site and the potential for effects on the SAC/SPA under the Habitats Regulations 2010 (as amended) using the Appropriate Assessment and other information provided subsequently (Peat management plan/ further details re restoration) with the planning application. Their conclusion was to withdraw their objection re SAC/SPA/SSSI.

The question refers to assessment under the 2017 Regulations BUT as far as the assessment etc. is concerned there is no difference between the 2010 Regulations and the 2017 Regulations. The 2017 Regulations consolidated several changes that had already been made and also provide a holding position until we leave the EU.

**41. Whilst great weight should be given to conserving landscape and scenic beauty in AONBs and *planning permission* for major development should only be granted in exceptional circumstances (NPPF paragraphs 115 and 116), silica sand resources are of national importance and great weight should be given to the benefits of mineral extraction (NPPF paragraph 144 1st bullet)? Taking account of the PPG (ID: 27-008-20140306) has the right balance been reached in not allocating Blubberhouses Quarry site?**

No - the right balance has not been reached in not allocating the Blubberhouses site. The quarry site was in operation before the designation of the Nidderdale AONB and therefore accepted as landscape component in its own right. Quarries, including silica sand sites exist within AONB designations in other Local Authority areas (e.g. Surrey). Therefore, the national advice contained within PPG (ID: 27-008-20140306) is relevant and applicable to this matter in so far as Mineral planning authorities should plan for the steady and adequate supply by designating Specific Sites or Preferred Areas. There is clearly sufficient information available on the Blubberhouses site for it to be allocated as a Specific Site.

**42. I note that there is potential for the realignment of the A59 at Kex Gill to overlap with the Blubberhouses Quarry site. However, given that there is no definitive route for this**

**road and no land has been safeguarded for its development, should this potential realignment influence the allocation of Blubberhouses quarry? What are the views of North Yorkshire County Council Highways Authority? Does Highways England have any remit for this and, if so, what are its views?**

No – the possible realignment of the A59 in the vicinity of the Blubberhouses site should not influence the allocation of the site. There is currently no definitive route for the realigned road; there is no definitive timescale for implementation of the realigned road and no planning application or planning consent for the realigned road; there is no highways objection (either strategically or locally) to the application for an extension of time at the Blubberhouses site and the possible realignment was not presented as a reason for discounting the site in the Discounted sites summary document, October 2016 (SD18).

**43. Should Burythorpe Quarry and/or Blubberhouses Quarry be allocated to give certainty to when and where development may take place (PPG ID: 27-009-20140306)?**

Yes - Blubberhouses site should be allocated. Such an approach will properly reflect Government advice contained in PPG Paragraph: 009 Reference ID: 27-009-20140306 which states that *“Designating Specific Sites in minerals plans provides the necessary certainty on when and where development may take place. The better the quality of data available to mineral planning authorities, the better the prospect of a site being designated as a Specific Site”*.

**44. In relying on criteria based policies rather than allocations, and taking account of development management policy D04: (Development affecting the North York Moors National Park and the AONBs), does the MWJP provide adequate opportunities to ensure there are reasonable prospects of producing sufficient supplies of silica sand to maintain adequate stocks of permitted reserves as per NPPF paragraph 146?**

No – the MWJP does not provide adequate opportunities to ensure there are reasonable prospects of producing sufficient supplies of silica sand to maintain adequate stocks of permitted reserves as per NPPF paragraph 146. Criteria based policies should only be used in isolation where no sites are put forward for consideration for allocation. Criteria based policies in these types of circumstance do not provide a reasonable prospect of site development in the event of a non-allocation.

# City of York, North York Moors National Park, and North Yorkshire County Minerals and Waste Joint Plan (MWJP)

## Examination in Public

Hanson representations in response to Inspectors Draft Matters, Issues and Questions (MIQs) (dated 18 January 2018)

## Matter 1:Minerals

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- Appendix 1 – Natural England Consultation Response Letter dated 15<sup>th</sup> July 2015
- Appendix 2 – Historic England Consultation Response Letters dated 24<sup>th</sup> June 2015 and 1<sup>st</sup> March 2016
- Appendix 3 – Michael Convery email dated 14<sup>th</sup> August 2015
- Appendix 4 – Hanson response email and submission dated 27<sup>th</sup> January 2016 in response to Michael Convery email dated 14<sup>th</sup> August 2015

## Appendix 1

Natural England Consultation Response Letter dated 15<sup>th</sup> July 2015

Date: 15 July 2015  
Our ref: 157430  
Your ref: NY/2011/0465/73



North Yorkshire County Council  
Planning Services

FAO Ian Irwin

**BY EMAIL ONLY**

Customer Services  
Hornbeam House  
Crewe Business Park  
Electra Way  
Crewe  
Cheshire  
CW1 6GJ

T 0300 060 3900

Dear Ian

**Planning consultation:** 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

**Location:** Blubberhouses Quarry, Kex Gill, North Yorkshire

Thank you for your reconsultation on the above dated 17 June 2015 which was received by Natural England on 17 June 2015.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

**THE CONSERVATION OF HABITATS AND SPECIES (AS AMENDED) REGULATIONS 2010  
ARTICLE 16 OF THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT  
PROCEDURE) ORDER 2010  
SECTION 28 OF THE WILDLIFE AND COUNTRYSIDE ACT 1981 (AS AMENDED)**

**Internationally and nationally designated sites**

The application site is within or in close proximity to a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The application site is in close proximity to the North Pennine Moors Special Protection Area (SPA) and Special Area of Conservation (SAC) which are European sites. The sites are also listed at a national level as West Nidderdale, Barden and Blubberhouses Moors Site of Special Scientific Interest (SSSI). Please see the subsequent sections of this letter for our advice relating to SSSI features.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have<sup>1</sup>. The [Conservation objectives](#) for each European site

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<sup>1</sup> Requirements are set out within Regulations 61 and 62 of the Habitats Regulations, where a series of steps and tests are followed for plans or projects that could potentially affect a European site. The steps and tests set out within Regulations 61 and 62 are commonly referred to as the 'Habitats Regulations Assessment' process. The Government has produced core guidance for competent authorities and developers to assist with the Habitats Regulations Assessment process. This can be found on the Defra website. [defra.gov.uk/habitats-review/implementation/process-guidance/guidance/sites](http://defra.gov.uk/habitats-review/implementation/process-guidance/guidance/sites) (URL is no longer available)



explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

### **No objection**

The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered by your authority, ie the consultation does not include a Habitats Regulations Assessment.

In advising your authority on the requirements relating to Habitats Regulations Assessment, having considered the submitted information (specifically the '*Blubberhouses Quarry: Initial Management Plan*' Report), and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England's advice is that adverse effects on the integrity of any European Site will be avoided, providing that all mitigation measures are appropriately secured in any permission given. Further details is provided below;

- In our response of 28<sup>th</sup> October 2013 we advised that we were generally satisfied that there would be no adverse effect on the integrity of any European Site subject to the submission of a satisfactory site restoration plan and peat management plan. In this regard, we note the submission of the '*Blubberhouse Quarry: Initial Management Plan*' and specifically the Restoration Masterplan (Drawing B-007) and Peat Management Plan (Appendix 1) to address these issues. Natural England is satisfied with the scope of this additional information and consider there would be no adverse effect on the integrity of any European Site subject to delivery being appropriately secured in any permission given.

### **West Nidderdale, Barden and Blubberhouses Moors SSSI - No objection**

This application is in close proximity to West Nidderdale, Barden and Blubberhouses Moors Site of Special Scientific Interest (SSSI). Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the site has been notified. We therefore advise your authority that this SSSI does not represent a constraint in determining this application. Should the details of this application change, Natural England draws your attention to Section 28(l) of the *Wildlife and Countryside Act 1981* (as amended), requiring your authority to re-consult Natural England.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us. For comments in relation to other aspects of Natural England's remit, please refer to my response of 10<sup>th</sup> February 2012 and 28<sup>th</sup> October 2013,

For any queries relating to the specific advice in this letter only please contact Colin Godfrey on 03000601164. For any new consultations, or to provide further information on this consultation please send your correspondences to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

Yours sincerely

Colin Godfrey  
Yorkshire & North Lincolnshire Team

## Appendix 2

Historic England Consultation Response Letters dated 24<sup>th</sup> June 2015 and 1<sup>st</sup> March 2016



Historic England

YORKSHIRE OFFICE

Mr Paul Robinson  
North Yorkshire County Council  
Planning Services  
County Hall  
Northallerton  
North Yorkshire  
DL7 8AH

Direct Dial: 01904 601897

Our ref: **W:** P00119787

24 June 2015

Dear Mr Robinson

**Arrangements for Handling Heritage Applications Direction 2015 & T&CP (Development Management Procedure) (England) Order 2015  
BLUBBERHOUSES QUARRY, KEX GILL, NORTH YORKSHIRE  
Application No NY/2011/0465/73**

Thank you for your letter of 17 June 2015 notifying Historic England of the amended scheme for planning permission relating to the above site. Our specialist staff have considered the information received and we do not wish to offer any comments on this occasion.

**Recommendation**

**The application(s) should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.**

It is not necessary for us to be consulted again on this application. However, if you would like further advice, please contact us to explain your request. We can then let you know if we are able to help further and agree a timetable with you.

Yours sincerely



**Neil Redfern**

Principal Inspector of Ancient Monuments  
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Historic England

YORKSHIRE OFFICE

Mr Paul Robinson  
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Planning Services  
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Direct Dial: 01904 601897

Our ref: **W:** P00119787

01 March 2016

Dear Mr Robinson

**Arrangements for Handling Heritage Applications Direction 2015 & T&CP (Development Management Procedure) (England) Order 2015  
BLUBBERHOUSES QUARRY, KEX GILL, NORTH YORKSHIRE  
Application No NY/2011/0465/73**

Thank you for your letter of 23 February 2016 notifying Historic England of the amended scheme for planning permission relating to the above site. Our specialist staff have considered the information received and we do not wish to offer any comments on this occasion.

**Recommendation**

**The application(s) should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.**

It is not necessary for us to be consulted again on this application. However, if you would like further advice, please contact us to explain your request. We can then let you know if we are able to help further and agree a timetable with you.

Yours sincerely

  
**Neil Redfern**

Principal Inspector of Ancient Monuments  
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## Appendix 3

Michael Convery email dated 14th August 2015

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**From:** Michael Convery <Michael.Convery@northyorks.gov.uk>  
**Sent:** 14 August 2015 17:41  
**To:** Ayres, Ben J (Wetherby) GBR  
**Subject:** BLUBBERHOUSES

**Importance:** High

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Dear Ben,

Further to my earlier email which you will have received whilst you have been away from the office I am writing to you to convey my further thoughts, so these are available on your return, on this application for a variation of Condition 2 (Planning Permission C6/105/6A/PA) to allow the extraction of silica sand and erection of a processing plant at the site until 2036.

In the first instance having looked through the relevant files and the information that was submitted I have the following observation to make on the Environmental Impact Assessment document dated December 2011 and note sections of the EIA Statement are out of date not the least in regard to the National Planning Policy Framework which came into effect in March 2012 after the EIA Statement was prepared and submitted and the recent Planning Practice Guidance issued in October 2014 that supersedes previous national mineral policy guidance.

In addition to the above consideration you will have received and or be aware that a number of consultation responses have now been received expressing significant concerns and objections to the application that can be summarised as follows:

- The absence of evidence of national strategic need for the extraction of silica sand at Blubberhouses;
- The existing availability of silica sand from elsewhere to meet current market demand;
- In the absence of evidence of need the proposal is contrary to NPPF paragraph 116 giving rise to potential significant harm to the Nidderdale AONB;
- 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;
- 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;
- 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;

- 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
- 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.

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.

In the spirit of openness I would advise you from an officer perspective it is unlikely I will be able to support the variation of Condition 2 sought in your application if determined on the basis of these present considerations.

As an alternative you may wish to consider withdrawing the current application and protect the future of the existing mineral reserves through the allocation of the site in the forthcoming Minerals and Waste Joint Plan.

The other option you may wish to consider is the feasibility or desirability of updating the existing application to bring it into line with NPPF policy and the more recent Planning Practice Guidance where this may be appropriate or necessary and undertake additional work to address the concerns and objections raised by consultees. In regard to this option you will need to evaluate and take into account the practicality of cost and providing sufficiently robust evidence that may or may not be assessed to address the concerns and objections raised. Should you decide to go with this option it would be necessary to agree a reasonable timetable for the completion and submission, re-consultation and assessment of that new information and I consider a reasonable timetable in this instance would be 6 months.

If you would like to contact me on your return I will make myself available to meet with you to discuss the content of this email and the options for going forward. My normal office days are Mondays and Fridays however should your diary availability exclude these days then I am flexible if you wish to provide some alternative suggestions when it would be convenient to meet.

Kind Regards

Mike Convery

Access your county council services online 24 hours a day, 7 days a week at [www.northyorks.gov.uk](http://www.northyorks.gov.uk).

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North Yorkshire County Council.



## Appendix 4

Hanson response email and submission dated 27<sup>th</sup> January 2016 in response to Michael Convery email dated 14<sup>th</sup> August 2015

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**From:** Ayres, Ben J (Wetherby) GBR  
**Sent:** 27 January 2016 10:11  
**To:** Vicky Perkin (Vicky.Perkin@northyorks.gov.uk); Michael Convery (Michael.Convery@northyorks.gov.uk)  
**Cc:** Nick Horsley; Simon Marriott; Rob.Smith@northyorks.gov.uk  
**Subject:** Blubberhouses Quarry- 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  
**Attachments:** BLUBBERHOUSES; Blubberhouses PB&PNH & BA 26-01-16.docx  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Vicky & Mike,

Further to the meeting on the 5th January 2016 with representatives of Hanson & Sibelco and North Yorkshire County Council officers, please find attached our response to the points raised in the email dated 14th August 2015 from North Yorkshire County Council (NYCC) (copy of the email attached for ease of reference).

We hope you will agree that this latest submission together, with the extensive information already provided following various meetings with NYCC officers, statutory and non-statutory bodies since the application was submitted back in December 2011, provides a comprehensive response to the consultation comments received throughout application process.

We therefore trust that the County Council is now in a position to determine the time extension application without further delay and should be grateful if you could confirm when you will be in a position to present a report to Members.

I would also be grateful if you could please acknowledge receipt of this submission.

If you have any questions of clarification on the attached information or need copies of any older documents referred to in this submission then please don't hesitate to contact me.

Yours Sincerely

Ben Ayres  
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**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 26<sup>th</sup> 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.