

NORTH YORKSHIRE COUNTY COUNCIL
PLANNING AND REGULATORY FUNCTIONS COMMITTEE

4 APRIL 2017

NY/2010/0356/ENV – PLANNING APPLICATION FOR THE EXTRACTION AND PROCESSING OF SAND AND GRAVEL INCLUDING THE CONSTRUCTION OF A SITE ACCESS, CONVEYORS, BRIDGES, ASSOCIATED PLANT AND MACHINERY WITH RESTORATION TO AGRICULTURE, NATURE CONSERVATION AND WETLAND AT KILLERBY SAND AND GRAVEL QUARRY, KILLERBY, NORTH YORKSHIRE

Report of the Corporate Director – Business and Environmental Services

1.0 PURPOSE OF REPORT

- 1.1 To determine a planning application for the extraction and processing of sand and gravel including the construction of a site access, conveyors, bridges, associated plant and machinery with restoration to agriculture, nature conservation and wetland on land at Killerby, to the south-east of Catterick on behalf of Tarmac Limited.
- 1.2 The application is subject to unresolved objections and, therefore, in accord with Schedule 4 of the County Council's adopted [Officers' Scheme of Delegation](#), it is brought before Members of this Committee for determination. Objections to the proposed development include matters relating to potential adverse impacts upon ecology, landscape and restoration, as well as flood risk and adverse impacts upon local residential amenity including noise and those relating to highway matters associated with the proposed development.
- 1.3 Members will recall receiving an Officer report on 30th August 2016 therein recommending that a formal Committee Site Visit be considered prior to the determination of the planning application. Upon Member resolution to visit the site of the application, which took place on Friday 30th September 2016, this report now provided the substantive Officer report upon which to determine the planning application.

2.0 BACKGROUND

Context

- 2.1 The application site is a 'greenfield' site currently laid to agricultural use. Its immediate environs include, progressing along points of the compass starting

to the immediate north-east, Kiplin Hall and Kiplin Park; to the east, but a little distance further, lies the village of Great Langton (approximately a kilometre straight-line distance); just over a kilometre, straight-line distance to the south-east lies the villages of Kirkby Fleetham, Great Fencote and Little Fencote; to the immediate south lie a number of individual properties, namely, Broad Close, Hook House Farm, Glebe Farm and, further south, Fleetham Lodge and Melton House; to the immediate west of the application site lies the north-south aligned A1 Motorway (with the village of Hackforth due south-south-west and East Appleton to the west again beyond the A1(M)) and, to the north-west, lie the Ministry of Defence land holdings at Catterick and beyond that lies Catterick village itself (a kilometre distant); north-north-west lie the villages of Ellerton and Bolton-on-Swale beyond. The application is accompanied by a '[Site Location](#)' plan (drwg no. NT10306/12/fig 1, dated July 2010).

- 2.2 The A1 Trunk Road (T) flanks the western boundary of the application site. The A1(T) is an 'A' class road for the section in proximity of the application site. However, it is important to note that the A1(T) is currently being upgraded to motorway standard as part of the planned improvement works under the control of Highways England (formerly known as the Highways Agency). The former A1(T) road will become the Local Access Road, which will link the proposed application site on Low Street to the new A1(M) via a new central junction, located at Catterick, which will provide access to both the north and southbound carriageways.
- 2.3 Within a 3.5 km radius of the application site, the applicant company, Tarmac Limited, holds other interests. Firstly, the afore-mentioned Ellerton Quarry. This lies across the River Swale to the north of the proposed site in this current planning application. Ellerton Quarry is an established part-worked sand and gravel quarry also operated by Tarmac Limited¹; although not currently operational. An application to determine a suite of modern planning conditions under the first Periodic Review of Old Mineral Permission (ROMP) ref. no. [C1/21/28/PA](#) dated 22nd November 1994 (ref. no. [NY/2010/0083/MRP](#)) currently remains to be determined by the County Planning Authority. Prior to the cessation of working, the operational arrangement in place was one of extracting sand and gravel from within the Ellerton Quarry site and transporting the mineral by conveyor to the neighbouring Kiplin Hall Quarry for processing.
- 2.4 The information accompanying the aforementioned ROMP application for Ellerton Quarry explains that the applicant company has permission for the processing of material (extracted from Ellerton Quarry) at Kiplin Hall Quarry (ref. no. [NY/2012/0159/73](#)) until 4th June 2017. It is important to clarify that, as part of the proposed development within the current planning application,

¹ The existing Ellerton Quarry has operated under lease by Tarmac Limited who took over the lease of Ellerton Quarry from Ennemix on 19th December 1994. However, it is understood that the quarry has not been worked to any significantly material degree since 2009; in the main due to the economic recession.

the extracted sand and gravels from the unworked phases at Ellerton Quarry are proposed to be transported by conveyor to the proposed Killerby Quarry site for processing. The applicant company considers that it would take approximately four to five years to process the remaining reserves of sand and gravel arising from the Ellerton Quarry site and that this would, therefore, extend the processing plant operations at the proposed Killerby Quarry site by approximately five years. Therefore, the proposed Killerby Quarry site would be operational for twenty-two and a half years in total.

- 2.5 The second of the applicant company's landholdings in the vicinity of the proposed site is Scorton Quarry which lies further north, beyond the Ellerton Quarry site, between the villages of Brompton-on-Swale and Bolton-on-Swale, along the east-west aligned B6271 to the north of Catterick where the west-to-east flowing River Swale turns southward towards its confluence with the River Ure. The application, as submitted, pre-supposes the implementation of the proposals prior to the closure of the Scorton Quarry site to enable a continuous supply of reserves in the area. Members' attention is drawn to the submission of a planning application (made on behalf of Tarmac Limited; also the applicant company in this current case) seeking the continuation of sand and gravel extraction operations at Scorton Quarry for a further four years until the end of 2020.
- 2.6 The applicant company proposes to relocate the existing processing plant used at the Scorton Quarry site for use at the proposed Killerby Quarry, with the aim of production from the proposed Killerby Quarry site commencing in 2020/21. The applicant company confirms that the advantage this timing strategy is that it would remove vehicle traffic from the local road network around Brompton-on-Swale and Scorton, as vehicles travelling to and from the proposed quarry would exit the quarry entrance and be directed to the A1 Trunk Road (T)².
- 2.7 The relationships between the current proposal and the existing minerals-related developments in the area, in terms of the potential for cumulative environmental effects is considered within Section 7.0 of this Committee Report.
- 2.8 In summary, specifically concerning the application site itself, the applicant company has applied for the extraction of approximately 11.37 million tonnes of sand and gravel over a period of approximately 17.5 years, with a production rate of 650,000 tonnes per annum from the application site. While the application site encompassing the land required for the proposed development amounts to approximately 213 hectares (2.13km²), the proposed area of mineral extraction amounts to approximately 114 hectares (1.14km²).

² Highways England are currently implementing the Leeming to Barton A1 improvement scheme, which involves upgrading the existing A1 Trunk Road to motorway standard, and will result in certain sections of the existing carriageway being transformed and used as Local Access Roads, merging with the new A1 (M).

- 2.9 The proposed extraction of the mineral is divided up into three areas of planned working, namely '*Killerby West*', '*Killerby East*' and '*Killerby South*', and is proposed to be processed within a dedicated plant area within '*Killerby South*' of the application site, as illustrated on the submitted application drawing '[Phasing Plan – Composite](#)' (drwg no. NT10306/12/Figure 3.1 Rev A, dated 4th March 2015).
- 2.10 The phasing of the proposed development, in summary, would initially see the formation of the access, weighbridge, conveyor routes, two bridges over the River Swale, screening bunds and the first of the silt lagoons as well as mineral working within the central area of the application site (i.e. within '*Killerby South*'), advance tree planting, the formation of the processing plant area and working in Phase 1A (what is referred to by the applicant company as the '*Establishment Phase*') and comprising 5.9 hectares of land.
- 2.11 Upon the establishment of the plant within the proposed Killerby Quarry site, the applicant company proposes that sand and gravel would be brought by conveyor over the River Swale (across a temporary bridge) from the former Ellerton Quarry workings and processed through the newly constructed plant at the proposed Killerby Quarry site. Members' attention is drawn to the visual representation of the proposed development provided by application drawing '[Phasing Plan - Composite](#)' (drwg no. NT10306/12/fig 3.1 Rev A, dated 4th March 2015). It should be noted that reference on the plan to '*Ellerton Quarry Phases 7-10*' relates to those reserves remaining within the former Ellerton Quarry workings (permission for which remains extant). The processing of the remaining reserves from the former Ellerton Quarry site (in effect forming Phase 1C of the current application proposals) has been estimated by the applicant company to constitute a working duration of approximately four years. The reserves within the former Ellerton Quarry have also been estimated by the applicant company to be 3.25 million tonnes.
- 2.12 Mineral working is proposed to then move into what has been referred to within the application as '*Killerby West*' that comprises Phases 2A (4.4 hectares), 2B (5.1 hectares), and 2C (4.3 hectares) (Phase 2C would constitute the final phase of any mineral working within the '*Killerby West*' area) while continuing working within the '*Killerby South*' area. Phases 3A, 3B and 4A are proposed to be worked before '*breaking into*' the '*Killerby East*' area. The '*Killerby East*' area is proposed to comprise Phases 4B, 4C, 4D and 4E. Finally, Phases 5A, 5B, 5C and 5D would all occur within the '*Killerby South*' area of the application site.
- 2.13 The final phase of the proposed development (in effect, Phase 6) would see any remaining mineral reserve below the conveyor route and plant site extracted, the removal of the plant site and the restoration of the final remaining areas. The restoration proposals for the site comprise a

combination of agriculture, nature conservation and wetland and has been illustrated on the applicant company's submitted ['Restoration Masterplan'](#) (drwg no. NT10306/12/fig 3.8 Rev H, dated 7th July 2016).

- 2.14 The application site is accessed via an existing agricultural farm gate off Low Street.

Constraints affecting the application site

- 2.15 From a landscape perspective, the application site and surrounding area fall within the [National Character Area \(NCA\) profile 24, the 'Vale of Mowbray'](#). There are 159 NCAs in England. Some of the key characteristics of this NCA include low-lying, gently undulating landscape, a mixed agricultural landscape of arable and grassland, where woodland and tree cover is sparse. It comprises "*undulating flood plains associated with the rivers Swale, Wiske and Cod Beck*", "*is framed by the uplands of the Pennines to the west and the North York Moors to the east*" and "*overlies the Sherwood Sandstone aquifer, the second largest aquifer in England and a major drinking water supply*" (source: www.naturalengland.org.uk). A number of the fields within and adjacent to the application site are divided by hedgerows with mature hedgerow trees which provide natural screening in certain areas. "*The site supports a mosaic of arable farmland, pastoral grasslands, mature hedgerow, mixed plantation, scattered mature trees, wet woodland, small watercourses, wet grassland and tall ruderal habitats*" (source: [North Yorkshire Joint Minerals & Waste Local Plan – Sustainability Appraisal - Assessment of Sites](#))
- 2.16 Other environmental designations includes a strip of ancient woodland, approximately 150 metres to the east of the application boundary around the '*Killerby East*' area at its closest point.
- 2.17 The applicant company's submission explains that the proposed mineral extraction operations would result in a temporary loss of approximately 136.9 hectares (1.369 km²) of agricultural land; of which approximately 83.7 hectares (0.837 km²) is categorised as '*best and most versatile*' (BMV) agricultural land (as defined in [Annex 2](#) of the National Planning Policy Framework (NPPF)). The proposals as submitted would involve the permanent loss of 57.4 hectares (0.547 km²) of agricultural land; of which 29.5 hectares (0.295 km²) is categorised as '*best and most versatile*' land.
- 2.18 In terms of ecological considerations, the '*River Swale Great Langton to Kiplin*' Site of Importance for Nature Conservation (SINC) (a locally designated site) encroaches within the northern boundary of the application site, affecting both areas of '*Killerby West*' and '*Killerby East*' as shown on the applicant company's submitted '[Phasing Plan - Composite](#)' (drwg no. NT10306/12/fig 3.1 Rev A, dated 4th March 2015). Other locally-designed SINC's namely '*Park Plantation*', '*Great Langton Pond*' and '*Kirkby Wood*' lie 1.21 km, 1.56 km and 1.25km respectively.

- 2.19 A nationally designated site for nature conservation (designated by Natural England under the provisions of Section 28 of the Wildlife and Countryside Act 1981 (as amended)), the '[Swale Lakes' Site of Special Scientific Interest](#) (SSSI), is situated circa 0.5km to the north of the application site. This site, covering an area of 42.5 hectares, is of interest for "*its diverse population of breeding birds and large numbers of wintering wildfowl and waders*" (source: www.sssi.naturalengland.org.uk).
- 2.20 In terms of the water environment, while the application site lies neither within a Nitrate Vulnerable Zone (NVZ) or a groundwater Source Protection Zone (SPZ), it does, however, lie approximately 40 metres west of a Source Protection Zone 3. Upon review of the Environment Agency's online Groundwater Source Protection Zones (SPZ) mapping system the site falls outside of any SPZs. However, immediately north east of the application site is a zone 3³ catchment area. Again using the Environment Agency's Aquifer Maps online mapping system, the application site falls both within a Principal Aquifer⁴ and within a Secondary Aquifer area⁵. In terms of groundwater vulnerability, according to the Environment Agency's online mapping system, the majority of the western and southern parts of the application site fall within a Minor Aquifer High area. The majority of the eastern part of the application site falls within a Minor Aquifer Intermediate area. The entire application site also falls within a surface water safeguard zone⁶.
- 2.21 The River Swale is the largest watercourse within proximity of the application site, and as noted above, part of the River Swale is designated as a SINC. A series of ditches and small watercourses also run across parts of the application site, the largest of which is Fiddale Beck.
- 2.22 According to the Environment Agency's (EA) online Flood Map, parts of the site fall within Flood Zones 2 and 3. The northern part of the site, both south and north of the River Swale is within Flood Zone 3, and is considered to form part of the functional floodplain, which is land where water has to flow or be stored. Other parts of the application site, to the east and in and around Killerby Hall fall within Flood Zone 2.
- 2.23 In terms of cultural heritage receptors, there are a number of [listed buildings](#) within close proximity to the application site and these have been mapped by

³ The Environment Agency confirm that that this is defined as the area around a source within which all groundwater recharge is presumed to be discharged at the source.

⁴ The Environment Agency confirm that this is an aquifer type, which forms an important source of base flow to rivers.

⁵ These include a wide range of rock layers or drift deposits with a wide range of water permeability and storage.

⁶ According to the Environment Agency, drinking water safeguard zones are designated areas in which the use of certain substances must be carefully managed to prevent the pollution of raw water sources that are used to provide drinking water.

the applicant company on its originally submitted application drawing '[Sensitive Receptors](#)' (drwg no. NT10306/12/figure 4.2, dated July 2010). Immediately adjacent to the application site lies Killerby Hall; the stables of which are listed. To the north-west of the application site is Oran house which is a Grade II listed building. To the north-east of the application site, adjacent to Ellerton Quarry is the Jacobean historic house of the Grade I listed building, Kiplin Hall and to the east of the application site is situated Hook Car Hill Farmhouse which is a Grade II listed building. There are also three [Scheduled Ancient Monuments](#) (SAMs) within or less than circa 0.5km.

- 2.24 A Public Right of Way (PRoWs) (a footpath) traverses across the centre of the application site on a south-east/north-west alignment from its connection to the public highway of Lumley Lane, travelling north-west to Broad Close Farm and then on toward Killerby Hall. Another PRoW (also a footpath) skirts the application site southern boundary and for a short distance lies immediately adjacent. This second public footpath is aligned south-west/north-east and links Low Street, through the land holding of Hook House Farm and north-east toward Kirkby Fleetham Hall. Part of the [National Cycle Route \(no.71\)](#) (which makes part of the route between Kirby Knowle on the western edge of the North York Moors National Park through Northallerton, onto Leyburn and the up to the northern stretches of the Yorkshire Dales National Park near Tan Hill Inn) comes within approximately 1.5 kilometres of the application site connecting the villages of Great Langton, before turning south through Kirkby Fleetham and toward the villages of Great and Little Fencote (source: www.sustrans.org.uk).
- 2.25 In terms of utilities (i.e. services consumed by the public such as electricity, gas, water, sewerage and telecommunications), a gas pipeline owned by Northern Gas Networks runs in a west/east alignment through the application site (including some of the planned phased working areas); the route of which has been shown on the applicant company's submitted plans, namely the '[Topographical Survey](#)' (drwg no. NT10306/12/Figure 2.3 Rev A, dated 4th March 2015)). Northern Gas Networks have confirmed that the pipeline is covered by two easements, both possessing a width of 20 metres from the centre of the pipeline. Both easements are linked with mining clauses. The applicant company confirms that consultation would be carried out with the gas distributor to remove and relocate the gas pipeline in advance of any working.
- 2.26 An existing water main also falls within the application site. The water main, which is owned by Yorkshire Water Services Limited, is up to 4 inches in diameter. It is important to clarify that the applicant company does not intend to remove the water main as it falls outside of the areas proposed for mineral extraction.

- 2.27 It is also important to note that there are a number of overhead power cables running through the application site. The applicant company confirms that the appropriate notice would be served to Yorkshire Electricity Distribution Ltd (YEDL) and National Grid Transco and the power cables would be diverted as necessary.
- 2.28 The proposed site subject to this application is also located within an area notified as an '[Aerodrome Safeguarding Zone](#)' for RAF Leeming.
- 2.29 There are a number of residential properties and agricultural buildings not only within close proximity but also within the boundary of the application site itself. The distance of '*close proximity*' has been taken to be '*level-distance*' as opposed to '*visual-distance*' relating to the topography of the surrounding land. These properties include:
- the property of *Broad Close Farm* which lies within the centre of the application site;
 - *Killerby Hall and Hall Cottages, The Springs, The Bungalow and Killerby Farm* which are the closest residential properties to the '*Killerby West*' area of planned mineral working (Phases 2A (part), 2B, and 2C) being situated immediately south of this particular area;
 - the properties of *Pike Hill, West Lodge* (circa 50 metres north-west), *Broad Close Cottages, Glebe Cottage, Glebe Farm, Bridge Close Cottage* (off Low Street) and *Hook House Farm* (off Planetree Lane) all lie proximate to the boundary of the proposed '*Killerby South*' area (comprising Phases 1A, 2A (part), 3A, 3B, 4A, 5A, 5B, 5C and 5D); and,
 - the property of *Hook Car Hill Farmhouse* lies circa 190 metres to the east of the area of proposed mineral working referred to by the applicant company as '*Killerby East*' which comprises Phases 4B, 4C, 4D and 4E of the proposed development.

Planning History

- 2.30 This sub-section outlines the relevant planning history for the application site. It is important to note that the applications found as part of this search relate to the former Ellerton Quarry workings which overlap with the current application site and the adjacent former Kiplin Hall Quarry, which has also been included due to its link with the Ellerton Quarry site as explained earlier herein this report. The search results comprise in order of the oldest to the most recent:
- 22nd November 1994 – permission for the extraction of gravel at the Ellerton Quarry site (also known as Manor Farm) (ref. no. [C1/21/28/PA](#));
 - 16th September 1996 – permission for the establishment of a field conveyor between Ellerton Quarry and Kiplin Hall Quarry to transport sand and gravel from Ellerton Quarry for processing at Kiplin Hall Quarry (ref. no.s [C1/12/16/PA](#) / [C2/87/081/003](#) (straddling both the districts of Richmondshire and Hambleton));

- 28th July 2010 - [Scoping Opinion](#) for a proposed sand and gravel quarry at Killerby issued (ref. no. [NY/2009/0320/SCO](#));
- 22nd February 2010 - application for first periodic review of old mineral permission ref. no. C1/21/28/PA dated 22nd November 1994 at Ellerton Quarry is associated with the current submission and remains to be determined application (ref. no. [NY/2010/0083/MRP](#)); and,
- 22nd December 2010 - Scoping Opinion issued in relation to the proposed Review of Mineral Permission for gravel extraction from Ellerton Quarry (ref. no. [NY/2009/0429/SCO](#)).

Directions of the Secretary of State for Transport

- 2.31 This particular application has been the subject of formal Directions from the Secretary of State for Transport between 2010 and 2014 which prohibited the Authority from determining the planning application until such time as it had received no further Direction.
- 2.32 The first of these Directions, dated 29th October 2010, prohibited any determination within six months, and was dependent upon the resolution of outstanding technical matters in connection with the A1 Leeming to Barton (A1L2B) Motorway Upgrade Scheme.
- 2.33 On 7th November 2014, the County Planning Authority received final notification from the Secretary of State that it no longer held the Direction in place and that the Authority was at liberty to proceed to determine the application. However, within this intervening period of over four years, the circumstances and the context of the application changed considerably. By way of example, the iteration of government policy through the publication of the [National Planning Policy Framework](#) in March of 2012 and, two years later, the introduction of the online resource of national guidance in March 2014 with the [National Planning Practice Guidance](#).

3.0 **THE PROPOSAL**

- 3.1 This application (ref. no. [NY/2010/0356/ENV](#)) proposes the extraction and processing of approximately 11.37 million tonnes of sand and gravel over 17.5 years (at a rate of extraction of 650,000 tonnes per annum), including associated development. The area subject to the application amounts to 213 hectares. (2.13 square kilometres) with the area of proposed extraction amounting to 122 hectares (1.2 square kilometres). Members' attention is drawn to the fact that during the processing of this application, the applicant company has amended the proposals to withdraw an element of the scheme (Phase 1B) which had been intended for the extraction of clay for the lining of a lagoon within Phase 1A and works associated with the A1(M) upgrade works. The area of extraction has also been re-calculated and now the applicant company proposes the total area of extraction to be reduced by eight

hectares down to 114 hectares. Similarly, reappraisal of the proposals during the processing of the application has seen a change from the originally estimated 16 year life to the now proposed 17.5 years. The extraction of the mineral is proposed to take place to a maximum depth of 17.7 metres (just over 58 feet). While the proposals seek to extract mineral from the application site as well as processing the mineral on site, they also include processing sand and gravel extracted from the existing adjacent Ellerton Quarry (overlapping the northern boundary of the application site) and is shown on the submitted documents accompanying the application on the plan entitled '[Planning Application Boundary](#)' (drwg no. NT10306/12/figure 2.1 rev A, dated March 2015) (as shown at Appendix A to this report). The applicant company has estimated it could take approximately five years to process the remaining 3.25 million tonnes of Ellerton sand and gravel and therefore the overall development within the current proposal would take place over a duration of twenty years operational development.

- 3.2 In addition to seeking planning permission for the extraction and processing of sand and gravel, the applicant company is also applying for the construction of a new site access, the construction and decommissioning of a conveyor system with two conveyor bridges, a processing plant area and the progressive restoration of the site to a combined agriculture, nature conservation and wetland after-use.
- 3.3 The applicant company states that the proposed development would support twenty plus direct jobs, along with indirect employment opportunities in terms of "*hauliers and many suppliers*".

Mineral Extraction Scheme

- 3.4 As introduced within Section 2.0 of this report, the proposed site at Killerby has been divided into three principal mineral working areas, namely '*Killerby West*', '*Killerby East*' and '*Killerby South*', which are sub-divided into the main extraction Phases 1 through to Phase 5 and then further sub-divided to indicate the active areas, direction of working and subsequent restoration. The planned comprehensive phasing of the application site is set out on the plan accompanying the application entitled '[Phasing Plan - Composite](#)' (drwg no. NT10306/12/Figure 3.1 Rev A, dated 4th March 2015).
- 3.5 Also illustrated on the aforementioned drawing is the location of the sub-divisions of the proposed '*active*' areas, which are divided into 16 sub-phases, comprising: 1A (part in '*Killerby West*'); 1C (Ellerton Quarry (Phases 7-10); 2A (part); 2B; 2C (known as '*Killerby West*'); 3A; 3B; 5A; 5B; 5C and 5D (known as '*Killerby South*') and 4A; 4B; 4C; 4D; 4E (known as '*Killerby East*'). It should be noted that annotation on the Plan referring to '*Ellerton Quarry Phases 7-10*' relates to the phases approved under the planning permission for Ellerton Quarry and do not form part of the area of this current application

relating to the proposed Killerby site with the exception of the area of land required for the purpose of river crossing.

Phasing of extraction and processing

- 3.6 The proposed phases of development consist of what the applicant company has referred to as the '*Establishment Phase*', the '*Operational Phase*' (Phases 1 to 5), the phase involving the removal of the Plant Site and the phase involving the completion of the progressive restoration and associated aftercare (Phase 6).

The Establishment Phase

- 3.7 This phase would consist of the establishment of the processing plant, construction of the site accommodation, access road, weighbridge, conveyor routes, two river crossings (i.e. bridges) over the River Swale and initial silt lagoons as illustrated on the drawing accompanying the application, '[Phasing Plan – Composite](#)' (drwg no. NT10306/12/Figure 3.1 Rev A, dated 4th March 2015).
- 3.8 The bridges are proposed to be single-span structures of some three metres in width so as to accommodate the conveyors and allow safe access for maintenance purposes. The first bridge is proposed to connect the area referred to as '*Killerby West*' with the former Ellerton Quarry on the north side of the river and the second is proposed to connect Ellerton with the area referred to as '*Killerby East*'. The applicant company explains that the bridge abutments are proposed to be constructed five metres outside of the river channel of the Swale.
- 3.9 As described in the [revised Project Description](#) chapter of the Environmental Statement (submission made in February 2016), the proposed conveyor system would be used to transport extracted sand and gravel from the extraction point to the processing plant situated within the Plant Site. The conveyor system would comprise of spine conveyors with short-term field conveyors spurring off onto the extraction areas. The proposed conveyor would be placed on a hard-core standing, constructed from using materials obtained on site, or directly onto exposed mineral.
- 3.10 As explained in the [revised Project Description](#) section of the Environmental Statement (submission made in February 2016), the processing plant would be "*located in a central area where there are no recoverable mineral reserves and where it would be partially screened by the topography*". Subsoil stripped from the plant site area would be placed to the north of the plant site so as to act as a visual barrier mitigating the effects of the proposed development for those living in residential properties to the north of the proposed workings.
- 3.11 This initial '*Establishment Phase*' is proposed to include the development of nearly 9km of new bridleways and access paths; an example being a

proposed circular route taking in the perimeter around the area referred to as 'Killerby East'. However, closures and diversions of certain sections of the footpaths are required to enable the proposed development to be implemented. This includes the public footpath between Killerby Hall and Broadclose Farm.

- 3.12 The applicant company also proposes that the soils stripped from sub-Phase 1A would be stripped and stored separately. In addition, the silt lagoons in sub-Phase 1A would be created by excavating the sand and gravel.

Phase 1

- 3.13 Phase 1 includes the establishment of the internal access road, Plant Site, Office and Weighbridge as well as operational extraction, transportation and processing of sand and gravel. The originally submitted application in July 2010 proposed three sub-phases within Phase 1.

- 3.14 With the revised route for the A1 upgrade to motorway standard being confirmed as following the southbound carriageway of the former A1(T), works are no longer planned for sub-Phase 1B. Therefore, sub-Phase 1B has been removed from the applicant company's revised description of development as set out in the [revised ES Chapter 3 – Project Description](#) (submission made in February 2016).

- 3.15 As explained within the [Project Description](#) of the Environmental Statement (submission made in February 2016), sub -Phase 1A (5.9 ha.) is situated within the proposed area referred to as 'Killerby South', and sub-Phase 1C comprises the extraction of mineral which lies within the former Ellerton Quarry. From here, unprocessed extracted mineral is proposed to be transported by conveyor over the first of the river crossings (for the purpose of this report, referred to herein as the 'east bridge') to the proposed Killerby site (the subject area of this current proposal). The silt lagoons created in the 'Establishment Phase' would be used in the processing of mineral extracted during Phase 1. Extracted mineral would be transported on a conveyor to the processing plant located within the Plant Site at Killerby. Once sub-Phase 1A is completed, sand and gravel brought from Ellerton Quarry would be processed as part of sub-Phase 1C of the proposed development.

- 3.16 As is illustrated in the accompanying '[Phasing Plan – Phase 1](#)' (Drwg no. NT10306/12/Figure 3.3 Rev A, dated March 2015), Phase 1 of the proposed development involves the closure and diversion of an existing public footpath, taking it around the proposed Plant Site and re-joining to the north of sub-Phase 1A.

Phase 2

- 3.17 The proposed second phase of extraction is proposed to be worked in an anti-clockwise direction and covers 18.1 hectares. This is further sub-divided down

into three sub-phases which comprise sub-Phases 2A (4.4 ha.) which is closest to the River Swale, 2B (5.1 ha.) and 2C (4.3ha.) located in the area referred to within the application as *'Killerby West'*.

- 3.18 In taking into account that sub-Phase 2A is the closest to the River Swale, the applicant company acknowledges that this section of the river bank is subject to active erosion. Thus, so as to prevent the river from *'breaking through'* into the area of proposed mineral extraction operations especially once the workings are complete and restored to a lake, *"suitable material would be placed to reinforce the north eastern boundary"*.
- 3.19 The [revised Project Description](#) section of the Environmental Statement (submission made in February 2016) explains that the soils stripped from sub-Phase 2A would be stored in soil storage bunds to the east of the area referred to within the application as *'Killerby South'* as illustrated on the plan accompanying the application entitled ['Phasing Plan – Phase 2'](#) – (drwg no. NT10306/12/Figure 8, Rev A, dated March 2015).
- 3.20 During this planned phase of works, a second river crossing (for the purpose of this report herein referred to as the *'west bridge'*) is proposed to be constructed over which mineral would be transported to the mineral processing plant from the area known as *'Killerby West'* crossing over to the former Ellerton Quarry and then crossing back over the river through the area referred to as *'Killerby East'* and on toward the processing plant.
- 3.21 The application details explain that it is intended that sub-Phase 2A would be extracted and subsequently prepared to provide silt lagoons in connection with the extraction of mineral from sub-Phases 2A, 2B and 2C. The soils stripped from *'Killerby West'* would be stored in soil bunds to the east of the extraction area.
- 3.22 Extraction is proposed to then proceed within the eastern and northern sections of *'Killerby West'*, closest to the River Swale. The applicant company, as earlier referred, also proposes that material would be placed to reinforce the north-eastern boundary to prevent the river from *'breaking through'* into the planned restoration lake (for the purpose of this report herein referred to as the *'west bridge'*)⁷.
- 3.23 Extracted mineral from within this second phase is proposed to be transported for processing at the Plant Site via the conveyor. Extraction is proposed to then resume in the area referred to as *'Killerby South'* *"to create additional lagoon space"*. During Phase 2, progressive restoration is proposed to be in progress in sub-Phase 1A with the filling of silt lagoons, drying out and

⁷ Three lakes are proposed as part of the scheme-wide restoration as illustrated on ['Restoration Masterplan'](#) (drwg no. NT10306/12/fig 3.8 Rev H, dated 7th July 2016)

capping, as illustrated on the drawing accompanying the application '[Phasing Plan – Phase 2](#)' – (drwg no. NT10306/12/Figure 8, Rev A, dated March 2015).

Phase 3

- 3.24 Phase 3 is divided into two sub-phases and covers 10.6 hectares. The soils stripped from sub-Phases 3A (3.9 ha.) and 3B (6.7 ha.) are proposed to be stored in soil storage bunds to the east of the extraction area. The [revised Project Description](#) of the ES (submission made in February 2016) clarifies that extraction would commence in sub-Phase 3A, working in a west-to-east direction toward sub-Phase 3B. During the progression of Phase 3, Phase 1 would, the Applicant company anticipates, have been fully restored and a permanent lake ('*west lake*') would have been created in the area referred to as '*Killerby West*' as a result of the progressive restoration. The applicant company also describes how by this stage of the development, the '*west bridge*', being no longer of any need, would have been removed. As illustrated on the plan accompanying the application '[Phasing Plan – Phase 3](#)' (drwg no. NT10306/12/Figure 3.5, Rev A, dated March 2015), it is proposed that restoration would progress within sub-Phase 2A during this third phase of works.

Phase 4

- 3.25 Phase 4 of the proposed development has been divided by the applicant company into five sub-Phases comprising 4A, 4B, 4C, 4D and 4E. The soils that would be stripped from sub-Phase 4A would be stored in bunds. As explained within the [revised Project Description](#) section of the ES (submission made in February 2016), the applicant company considers that these bunds would act as visual mitigation for those living in nearby residential properties to the south of the application site. Sand and gravel extraction is proposed to commence in sub-Phase 4A and the mineral is proposed to be transported to the plant site via a conveyor. Extraction within sub-Phase 4A would be undertaken in two layers. The applicant company explains that soils would then be stripped from remaining sub-Phases 4B to 4E (within the area referred to as '*Killerby East*') and would be stored in soil storage bunds (Bund no.s 16 and 17) to the south. During Phase 4, sub-Phase 3A would have been fully restored to grassland and part of a lake (for the purpose of this report referred to herein as '*south lake*'). Progressive restoration would have commenced within sub-Phase 3B with the filling in of the silt lagoons. This progressive restoration is shown on the plan accompanying application entitled '[Phasing Plan – Phase 4](#)' (drwg no. NT10306/12/Figure 3.6 Rev A, dated March 2015)

Phase 5

- 3.26 The applicant company explains that during Phase 5, which covers a total extraction area of 35.4 hectares, would see the conveyor progressively dismantled, including the removal of the '*east bridge*' over the river, as the remaining sand and gravel is extracted, as would be the case for sub-Phases 5A (6.3 ha.), 5B (10.3 ha.), 5C (9.7 ha.) and 5D 9.1 ha.). The soils stripped

from sub-Phase 5A would then be used as part of the progressive restoration of sub-Phase 4A. The soils stripped from sub-Phases 5B & 5C are proposed to be used in the progressive restoration of previous phases within the application site.

- 3.27 As confirmed within the applicant company's [revised Project Description](#) of the ES (submission made in February 2016), "*the placement of silt lagoons has been targeted to allow silt to be placed in areas where the shallowest depth occurs between the restoration water level and the base of extraction*". The applicant company maintains that "*this would allow for the best use of waste materials in the restoration of the site, maximizing the creation of dry land or shallow water margins*".
- 3.28 It is important to note that Broad Close Farm would be demolished during this phase of the proposed development. An indicative location for the proposed new farmhouse is illustrated on the plan accompanying the application, the revised '[Restoration Masterplan](#)' (drwg no. NT10306/12/fig 3.8 Rev H, dated 7th July 2016) and within the [revised Project Description](#) chapter of the ES (submission made in February 2016) confirms that a planning application for a new farm house and associated buildings would subsequently be made by the applicant company.
- 3.29 As explained within the [revised Project Description](#) section of the ES (submission made in February 2016), it is the intention of the applicant company to create a new landform "*appropriate to the area*". Soils stripped from sub-Phase 5D would also be used for the progressive restoration of previous phases. The applicant company maintains that the restoration of this phase "*would be partly aided by clays and other non-mineral material*". The phasing of this progressive restoration in relation to the application site is illustrated in the plan accompanying the application entitled '[Phasing Plan – Phase 5](#)' (drwg no. NT10306/12/Figure 3.7, rev A, dated March 2015).
- 3.30 It is also important to clarify that during Phase 5 of the proposed development, all of the previous phases would have been restored except for sub-Phase 4A.

Phase 6

Removal of the Plant Site and Restoration

- 3.31 During the final phase of the proposed development, the material from the remaining areas within the quarry, which would have previously been sterilised by the conveyor route and the eastern edge of the plant site would finally be extracted.
- 3.32 All of the plant within the Plant Site would be removed and access roads and other infrastructure, including remaining ground associated with the plant, would be restored. As explained within the [revised Project Description](#) of the ES (submission made in February 2016), all soils within the soil storage

mounds on site would have been used to assist in the progressive restoration of the application site.

Working method and water supply

- 3.33 The [revised Project Description](#) within the ES (submission made in February 2016) confirms that the main processing plant on site would be similar in type and capacity to that operated at Scorton Quarry, which the applicant company maintains could eventually be replaced by this proposed quarry. The proposed location of the Killerby Quarry Plant Site is located within the area referred to as 'Killerby South' and is illustrated on the plan accompanying application entitled '[Phasing Plan – Composite](#)' (drwg no. NT10306/12/Figure 3.1 Rev A, dated 4th March 2015).
- 3.34 The applicant company states that the proposed quarry would be worked by a mixture of dry and wet working⁸ as extraction of sand and gravel would sometimes occur below the water table. Where the mineral is situated below the water table it is proposed to extract it using one or two methods. It is important to note that the applicant company states that the direction of working has been designed to start at the lowest drainage point, working upwards through the ground water table to utilise passive lowering of the water table where possible.
- 3.35 The first method would be by using a backactor (i.e. excavating equipment consisting of a digging bucket on the end of a two-part articulated arm) where the extracted material would be deposited on dry sand and gravel, allowing the water to drain before it is transported to the plant site. The second method would involve water from being pumped from created cells into the adjacent former workings where water would seep back into the sand and gravel. The applicant company states within the [revised Project Description](#) section of the ES (submission made in February 2016) that the main reason for these two proposed methods is to minimise the impact of the proposed operations upon the existing water environment.
- 3.36 The applicant company also confirms that the proposed development would reduce the amount of existing groundwater storage on site due to the removal of sand and gravel in which groundwater is stored. However, the applicant company considers that this *“loss of groundwater storage would be offset by the presence of water bodies within the restoration landform”*.
- 3.37 Furthermore, the [revised Project Description](#) within the ES (submission made in February 2016) confirms that the extracted mineral would be transported to the nearest field conveyor by either a loading shovel or dump truck for onward movement by conveyor to the plant site.

⁸ *“River gravels deposits, by their nature, are often below the ground water table. Extraction therefore usually involves dewatering the site by pumping, although sometimes it is feasible to work the site wet. Dry working has the advantage that it allows more selective extraction. Some bedrock sands may also be worked below the water table”*. (BGS Mineral Planning Factsheet, June 2013)

- 3.38 The applicant company states that the extracted sand and gravel “*would be graded by crushing, screening and washing, with the silt being removed in the washing process*”. Settlement lagoons would be constructed to allow ‘*washed-out*’ silt (from the sand and gravel) to be detached from the water. The applicant company explains within the [revised Project Description](#) chapter within the revised project description section of the ES (submission made in February 2016) that the location of the silt lagoons are targeted at areas where the shallowest depth of mineral occurs between the base of extraction and the target restoration level. The applicant company also clarifies that the water from the lagoons would be reused for processing purposes in what the applicant company refers to as a “*closed loop system*”, although the applicant company admits that “*some additional water would be needed for topping up the supply*”. This additional water is proposed to be taken from passive dewatering operations.
- 3.39 From a hydrological perspective, the applicant company acknowledges that the proposed operations are likely to require the seeking of Environmental Permits issued by the Environment Agency, including a [Water Abstraction Licence](#), as well as a [Water Transfer Licence](#) to allow the movement of water around the application site, and also [Water Discharge Licence](#) to allow the control of the quality of water discharged off site.
- 3.40 The direction of the proposed working of the phases within the quarry is illustrated on the plan accompanying the application entitled ‘[Phasing Plan – Composite](#)’ (drwg no. NT10306/12/Figure 3.1 Rev A, dated 4th March 2015). The [revised Project Description](#) within the ES (submission made in February 2016) states that the applicant company has designed the direction of working to “*start at the lowest drainage point, working upwards through the ground water table to utilise passive lowering of the water table where possible*”. The applicant company explains that this would also result in any excess water “*being passively discharged off site*”.
- 3.41 The applicant company proposes that the extracted mineral from Ellerton Quarry would be processed on site at Killerby as part of extraction Phase 1. However, as explained by the applicant company in [revised Project Description](#) of the ES (submission made in February 2016), transporting the extracted mineral away from Ellerton to be processed at Killerby poses the question of how to transport extracted silt back across the River Swale for use in the restoration of Ellerton Quarry.
- 3.42 The applicant company has identified two options for undertaking this transportation activity and both options have been assessed in the [Water Resources Chapter](#) of the ES (July 2010). The first option involves silt being pumped back to Ellerton regularly. However, the applicant company explains that the required optimum water requirement is being investigated to ascertain

the viability of this silt transportation option. The second option involves the silt being settled within lagoons at Killerby “*then periodically moved back to Ellerton by slurry pumping*”. This option would result in a much lower amount of water being transferred from Killerby to the former Ellerton Quarry.

Highways and traffic

- 3.43 From a transport perspective, the access to the application site is proposed to be situated at a bend in the public highway at north end of Low Street west on Low Street. The vehicles associated with the development would be directed to and from the new Local Access Road. Furthermore, the [revised Project Description](#) within the Environmental Statement (submission made in February 2016) confirms that vehicle movements, both to and from, the proposed quarry would equate to 118 vehicles in and 118 vehicles out per day. The proposed vehicles to be used would include 20 tonnes payload Heavy Goods Vehicles (HGVs). These proposed vehicle numbers are based on the premise that processing within Phase 1 of the extraction takes place at the proposed Killerby site instead of the former Ellerton Quarry. The applicant company also states that “*no quarry vehicles would travel south on Low Street*”.
- 3.44 The applicant company has provided a [draft S106 Legal Agreement](#) (explained in more detail below) in which there is an undertaking to “*institute a dedicated traffic route for all lorries and heavy goods vehicles serving the Development (...) to and from the local access road*”. In addition, the applicant company proposes to undertake to pay the County County a contribution to the maintenance of Public Rights of Way upon adoption.

Operational Working Hours

- 3.45 The proposed hours of operation for this application are as follows:
- Mondays to Fridays 07.00 – 19.00; and
 - Saturdays 07.00 – 13.00.
- 3.46 No operations are proposed to take place on Sundays, Bank or Public Holidays.

Agricultural Land

- 3.47 The proposed extraction of sand and gravel, followed by progressive restoration would result in the temporary disturbance of 136.9 hectares of agricultural land; of which approximately 83.7ha is classified as ‘[best and most versatile](#)’ (BMV) [agricultural land](#) (i.e. land of quality of Grade 3a or above). However, it is important to note that the ES (July 2010) confirms that soils would be removed and restored progressively. Therefore, “*at any one time the loss of agricultural land would be considerably less*”. As illustrated on the plan accompanying the application, the revised ‘[Restoration Masterplan](#)’ (drwg no. NT10306/12/fig 3.8 Rev H, dated 7th July 2016), the applicant company

intends to restore 64.5 hectares of land back to agricultural land, which results in a gross loss of 57.4 hectares of agricultural land, of which 29.5 hectares is BMV land.

Progressive Restoration Scheme

- 3.48 The proposed restoration scheme for the application site has been designed such that the restored site would comprise of three lakes (Lake 1 ('west lake'), Lake 2 ('east lake') and Lake 3 ('south lake')) including alder/ willow carr (fen woodland or scrub), ponds and marshland, parkland, agricultural land, woodland, hedgerow, copses, public footpaths and bridleways.
- 3.49 The proposed restoration for the entire application site is illustrated on the revised '[Restoration Masterplan](#)' (drwg no. NT10306/12/fig 3.8 Rev H, dated 7th July 2016). The phasing of the proposed restoration is proposed to take place continually during the extraction of other phases.
- 3.50 The applicant company has confirmed that the proposed restoration "*of the quarry would take place in a progressive manner alongside the phases of extraction*". The [revised Project Description](#) also confirms that it "*is proposed that soils and overburden that are stripped would wherever possible be used directly in restoration. The exception to the direct use of the soil resource would be where the construction of mounds are required, which would act as both visual and noise screening bunds, or where initial development does not create sufficient void for their immediate use*".
- 3.51 From an ecological perspective, the applicant company states that the "*findings of the Phase 1 Habitat Survey (see ES chapter 12) [please refer to the [revised Chapter 12](#) on Flora & Fauna] justifies the restoration design that seeks to retain as much of the existing tree cover as possible*". It also confirms that the proposed scheme has been designed such as "*to enhance conditions for the regionally important local population of Soprano Pipistrelle bats and for a range of farmland bird species that have suffered national decline*".
- 3.52 Furthermore, the applicant company maintains that wildlife corridors would be formed as part of the restoration of the site, linking it to the surrounding areas, and habitats, which would serve to "*improve species migration*".
- 3.53 From a landscape perspective, it is important to note that the phased restoration includes planting to "*maintain key green corridors within and around the site throughout the operational period, together with new wetlands to enhance the ecological value of the river corridor*".
- 3.54 Finally, the [revised Project Description](#) confirms the applicant company's position that the proposed scheme "*would improve public access by including potential public access corridors and new public access points around the site*" and states that the overall aim would be to provide a "*riverside public access*

bridleway corridor”, which the applicant company claims would “*contribute to the potential for a link between Catterick and Kirkby Fleetham*”.

- 3.55 The earlier mentioned revised restoration scheme includes hedgerows and field margins/conservation headlands and an area of species rich grassland around the ‘*east lake*’ (Lake 2).

‘Aftercare’ and long-term management of the site

- 3.56 In terms of the proposed aftercare of the restored site, the proposals comprise of the maintenance of each phase of the application site over a period of 5 years “*to ensure the successful establishment of pasture and tree planting*”. The applicant company sets out the aims of the aftercare scheme, which include the management and maintenance of both natural (e.g. wetland areas) and man-made (e.g. post and wire fencing) features within the site.
- 3.57 The applicant company states that the [statutory five-year aftercare period](#) would apply to the restored site. As discussed above, the proposed restoration of the site is progressive and so the aftercare would also be phased, starting as phases within the site have been restored. The applicant company also states that due to this progressive aftercare approach, “*much of the site would receive more than 5 years aftercare*”. In total, the applicant company is proposing 25 years of progressive restoration and aftercare.
- 3.58 The applicant company explains within the [revised Project Description](#) of the ES (submission made in February 2016) that “*detailed management proposals would be prepared in liaison with all interested parties*” and agreed with the County Planning Authority. The applicant company states that the management proposals would provide a strategic framework for the restoration and management of the entire site and that the intention is to “*establish objectives and set out the policies and maintenance principles to achieve those objectives, for all the landscape elements proposed in the restoration*”.
- 3.59 In terms of the long-term management of the site, the applicant company has submitted a revised drawing, ‘[Proposed Area of Long Term Management](#)’ (drwg no. NT10306/14/004 rev B, dated February 2016), which the applicant company intends to form part of the [proposed S106 Legal Agreement](#) (explained in more detail below) by which it would be bound. The drawing shows that both Lake 2 (‘*east lake*’) and Lake 3 (‘*south lake*’) are earmarked for long-term bird management measures.
- 3.60 The [draft S106 Legal Agreement](#) also comprises a *Bird Management Plan* (BMP), lake and lake margins management for two of the three proposed lakes within the restored site and species-rich grassland (in respect of which is proposed an undertaking to manage such for a period of twenty years) as

well as native woodland blocks for the second proposed lake ('east lake') situated within 'Killerby East'.

Information prior to the submission of the planning application

- 3.61 The submission of this planning application was preceded by a formal request made on behalf of the applicant company for a Scoping Opinion from the County Planning Authority (though received on 20th July 2009, validated on 16th December 2009). A [Scoping Opinion](#) provides a formal declaration of the matters such as air quality, hydrology, noise, traffic etc. (depending upon the nature, scale and/or location of the proposed development) that, in the opinion of the determining planning authority, are considered should be assessed in terms of their likely significant environmental impacts and the information provided within any Environmental Statement that may accompany any subsequent planning application. The [formal Scoping Opinion](#) was duly adopted on 28th July 2010. A copy of that Scoping Opinion is also available to view on the County Council's Online Planning Register using the application ref. no. NY/2009/0320/SCO.

Information accompanying the planning application

- 3.62 In addition to the requisite [application form](#) and [annex](#), [ownership](#) and [agricultural holdings](#) certificates and [formal notices](#) submitted in July 2010, the following documents accompanied the application:
- a [Non-Technical Summary](#) of the Environmental Statement (NTS) (July 2010) (now superseded by a revised submission in May 2015); and,
 - a formal *Environmental Statement* (ES) (accompanied by figures, tables, diagrams, photographs and appendices) (July 2010).
- 3.63 The environmental matters subject to environmental impact assessment and consequently covered within the submitted Environmental Statement (ES) include landscape and visual impact, cultural heritage, soils and agriculture, the water environment (hydrology/hydrogeology), air quality, noise, ecology (flora and fauna), transport, and access and recreation.
- 3.64 The application has been supported and informed by geological information in the form of [borehole logs](#) and *mineral evaluation logs*, an [Arboricultural Impact Report](#) (dated August 2009), an [Historic Environment Assessment](#) (accompanied by a [Scheme of Archaeological Evaluation and Written Scheme of Investigation](#) (dated June 2009), the [results of field walking](#), a [Geophysical Survey](#), the outcomes of a programme of [Evaluation Trenching](#), and a [Geo-archaeological Analysis](#) (the results of evaluation of landform settings and potential archaeological associations), a [Soil Survey](#) (as well as [heavy metal testing](#)), a [Flood Risk Assessment](#) and a [Modelling Study of the River Swale](#), monitoring of groundwater levels and calculations, a [Noise Survey](#), an [Ecological Assessment](#) (as well as habitat surveys and a [Bat Report](#), [Reptile](#)

[Method Statement](#) and [Bird Management Strategy](#)) and a Landscape and Visual Impact Assessment.

- 3.65 The application drawings that were submitted in 2010 comprised:
- *Site Location* (drwg no. NT10306/12/fig 1, dated July 2010);
 - *Application Boundary* (drwg no. NT10306/12/fig 2, dated July 2010);
 - *Topographic Survey* (drwg no. NT10306/12/fig 3, dated July 2010);
 - *Cross Sections* (drwg no. NT10306/12/fig 4, dated July 2010);
 - *Phasing Plan Composite* (drwg no. NT10306/12/figure 5, dated July 2010);
 - *Advance Works* (drwg no. NT10306/12/figure 6, dated July 2010);
 - *Phasing Plan-Phase 1* (drwg no. NT10306/12/figure 7, dated July 2010);
 - *Phasing Plan-Phase 2* (drwg no. NT10306/12/figure 8, dated July 2010);
 - *Phasing Plan-Phase 3* (drwg no. NT10306/12/figure 9, dated July 2010);
 - *Phasing Plan-Phase 4* (drwg no. NT10306/12/figure 10, dated July 2010);
 - *Phasing Plan-Phase 5* (drwg no. NT10306/12/figure 11 dated July 2010);
 - *Restoration Masterplan* (drwg no. NT 10306/12/figure 12 dated July 2010).
- 3.66 During the processing of the application, in part, as a consequence of the receipt of responses to consultation on the proposals and also, partly, as a result of revised proposals for the site access and assessment of the impacts of the proposed development in light of the highway improvement works for the A1(T), further information, during the course of processing the application has been received in relation to certain environmental topic areas (outlined below). These have been made available to view on the County Council's Online Planning Register, have been subject to consultation with those with whom the County Planning Authority had originally consulted in 2010 and have also been subject to public consultation through the means of formal notices in October 2014.
- 3.67 These environmental topic areas subject to updated information and consequent revision comprise:
- Transport, Traffic and Accessibility*
- [Transport Statement](#)⁹ (May 2014) prepared by WA Fairhurst on behalf of the applicant company;
 - [supporting letter](#) from applicant's agent (Wardell Armstrong) (June 2014);
 - [correspondence](#) between Officers of the County Planning Authority and the Highway Authority (September 2014);
 - Highway Authority [re-consultation response](#) (7th October 2014); and,
 - Highway Authority [revised recommendation](#) and [accompanying suggested planning conditions](#) (6th October 2014).

⁹ The Transport Statement was prepared by the applicant to review revised proposals for the site access and assess the impact of the development in light of the Highways Agency's plans for the A1(T) and should be read alongside the Transport Chapter of the original ES (July 2010) and does not therefore replace the Transport Chapter of the original ES (July 2010).

Nature Conservation and Habitat Protection

- [letter](#) from applicant's agent (Wardell Armstrong) (July 2014);
- updated [Ecological Appraisal](#) (including a revised *Bird Management Plan* (BMP)¹⁰ (July 2014); and,
- ['Proposed Area and Long Term Management Plan'](#) (July 2014).

Cultural Heritage and Archaeology

- [correspondence](#) from agent (October 2014); and,
- submission of an ['Archaeological Evaluation of Peat Deposit, Killerby Prospect, North Yorkshire'](#) (October 2012).

Restoration, Aftercare and Soil Management

- [correspondence](#) from agent (October 2014); and,
- ['Restoration Masterplan'](#) (drwg no. NT10306/12/Figure 3.8 rev D, dated March 2015).

- 3.68 In December 2014, draft Heads of Terms within a proposed Section 106 Legal Agreement (under the provisions of Section 106 of the Town and Country Planning Act 1990 as amended) accompanied by a plan showing the ['Proposed Area for Long Term Management'](#) (drwg no. NT10306/14/003 dated July 2014) was submitted by the applicant company.
- 3.69 The [draft S106 Legal Agreement](#) includes the proposed areas of the application site which would form part of the long-term management of the site and the owner's covenants with the County Planning Authority surrounding the *Bird Management Plan*.
- 3.70 As a result of discussions between the applicant company and the County Planning Authority in 2015, further information in the form of revisions to sections of the Environmental Statement and accompanying plans were submitted, which were undertaken by the applicant company's agent to "*reflect the changes brought about by the implementation of the A1(T) upgrade to motorway standard*". The agent has confirmed in a letter dated 27th March 2015 that the amendments are a result of "*confirmation of the route of the Local Access Road which will now follow the alignment of the existing southbound carriageway adjacent to the site*". The agent has also clarified in the correspondence that this confirmation of the route of the Local Access Road (LAR) removes the need for the use of the land identified within sub-Phase 1B for an access road and has therefore been omitted from the description of development. However, the area outlined as sub-Phase 1B remains within the red line boundary of the application site.
- 3.71 The agent has also confirmed that the application has been amended in that there has been a revision to the position of the advanced screen planting

¹⁰ It is important to clarify that some consultation responses, as set out in Section 4.0 of this Committee Report refer to a *Bird Plan Strategy* (BMS), which for the purpose of this report is the same as a *Bird Management Plan* (BMP).

adjacent to Lagoon 1 in sub-Phase 1A, which was a result of discussions with the relevant landowner.

- 3.72 The revised information, including drawings, comprised:
- [letter from agent to the County Planning Authority](#) (March 2015);
 - [revised ES Chapter 2 - Site Description](#) (March 2015);
 - [revised ES Chapter 3 – Project Description](#) (March 2015); and
 - [revised Non-Technical Summary](#) (March 2015).

Revised Application Drawings

- [Application Boundary](#) (drwg no.NT10306/12/fig 2A, dated March 2015);
 - [Topographic Survey](#) (drwg no.NT10306/12/fig3A dated March 2015);
 - [Cross Sections](#) (drwg no.NT10306/12/fig4A dated March 2015);
 - [Phasing Plan-Composite](#) (drwg no.NT10306/12/fig5A dated March 2015)
 - [Advance Works](#) (drwg no.NT10306/12/fig6A dated March 2015)
 - [Phasing Plan-Phase 1](#) (drwg no.NT10306/12/fig7A dated March 2015);
 - [Phasing Plan-Phase 2](#) (drwg no.NT10306/12/fig8A dated March 2015);
 - [Phasing Plan-Phase 3](#) (drwg no.NT10306/12/fig9A dated March 2015);
 - [Phasing Plan-Phase 4](#) (drwg no.NT10306/12/fig10A dated March 2015);
 - [Phasing Plan-Phase 5](#) (drwg no. NT10306/12/fig11A dated March 2015; and,
 - [Restoration Masterplan](#) (drwg no. NT10306/12/fig12D dated March 2015)
- 3.73 Corresponding revisions were made in respect of the above plans contained within the Environmental Statement with the addition of:
- Figure 2.3 *Topographical Survey* (drwg no. NT10306/12/Fig2.3 RevA dated March 2015; and,
 - Figure 2.4 *Arboricultural Assessment* (drwg no. NT10306/12/Fig2.4 RevA dated March 2015).

- 3.74 As discussed above, due to the amendments made within certain sections of the ES and associated drawings and plans, a revised Non-Technical Summary was also prepared (March 2015) and submitted to the County Planning Authority.

- 3.75 In correspondence dated 26th February 2016, the Agent confirmed further amendments had been made to the '*Restoration Masterplan*' to reflect feedback from the County Planning Authority's adviser on matters relating to ecology, which sought more areas of long-term management. The agent confirmed that the revised approach included long-term management of field headlands and hedgerows. The revised restoration scheme also shows an area of species-rich grassland around Lake 2 ('*east lake*'), instead of agricultural land, as previously proposed by the applicant company. These changes were reflected upon a further revised drawing, the '*Restoration Masterplan*' (drwg no. NT10306/12/Figure 3.8 Rev F, dated February 2016).

- 3.76 The '*Project Description*' section of the Environmental Statement was also further revised (submission made in February 2016) to reflect these amended restoration details.
- 3.77 In terms of the long-term management of the restored application site, a revised drawing, '[*Proposed Area of Long Term Management*](#)' (drwg no. NT10306/14/004 rev B, dated February 2016) was also submitted alongside this additional information showing further restoration details. The agent advised that this drawing would accompany a proposed legal agreement prepared under the provisions of [*Section 106 of the Town & Country Planning Act 1990 \(as amended\)*](#) and would comprise:
- a '*Bird Management Plan*';
 - lake and lake margins management for Lake 2 ('*east lake*') and Lake 3 ('*south lake*') i.e two of the three proposed lakes within the restored site;
 - species-rich grassland and native woodland blocks for Lake 2 ('*east lake*'); and
 - conservation headlands and hedges.
- 3.78 A further submission with specific regard to the proposals on restoration have meant that the most recent and, therefore, most up-to-date plan is the '[*Restoration Masterplan*](#)' (drwg no. NT10306/12/fig 3.8 Rev H, dated 7th July 2016).
- 3.79 In order to ensure that the application is supported by up-to-date information, an [*updated Ecological Baseline Update Survey*](#) (dated October 2016) has been submitted to the County Planning Authority.
- 3.80 Again, as a result of further discussions with stakeholders, the '[*Proposed Area of Long Term Management*](#)' has been revised and is now referenced as revision C (drwg no. NT10306/14/004 rev C, dated 18th November 2016).
- 3.81 The most recent information submitted to the County Planning Authority is that which supports the preparation of the draft S106 Legal Agreement, namely, a [*Preliminary Bat Mitigation Strategy*](#) (dated January 2017).
- 3.82 Again, as a result of further discussions during the processing of the application, as a consequence of the receipt of responses to consultation on the proposals, further information was received and again this information has been made available to view on the County Council's Online Planning Register, has been subject to consultation with those with whom the County Planning Authority had originally consulted in 2010 and 2014 and has also been subject to public consultation through the means of formal notices most recently in December 2016.
- 3.83 While the Environmental Statement has been updated, in parts, and consequently addendums produced where relevant, it is nevertheless

considered that a comprehensive set of environmental information available accompanying the application exists upon which the County Planning Authority has consulted.

Draft S106 Legal Agreement

- 3.84 As referred earlier, the planning application is accompanied by a [draft Legal Agreement](#) under [Section 106 of the Town & Country Planning Act 1990 \(as amended\)](#) which has undergone a number of iterations during the processing of this application. The latest draft of the Agreement is dated 7th March 2017 and that draft along with its predecessors have been made available to view on the County Planning Authority's [Online Planning Register](#) either upon receipt or shortly thereafter.
- 3.85 The [S106 Legal Agreement](#) is made (subject to signing by the relevant parties, final completion and engrossments) between the County Planning Authority, the landowner (in this case Mrs Pybus of Street House Farm, Leeming Bar, North Yorkshire, the relevant mortgagees and the applicant company, Tarmac) requiring
- the submission of a *Bird Management Plan* (which provides for the management of flocking birds, grasslands, monitoring and use of deterrents) for the approval of the County Planning Authority;
 - the management and maintenance of *conservation headlands* and species-rich grasslands for a period of twenty years after the end of the final year of the last of the statutory five-year 'after-care' periods in accord with the '*Strategic Management Framework*' (relating to the areas referred to as '*Killerby East*' and '*Killerby South*' as areas of long-term management comprising species-rich grasslands, scrapes and alder carr woodland and conservation headlands) also to be submitted to (and approved by) the County Planning Authority;
 - agreed traffic routeing;
 - the making of contribution payments to the County Council in respect of the maintenance of relevant Public Rights of Way (including bridleways and gateways) equivalent to a period of fifty years amounting to £69,957.50; and,
 - bat monitoring for a period of twenty years after the end of the final year of the last of the statutory five-year 'after-care' periods.

Draft planning conditions

- 3.86 National planning guidance encourages early dialogue on the matter of draft planning conditions that may or may not be acceptable to the County Planning Authority were planning permission to be forthcoming. To this end, a [draft schedule of planning conditions](#) has been exchanged with the applicant company and these have also been made available to view together with the [written agreement of the applicant company](#) to the imposition of any pre-commencement conditions should they be reasonably imposed.

4.0 CONSULTATIONS

- 4.1 The application was received on 27th July 2010, validated and registered as a duly-made application on 22nd September 2010. For the reason explained earlier in this report, the determination of this particular application was prohibited by Direction held in place by the Secretary of State for Transport until the end of 2014. In the intervening period between that time and the present, further information relating to the application, having been both sought and volunteered by the applicant in light of changes in circumstance, has necessitated both advertisement of that information and a period of publicity and consultation. A review of the submitted information at the time of preparing the report recommending that Members undertake a formal Committee Site Visit suggested information had been submitted upon which there had been neither consultation nor publicity. In order to ensure procedural correctness, a final round of consultation and publicity has been undertaken during December 2016. As anticipated within the last Officer report presented to Members, the period of publicity and consultation has concluded at the time of writing this substantive report and the outcome of that consultation now herein provided.
- 4.2 For the purpose of this report, a summary of the responses to consultation undertaken on behalf of the County Planning Authority is provided. The County Planning Authority has sought the views of statutory consultees and other non-statutory consultees on three occasions during the processing of this application. The first round of consultation commenced on the 14th October 2010 (*‘the 2010 consultation’*) immediately following the submission of the planning application and then, subsequently, on two further occasions on 20th October 2014 (*‘the 2014 consultation’*) and the third and final round on 21st December 2016 (*‘the 2016 consultation’*).
- 4.3 The purpose of *the 2014 consultation* was to seek views in respect of:
- additional/further information received between May and October 2014 comprising:
 - further archaeological investigation, specifically an *‘Archaeological Evaluation of Peat Deposit, Killerby Prospect, North Yorkshire’* (October 2012);
 - a *Transport Statement* (May 2014);
 - revised Transport Chapter of the Environmental Statement;
 - revised *‘Ecological Baseline Update Survey’* and *‘Bird Management Strategy’* (BMS) (July 2014);
 - *‘Proposed Area of long-term Management Plan’* (July 2014); and,
 - revised *‘Restoration Masterplan’ (Rev C, April 2013)*.
- 4.4 The purpose of *the 2016 consultation* was to seek views in respect of:
- letter (dated 27th March 2015) including revised ES Non-Technical Summary (received May 2015), revised ES Ch.2 (Mar 2015), revised

application drawings (Figs.2A-11A) & revised ES drawings Figs.2.1A, 2.3A, 2.4A, 3.1A-3.6A & 3.9A;

- letter (dated 26th February 2016) including revised ES Ch.3 (Feb 2015) & *Proposed Area of Long Term Management Plan* (dwrg no. NT10306/14/004) (Sept 2014);
- letter (dated 20th October 2016) including information from Hafren Water Ltd (17th October 2016), an *Ecological Baseline Update Survey* (October 2016), *Post Application Cross Section of Phase 2* (dwrg no. K034/00198) (10th August 2016) and conveyance (31st May 1960);
- letter (21st November 2016) & annexes plus revised ES Ch.12 (April 2013) & Ch.7 (November 2014), revised *Archaeological Scheme of Works* (November 2014), revised *Restoration Masterplan* (dwrg no. K034-210 Rev.H) (1st July 2016), *Statement on Geological Investigation* (10th November 2016) and revised draft S106 Legal Agreement and accompanying documents; and,
- e-mail (24th November 2016) including revised Annex 1 & enclosing revised *Phasing Plan - Phase 5* (4th March 2015).

4.5 While a summary of consultation responses received is provided herein, nonetheless, all responses to consultation received by the County Planning Authority have been displayed in their entirety (with the exception of personal information removed for the purpose of data protection) on the County Council's Online Planning Register either on the date of their receipt or shortly thereafter. Interested parties, including the agent and applicant, have, thereby, had readily available access to their content and, as a consequence, have been afforded the opportunity to react or respond, as appropriate, to their content at the earliest possible point in time in the processing of this application.

4.6 **Historic England** (the successor body of English Heritage) – in their [response dated 22nd October 2010](#) confirmed that they had no comments to make towards the proposed development and recommended that the application “*should be determined in accordance with national and local policy guidance*” and on the basis of specialist conservation advice. This was subsequently reiterated within the response to both *the 2014 consultation*, on [4th November 2014](#), and *the 2016 consultation* on [23rd December 2016](#).

4.7 **Highways England** (the successor body of the Highways Agency) - in their response dated [29th October 2010](#) confirmed that they had applied for a “*holding notice in the form of a TR110*”. The response noted that the application references the “*second stage upgrade of the A1 from Leeming to Barton*”. However, they confirmed at that time that the proposed upgrade was no longer going ahead, requested the application be “*resubmitted showing detailed proposals for Low Street junction*” removing “*all references to the Leeming to Barton upgrade*” and also requested that the applicant company

submit a Transport Statement and a revised transport chapter within the ES on the *“basis that the A1 Leeming to Barton upgrade will no longer go ahead”*.

In a second response, dated [21st February 2011](#), the County Planning Authority was informed of the findings of work undertaken by third party consultants that had been commissioned to inform of the acceptability of the proposed closure of the existing Low Street junction and the compliance of the new junction with Design Manual for Roads and Bridges (DMRB) standards. It confirmed that as a result of the A1 Leeming to Barton Improvement Scheme being cancelled, following the spending review, an *“upgrade to the Low Street junction will be required in order to accommodate the quarry HGV traffic”*. It went on to explain that the applicant company’s transport consultant proposes a left in, left out priority junction, situated circa 100 metres north of the existing Low Street junction and that it was considered appropriate to provide a priority junction at the site. It provided advice in relation to visibility splays from the proposed new junction, stating that these should be in accordance with DMRB standards and made reference to an existing parking lay-by situated circa 250 metres north of the existing Low Street junction. Consideration was also sought in respect of the lay-by due to the fact it falls within the visibility splay and would therefore obstruct visibility. The applicant company’s transport consultant should, at that time during the processing of the application, *“give consideration to how this will be managed or relocated in order to prevent an obstruction to visibility at the proposed junction”* and take into account signage also situated within the required visibility splay of the new junction. The response also noted that the new junction should have taken into consideration the existing hedgerows which, abut the A1 carriageway.

The applicant company’s transport consultant was required to confirm that the design conformed to *“Table 7/2 of the TD42/95 and provide tracking to show manoeuvres can be achieved and vehicles will be able to pass a stationary or broken down vehicle within the junction”*. The response also noted that the associated merge taper design should have been *“reconsidered in order to meet DMRB standards and a tracking diagram provided in order to ensure manoeuvres can be undertaken safely and to confirm that the merge provision is sufficient and negates the need to apply corner radii standards”*. The response made reference to DMRB TD 42/95 section 7.18, which stated that *“where large goods vehicles comprise a significant proportion of the turning movements, use of the compound curve shown in Figure 7/3 is recommended”* and seeking this to be reflected on revised plans.

In terms of the capacity of the proposed junction, the response noted that the *“traffic flows have not been verified and the growth factors used are not correct”* and that it was evident that the traffic flows *“could increase significantly and the junction would continue to operate within capacity”*.

The response required additional information comprising:

- *Traffic count data;*
- *an updated design to ensure the merge taper meets DMRB standards;*
- *updated plans showing the existing parking lay-by and its interaction with the proposed junction;*
- *visibility splays on the figures provided;*
- *consideration of the removal or relocation of signage within the visibility splays; and*
- *tracking to show HGV manoeuvres can be achieved within this junction design and use of the compound curve calculation due to the likely high proportion of HGV traffic”.*

Finally, the response reiterated the requirement for a Road Safety Audit and that an order would be needed to be in place with the Highway Authority to allow for the closure of the existing road, prior to agreeing a new layout and access.

Later in a meeting, on 7th May 2013, it was confirmed that *“the mainline design (A1(M)) has been approved and the side road/ local access road (LAR) are still at the design stage”* and that as part of the LAR works package, there would be a new junction with Low Street. The potential of also progressing the application with the left turn only option as stated in the ES (July 2010) was also discussed and it was confirmed that there was *“nothing in theory, to stop this approach”* with the potential of *“progressing with a preferred option at this stage and then an amendment to the permission submitted at a later date if changes are required”*.

It was confirmed that a Road Safety Audit (RSA) would be required of the new junction *“with the design conditioned to the planning permission but again stressed that this may be abortive work”* for the applicant (the Highway Authority also confirmed that a Stage 1 RSA would also be required for access junction directly from the application site onto Low Street).

Furthermore, it was confirmed that a Section 278 (S278) Agreement (under the provisions of the Highways Act 1980) would also be required for the proposed road works if the applicant decided not to wait for the proposed A1(M) upgrade. However, the applicant confirmed that they *“would be happy to wait until October/ November to await the outcome of the LAR design approval”* as the applicant would prefer that the Agency undertook the improvements to the junction at Low Street and the A1(M).

In response to *the 2014 consultation* and *the 2016 consultation*, it was confirmed ([November 2014](#)) that there was no longer any objection held against the proposed development and this was again reiterated on [19th January 2017](#).

- 4.8 **Natural England** – in their [response dated 4th November 2010](#), set out their statutory purpose to be to “*ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development*” as well as setting out their approach and views in relation to the following topics: landscape; ecology; soil management; restoration and aftercare; access and recreation; hydrology; and agreements and schemes.

Landscape – considered the *Landscape and Visual Impact Assessment (LVIA)* to have been undertaken in accordance with the appropriate guidance published by *the Landscape Institute, the Institute of Environmental Management and Assessment* and *the Countryside Agency*, expressed satisfaction with the assessment undertaken of the potential landscape and visual impacts as presented in the ES (July 2010) and recognised that, despite the topography of the area being predominately flat and well-screened by the existing plantation woodland, “*the nature of the proposal means that screening of a low height should be sufficient in effectively limiting views of quarrying activities during the operation of the site*”. From a landscape perspective the proposed restoration was considered to be appropriate as it proposes features which exist already in the area, such as water bodies, woodland and hedgerows and is “*in keeping with the landscape character of the surrounding area*”. The response also supported the progressive nature of the proposed restoration considering that it would be “*effective in minimising the impact of the proposed development on the landscape and on visual receptors in the surrounding area*” and welcomed the planned return of much of the site to agricultural land.

Ecology - the response welcomed the guidance used by the applicant company as the most up-to-date and relevant, expressed satisfaction with the range of ecological survey work that had been carried out as part of the Environmental Impact Assessment (EIA) and also the methodologies used during the information gathering process, but advised that the County Planning Authority should be satisfied with the scope of habitats set out within the Phase 1 Habitat Survey. The applicant company was advised that any “*protected species licence application will need to be accompanied by a survey conducted within the previous two years and a detailed mitigation strategy*”. The proposal to undertake additional ecological surveys each phase of the development “*particularly in those phases where potential protected species issues have been identified in the submitted surveys*” was welcomed, but further advised that if restoration were to result in valuable areas of new habitat, then there exists the potential for this to attract larger numbers of protected species and therefore greater levels of mitigation could be required. The proposed restoration has the potential to create an area of diverse habitats that could underpin existing species in the area; acknowledging that the restoration has been informed by the Biodiversity Action Plans (BAPs) of both the local Councils and the applicant company, whilst at the same time

requiring the incorporation of flexibility to enable “*habitat creation and restoration to be able to respond to unforeseen opportunities*”. Furthermore, the proposed mitigation was considered to be appropriate and, subject to it being carried out, it should “*ensure that the value of the restored site for biodiversity is both maintained and enhanced*”. Finally, in respect of ecology, the response questioned how much of the proposed mitigation for the loss of 1,435 metres of hedgerow would be achieved via retention and how much via the creation of new hedgerow; confirming a stance against any net loss of habitat.

Soil management - the excavation, storage and movement of soils on site should be carried out in accordance with guidance from the Department of Food and Rural Affairs (DEFRA) ‘*Good Practice Guidelines-guidelines for handling soil*’ (MAFF,2000) and the *draft Code of Practice (Draft Code of Practice for the sustainable use of soils on construction sites, 2008)* to ensure that damage to soil structure is minimised and expressed satisfaction that the proposed soil management for the site “*will ensure that the physical characteristics of the soils within the proposal site will be retained*”; welcoming the creation and objectives of a *Soil Management Plan*, as mentioned in the ES (July 2010).

Restoration and after-care - the proposed progressive restoration of the worked quarry received support and in terms of after-care advised that the control of invasive plant species should be specifically referenced within the aims of the *After-care Scheme*.

Access & recreation – supported the creation of 8.8 kilometres of new bridleway and the proposed mitigation measures that aim to “*limit the impact of this proposal on public rights of way and on recreational users of these routes*”.

Hydrology – with regards the Swales Lakes SSSI expressed satisfaction that any potential impact upon this wetland habitat has been adequately addressed by the applicant company.

Agreements & Schemes - the application site falls within land included within Environmental Stewardship agreements with Natural England and any agreement holder would need to liaise with Natural England on how the “*loss of this land to development might affect the agreements and payments received*”.

In their response dated [24th October 2014](#), it was confirmed that the advice provided in their response to the first round of consultation was equally applicable to the application as amended and returned no objection to the proposed development.

No further comments above those previously made were offered on [6th January 2017](#) in response to *the 2016 consultation*.

- 4.9 **Ministry of Defence** - in its response dated [8th November 2010](#), confirmed no objection to the proposed development, on the premise that the [Bird Management Plan](#) (BMP) be amended to ensure that MoD requirements were appropriately considered and noting that the BMP needed to include “*active bird control measures should the aerodrome operator identify a birdstrike hazard*” and that “*the passive control measures have not accounted for MOD's earlier comments, particularly relating to marginal reedbed planting*” and, therefore, as a consequent put forward suggested changes to the BMP, relating to after-care, planting, additional bird species to be considered, active management, a call off bird monitoring and management plan and that the BMP should be controlled through a S106 legal agreement.
- 4.10 **Highway Authority** – in its response dated 8th November 2010, requested additional information from the applicant company about the application site. The response expressed concern that the traffic generated from the development had the potential to affect sections of the local highway network, advising that the potential effects need to be assessed by the applicant company. The response also flagged the omissions of junctions including Brompton on Swale and Scorton. It also sought clarification and additional information as to where vehicles to the site would make their deliveries and advised that the design of the highways improvements to Low Street required further discussion surrounding improvements to the junction. Later, on 16th March 2011, the Highway Authority stated it shared the Highways Agency’s comments, confirmed “*the old road will need to be stopped up*” and that they expected to see a more detailed design and some indication on how the relevant road Orders would be progressed.

Later in a revised response, dated [2nd February 2012](#), the Highway Authority set out a number of conditions that it recommend to be attached to any subsequent planning permission for the proposed development. These related to access to and from the site; vehicular movement on site; enabling highways works; required safety audit; mud disturbance from quarry vehicles; preparation of stopping up orders in relation to enabling highways works; and the preparation of a Travel Plan.

In a further response, on [7th October 2014](#), the Highway Authority provided suggested wording for a ‘*Grampian*’ condition:

“No sand and gravel shall be removed from the site area shown on drawing NT10306/12/figure 3 by road until the local access road (LAR) is constructed connecting to Low street allowing access to the A1 up grade as shown on Highway Agency plans dated 3rd April 2013 is completed and open to the public”.

That response also included a recommendation that a S106 legal agreement be put in place to control the operation of HGVs comprising a *Traffic Management Plan* to restrict HGV vehicle operation and movements to the site via the LAR and the improved Low Street to the application site. While no objections were raised against the proposed development, specific conditions proposed the control over the:

- HGV movements until the LAR is constructed;
- movement of vehicles to and from the site, whereby vehicles must use the existing access with the public highway at Low Street;
- movement of vehicles until appropriate measures are in place to prevent the discharge of surface water from affecting the highway;
- movement of vehicles until an element of the permanent site access has been fully constructed;
- movement of vehicles between the highway and the application site until visibility splays have been created;
- approval of details for works in the highway;
- works within the application site until details have been approved regarding the proposed alignment and strengthening of parts of Low Street from the site access to the LAR;
- works on site until details of access, turning and parking are agreed;
- movement of vehicles to and from site until details regarding proposed precautions to prevent mud reaching the highway have been agreed;
- on-site parking, on-site storage and construction traffic during development;
- routing of HGV construction traffic; and
- agreement of a *Travel Plan*.

On [6th January 2017](#), there were no further comments returned from the Highway Authority in respect of the 2016 consultation.

- 4.11 **Swale and Ure Drainage Board** (formerly the Bedale and Upper Ure Internal Drainage Board) in a [response dated 22nd November 2010](#), referred to comments previously made on 10th March 2010, confirming them to equally apply to this proposed application. The IDB stated it would “*exercise general supervision over all matters relating to the drainage of land within their district; and have such other powers and perform such other duties as are conferred or imposed by the Land Drainage Act 1991*” and confirmed the “*Board operates Land Drainage Byelaws under s66 and is empowered to grant consents under s23 and enforce under s24*” reiterating it has “*no powers relating to the River Swale and associated flood embankments which are Main Rivers under the jurisdiction of the EA*”. The response did, however, identify Fiddale Beck as being under the control of the IDB via a byelaw and that consent would be required for any structures affecting the watercourses under the control of the IDB. A number of byelaws were stated as relating to various controls over hydrological features, including: controls of introduction of water into the drainage district by consent; controls on diversion or stopping up of adopted watercourses by consent; controls on detrimental substances in

watercourses; controls by consent on any obstructions within the Byelaw Strip which extends 9 metres inland either side from the banks of adopted watercourses; controls over the storage of materials on the river banks; controls over the removal of sand and gravel from the bed of the watercourse; controls over fences excavations pipes etc. in or over any watercourse or bank by consent. Consent would also be required for any structures affecting any relevant watercourses and the Land Drainage Act (1994) gives the Board permissive powers to carry out its functions. Finally, it explained that is unlikely the Board will continue to maintain the watercourses within the site boundary until full restoration works have concluded. However, the Board “*will continue to enforce the LDA and Byelaws during execution of the works to ensure compliance*”.

A further response, dated [27th October 2014](#) considered that the proposed development would no longer affect North Lowfield Stell and South Lowfield Stell. However, the response noted that if this not the case then the earlier comments submitted would still stand.

On 13th and 17th January 2017, the Board raised concerns with regards river erosion (prompted by experience following the 2015 flood events) and the details are contained within the Board’s [written response](#) and further [written supplementary response](#).

In responding to the comments of the Board, the agent for the applicant on the [25th January 2017](#), explained that river erosion being a natural occurrence would occur whether or not quarrying was to take place. Notwithstanding, appropriate protection measures have been proposed including a 20 metre stand-off from the river channel and a reinforced bank design on the ‘*west lake*’ shoreline adjacent to the river. Oversized cobbles and clays from overburden and interburden are proposed to be placed against the lake edge; the position of which is to be a further 10 metres beyond the proposed 20-metre stand-off from the channel edge of the river.

In response, the Board stated “*given the 20m stand-off and (...) additional works which [the Board] assume will be conditioned [the Board] can now raise no further objection to the proposal*”.

- 4.12 **Yorkshire Water Services Limited** - in its response, dated [23rd November 2010](#), confirmed that the planning application does not consider a third water main that crosses the western boundary of the application site within the proposed Phase 1. The response also makes reference to the fact that the accompanying *Restoration Masterplan* shows a side road, hedgerows and trees to be located over the water main.

It confirmed that the water main “*can remain in place throughout the quarry operations if it is decided to be the most appropriate option*” and that the

legislation this is controlled through is Schedule 14 of the Water Industry Act (1991); thereby negating the need for a planning condition. However, it also confirmed that *“the phasing of development, subsequent extraction and restoration scheme should all take into account the presence of this water main as Yorkshire Water has the option to maintain the position of the infrastructure”* warning that that any damage to the main may result in a lack of water supply to parts of the county and, therefore the water main must be *“acknowledged and provisions made for its protection as it may not be diverted”*. The applicant company was therefore advised to discuss this further with Yorkshire Water Services Limited.

In a further response, on [7th November 2014](#), it was specified that there should be no excavation within 5 metres of the water main and that it should be *“protected from potential damage from machinery and excavations if it is to remain in its current position”*. It is therefore recommended that protection measures are discussed in advance of any works. The response also noted that it may be possible for the main to be diverted under Section 185 of the Water Industry Act 1991. However, such works will be carried out at a cost to the developer.

Having been consulted on further information in December 2016, Yorkshire Water noted that the applicant’s documentation acknowledges the presence of the water mains, indicated the pipes would remain in situ, that 10 metre wide strips would be maintained for the purposes of repair and maintenance and would be protected from accidental damage.

- 4.13 **Hambleton District Council (Environmental Health Officer)** – in its [response, dated 6th December 2010](#), confirmed that *“the details and proposals submitted by the applicant company are acceptable”* and that the application meets the guidelines set out in [Minerals Policy Statement 2: Controlling and mitigating the environmental effects of mineral extraction in England – Annex 2: Noise](#)¹¹.

On [5th January 2017](#) in response to *the 2016 consultation*, there were no objections returned against the proposed development.

- 4.14 **NYCC adviser on ecological matters** - on [17th January 2011](#) set out a number of issues and recommendations in relation to the proposed development and the information accompanying the application. It was stated that the ecological assessment within the ES (July 2010) appears to have been carried out in accordance with the Institute for Ecology and Environmental Management (IEEM) *Guidelines for Ecological Impact Assessment in the United Kingdom* (2006) and noted that, in terms of the

¹¹ Minerals Policy Statement 2 was superseded by the National Planning Policy Framework (NPPF) when it was published on 27th March 2012.

proposed restoration of the site, the proposed restoration, as set out on the original *Restoration Masterplan* (drwg no. NT10306/12/fig12, dated July 2010) did not include “*an appropriate level of biodiversity enhancement proposals to be acceptable when considering national planning policy guidance*”. As a result, a holding objection was lodged until further discussions are held surrounding potential opportunities to “*enhance appropriate biodiversity and increase flood plain connectivity whilst working within the character of the landscape*” including over the long-term management of the restored site.

- 4.15 It was recommended that ‘*biodiversity gains*’ should be increased and distributed more evenly throughout the application site and should include “*habitat connectivity between the water bodies, contoured woodland/ scrub planting and a much greater emphasis on biodiversity and floodplain connectivity in the western area*” of the site. It also noted that the original proposed restoration excluded any mention of “*separating peat, top soils & different compositions of subsoil & overburden to target specific habitat restoration, nor is there mention of management for biodiversity during the quarrying period, or of potential enhancement opportunities when considering built structures which are to remain*”. In light of this, the ES was considered to contain inadequate evidence to bring the proposed restoration of the site in line with national planning policy, as set out in *Planning Policy Statement 1 – Delivering Sustainable Development* (January 2005) and *Planning Policy Statement 9 – Biodiversity and Geological Conservation* (August 2005). The response also noted that the proposed restoration could also promote flood storage within the catchment and satisfy elements of *Planning Policy Statement 25 – Development and Flood Risk* (March 2010)¹².
- 4.16 In correspondence, dated [16th April 2014](#), it was stated that ecological surveys and assessments that had been submitted as part of the original ES (July 2010) were considered to be “*out-of-date for planning purposes*”. It was therefore advised that the ecological surveys and assessments should be carried out again by the applicant company and resubmitted. It was also advised that previously raised concerns surrounding the site restoration plan and the long-term management of the site needed to also be addressed by the applicant company.
- 4.17 As a consequence, [an agent letter](#) to the County Planning Authority, dated 4th August 2014, provided further information including: an updated ecological appraisal (July 2014); an updated *Bird Management Strategy* (June 2014); *Restoration Masterplan* (drwg no. NT10306/12/fig3.8 rev C, dated April 2013); draft wording of a Grampian Condition relating to the construction of the LAR as part of the A1(M) upgrade works; and a plan of the application site, which

¹² Planning Policy Statement 1 – Delivering Sustainable Development (January 2005), Planning Policy Statement 9 – Biodiversity and Geological Conservation (August 2005) and Planning Policy Statement 25 – Development and Flood Risk (March 2010) were replaced by the NPPF when it was published on 27th March 2012.

the applicant company had suggested could be considered for long-term management purposes.

4.18 On 18th November 2014, the further response confirmed that the holding objection previously recommended was made on the basis that the level of biodiversity enhancement proposed by the applicant company was neither acceptable nor in accordance with national planning policy. Notwithstanding, the submission of additional environmental information, the adviser considered that it still did not address the previously raised concerns; noting *“an outstanding discrepancy between the level of biodiversity benefit being promoted within the ES and the actual benefits that can be delivered through the restoration and long term management proposed”*.

4.19 In relation to the ES (July 2010); the *Bird Management Strategy* (BMS) (2014) and the long-term management of the site, comments comprised:

- the proposed restoration included no pools or grassland but *“only large lakes and agricultural land”*. There was no mechanism proposed to secure, in the long-term, the promoted ecological restoration aims on land outside of the eastern lake area (as proposed via a S106);
- there was no evidence that supported the applicant company’s claim that the proposed retention of trees around the proposed lake will provide *“an ornithological habitat of county ornithological importance”*;
- the only area that was secured in the long-term was isolated from any surrounding habitats and was limited in its biodiversity benefit;
- there was no information in the revised accompanying information that provides clarification on *“how the proposal “to breach the flood prevention bund at the end of operations so that the area would assist with flood alleviation” relates to the nature conservation end use in terms of the ability to deliver and manage the area”*;
- habitat enhancements in the form of scrub planting that were proposed for the river corridor could be negatively affected from any planned breaching of flood prevention bunds;
- there was a need to update the *Project Description* element of the ES to reflect the changes in the proposed BMP, which *“highlights that only very narrow fringing reeds will be included in the scheme rather than reedbeds”*;
- in order to achieve biodiversity mitigation and enhancements that would be sustainable in the long-term, it was *“necessary to have a long-term management strategy that covers a larger area of the site than that which is proposed for the section 106”*;
- the issue of potential nutrient run-off into the proposed lakes had not been adequately addressed;
- reference to the cutting and burning of reedbeds within the ES following amendments to the BMP stated there would be no reedbeds; only narrow fringing reeds;
- there was no indication as to how the marshland area around the west lake would be managed during the after-care period of the site; and

- there was reference to plans to include hedgerows within the long-term management agreement for the site.

4.20 Whilst satisfied with the additional survey work that has been undertaken, the response noted the following (in addition to previous comments on the original impact assessment and revised draft from April 2013 which still needed to be addressed):

- the amount of created/retained agricultural land related to bat foraging, needed to be updated to 132.1 hectares so as to match the amount quoted within Tables 12.11 and 12.12;
- the proposed restoration was inconsistent with the objective to deliver high quality habitats and the lack of long-term management across the site meant that there was no mechanism to secure long-term benefits;
- the information accompanying the application did not demonstrate how the *“UK BAP targets for arable field margins, hedgerows and mesotrophic lakes can be delivered and more importantly secured in the long term”*;
- required a framework setting out how the suggested mitigation and enhancement measures, e.g. the planting proposals along the river Swale corridor, would be dealt with and secured;
- more information was required on the proposed location of the bat house;
- clarification was required on how all of the proposed restoration lakes would be *“primarily created with wildlife, particularly birds, in mind”* and the statement within the ES that *“target bird species that the nature conservation (east) lake is being designed and managed for, to ensure that the restoration proposals are appropriate and that there is no conflict between the target bird species for a nature conservation lake (with an objective of being of County ornithological importance) and the measures required by the MOD contained within the BMS that is designed to deter target birds that are of concern to the aviation industry”*; and
- sought the inclusion of in-field trees as part of the restoration for the site that could be *“protected to provide mature trees for the future,”* which was considered important due to the *“biodiversity value of mature trees and the character of the local area”*;
- while satisfied that the BMP (2014) will also be satisfactory to the MoD, clarification was sought on how the *“east lake can meet its nature conservation objectives whilst implementing the measures necessary within the BMS for the MOD”*;
- clarification was also sought on the proposed method of maintaining the grass sward of the restored site to the desired levels of between 150mm and 200mm, which would be controlled in the areas outside of those covered by the S106;
- considered long-term management across the whole of the restored site, not just within the proposed area under the control of the proposed S106 was needed and that would need to consider how the *“multiple end uses”* could work cohesively.

Whilst not constituting an objection to the proposal, the response advised that the application should not be determined in the absence of the further information sought.

In response to being consulted upon further information in December 2016, [advice](#) was provided (dated 16th January 2017) recommending that further information be submitted including a *Bat Mitigation Strategy*, a *Strategic Management Framework* and an updated S106 legal agreement.

The agent, in a letter dated [27th January 2017](#), responding to the above submitted, a '[Preliminary Bat Mitigation Strategy](#)' (January 2017) prepared on behalf of the applicant by E³ Ecology Ltd including further details for the provision of a *Bat Loft*. The '*Killerby West*' area lies outwith the birdstrike hazard zone and is therefore not covered by the proposed *Bird Strike Management Plan* within the draft S106 legal agreement. However, in respect of long-term management, the agent proposed a further clause within the draft S106 agreement to guarantee the submission of a *Strategic Management Framework* prior to commencement of mineral extraction.

A further response to consultation on the above-mentioned January 2017 submission, returned the following on [15th February 2017](#), having had sight of and having considered the further information:

- with regards the *Bat Mitigation Strategy*, stated this to be “*very much welcomed as it provides the detail needed...to determine the application*” and, therefore, expressed satisfaction; and,
- with regards the *Strategic Management Framework* is satisfied that sufficient information has been provided to enable its formulation.

Later on [16th February 2017](#), further advice highlighted that new guidance had recently been issued by DEFRA in which proposals such as that in this particular instance may consider favourably “*proposals which enable works to proceed without the exclusion of EPS [European Protected Species] [in this particular case of the Killerby proposals, bats] where the conservation status of the local population would not be detrimentally affected*”; however, concurrently advising that a management plan secured by legal agreement would be warranted.

- 4.21 **NYCC adviser on landscape matters** – noted, on [17th January 2011](#), that the recommendations for landscape-related work required, as set out within the *Scoping Report* (September 2009), did not appear to have been carried through in the proposed development, nor did the application include a Landscape Character Assessment (LCA) of the area or provide “*an in-depth study of the character and historic layers and the evolution of the local landscape ie: both out-with and encompassing the application area] over the period of the evolution of the landscape, which would enable a more complete appreciation of sensitivity and the impacts on character*”. The response

recognised that there would be “*significant cumulative impact of mineral extraction on the local landscape*” and pointed out that the applicant company had not provided a strategic method to address this. It stated that the proposed development would result in impacts upon the landscape character of the area; visual impacts upon residential receptors, PRoW, and the local road network; and visual impacts upon the setting of the historic designed landscapes and on the River Swale corridor. The recommendations therein comprised requirements for:

- *a cohesive mitigation strategy, inclusive of off-site mitigation and local landscape enhancement.*
- *a cohesive landscape vision and strategy for the local landscape that encompasses cumulative impact issues and which forms a framework within which the Killerby restoration concept would sit.*
- *a clear landscape strategy and delivery mechanism for site and the context local landscape.*
- *a long term commitment to the delivery of a restoration vision and the long term management of the site and of the delivery of the Tarmac ‘mid-Swale valley landscape project’.*

A briefing paper for the preparation of a strategic landscape framework for the Mid-Swale Valley accompanied the response.

On [11th December 2014](#), a number of issues and recommendations included:

- strengthening of hedgerows and hedgerow trees in areas that are outside the extraction area could also be carried out;
- the proposed plant, in particular the conveyor, would introduce industrial infrastructure “*into a new and sensitive area, in relatively close proximity to Killerby Hall and its parkland*”;
- the restoration of the west area (sub-Phases 2A, 2B and 2C) appeared to be “*particularly unsympathetic to the landscape context*”;
- the proposed restoration should be updated to take into consideration the upgrade of the A1(M);
- the proposals for access to Killerby Hall and the new Broad Close Farm site were unclear and the proposed restoration scheme did not clarify which areas represent the restoration of Grade 2 agricultural land, or how the restored character will reflect the nature of the replaced soils;
- the landscape is “*more sensitive and complex*” than had been discussed within the LVIA and “*some further analysis and discussion is needed on the relationship of the proposals to the landscape and historic landscape character context taking into account*”;
- the *Restoration Masterplan* (drwg no. NT10306/12/fig3.8 rev C, dated April 2014) did not clearly show restoration contours and how they tied into the surrounding landscape;
- queried and concerned about some aspects of the final landform;

- parkland was not illustrated on the *Restoration Masterplan* and the opportunity to enhance existing designed landscape character had been missed;
- the linking, or otherwise, of future water bodies to existing retained watercourses was unclear;
- the restoration plan fails to indicate those areas intended to be relatively stable and those that would be allowed to change in response to future changes in the course of the river, flooding and effects of climatic change;
- the accompanying information did not include a Landscape Character Assessment (LCA) at an appropriate scale and the Hambleton LCA was overlooked in the ES (July 2010). Furthermore, the North Yorkshire and York LCA was available, and the effects of the proposed development in addition to “*existing forces for change*” that are discussed within the LCA, and the implications on restoration should be further explored;
- the cumulative impacts on the relevant landscape character had not been assessed within the ES;
- the reasons for the designation and subsequent omission of the former Special Landscape Area, which overlapped with the application site “*are not adequately explored*” within the ES;
- the archaeological study accompanying the ES had identified landform units on the basis of their geology, but these needed to be related to the local landscape character, and also to the proposed restoration scheme to show how the site “*integrates into the river corridor*”;
- the relationship of the ‘west lake’ to Oran House and to Killerby Hall needed further assessment;
- the contribution to landscape character of four country houses (comprising of Killerby Hall, Oran House, Kiplin Hall, and Kirkby Fleetham Hall) and their associated parkland and estates had not been adequately assessed;
- the revised restoration scheme had not been updated to take into account changes to the A1(M) proposals and “*the visibility of future quarry operations as seen by travellers along the A1(M) needs to be assessed*”;
- the assessment of certain viewpoints (VP5, VP7, VP10) were not considered to fully address the likely effects of the proposed development; and
- clarification was sought with regards from where the processing plant would be visible, taking into account the effectiveness of screening by trees during winter months.

A further [response](#) in relation to ‘*the 2016 consultation*’ was dated 17th January 2017. In that response, a number of further advices were received in addition to recommendations including:

- A – an opinion that the advice (please see above) provided in December 2014 remained to be addressed;
- B – a request for a co-ordinated *Landscape & Biodiversity Restoration and Management Framework*;
- C – an increased area of land covered by the S106 legal agreement; and,

D – a reduced ‘Killerby West’ area or its deletion.

Conditions with regard to the submission of a *Landscape and Biodiversity Restoration and Management Strategy/Framework*, advance planting, phased restoration details, soil conservation, processing plant and restoration after-care were suggested by the adviser.

In response to the comments made by the adviser on landscape matters, the agent on behalf of the applicant company (in a [letter](#) dated 6th February 2017) stated that the matters had, in their view, been addressed in their response of March 2014 and consider the information provided to support the application to be of sufficient detail to be able to determine the acceptability of the proposals. It goes further to suggest that views of the development from which it had been suggested may be obtained would either be unobtainable or sufficiently obscured by existing features lying within the landscape and local topography and welcomed the landscape adviser’s comment that “*on the whole, quarrying operations are unlikely to be obtrusive in the wider landscape*”. With regard to landscape enhancement, the agent refers to this as including 25 hectares of managed woodland and carr, 16.5 hectares of species-rich grassland, 8,000 metres of headland margins (10 metres wide) and 4,280 metres of hedges with trees supporting their view that significant enhancement would be brought. In addition, with regard to the non-designated park and garden or listed building, the assessment concluded no direct effects. Other matters upon which the agent has commented in response to the landscape adviser’s returned advice are available to view using the Online Planning Register by clicking [here](#) or referring to the document list and selecting document: ‘[170206_NY20100356ENV_Ltr from Agent to NYCC](#)’ within the register. However, in response to recommendations A to D within the landscape adviser’s consultation response, the agent’s response is summarised as:

- A - consider the information provided to support the application to be of sufficient detail to be able to determine the acceptability of the proposals;
- B – such a framework forms part of the proposals;
- C – “*there is sufficient land in the area proposed to be managed in the long term to more than offset any adverse landscape effects of the development*” and, furthermore, cannot be included within the draft S106 legal agreement as the land lies outwith the control of the applicant company; and,
- D – the removal of ‘Killerby West’ is considered by the applicant company to be unreasonable, without justification and, furthermore, its inclusion will ensure the site’s ability to contribute to mineral supply in the context of the Local Plan.

Having had sight of the aforementioned agent letter of [6th February 2017](#), the County Council’s own in-house adviser on landscape matters further commented maintaining earlier expressed concerns with regard to the extent

of quarrying in the area referred to as 'Killerby West', an apparent, in their opinion, "lack of attention to local landscape character" in the applicant's submission and later further expanded upon earlier made recommendations.

4.22 **NYCC – Public Rights of Way (PRoW) Team** – on [17th January 2011](#), stated the application site and surrounding area is "poorly served by public rights of way" and noted that both the A1(T) and the River Swale create barriers that are considered to be difficult for users to cross, particularly horse riders and, therefore, the PRoW network would be affected by the proposed development i.e. "footpath 10.78/1/1 crossing the site ending short of Killerby Hall". However, an opportunity exists whereby the proposed development could result in the creation of new accesses and develop links to the wider PRoW network within the area, including the Ellerton site, north of the river. It therefore recommended the following:

- the proposed new bridleways should be a minimum of 3 metres in width and surfaced to a standard agreed with the Highway Authority;
- gates should be a minimum of 1.5 metres wide between the posts and provide access for a horse;
- structures that cross watercourses need to be constructed to the satisfaction of the County Council's Bridges Engineer;
- a commuted sum of money for the maintenance of the surface of the proposed PRoW and associated structures, covering a period of not less than 50 years;
- a new crossing of the River Swale, which includes equestrian access through the site, linking it to the "wider rights of way / quiet lane network"; and,
- create a route along the river edge to the edge of the application site North of Killerby Hall, to help improve connectivity with Catterick Village.

On [28th October 2014](#), it was confirmed that the existing PRoW network within the application site must be protected and remain clear of obstruction "until such time as any alternative route has been provided and confirmed under an Order made under the Town and Country Planning Act 1990".

4.23 **NYCC adviser on archaeological matters** – on [17th January 2011](#) noted that, in terms of prehistoric activity, the application site is situated within an area of "high potential for early prehistoric activity" and welcomed the approach taken by the applicant company's archaeological consultant. With respect to activity from the Mesolithic period, due to the known Mesolithic site of Killerby Mires, it is expected that the applicant company could provide some consideration of the archaeological activity found during the evaluation of the site. Due to the "significance of the of the Killerby Mires site", it considered it important to obtain additional information surrounding the "potential and significance of the resource within the proposed extraction area" and, therefore, welcomed a discussion with the applicant company as to the appropriate techniques that should be applied and the degree of this further work. It noted that English Heritage had previously advised that "the whole of the Mesolithic activity/

occupation site will need to be thought of holistically, and if any development were to be approved, mitigation would be required for the whole of the archaeological site, irrespective of the redline boundary". The expressed greatest concern was that of the proposals for direct access to the A1(T) which had *"not been evaluated beyond the single trench evaluated as part of the archaeological evaluation associated with the A1 up-grade"*; especially the single trench having revealed highly significant Mesolithic remains. Therefore, due to the low level of information available, it had not been possible to assign a level of significance to the remains, *"although it can be stated that this is of at least regional importance"* and *"before this application can be progressed, further archaeological evaluation in this area is required"*. The actual *"extent of the Mesolithic activity needs to be established alongside the archaeological potential and significance"*. The response advised liaison between the applicant company and those involved with the A1 improvement works. The applicant company was recommended that it should *"develop an understanding of the character, history and evolution of the local landscape, which would enable fuller appreciation of sensitivity and character and thus assist in understanding the impact of the proposals"* and encouraged liaison with English Heritage as well as NYCC adviser on archaeological matters.

- 4.24 On [28th October 2014](#), it was confirmed that, in respect of the additional archaeological information that was submitted, *"the significance of the expected archaeological resource has been determined, and that the level of harm has been established as acceptable"*. It requested that the *Written Scheme of Investigation (WSI)* that accompanied the ES (July 2010) should be updated so that any proposed mitigation that is proposed from the applicant company meets the current relevant standards and guidance. The response also noted that this document could then form the basis of a planning condition. A [further response on 25th November 2015](#) confirmed the revised WSI to be *"generally acceptable"*. This was followed on [27th January 2015](#) by recommended conditions:
- assuring that development is carried out in accordance with the WSI;
 - notification upon completion of the archaeological mitigation fieldwork; and
 - requiring the production of a report, comprising an assessment of the archaeological remains recovered from the site and an outline of the subsequent programme of analyses, publication and archiving.

No further or additional comments above those previously made were offered in response to *the 2016 consultation*.

- 4.25 **NYCC Arboricultural Officer** – on [22nd December 2016](#) offered no comments in respect of *the 2016 consultation*.
- 4.26 **Northern Gas Networks** - in its response, dated 12th November 2010, Northern Gas Networks draw attention to an existing natural gas pipeline that runs across part of the application site and that discussion would be had

regarding its “*diversion prior to the extraction of minerals in the area around the pipeline easement*”.

4.27 **Environment Agency** - on [16th January 2015](#) raised no objection to the proposed development, but recommended conditions covering the following:

- flood-risk conditions:
 - *the site office shall be located within Flood Zone 1;*
 - *any soil storage heaps shall either be located in Flood Zone 1 or in a location where satisfactory compensatory storage has been created; and*
 - *any soil storage heaps located in Flood Zone 3 shall have level for level compensatory storage provided.*
- flood-risk informatives:
 - the proposed works within the application site must be carried out in accordance with the submitted *Flood Risk Assessment (FRA)*;
 - recommend that the applicant company signs up to the Flood Warnings Direct service;
 - consent is required for works affecting a main river/ flood defence, under the Water Resources Act 1991, meaning consent would be required for the two proposed bridges over the main river and the removal of the section of defence for the restoration phase of ‘*Killerby East*’; and
 - consent would be required any proposed works affecting ordinary watercourses and for any input of surface water into the drainage system.
- groundwater conditions:
 - a *Hydrogeological Risk Assessment* should be submitted to the County Planning Authority prior to any development;
 - a scheme should be submitted, which considers dewatering; protection of licensed sources; maintenance of spring-fed flows; and the monitoring of surface water and groundwater;
 - a scheme should be submitted, providing details of the storage of materials and chemicals on-site, method of working, phasing of working, phasing of the development, after-care, landscaping, and details of road and wheel cleaning facilities; and
 - oil interceptor(s) prior to discharge of water to the drainage system would be required.
- groundwater informatives:
 - any activities that can adversely affect groundwater must be considered, including physical disturbance of the aquifer; and
 - the guidance document ‘*Groundwater Protection: Principles and Practice*’ (GP3) described the approach that should be taken to the management and protection of groundwater.

The response confirmed these potential risks could be managed subject to the inclusion of suggested conditions in relation to groundwater.

In terms of biodiversity, the response stated “*there is little information provided with regard to the scale of biodiversity enhancements, or the timescales for their delivery and management*”.

- biodiversity conditions:
 - there is little information provided with regard to the scale of biodiversity enhancements, or the timescales for their delivery and management. As such, conditions should be included in any planning permission.

The response also clarified that discussions would be necessary in respect of any Environmental Permit under the Environmental Permitting Regulations.

Informatives were also recommended regarding:

- if an Environmental Permit for water discharge activity were to be required, then they would be advised to contact the National Permitting Service;
- recommend regard be had to the *Swale, Ure, Nidd and Ouse (SUNO) Catchment Abstraction Management Strategy (CAMS)*;
- the principle of compensating the potential reduction in baseflow (due to dewatering) with a discharge from the settlement lagoon is accepted. However, the “*applicant company would have to ensure that they comply with the aims and objectives of the Water Framework Directive by not causing deterioration of the water bodies*”;
- the applicant company as a waste producer has a duty of care to ensure all materials removed go to an appropriate permitted facility and all relevant documentation is completed and kept in accord with regulations; and
- the applicant company should be satisfied that any proposed domestic foul drainage should comply with the requirements of Department of the Environment, Transport and the Regions (DETR) Circular 03/99 (as amended).

In response to consultation on a specific matter with regard to river erosion, the Agency advised that “*the erosion that is currently occurring on the river bank is a natural process and as such is the responsibility of the riparian owner*”, but nevertheless informed the County Planning Authority that “*any bank strengthening works or works to the River Swale are likely to require a permit under the Environmental Permitting (England and Wales) Regulations 2010 from the Environment Agency for any proposed works or structures, in, under, over or within eight metres of the top of the bank of the River Swale, designated a ‘main river’*”.

- 4.28 **Hackforth and Ainderby Mires and Holtby Parish Council** – on [27th October 2014](#), confirmed no comments on the application.
- 4.29 **Kirkby Fleetham with Fencotes Parish Council** - pointed to “*serious errors*” in the *Transport Statement* (May 2014) of the ES relating to the applicant company’s description of directions. The response also questioned the data

used and the findings of the *Transport Statement* (May 2014), claiming it to be “*misleading*”.

- 4.30 **North Yorkshire Local Access Forum** – proposed on [25th January 2017](#) that consideration be given to the retention of one of the proposed river crossings following the cessation of mineral extraction for public access purposes.

5.0 **ADVERTISEMENTS AND REPRESENTATIONS**

5.1 The application was first advertised on 28th October 2010 by the erection of Site Notices and a Press Notice in the Darlington & Stockton Times on 26th October 2010. Neighbour notification letters were also sent to the occupants of nearby properties on 28th October 2010 and County Councillor Mr Arthur Baker and County Councillor Mr Carl Les have been notified of the application submissions during the course of the processing of the application.

5.2 Following the receipt of further environmental information received in the months of June, August and October 2014 a second round of consultation, including notification letters to neighbours and County Councillors as well as the posting of a Press Notice, on the 24th October 2014, and the erection of Site Notices on the 15th October 2014. This further information comprised:

- further archaeological investigation, specifically an ‘*Archaeological Evaluation of Peat Deposit, Killerby Prospect, North Yorkshire*’ (October 2012);
- a *Transport Statement* (May 2014);
- revised Transport Chapter of the Environmental Statement;
- revised ‘*Ecological Baseline Update Survey*’ and ‘*Bird Management Strategy*’ (BMS) (July 2014);
- ‘*Proposed Area of long-term Management Plan*’ (July 2014); and,
- revised ‘*Restoration Masterplan*’ (Rev C, April 2013).

5.3 Following advertisement of the proposed development, representations have been received from the local community raising concerns with regards the proposed development; one of which has subsequently been formally withdrawn having received satisfaction. A summary of the issues contained within the responses are set out below:

- *Land outside of the control of the applicant company*
 - the previous occupants of Killerby Hall “*remain open to negotiation*” with the applicant company for access over their land, which negates the need for bridges over the River Swale;
 - they would not enter into a S106 “*to leave land north of Killerby Hall restored to open water*” requesting the land be restored to agricultural use; and

- noted that proposed tree planting to the “*north west of the extraction area*” would fall outside of the applicant company’s ownership.
- *Traffic and Accessibility*
 - concerned over the access given the fact that the proposed A1 upgrade works were not going ahead¹³;
 - the access to Broad Close Cottage would be affected; an access that was required by the previous occupants of Killerby Hall (via proposed sub-Phase 5D) for farm access. A loss of access would necessitate associated farm traffic to exit onto the A1; and
 - concerned that the “*HGV route described via Leeming Bar would apply to normal motorists as well*”.
- *Planning Policy*
 - questioned why the proposed development wasn’t “*confined to the Area of Search*”.
- *Proposed Mitigation*
 - inadequate screening within the site was thought in the view of the previous occupants of Killerby Hall to result in potential adverse impact upon their amenity and that of other neighbours; and
 - there was limited provision for advance planting and a lack of proposed planting to replace the “*loss of a strip of woodland on the east of Killerby Farm*”.
- *Restoration*
 - concerned that erosion on the banks of the River Swale could potentially result in the banks breaking, with the resultant water flooding the proposed lake and ultimately flooding Killerby Hall and therefore suggesting this part to be restored to agricultural land instead.
- *Processing*
 - the proposed processing of material from Ellerton Quarry should not take place, which would “*minimise disturbance of Killerby Hall*” and negate the need for the proposed bridges over the River Swale; and
 - assurance was sought on behalf of the previous occupants of Killerby Hall from the applicant company to monitor the structural soundness of buildings at the site and that compensation should result from any loss in value.
- *Hydrology*

¹³ This represented the position in relation to the planned A1 upgrade at the time that the representation was submitted

- the applicant company is obliged to supply water to livestock and thereby “*compensate [the previous occupants of Killerby Hall] for use of water from a mains supply*”;
 - additional information was requested in relation to the proposed raising of land within the site and its potential implications on flood risk;
 - concern was raised from West Lowfield Farm that the applicant company’s intention to allow water to flow from the River Swale “*into the hole created by the extraction*” would increase the risk of flooding to North Lowfield Farm, adjacent cottage and Kirkby Hall; and
 - concerned about the potential impact upon the water table, “*which could damage the quality of surrounding agricultural land*”.
- *Plant and Machinery*
 - Questioned the justification for the location of the proposed processing plant area within close proximity to Killerby Hall stating this should be relocated further east within the proposed quarry.
- *Residential Amenity*
 - concerned about potential noise impacts, stating that the “*noise assessment is a prediction*” and questioned how noise levels would be monitored;
 - questioned why “*guidance noise levels will be exceeded (in relation to periods of excessive noise generating activities)*”; and
 - pointed to a lack of reference to potential impacts on air quality and questioned whether there will be “*monitoring of on-site dust mitigation measures in place*”; seeking assurances that the applicant company had adequate monitoring measures in place.

5.4 A letter, dated [14th March 2012](#), to the applicant company on behalf of the County Planning Authority, set out suggested actions to address the representations and the issues they had raised. Appendix A of the letter provided a summary of the issues raised by local residents during the first round of neighbour notification.

5.5 The agent representing the applicant company responded to this correspondence, in a letter dated 26th March 2012. This response provided clarification of details on certain topics raised from the local community resulting from the first round of neighbour notifications. The agent’s response in this case covered the following topics:

- potential land ownership agreement with the previous occupants of Killerby Hall in relation to the overland movement of sand and gravel to the proposed Plant Site;
- the functional requirements of the proposed bridges;
- boundary tree planting and on-site screening as part of proposed mitigation and the ownership of the associated land;
- maintained access to Broad Close Cottage;

- alternatives considered within the ES relating to the proposed restoration of the site;
- justification for the location of the processing plant area and associated visual and landscape mitigation;
- revisions to the proposed *Restoration Masterplan* to take into account consultation responses, in relation to indicating the extent of undisturbed woodland, and shingle banks along the River Swale; the introduction of alder willow carr in place of reeds; and not reinstating hedgerows around the southern proposed lake in order to “*maintain the openness*” of this part of the application site;
- justification for processing material extracted from Ellerton Quarry and the associated traffic implications of omitting the need “*for vehicle movement on the B6271 which has been a long term issue with residents along this road*”;
- with regard to potential structural damage, the proposed operations would be located at a sufficient distance from Killerby Hall such that it was considered structural damage was “*not likely to occur*”.
- overburden mounds are temporary and the applicant company did not intend to raise the land permanently in proximity to Killerby Farm;
- floodbank defences to the River Swale would be maintained and the EA had identified “*the potential of Killerby East Lake to contribute to flood water storage and flood alleviation of areas downstream of the site and would lessen the risk to Kirkby Hall*”;
- the potential impacts of dewatering and groundwater monitoring had been assessed within the ES (July 2010);
- noise had been assessed on “*information provided by the equipment manufacturers*” and the applicant company would establish a Liaison Group for Killerby Quarry;
- the proposed routing for HGV’s from the quarry would be directed southbound on the A1 to Leeming Bar;
- the postponed upgrade of the A1 did not alter the proposed access to the application site and the proposed junction designed in accordance with appropriate standards;
- the Area of Search had been identified by the County Planning Authority in the North Yorkshire Minerals Local Plan (NYMLP) (adopted 1997) to “*make provision for sand and gravel resources*”; and
- the potential for dust from the proposed development “*would be actively controlled through rigorous site management in accordance with Tarmac’s Environmental Management Policy*”.

5.6 In response to the letter from the agent, representations, sent on behalf the previous occupants of Killerby Hall, were received by the County Planning Authority comprising:

- acknowledged the applicant’s agent’s confirmation that “*no tree planting is proposed on the surface owned by the previous occupants of Killerby Hall*”;

- considered “*that a resolution can be found by better use of earth banking before planting*”;
- they enjoyed “*an unencumbered vehicular right of access south from Killerby Hall to access the road network adjacent to Broad Close Cottage*”. However, they were “*prepared to discuss alternatives to this route with Tarmac, but it is required for farm traffic which otherwise has to exit the farm onto the road network using the existing A1, with consequent highway implications*”;
- they did not agree with the proposed restoration proposals for ‘Killerby West’ and would “*not be party to a section 106 agreement which does not restore this land to agricultural use*”, noting that the agent had “*not addressed the implications of creating more open water within the protection zone of RAF Leeming*” and had “*not addressed the concerns that the River Swale will erode and eventually flood the adjacent land once it lies at a lower level*”;
- the agent hadn’t addressed “*the concerns of the adjacent residential occupants*”;
- proposed that “*the strip of woodland on the on the east side of Killerby Farm which falls into extraction area 2b is retained*”;
- maintained that proposed material from Ellerton Quarry should remain at Ellerton to avoid the need for the proposed bridges over the River Swale;
- the agent hasn’t addressed “*how fuel, supplies, and staff will access this area, but only comments that it will not arrive over the River bridge*” and they stated that “*access to the A1 west of Killerby Farm is unsuitable for the type and volume of access proposed and further details are required*”.
- sought reassurances “*over the maintenance of a water supply*”;
- remained concerned over potential structural damage to Killerby Hall and “*other adjacent residential properties*”; and
- still required an assessment of the potential impact on land drainage within the area.

5.7 On 14th June 2013, correspondence was also received on behalf of the owners of Broad Close Farm and the occupants of Broad Close Farmhouse and associated buildings. The letter confirmed that “*there is no contractual relationship*” with the occupants with regard to potential effects upon the buildings from the proposed development. The correspondence also raised the potential for noise disturbance on the properties in question from the proposed Plant Site and associated processing activities.

5.8 A further representation (dated 6th January 2017) in respect of the proposed development was received by the County Planning Authority on 9th January 2017 followed by a supplementary dated 23rd January 2017 raising the following issues:

- property values and recent property purchase;
- working & restoration schemes;
- RAF Leeming;

- employment;
- traffic;
- noise and dust effects upon residential properties;
- agricultural land classification and food production;
- public access and early public benefit;
- potential company failure;
- necessity/principle of the development;
- consultation process; and,
- ecology and access.

6.0 PLANNING GUIDANCE AND POLICY

6.1 Our planning system is a plan-led system. Section 38 (6) of the Planning and Compulsory Purchase Act 2004¹⁴ places a duty upon the decision-maker to ensure that planning applications are determined in accordance with the Development Plan, unless material considerations indicate otherwise. In considering the application, other material considerations need to be taken into account. Such other important considerations include other relevant policy and guidance, particularly national planning policy in the National Planning Policy Framework (NPPF) and other relevant Government policy statements, as well as that which is provided within the National Planning Practice Guidance (NPPG). Where relevant, key policy and guidance to the determination of this application is identified in this section of the report.

The Development Plan

6.2 In this particular instance, the *Development Plan* comprises the ‘saved’ policies of the [North Yorkshire Minerals Local Plan](#) (NYMLP) (insofar as having been ‘saved’ by Direction of the Secretary of State in 2007) and the extant policies of these two areas; namely, those within the adopted [Richmondshire Local Plan](#) (2014) and the adopted *Hambleton Development Plan* comprising [the Core Strategy](#) (2007), [Development Policies](#) Development Plan Document (DPD) (February 2008), and [Allocations Plan](#) DPD (2010).

6.3 The consideration of local development plan documents relating to two administrative areas, namely Richmondshire and Hambleton, arises due to the planning application area straddling the boundary between the two local planning areas.

6.4 Where Local Plans have not been updated to take into account the policies in the NPPF, as is the case with the North Yorkshire Minerals Local Plan ‘saved’ policies, due weight should be given to relevant policies in such plans according to their degree of consistency with the Framework (that is to say, the closer the policies in the Local Plan to the policies in the Framework, the greater the weight that may be given) (Paragraph 215 of the NPPF refers). As such, the relevant ‘saved’ policies of the NYMLP have been reviewed in light

¹⁴ Planning and Compulsory Purchase Act: 2004 Chapter 5.

of the policies of the NPPF in order to determine their relevance to the assessment of the current proposal. It is considered that the relevant 'saved' policies of the NYMLP are broadly consistent with the aims of the NPPF.

6.5 Members are asked to note that, where appropriate to do so, extracts rather than full reproduction of policy text has been used for the purpose of the preparation of this report. Should Members wish to read the full text of the policies themselves and their reasoned justification, the weblinks to the documents in which they are contained are provided below:

- [North Yorkshire Minerals Local Plan](#) (policies 'saved' by Direction 2007);
- [Richmondshire Local Plan 2012-2028 Core Strategy](#) (adopted 9th December 2014);
- Hambleton Development Plan Documents (DPDs) which comprise:
 - [the Core Strategy](#) (2007);
 - [Development Policies DPD](#) (February 2008); and,
 - [Allocations Plan DPD](#) (2010).

North Yorkshire Minerals Local Plan 'saved' policies

6.6 The Planning and Compensation Act (1991) placed a duty on each County Council in England and Wales to prepare a Minerals Local Plan. The North Yorkshire Minerals Local Plan was adopted in 1997 under the 1991 Act. In the absence of an adopted Minerals Core Strategy and, in accordance with the provisions of the Planning and Compulsory Purchase Act 2004, as of 27th September 2007 only the 'saved' policies continue to form part of the statutory 'Development Plan' and provide an important part of the current local planning policy framework for development control decisions for minerals-related development.

6.7 The principal relevant 'saved' policies of the NYMLP comprise:

- *mineral extraction and resource protection:*
 - 'saved' Policy 3/2 Preferred Areas;
 - 'saved' Policy 3/3 Areas of Search;
 - 'saved' Policy 3/4 Other areas;
- *environmental considerations:*
 - 'saved' Policy 4/1 determination of planning applications;
 - 'saved' Policy 4/6a local nature conservation & habitat protection;
 - 'saved' Policy 4/10 water protection;
 - 'saved' Policy 4/13 traffic impact;
 - 'saved' Policy 4/14 local environment and amenity;
 - 'saved' Policy 4/15 public rights of way;
 - 'saved' Policy 4/16 secondary and ancillary facilities;
 - 'saved' Policy 4/18 restoration; and,
 - 'saved' Policy 4/20 after-care.
- *aggregate minerals:*
 - 'saved' Policy 5/1 sand and gravel landbanks

6.8 'Saved' Policy 3/2 ('Preferred Areas') states "in order to maintain landbanks of permitted reserves, proposals for aggregates mineral working in Preferred

Areas will be regarded as acceptable in principle. Satisfactory details will have to be submitted before planning permission can be granted”.

- 6.9 The NPPF states that planning authorities “*should plan for a steady and adequate supply of aggregates by making provision for the land-won and other elements of their Local Aggregate Assessment in their mineral plans taking account of the advice of the Aggregate Working Parties and the National Aggregate Coordinating Group as appropriate*”. It then states that “*such provision should take the form of specific sites, preferred areas and/or areas of search and locational criteria as appropriate*”. It is, therefore, considered that this ‘*saved*’ policy is consistent with the NPPF.
- 6.10 **‘*Saved*’ Policy 3/3** (‘*Areas of Search*’) states planning permission “*may be granted for aggregate mineral working within Areas of Search where the Mineral Planning Authority is satisfied that sufficient mineral cannot be obtained from the Preferred Areas*”.
- 6.11 The supporting text to this ‘*saved*’ policy also states that the “*County Council considers that limited extraction around an existing quarry can be acceptable in principle to avoid either sterilising a resource or re-starting working at a later date after mineral working in the existing quarry has ceased. Such proposals will need to be assessed against the other policies in the Plan*”.
- 6.12 As discussed above, in relation to ‘*saved*’ Policy 3/2, the NPPF advocates a “*steady and reliable supply of aggregates*” and upon review, it is considered that this ‘*saved*’ policy is also consistent with the NPPF.
- 6.13 **‘*Saved*’ Policy 3/4** (‘*Other Areas*’) states that outside ‘*preferred areas*’ and ‘*areas of search*’, “*planning permission for aggregate mineral working will normally only be granted for borrow pits and small-scale extensions to existing sites*”.
- 6.14 Again, as with ‘*saved*’ Policy 3/3 discussed above, it is considered that the principal of this ‘*saved*’ policy is consistent with the aims of the NPPF in maintaining a supply of aggregates and is therefore in keeping with the aims of the NPPF.
- ‘environmental considerations’*
- 6.15 **‘*Saved*’ Policy 4/1** establishes (in addition to the focus of ‘*saved*’ policies 4/6a, 4/10, 4/14 and 4/15) the criteria against which applications for minerals-related development are to be assessed as follows:
- (a) the mineral deposit on the application site has been fully investigated;*
 - (b) the siting and scale of the proposal is acceptable;*
 - (c) the proposed method and programme of working would minimise the impact of the proposal;*
 - (d) landscaping and screening has been designed to effectively mitigate the impact of the proposal;*
 - (e) other environmental and amenity safeguards would effectively mitigate the impact of the proposals;*

- (f) the proposals and programme for restoration are acceptable and would allow a high standard to be achieved;*
- (g) a high standard of aftercare and management of the land could be achieved;*
- (h) the proposed transport links to move the mineral to market are acceptable;*
and
- (i) any cumulative impact on the local area resulting from the proposal is acceptable”.*

- 6.16 While the NPPF is silent in respect of the matters raised at criteria (a), (b), (c), and (d), Paragraph 144 of the NPPF empathises with criterion (e) in stating that *“when determining planning applications, local planning authorities should ensure that any unavoidable emissions or vibrations are controlled or mitigated (if it is not possible to remove them at source)”*. It is, therefore, considered that this criterion of the ‘saved’ policy is consistent with the NPPF and can therefore be given weight. Criteria (f) and (g) are reflected within Paragraph 144 of the NPPF in requiring provision for *“restoration and aftercare at the earliest opportunity to be carried out to high environmental standards, through the application of appropriate conditions, where necessary”* which ensures consistency with the NPPF. With regard to criterion (h), there is no conflict with the NPPF, but Paragraph 32 of the NPPF goes beyond this by seeking decisions which take into account whether improvements to the transport network can be undertaken that cost effectively limit the significant impacts of a proposed development going further still to indicate that development should only be prevented or refused on such grounds where the residual cumulative impact would be severe. Therefore, the NPPF is to be given more weight than criterion (h). Finally, criterion (i) is consistent with Paragraph 144 of the NPPF in taking into account cumulative effects of multiple impacts from individual sites and/or effects from a number of sites in a locality.
- 6.17 **‘Saved’ Policy 4/6a** consistent with Paragraph 109 of the NPPF (which encourages contributions to and enhancement of the natural and local environment by reducing biodiversity impacts) seeks to *“protect the nature conservation or geological interest of Local Nature Reserves and of other sites having a nature conservation interest or importance, and will have regard to other wildlife habitats”*.
- 6.18 **‘Saved’ Policy 4/10**, again consistent with Paragraph 109 of the NPPF, seeks to ensure only proposals which do not pose unacceptable surface or groundwater resource impacts are permitted and is, furthermore, consistent with Paragraph 143 of the NPPF which states that *“...local planning authorities should: set out environmental criteria, in line with the policies in this Framework, against which planning applications will be assessed so as to ensure that permitted operations do not have unacceptable adverse impacts on... the flow and quantity of surface and groundwater and migration of contamination from the site”*.
- 6.19 **‘Saved’ Policy 4/13** considers the potential of traffic impact when considering new development proposals. In particular, the ‘saved’ policy states that *“mining operations [...] will only be permitted where the level of vehicle movements likely to be generated can be satisfactorily accommodated by the local highway*

network". When assessing this policy's consistency with the NPPF there are differences in objectives. Paragraph 32 of the NPPF specifically states that improvements to the transport network should be considered and it is, therefore, considered that the NPPF should be given more weight than this 'saved' NYMLP policy.

- 6.20 **'Saved' Policy 4/14** considers proposed development against potential impacts on the local environment and amenity requiring proposals to be permitted "*only where there would not be an unacceptable impact on the local environment or residential amenity*". Again, this is consistent with Paragraph 109 of the NPPF which requires proposals do not give rise to an unacceptable impact upon the local environment or residential amenity and, similarly, Paragraph 144 of the NPPF requires authorities to "*ensure, in granting planning permission for mineral development, that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality*".
- 6.21 In instances where a proposed development would give rise to the interruption, obstruction or conflict with a public right of way (PRoW), 'saved' Policy 4/15 states it would "*only be permitted where satisfactory provision has been made in the application for protecting the existing right of way or for providing alternative arrangements both during and after working*". This policy's consistency with the NPPF can be found within Paragraph 75 which states that "*policies should protect and enhance public rights of way and access*" and that "*opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails*" should be sought.
- 6.22 **'Saved' Policy 4/16** considers the environmental implications of ancillary aspects of development upon the environment, which in the case of this application would include the proposed conveyor system and processing plant. The 'saved' policy states that proposals will be expected to be "*sited, designed and maintained so as to minimise the impact on the environment and local amenity. The use of plant, machinery and buildings will be restricted to processes primarily using minerals produced from the site. Permission will normally be limited to the permitted life of the site for mineral extraction*". Similar to the considerations in respect of 'saved' Policy 4/14 above, 'saved' Policy 4/16 is considered to be consistent with the NPPF.
- 6.23 **'Saved' Policy 4/18** is also considered relevant to this application given the proposed restoration to agricultural land (in part). The Policy states, where agriculture is the intended primary afteruse, "*the proposed restoration scheme should provide for the best practicable standard of restoration. Such restoration schemes should, where possible, include landscape, conservation or amenity proposals provided that these do not result in the irreversible loss of best and most versatile land*". Policy consistency with the NPPF is achieved when one considers Paragraph 144 of the NPPF which states, when determining planning applications, local planning authorities should "*provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards, through the application of appropriate conditions, where necessary*".

It is considered that the principle of what the policy says in relation to restoration of land to agricultural use is relevant and renders the 'saved' Policy, NPPF-consistent.

- 6.24 Embedded within policy for minerals development proposals is the long-term after-care of sites, 'saved' Policy 4/20 is engaged in this instance with a proposed agricultural after-use. The after-care requirement seeks to "*bring the restored land up to an approved standard for the specified after-use. Normally this requirement will run for a period of five years following restoration*" and, like 'saved' Policy 4/18, above is also consistent with Paragraph 144 of the NPPF.

Aggregate minerals

- 6.25 '**Saved** Policy 5/1 relates to the future demand for sand and gravel within the county and states that the County Council "*will identify three landbanks for calculating sand and gravel provision, as follows:-*
- a) *Sand and gravel (Northwards);*
 - b) *Sand and gravel (Southwards); and*
 - c) *Building sand.*
- In determining which of the landbanks for sand and gravel a site falls within, the County Council will take into account the geographical location of the site and the likely external markets for the material*".

- 6.26 The 'saved' policy is also policy in keeping with the aims of the NPPF in maintaining a supply of aggregates and so is therefore considered to be NPPF-consistent.

Richmondshire Local Plan (2014) (relevant insofar as the former Ellerton site)

- 6.27 While this policy document contains no policies directly relating to planning decisions in respect of minerals and/or waste-related development proposals which are 'county matters', it nevertheless forms an integral part of the relevant *Development Plan* against which the current application must be assessed.

- 6.28 The Richmondshire Local Plan 2012-2028 Core Strategy was adopted on 9th December 2014 and provides the long-term strategic vision for how the District will be shaped by setting out a number of broad policies to guide development.

- 6.29 The policies considered of most relevance to determining this particular application comprise:
- Policy CP1 Planning positively;
 - Policy CP2 Responding to climate change;
 - Policy CP3 Achieving sustainable development;
 - Policy CP11 Supporting community, cultural and recreational assets;
 - Policy CP12 Conserving and enhancing environmental and historic assets;
 - Policy CP13 Promoting high quality design

- 6.30 **Policy CP1** of the Core Strategy states that "*when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicant companys jointly to find solutions which mean that proposals can be approved*

wherever possible, and to secure development that improves the economic, social and environmental conditions in the plan area.

Planning applications that accord with the policies in this Local Plan... will be approved without delay, unless material considerations indicate otherwise.

Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise - taking into account whether:

- *any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework, taken as a whole;*
- *specific policies in that Framework indicate that development should be restricted”.*

6.31 Part 3 of **Policy CP2** considers climate change adaptation and states that:

“All new development will be expected to be adaptable to climate change in terms of both its location and the specific design and layout of buildings and associated external spaces. Development proposals should: ...

c. be steered away from flood risk areas by adopting a sequential approach as set out in prevailing national guidance

d. be designed to minimise flood risk on-site and elsewhere, by:

- *incorporating Sustainable Drainage Systems (SuDS) unless they aren't demonstrated to be impracticable or they will pose an unacceptable pollution risk. SuDS should minimise surface water flood risk, protect waterways and provide aesthetic and ecological benefits*
- *not building over or culverting watercourses unless it is to facilitate essential access*
- *encouraging the opening of existing culverts. ...*

e. show how development will seek to minimise waste production”.

6.32 **Policy CP3** sets out criteria from which developments will be assessed to determine levels of sustainability. This policy states that:

1. Support will be given for sustainable development which promotes:...

c. the health, economic and social well-being, amenity and safety of the population...

e. the quality of natural resources including water, air, land and biodiversity and minimises the impacts of airborne pollution...

f. the protection of the best and most versatile agricultural land

g. the natural drainage of surface water mitigating the effects of flash flooding of rivers, drains and drought...

j. the character and quality of local landscapes and the wider countryside...

l. the historic, environmental and cultural features of acknowledged importance. ...

3. Development will be encouraged to utilise previously developed land first (brownfield land), where that land is in a sustainable location and is not of high environmental value, in preference to greenfield sites. The use and development of land will be assessed against the community's housing, economic and social requirements. The sustainability and enhancement of the natural and built environment, minimisation of energy consumption and the need to travel will also be key factors. Development that would

significantly harm the natural or built environment, or that would generate a significant adverse traffic impact, without appropriate mitigation, will not be permitted”.

6.33 **Policy CP11** seeks to protect Richmondshire’s community, cultural and recreation assets. This policy specifically states that:

1. *“Support will be given to proposals that help create, protect, retain or enhance community, cultural and recreational assets (land and/or buildings) that:*

c. provide additional assets...

3. *All new development will be expected to:*

a. plan positively to ensure the provision and integration of sufficient quality community, cultural and recreational assets for existing and future occupiers and recreational facilities, including formal and informal, equipped and unequipped areas for open space, sport and recreation and links to Public Rights of Way”.

6.34 **Policy CP12** states *“Development or other initiatives will be supported where they conserve and enhance the significance of the plan area’s natural and man-made, designated or undesignated assets. Development will not be supported which:*

a. has a detrimental impact upon the significance of a natural or man-made asset; and

b. is inconsistent with the principles of an asset’s proper management.

Environmental Assets

Where avoidance of adverse impacts is not possible, necessary mitigation must be provided to address any potential harmful implications of development. Where adequate mitigation measures are not possible, compensatory measures will be required. This approach will apply to specific assets as follows:...

b ...the landscape character of the plan area will be maintained, enhanced and, where appropriate, restored to ensure a sustainable future for the natural and historic environment

c the biodiversity and geodiversity of the plan area will be maintained, enhanced and, where appropriate, restored to ensure a sustainable future for the natural environment in support of the Yorkshire and Humber Regional Biodiversity Strategy, the North Yorkshire Biodiversity Action Plan, the Richmondshire Biodiversity Action Plan and the Humber River Basin Management Plan. Particular support will be given to initiatives to improve the natural environment where it is poor and lacking in diversity

d the green infrastructure network of the plan area will be protected and, where appropriate, enhanced to provide a high quality, accessible, diverse and well-connected network of green space to meet the needs of the community, businesses and visitors. The key green infrastructure network includes:

iii ...corridors of green space, recreation areas and trees which flow through urban areas (particularly Catterick Garrison and Leyburn)...

vii ...woodlands, scrubland, grassland, wetland, running water, wasteland, open land and parks and gardens, river banks, cycleways and the Public Rights of Way network

viii sites important for biodiversity and geodiversity ...”.

Historic Assets

1. *Those elements which contribute to the significance of the heritage assets across the Plan area will be conserved and, where appropriate, enhanced...*
2. *Where a proposal is likely to result in harm to the significance of a designated heritage asset and there are compelling reasons for allowing that development, opportunities will be sought to offset this harm by ensuring that other elements which contribute to the significance of that particular asset are enhanced or their significance better revealed”.*

- 6.35 **Policy CP13** relates to design and seeks to ensure that high design standards are maintained throughout the district. Specifically this policy states that “*high quality design of both buildings and landscaping is a priority in all development proposals. Support will be given for proposals that:*
- b. respect and enhance the local context and its special qualities, including its design features, landscape, social activities, historic environment and nationally and locally recognised designation.*
 - c. optimise the potential of the site”.*

Hambleton District Development Plan (relevant insofar as the area south of the river)

- 6.36 While the documents comprising *the Development Plan* prepared by Hambleton District Council contain no policies directly relating to planning decisions in respect of minerals and/or waste-related development proposals which are ‘*county matters*’, they nevertheless form an integral part of the relevant *Development Plan* against which the current application must be assessed. The documents contain general development management policies and a number are relevant to the determination of this application.

- 6.37 The statutory *Development Plan* for Hambleton comprises the Hambleton Core Strategy (2007), the Development Policies DPD (2008) and the Allocations DPD (2010) all of which were adopted before publication of the NPPF in 2012. However, they can be taken for the purpose of this Committee Report to be the Local Planning Authority’s most up-to-date Development Plan policy to be used when determining planning applications. In the absence of an NPPF compliance statement prepared by Hambleton District Council, this Committee Report has undertaken an assessment of the relevant policies against the NPPF, in accordance with Paragraph 215 of the NPPF.

Hambleton Core Strategy (2007)

- 6.38 The Core Strategy policies considered of most relevance to determining this particular application comprise:
- Policy CP1 Sustainable development;
 - Policy CP16 Protecting and enhancing natural and man-made assets;
 - Policy CP17 Promoting high quality design;
 - Policy CP19 Recreational facilities and amenity open space;
 - Policy CP21 Safe response to natural and other forces.

- 6.39 Core Strategy **Policy CP1** looks at meeting local development needs in a sustainable way. In particular, it states that “*the use and development of land will be assessed against the community’s housing, economic and social*

requirements, protection and enhancement of the natural and built environment and minimisation of energy consumption and the need to travel. Development that would significantly harm the natural or built environment, or that would generate an adverse traffic impact, will not be permitted. Proposals will be supported if they promote and encourage or protect and enhance:

- iii. the health, economic and social well-being, amenity and safety of the population;...*
- v. the quality of natural resources including water, air, land and biodiversity;*
- vi. the natural drainage of surface water;*
- vii. the vitality of the area;*
- viii. a high quality and adaptability of development;*
- ix. the character and quality of local landscapes and the wider countryside;*
- x. the distinctiveness, character, townscape and setting of settlements;*
- xi. the historic and cultural features of acknowledged importance”.*

6.40 It is considered that limited weight can be attached to the transport aspect of Policy CP1 as the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe and, therefore, only limited weight may be given in this instance. However, it is considered that full weight can be awarded to the other aspects of the policy as they are considered to be consistent with the environmental protection aims of the NPPF.

6.41 Core Strategy **Policy CP16** addresses how to maintain quality environments. In particular, it states that development or other initiatives *‘will be supported where they preserve and enhance the District’s natural and manmade assets, where appropriate defined in the Development Policies Development Plan Document and identified on the Proposals Map. Particular support will be given to initiatives to improve the natural environment where it is poor and lacking in diversity.*

Development or activities will not be supported which:

- i. has a detrimental impact upon the interests of a natural or man-made asset;*
- ii. is inconsistent with the principles of an asset’s proper management;*
- iii. is contrary to the necessary control of development within nationally or locally designated areas.*

Any necessary mitigating or compensatory measures must be provided to address potential harmful implications of development”.

6.42 This Core Strategy policy is considered broadly consistent with the NPPF objectives of conserving and enhancing the natural environment as outlined within Section 11 of the NPPF, specifically in relation to Paragraph 109 which outlines the importance of providing net gains in biodiversity. Therefore, full weight is given to this policy in the determination of this application.

6.43 Core Strategy **Policy CP17** looks at promoting high quality design and states that *“the requirement to achieve a high quality of design of both buildings and landscaping is a priority in the case of all development proposals. Support will be given for proposals that are consistent with the LDF’s detailed design policies and meet all the following requirements:*

- i. *provide an attractive, functional, accessible, safe and low maintenance development;*
 - ii *respect and enhance the local context and its special qualities, including its urban design, landscape, social activities and historic environment, and incorporate public art where appropriate;*
 - ii. *optimise the potential of the site”.*
- 6.44 This policy is considered to be broadly consistent with the NPPF objectives for requiring good design as outlined within Section 7 of the NPPF which emphasises the government’s stance on the design of the built environment. Therefore, full weight is given to this policy in the determination of this application.
- 6.45 This policy is also considered broadly consistent with the NPPF objectives of conserving and enhancing the natural environment outlined within Section 11 of the NPPF.
- 6.46 Core Strategy **Policy CP19** considers the need to provide sufficient recreational space. The policy states that *“Support will be given to proposals and activities that protect, retain or enhance existing recreational and amenity assets, lead to the provision of additional assets, or improve access to facilities, particularly by non-car modes of transport. This will include support for greater access to and enjoyment of the countryside”.*
- 6.47 This policy is considered broadly consistent with the NPPF objectives of ‘Promoting Healthy Communities’ as outlined within Section 8 of the NPPF, specifically in relation to Paragraph 70 which outlines the importance of delivering recreational facilities. Therefore, full weight is given to this policy in the determination of this application.
- 6.48 Core Strategy **Policy CP21** considers potential contributions to protecting people and the environment from the consequences of natural or other forces including, for example, the risk of flooding. In particular, the policy states that *“development and service provision must seek to ensure that communities and the environment are not adversely affected by the actions of natural or other forces. Proposals must take particular account of the need to:*
- i. *ensure protection from, and not worsen the potential for, flooding;*
 - ii. *mitigate development from the consequences of pollution, noise or hazardous activities”.*
- 6.49 This policy is also considered broadly consistent with the NPPF objectives of meeting the challenge of flooding as outlined in Section 10 of the NPPF. Therefore, full weight is given to this policy in the determination of this application.
- Hambleton Development Policies DPD (2008)
- 6.50 The Development Policies DPD (2008) sets out detailed policies for controlling development and delivering the vision, objectives and core planning policies of the Core Strategy DPD.

- 6.51 The policies within the Development Policies DPD considered of most relevance to determining this particular application comprise:
- Policy DP1 Protecting amenity;
 - Policy DP2 Securing developer contributions;
 - Policy DP28 Conservation;
 - Policy DP29 Archaeology;
 - Policy DP30 Protecting the character & appearance of the countryside
 - Policy DP31 Protecting natural resources;
 - Policy DP32 General design;
 - Policy DP33 Landscaping;
 - Policy DP37 Open space, sport and recreation;
 - Policy DP38 Major outdoor recreation;
 - Policy DP43 Flooding and floodplains; and,
 - Policy DP44 Very noisy activities.
- 6.52 Development **Policy DP1** relates to the preservation of amenity. Specifically, this policy states that *“all development proposals must adequately protect amenity, particularly with regard to privacy, security, noise and disturbance, pollution (including light pollution), odours and daylight...
...Developments must not unacceptably reduce the existing level of amenity space about buildings, particularly dwellings, and not unacceptably affect the amenity of residents or occupants”*.
- 6.53 This policy is considered to be broadly consistent with the NPPF objectives of conserving and enhancing the natural environment as outlined within section 11 of the NPPF. Therefore, full weight is given to this policy in the determination of this application.
- 6.54 Development **Policy DP2** seeks to ensure that developers provide necessary financial contributions towards facilitating sustainable development. Specifically, this policy states that *“contributions from developers will be sought where necessary to ensure the achievement of sustainable development, including the provision of additional infrastructure whenever there is a need generated by the new development. These could include, where appropriate, provision of: ...*
- ii. landscaping, of the setting of development, and related areas;...*
 - viii additional highway or transport infrastructure, including support for public and community transport initiatives, footpaths, cycleways and links to or creation of new public rights of way;...*
 - x flood protection measures and sustainable drainage systems;*
 - xi. habitat creation such as ponds, wetlands or wildlife corridors;...”*
- 6.55 This policy is considered to be broadly consistent with the NPPF’s guidance on imposing planning conditions and obligations. Therefore, full weight is given to this policy in the determination of this application.
- 6.56 Development **Policy DP28** seeks to ensure that the heritage assets within the district are protected from adverse development impacts. Specifically, this policy states that *“conservation of the historic heritage will be ensured by:*

- i. *preserving and enhancing Listed Buildings; ...*
- iv. *protecting and preserving any other built or landscape feature or use which contributes to the heritage of the District.*

Development within or affecting the feature or its setting should seek to preserve or enhance all aspects that contribute to its character and appearance, in accordance with the national legislation that designates the feature, and in the case of a Conservation Area, any appraisal produced for that Area. Permission will be granted, where this is consistent with the conservation of the feature, for its interpretation and public enjoyment, and developments refused which could prejudice its restoration.

Particularly important considerations will include the position and massing of new development in relation to the particular feature, and the materials and design utilised”.

6.57 This policy is considered broadly consistent with the NPPF’s objectives of conserving and enhancing the historic environment as outlined under Section 12 of the NPPF. Therefore, full weight is given to this policy in the determination of this application.

6.58 Development **Policy DP29** seeks to ensure that historic assets are appropriately represented when determining planning applications. Specifically this policy states that *“the preservation or enhancement of archaeological remains and their settings will be supported, taking account of the significance of the remains as follows:*

- i. *in the case of Scheduled Monuments (shown on the Proposals Map) and other nationally important archaeological sites and their settings, by operating a presumption in favour of their preservation; and*
- ii. *in the case of other remains of lesser significance, development affecting the site and its setting will only be permitted where the need for development and other material considerations outweigh the importance of the remains. Such remains should be preserved in situ. Where this is not justifiable or feasible, appropriate and satisfactory arrangements will be required for the excavation and recording of the archaeological remains and the publication of the results.*

In areas of known for potential archaeological interest, an appropriate assessment and evaluation must be submitted to accompany any development proposals....”.

6.59 This policy is considered broadly consistent with the NPPF’s objectives of conserving and enhancing the historic environment as outlined under Section 12 of the NPPF. Therefore, full weight is given to this policy in the determination of this application.

6.60 Development **Policy DP30** seeks to ensure that the local landscape is protected from adverse impacts as a result of development. Specifically, this policy states that *“the openness, intrinsic character and quality of the District’s landscape will be respected and where possible enhanced... Throughout the District, the design and location of new development should take account of landscape character and its surroundings, and not have a detrimental effect on the immediate environment and on any important long distance views.*

The design of buildings, and the acceptability of development, will need to take full account of the nature and distinctive qualities of the local landscape. The use of techniques such as landscape character analysis to establish the local importance, and the key features that should be protected and enhanced, will be supported.

Where possible opportunities should be taken to add appropriate character and distinctiveness through the contribution of new landscape features, particularly to landscapes which otherwise lack interest”.

6.61 This policy is considered to be broadly consistent with the NPPF’s objectives of conserving and enhancing the natural environment as outlined in Section 11 of the NPPF. Therefore, full weight is given to this policy in the determination of this application.

6.62 Development **Policy DP31** seeks to ensure that habitats are protected. Specifically, this policy states that permission *‘will not be granted for development which would cause significant harm to sites and habitats of nature conservation, geological or geomorphological value, together with species that are protected or under threat. Support will be given (and permission granted for related development, if also acceptable in terms of other LDF policies) to the enhancement and increase in number of sites and habitats of nature conservation value, and in particular to meeting objectives identified in the proposals of the Biodiversity Action Plan.*

Sites designated under national legislation are shown on the Proposals Map (Sites of Special Scientific Interest - SSSIs, and Local Nature Reserves - LNRs), and will be protected under the terms of that legislation. Locally important sites are also identified (Sites of Importance for Nature Conservation – SINC)s and will be protected and enhanced as appropriate to their local importance. Outside the areas designated, the interests of nature conservation must be taken into account, in accordance with national guidance...

...The restoration or creation of new habitats will be supported (and permission granted for related development, if also acceptable in terms of other LDF policies) where these contribute to the Biodiversity Action Plan, and to the targets, priorities and enhancement proposals of the RSS”.

6.63 This policy is considered to be broadly consistent with the NPPF’s objectives of conserving and enhancing the natural environment as outlined under Chapter 11 of the NPPF. Therefore, full weight is given to this policy in the determination of this application.

6.64 Development **Policy DP32** provides a design framework for development across the district. Specifically, this policy states that *“the design of all developments must be of the highest quality. Attention to the design quality of all development will be essential, and the submission of design statements supporting and explaining the design components of all relevant proposals will be required.*

Development proposals must seek to achieve creative, innovative and sustainable designs that take into account local character and settings, and promote local identity and distinctiveness, and reflect the following principles: movement ...

- v. ...where the nature of development permits, a framework of connected spaces should be developed that respects all users by offering a safe attractive environment for all;
form....
- vi. proposals must respect local character and distinctiveness (including that of the surrounding landscape, in accordance with Policy DP33) by enhancing its positive attributes whilst mitigating its negative aspects;...
- ix.... development should take every opportunity to create good design that respects and safeguards key views, roofscapes, landmarks, and focal points;
...
- xii.... sustainable forms of development should be designed, incorporating sustainable energy use (as indicated by Policy DP34), minimising waste production and providing opportunities for recycling (as indicated by Policy DP36), and minimising pollution. Developments should seek to minimise water use (including through the incorporation of grey-water recycling), and where possible include Sustainable Drainage Systems (SUDS). Use or re-use of sustainable materials will be encouraged. Orientation and layout of development should maximise the potential for passive solar heating, taking account of the implications of solar heat gain;
space....
- xviii.design should seek to retain existing important species and habitats and maximise opportunities for habitat enhancement, creation and management, in accordance with Policy DP31”.

6.65 This policy is considered to be broadly consistent with the NPPF’s objectives of requiring good design as outlined under Section 7 of the NPPF. Therefore, full weight is given to this policy in the determination of this application.

6.66 Development **Policy DP33** seeks to ensure that appropriate landscaping schemes are incorporated into development proposals. Specifically, this policy states that “*landscaping of new development must be an integrated part of the overall design, which complements and enhances development, and:*

- i. *creates a visually pleasant, sustainable and biodiversity-rich environment;*
- ii. *provides for sustainable solutions including the use of Sustainable Drainage Systems (SUDS). Designs should respond to the potential implications of climate change. The use of sustainable construction materials will be encouraged;*
- iii. *protects and enhances key landscape features;*
- iv. *creates new features and areas of open space that reflect local landscape character;*
- v. *contributes to character, appearance and sense of place;*
- vi. *promotes a public realm which is rich in identity, attractive and safe”.*

6.67 This policy is considered broadly consistent with the NPPF’s objectives of requiring good design as outlined under Section 7 of the NPPF. Therefore, full weight is given to this policy in the determination of this application.

6.68 Development **Policy DP37** seeks to provide support for developments that will provide outdoor recreational facilities. However, this policy also acknowledges

that in order to gain local support proposals will need to satisfy other relevant Local Plan policies.

- 6.69 This policy is considered to be broadly consistent with the NPPF's objectives of promoting healthy communities as outlined under Section 8 of the NPPF. Therefore, full weight is given to this policy in the determination of this review application.
- 6.70 Development **Policy DP38** provides a framework for assessing outdoor recreation development. Specifically, this policy states that the provision of appropriate forms of major outdoor recreation *'will be promoted which meet the needs of residents and users (and permission granted for related development, if also acceptable in terms of other LDF policies), provided that all the following apply:*
- i. the development is appropriate to its setting and within the capacity of the local environment and infrastructure, and detrimental implications for amenity and the environment are reduced to an acceptable level;*
 - ii. necessary mitigation measures are included;*
 - iii. the development is accessible to all potential users, including by non-car modes;*
 - iv. conflicts between different activities can be resolved (e.g. by separation in space or time)".*
- 6.71 This policy is considered to be broadly consistent with the NPPF objectives of promoting healthy communities as outlined within Section 8 of the NPPF. Therefore, full weight is given to this policy in the determination of this application.
- 6.72 Development **Policy DP43** seeks to ensure that development proposals take proactive steps to ensure that risk from flooding is not increased within the district. Specifically, this policy states that *"development proposals will not be permitted where they would have an adverse effect on watercourses or increase the risk of flooding elsewhere...
...Mitigation and relief measures will be supported which reduce the risk of flooding of existing development (and permission granted for related development, if also acceptable in terms of other LDF policies), and if necessary will be required through developer contributions, in accordance with Policy DP2"*.
- 6.73 This policy is considered to be broadly consistent with the NPPF objectives of meeting the challenge of climate change, flooding and coastal change as outlined within Section 10 of the NPPF. Therefore, full weight is given to this policy in the determination of this application.
- 6.74 Development **Policy DP44** seeks to ensure that increased noise pollution as a result of development does not negatively impact on local amenity. Specifically, this policy states that *"noise sensitive development will not be permitted in areas where potential for harmful noise levels is known to exist. Development likely to generate harmful noise levels will be directed to appropriate locations away from known noise sensitive locations"*.

- 6.75 This policy is considered to be broadly consistent with the NPPF's objectives of conserving and enhancing the natural environment as outlined within Section 11, and specifically Paragraph 123 of the NPPF.

Other material considerations:

National Planning Policy Framework (2012) and Planning Practice Guidance (2014)

- 6.76 National planning policy relevant to this planning application is contained within the [National Planning Policy Framework](#) (NPPF) published in March 2012. While the NPPF does not form part of the *Development Plan*, it nevertheless is an important material consideration in the determination of applications.
- 6.77 The NPPF indicates that the purpose of the planning system is to contribute to the achievement of sustainable development, with the system required to perform an economic, social and environmental role, with gains across all three of these broad objectives being sought simultaneously. It sets out a presumption in favour of sustainable development which, for decision taking, means approving applications that accord with the Development Plan without delay. **Paragraph 12** of the NPPF states that *“proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise”*.
- 6.78 However, prior to going into detailed sections on specific issues, the NPPF discusses how sustainable development is to be achieved. **Paragraph 14** explains that a presumption in favour of sustainable development should be seen as a *‘golden thread’* running through decision-taking. It makes clear, in circumstances where there is no extant adopted plan or relevant plan containing no applicable policies that planning permission should not be forthcoming where any adverse impacts of a development would *“significantly and demonstrably outweigh the benefits”* or where there are policies within the NPPF which indicate such development should be restricted.
- 6.79 **Paragraph 17** identifies the core land use planning principles that should underpin decision-taking. Within the context of this planning application, the most relevant principles include those below which state that planning should:
- *“proactively drive and support sustainable economic development to deliver homes, businesses and industrial unity, infrastructure and thriving local places that the country needs”* (the 3rd principle);
 - *“always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings”* (the 4th principle);
 - recognise *“the intrinsic character and beauty of the countryside and supporting thriving rural communities within it”* (the 5th principle);
 - *“contribute to conserving and enhancing the natural environment and reducing pollution”* (the 7th principle);
 - *“conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life for this and future generations”* (the 10th principle);

- focus significant development in locations which are, or can be made, sustainable (the 11th principle); and,
- “take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs” (the 12th principle).

6.80 The paragraphs within the NPPF considered to be most relevant to the determination of this application include the following:

- paragraphs 18-20 (inclusive) of Section 1 (*‘building a strong, competitive economy’*);
- paragraphs 32 & 34 of Section 4 (*‘promoting sustainable transport’*);
- paragraph 69 of Section 8 (*‘promoting healthy communities’*);
- paragraphs 93, 100 & 103 of Section 10 (*‘meeting the challenges of climate change, flooding and coastal change’*);
- paragraphs 109, 118, 120-123 & 125 of Section 11 (*‘conserving and enhancing the natural environment’*);
- paragraphs 128, 129, 131, 132, 134, 135 & 139 of Section 12 (*‘conserving and enhancing the historic environment’*);
- paragraphs 142 & 144 of Section 13 (*‘facilitating the sustainable use of minerals’*); and,
- paragraphs 186 & 187, 203 & 204 of the section on *‘decision-taking’*.

6.81 For the purpose of the consideration of this specific planning application and, ultimately, arriving at an Officer recommendation in respect of the determination of this planning application, Sections

- 2 (*‘Ensuring the vitality of town centres’*);
- 5 (*‘Supporting high quality communications infrastructure’*);
- 6 (*‘Delivering a wide choice of high quality homes’*);
- 7 (*‘Requiring good design’*); and,
- 9 (*‘Protecting green belt land’*)

have all been deemed not to be sufficiently material and, therefore, receive no further attention within this report.

‘Building a strong, competitive economy’

6.82 Section 1 focusses upon *‘building a strong, competitive economy’*. Within its paragraphs are made statements such as “the Government is committed to securing economic growth in order to create jobs and prosperity” (**Paragraph 18**), the planning system should do “everything it can to support sustainable economic growth” and “significant weight should be placed on the need to support economic growth through the planning system” (**Paragraph 19**) as well as expressing the need, in the fifth and last paragraph, to “support an economy fit for the 21st century” (**Paragraph 20**).

6.83 This element of the NPPF is considered relevant in light of the current planning application which relies for support upon positive economic growth outcomes.

‘Promoting sustainable transport’

6.84 The next relevant section within the NPPF is that which relates to *‘promoting sustainable transport’* (Section 4, paragraphs 32 and 34). These direct that

decisions should take account of whether “opportunities for sustainable transport modes have been taken up depending on the nature and location of the site”; whether “safe and suitable access to the site can be achieved”; and, whether improvements are possible. It makes clear within **Paragraph 32** that “development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe” and **Paragraph 34** states “decisions should ensure that developments that generate significant movements are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised”; although in rural areas this needs to take account of other policies in the NPPF.

- 6.85 In light of the current planning application proposing material changes in highway and traffic characteristics along affected routes, these paragraphs of the NPPF are considered relevant.

‘Promoting healthy communities’

- 6.86 **Paragraph 69**, within Section 8, states that “the planning system can play an important role in... creating healthy, inclusive communities” and that “local planning authorities should aim to involve all sections of local communities” in planning decisions.

- 6.87 This element of the NPPF is considered relevant in light of the current planning application proposing a development with attendant effects in terms of, inter alia, air quality, noise, hydrology, traffic, transport and socio-economic impacts.

‘Meeting the challenges of climate change’, flooding and coastal change’

- 6.88 Paragraph 100 and Paragraph 103 of Section 10 of the NPPF relate to the avoidance of inappropriate development in areas at risk of flooding. **Paragraph 100** states that inappropriate development in areas at risk of flooding “should be avoided by directing development away from areas of highest risk”, and, in **Paragraph 103** that, in determining applications, planning authorities “should ensure that flood risk is not increased elsewhere”. Where it can be demonstrated, within a development site, it advises that “the most vulnerable development is located in areas of lowest flood risk” and “development is appropriately flood resilient and resistant” and that priority is given to use of sustainable drainage systems.

- 6.89 The red line boundary of the current planning application is affected by land identified as Flood Zone by the Environment Agency as referred earlier in this report. The northern part of the site, both south and north of the River Swale is within Flood Zone 3, and is considered to form part of the functional floodplain, which is land where water has to flow or be stored. Other parts of the application site, to the east and in and around Killerby Hall, fall within Flood Zone 2. This element of the NPPF relating to flooding is consequently also considered relevant to the determination of this application.

‘Conserving and enhancing the natural environment’

- 6.90 Within paragraphs 109, 112, 118, 120-123 and 125 of Section 11, it is clear that the effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or

proposed development to adverse effects from pollution, should be taken into account.

- 6.91 **Paragraph 109** confirms that *“the planning system should contribute to and enhance the natural and local environment by:*
- *protecting and enhancing valued landscapes, geological conservation interests and soils (1st bullet point);*
 - *recognising the wider benefits of ecosystem services (2nd bullet point);*
 - *minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures (3rd bullet point);*
 - *preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability (4th bullet point); and,*
 - *remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate”.*
- 6.92 **Paragraph 112** is of relevance to this application due to the presence of agricultural land within the application site. It states that *“Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality”.*
- 6.93 **Paragraph 118** of the NPPF encourages planning authorities to consider securing measures to conserve and enhance biodiversity both within and around the development proposals they permit (4th bullet point of paragraph 118), aligning this with the duty placed on public authorities to conserve biodiversity in relation to a living organism or type of habitat, restoring or enhancing a population or habitat under the provisions of Section 40 of the Natural Environment and Rural Communities Act (2006).
- 6.94 **Paragraph 120** of the NPPF states that, in order to prevent unacceptable risks from pollution and land instability, *“planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account...”.*
- 6.95 Decisions should also ensure that sites for proposed development are *“suitable”* for their new uses *“taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation”* and that *“adequate site investigation information, prepared by a competent person, is presented”*. It clearly states that any land, once remediated, should not thereafter be determined as contaminated land (**Paragraph 121** refers).

6.96 However, **Paragraph 122** expressly makes clear that authorities should focus upon the acceptability of the use of the land which is the subject of a proposed development and the impacts resulting therefrom, “*rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes*”. Authorities must assume that “*these regimes will operate effectively*”. It follows therefore, that “*the planning issues should not be revisited through the permitting regimes operated by pollution control authorities*”, “*where a planning decision has been made on a particular development*”.

6.97 **Paragraph 123** states that decisions should aim to:

- *avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;*
- *mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;*
- *recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and*
- *identify and protect areas of tranquillity which have remained relatively undisturbed noise and are prized for their recreational and amenity value for this reason.*

[* the term ‘*significant adverse impacts*’ and ‘*adverse*’ are explained in the ‘*Noise Policy Statement for England*’ (DeFRA, 2010) and further advice is also referenced below in the context of the national online planning practice guidance]

‘*Conserving and enhancing the historic environment*’

6.98 **Paragraph 128** of Section 12 of the NPPF requires applicants to “*describe the significance* of any heritage assets** affected, including any contribution made by their setting***. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance...*”

[* the NPPF defines ‘*significance*’ as “*the value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset’s physical presence, but also from its setting*”]

[** the NPPF defines ‘*heritage asset*’ as a “*building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. Heritage asset includes designated heritage assets and assets identified by the local planning authority (including local listing)*”]

[*** the NPPF defines the ‘*setting of a heritage asset*’ as “*the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral*”]

6.99 **Paragraph 129** requires authorities to “*identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset’s conservation* and any aspect of the proposal.*”

[* the NPPF defines ‘conservation’ as “*the process of maintaining and managing change to a heritage asset in a way that sustains and, where appropriate, enhances its significance*”]

6.100 **Paragraph 131** also requires authorities take account of “*the desirability of sustaining and enhancing the significance of heritage assets...*” (1st bullet point). While this current application does not concern an application for Listed Building Consent, it nevertheless provides the applicable test against which local planning authorities should assess proposals affecting listed buildings stating that authorities should have ‘*special regard*’ to the “*desirability of preserving [a] building or its setting or any features of special architectural or historic interest which it possesses*” (Section 66 of the Listed Buildings and Conservation Areas Act 1990 refers).

6.101 **Paragraph 132** states “*when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional*”.

[the NPPF defines ‘*designated heritage asset*’ as a “*World Heritage Site, Scheduled Monument, Listed Building, Protected Wreck Site, Registered Park and Garden, Registered Battlefield or Conservation Area designated under the relevant legislation*”]

6.102 **Paragraph 133** is concerned with a circumstance where a development proposal is deemed to give rise to substantial harm or total loss of significance of a designated asset which, if other criteria cannot be satisfied would warrant a refusal of planning permission; whereas, **Paragraph 134** is concerned with a circumstance where a development proposal is deemed to lead to less than substantial harm. In such an instance, this harm is required to be weighed against the public benefits of the proposal put forward.

6.103 **Paragraph 135** requires the effect of an application upon a non-designated heritage asset’s significance to be taken into account and where applications directly, or indirectly, affect non-designated heritage assets, “*a balanced*

judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset”.

- 6.104 Where there exist non-designated assets of archaeological interest that could be regarded to be of similar significance to scheduled monuments, these should be assessed along with policies pertaining to designated heritage assets (**Paragraph 139** refers).
- 6.105 In the circumstance of this specific planning application, the presence of designated heritage assets (such as Killerby Hall immediately adjacent to the application site of which the stable element is listed) and three *Scheduled Ancient Monuments* which are also located within close proximity of the application site) requires regard to be had to paragraphs 128, 129, 131, 132, 134, 135 and 139 within the NPPF. In addition, regard must also be had to the provisions of Section 66 of the [Planning \(Listed Buildings & Conservation Areas\) Act 1990](#) which requires planning authorities to “*have special regard to the desirability of preserving [a] building or its setting or any features of special architectural or historic interest which it possesses*”.

‘Facilitating the sustainable use of minerals’

- 6.106 Paragraphs 142 to 149 focusses upon facilitating the sustainable use of minerals and, in its opening paragraph, states that minerals are “*essential to support sustainable economic growth and our quality of life. It is therefore important that there is a sufficient supply of material to provide the infrastructure, buildings, energy and goods that the country needs. However, since minerals are a finite natural resource, and can only be worked where they are found, it is important to make the best use of them to secure their long term conservation*” (**Paragraph 142**).
- 6.107 Specifically relating to decision-taking, the bullet points within **Paragraph 144** relevant to the determination of this application require planning authorities to:
- *give great weight to the benefits of mineral extraction, including to the economy* (1st bullet point);
 - *ensure, in granting planning permission for mineral development, that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality* (3rd bullet point);
 - *ensure that any unavoidable noise, dust and particle emissions [...] are controlled, mitigated or removed at source and establish appropriate noise limits for extraction in proximity to noise sensitive properties*” (4th bullet point); and,
 - *provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards, through the application of appropriate conditions, where necessary. Bonds or other financial guarantees to underpin planning conditions should only be sought in exceptional circumstances*” (6th bullet point).
- 6.108 **Paragraph 145** states that planning authorities “*should plan for a steady and adequate supply of aggregates by: making provision for the maintenance of*

landbanks of at least 7 years for sand and gravel and at least 10 years for crushed rock, whilst ensuring that the capacity of operations to supply a wide range of materials is not compromised. Longer periods may be appropriate to take account of the need to supply a range of types of aggregates, locations of permitted reserves relative to markets, and productive capacity of permitted sites”.

‘Decision-taking’

- 6.109 In taking decisions, planning authorities are asked to approach them “*in a positive way to foster the delivery of sustainable development*” (**Paragraph 186** refers) and authorities “*should look for solutions rather than problems, and [...] should seek to approve applications for sustainable development where possible [...working...] proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area*” (**Paragraph 187**).
- 6.110 With regard to the imposition of planning conditions and obligations, **Paragraph 203** requires planning authorities to “*consider whether otherwise unacceptable development could be made acceptable through the use of conditions [so long as they are necessary, relevant to planning and to the development, enforceable, precise and reasonable in all other respects] or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition*”. Furthermore, planning obligations should only be sought where they are necessary to make the development acceptable in planning terms; directly related to the development and fairly and reasonably related in scale and kind (**Paragraph 204** refers).
- 6.111 **Paragraph 205** states that “*Where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled*”.
- 6.112 **Paragraph 206** states that “*Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects*”.

National Planning Practice Guidance (NPPG)

- 6.113 The [National Planning Practice Guidance](#) (NPPG) was first published as an online resource on 6th March 2014 and has subsequently been updated on a number of occasions and in a number of respects. It replaced a suite of previous planning circulars and guidance documents and contains advice on a variety of planning topics. The NPPG is intended to be read alongside policy expressed within the NPPF. In respect of this particular planning application, the relevant advice includes that which relates to the following:
- mitigation against the impacts of climate change (Section 6, paragraph 003 & 005);
 - risk giving rise to flooding events not previously experienced or new ones (Section 7, paragraphs 001, 029);

- visual impacts both locally and beyond and impacts upon wider landscape character (Section 8, paragraph 001);
- safeguarding of biodiversity and sites of local, national or international designation as well as possible loss of protected species and their associated habitats (Section 8, paragraphs 007 & 008, 011, 016 to 018 and 020);
- impacts upon agriculture and the quality of the land in the area in respect of ‘*best and most versatile land*’ i.e. Grade 3a and above (Section 8, paragraphs 025 & 026);
- impacts upon features of archaeological and heritage value (Section 18a, paragraph 017);
- planning obligations (Section 23b, paragraphs 001, 003 & 004);
- extraction of minerals (Section 27, paragraphs 012-014, 017, 019-022, 091-146);
- waste (Section 28, paragraphs 005 & 010);
- mitigation against noise impacts (Section 30, paragraphs 001-003, 006 & 008);
- impacts of external lighting (Section 31, paragraphs 001-004);
- impacts upon air quality including dust (Section 32, paragraphs 001, 005 & 009);
- risk of contaminating land (Section 33, paragraph 001);
- quality of water, its supply and related infrastructure as well as possible ground and/or surface water impacts (Section 34, paragraph 016);
- public rights of way (Section 37, paragraph 004);
- traffic impacts (Section 42, paragraph 004);
- land stability (Section 45); and,
- risks to community health and well-being (Section 53, paragraphs 001 & 002).

6.114 For the purpose of the consideration of this specific planning application and, ultimately, arriving at an Officer recommendation in respect of the determination of this planning application (other than Section 4 (*‘Environmental Impact Assessment’*), Section 13 (*‘When is permission required?’*), Section 14 which covers making an application, Section 15 covering consultation and pre-decision matters, Section 21a covering the use of planning conditions and Section 21b covering the processes involved in determining planning applications), the Sections of the NPPG listed below have not been considered sufficiently material and have, therefore, received no further attention within this report:

- 2a (Housing and economic needs assessments);
- 2b (Ensuring the vitality of town centres);
- 3 (Housing and economic land availability assessment);
- 5 (Renewable and low carbon energy);
- 9 (Duty to Cooperate);
- 10 (Viability);
- 11 (Strategic Environmental assessment and sustainability appraisal);
- 12 (Local Plans);

- 16 (Appeals);
- 17a (Flexible options for planning permissions);
- 17b (Ensuring effective enforcement);
- 17c (Lawful Development Certificates);
- 18b (Advertisements);
- 20 (Before submitting a planning application);
- 22 (Fees for planning applications);
- 25 (Community Infrastructure Levy);
- 26 (Design);
- 36 (Tree Preservation Orders and trees in Conservation Areas);
- 39 (Hazardous substances);
- 41 (Neighbourhood Planning);
- 44 (Crown Development);
- 50 (Rural Housing);
- 54 (Transport evidence bases in plan making and decision taking);
- 55 (Starter Homes);
- 56 (Housing – Optional Technical Standards); and,
- 57 (Self-build and custom housebuilding).

'Climate change'

- 6.115 This section of the online guidance (Section 6) "*advises how planning can identify suitable mitigation and adaptation measures [...] to address the potential impacts of climate change*" and aligns with and supports policy expressed within Paragraph 93 of Section 10 of the NPPF.
- 6.116 **Paragraph 003** within the NPPG cites the consideration of the "*availability of water and water infrastructure for the lifetime of the development and design responses to promote water efficiency and protect water quality*" as an example of the planning system's means of adapting to a changing climate whilst at the same time being "*realistic*" such as looking at the "*the potential vulnerability of a development to climate change risk over its whole lifetime*" (**Paragraph 005** refers).

'Flood risk and coastal change'

- 6.117 This section of the online guidance (Section 7) "*advises on how planning can take account of the risks associated with flooding and coastal change in plan-making and the application process*". Planning Authorities are advised to adopt a sequential approach when determining applications. In terms of minerals development, the NPPG states that "*mineral workings can be large and may afford opportunities for applying the sequential approach at the site level. It may be possible to locate ancillary facilities such as processing plant and offices in areas at lowest flood risk. Sequential working and restoration can be designed to reduce flood risk by providing flood storage and attenuation. This is likely to be most effective at a strategic (county) scale*".
- 6.118 **Paragraph 001** advises where development needs to be in locations where there is a risk of flooding that "*development is appropriately flood resilient and resistant, safe for its users for the development's lifetime, and will not increase flood risk overall*". Furthermore, flood risk to and from the development site

needs to be considered and flood risk should also be assessed, avoided, managed and/or mitigated (**Paragraph 029** refers).

- 6.119 These paragraphs align with and support policy expressed within Paragraphs 100 and 103 of Section 10 of the NPPF.

'Natural environment'

- 6.120 Part 1 of Section 8 focusses upon 'landscape', Part 2 upon 'Biodiversity and ecosystems' and Part 4 upon 'brownfield land, soils and agricultural land' under the umbrella theme of the 'natural environment' and the relevant text contained therein includes, inter alia, **Paragraph 001** on 'landscape', **Paragraphs 007 & 008, 011, 016-018** and **020** which relate to 'bio-diversity and ecosystems' as a sub-theme and **Paragraphs 025 & 026** relating to agricultural land.

'Landscape' (Part 1)

- 6.121 **Paragraph 001** reiterates that which is contained within national policy expressed within paragraph 109 of the NPPF; that is to say, that "*planning should recognise the intrinsic character and beauty of the countryside*". The NPPG also identifies that Landscape Character Areas complement Natural England's National Character Areas, and are "*a tool to help understand the character and local distinctiveness of the landscape and identify the features that give it a sense of place*".

'Biodiversity and ecosystems' (Part 2)

- 6.122 **Paragraph 007** addresses the question of '*is there a statutory basis for planning to seek to minimise impacts on biodiversity and provide net gains in biodiversity where possible?*' and provides a definitive answer explaining the statutory responsibilities of planning authorities in determining applications and, at its core, a duty to "*contribute to conserving and enhancing the natural environment and reducing pollution*".
- 6.123 **Paragraph 008** which poses the question '*how should local planning authorities set about planning for biodiversity and geodiversity?*' requires planning authorities to "*consider the opportunities that individual development proposals may provide to enhance biodiversity and contribute to wildlife and habitat connectivity in the wider area*".
- 6.124 In the absence of any updated guidance produced by the Government department, DeFRA, as indicated on online planning practice guidance last updated on 12th June 2014, **Paragraph 011** signposts the authorities to '*Circular 06/05: Biodiversity and geological conservation*' (published 16th August 2005) with regard to the matter of legal obligations concerning internationally designated sites; which, in summary, obliges the Authority to consider the likelihood of significant effects upon the conservation objectives of relevant sites prior to their decision-taking.
- 6.125 **Paragraph 016** advises on the question of '*how should biodiversity be taken into account in preparing a planning application?*' stating that where clearly justified, for example, where "*there is a reasonable likelihood of a protected species being present and affected by development*", then ecological surveys

may be warranted and such surveys “*should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity*”. It goes on to advise that “*planning conditions, legal agreements or undertakings may be appropriate in order to provide for monitoring and/or biodiversity management plans where these are needed*”.

6.126 **Paragraph 017** seeks to encourage bio-diversity enhancement through planning decisions and the subsequent paragraph (**Paragraph 018**) explains the ‘*mitigation hierarchy*’ of information, avoidance, mitigation and compensation to facilitate decision-taking.

6.127 **Paragraph 020** requires the securing of mitigation and/or compensation measures such as off-setting, in instances where “*significant harm to biodiversity is unavoidable*”.

6.128 These paragraphs within the online guidance support the implementation of national policy expressed within Paragraphs 109 and 118 of the NPPF.

‘Agricultural land’ (Part 4)

6.129 **Paragraph 025** reiterates that which is set down as policy within Paragraph 109 of the NPPF; that is to say, that the “*planning system should protect and enhance valued soils and prevent the adverse effects of unacceptable levels of pollution*” by dint of the fact that soils are “*an essential finite resource*”.

6.130 Similarly, **Paragraph 026** reiterates the NPPF’s stated policy (Paragraph 112 refers) by expecting planning authorities “*to take into account the economic and other benefits of the best and most versatile agricultural land [...and...] should seek to use poorer quality land in preference to that of a higher quality*”.

‘Conserving and enhancing the historic environment’

6.131 Section 18a contains **Paragraph 017** which addresses the question of “*how to assess if there is substantial harm?*” This asserts that “*significance derives not only from a heritage asset’s physical presence, but also from its setting. Whether a proposal causes substantial harm [is a matter of] judgment ... In general terms, substantial harm is a high test, so it may not arise in many cases*”.

6.132 This supports the national policy expressed within paragraphs 128, 129, 131, 132, 134, 135 and 139 within the NPPF.

‘Planning obligations’

6.133 **Paragraph 001** of Section 23b states that planning obligations “*assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests*”. These tests are that obligations are:

- necessary to make the development acceptable;
- directly related to the development; and,
- fairly and reasonably related in scale and kind.

6.134 **Paragraph 003** continues stating, inter alia, that planning obligations “assist in mitigating the impact of development which benefits local communities”. However, **Paragraph 004**, however, makes clear that planning obligations “must be fully justified and evidenced”.

6.135 These paragraphs align with and support national policy expressed within the NPPF at paragraphs 203 and 204.

‘Minerals’

6.136 This section of the NPPG, Section 27, provides “guidance on the planning for mineral extraction”.

6.137 **Paragraph 012** sets out the relationship between planning and other regulatory regimes reflecting national policy expressed within Paragraph 122 of the NPPF and also noting that “the planning system controls development and the use of land in the public interest” including ensuring development is appropriate for its location and an acceptable use of land. The guidance reiterates the NPPF’s stated approach advising that “the focus of the planning system should be on whether the development itself is an acceptable use of the land and the impacts of those uses, rather than any control processes, health and safety issues or emissions themselves where these are subject to approval under regimes. Mineral planning authorities should assume that these non-planning regimes will operate effectively.”

6.138 **Paragraph 013** sets out the environmental issues that authorities should address when dealing with applications for mineral-related development including noise, air quality, lighting, visual impact, traffic, risk of contamination to land, geological structure, flood risk, impacts on protected landscapes, surface and, in some cases, ground water issues, and water abstraction.

6.139 **Paragraph 014** sets out issues which are for other regulatory regimes to address, including, for example, ground and surface water and mining waste permits, for which the Environment Agency is responsible.

6.140 **Paragraph 017** notes that the cumulative impact of mineral development can be a material consideration in determining planning applications.

6.141 **Paragraph 019** addresses how noise should be controlled and states, “Those making mineral development proposals [...] should carry out a noise impact assessment, which should identify all sources of noise and, for each source, take account of the noise emission, its characteristics, the proposed operating locations, procedures, schedules and duration of work for the life of the operation, and its likely impact on the surrounding neighbourhood.

Proposals for the control or mitigation of noise emissions should:

- *consider the main characteristics of the production process and its environs, including the location of noise-sensitive properties and sensitive environmental sites;*
- *assess the existing acoustic environment around the site of the proposed operations, including background noise levels at nearby noise-sensitive properties;*

- estimate the likely future noise from the development and its impact on the neighbourhood of the proposed operations;
- identify proposals to minimise, mitigate or remove noise emissions at source;
- monitor the resulting noise to check compliance with any proposed or imposed conditions.

6.142 **Paragraph 020** addresses how noise impact should be determined and states, “Mineral planning authorities should take account of the prevailing acoustic environment and in doing so consider whether or not noise from the proposed operations would:

- give rise to a significant adverse effect;
- give rise to an adverse effect; and
- enable a good standard of amenity to be achieved.

... this would include identifying whether the overall effect of the noise exposure would be above or below the significant observed adverse effect level and the lowest observed adverse effect level for the given situation...”

6.143 **Paragraph 021** enquires as to the appropriate noise standards for mineral operators for normal operations and states,

“Mineral planning authorities should aim to establish a noise limit, through a planning condition, at the noise-sensitive property that does not exceed the background noise level* ($L_{A90,1h}$)** by more than 10dB(A) during normal working hours (0700-1900). Where it will be difficult not to exceed the background level by more than 10dB(A) without imposing unreasonable burdens on the mineral operator, the limit set should be as near that level as practicable. In any event, the total noise from the operations should not exceed 55dB(A) $L_{Aeq, 1h}$ (free field)***. For operations during the evening (1900-2200) the noise limits should not exceed the background noise level ($L_{A90,1h}$) by more than 10dB(A) and should not exceed 55dB(A) $L_{Aeq, 1h}$ (free field). For any operations during the period 22.00 – 07.00 noise limits should be set to reduce to a minimum any adverse impacts, without imposing unreasonable burdens on the mineral operator. In any event the noise limit should not exceed 42dB(A) $L_{Aeq,1h}$ (free field) at a noise sensitive property.

Where the site noise has a significant tonal element, it may be appropriate to set specific limits to control this aspect. Peak or impulsive noise, which may include some reversing beepers, may also require separate limits that are independent of background noise (e.g. L_{max} **** in specific octave or third-octave frequency bands – and that should not be allowed to occur regularly at night.)

Care should be taken, however, to avoid any of these suggested values being implemented as fixed thresholds as specific circumstances may justify some small variation being allowed.

[*Background noise level is defined as “the A-weighted sound pressure level of the residual noise at the assessment with no operation occurring at the proposed site, defined in terms of the $L_{A90,T}$ ”]

[** $L_{A90,1h}$ is defined as “the “A weighted” noise level exceeded for 90 per cent of the specified measurement period” (in this case 1 hour)]

[*** $L_{Aeq, 1h}$ is defined as “the “A weighted” equivalent continuous sound level – the sound level of a notionally steady sound having the same energy as the actual fluctuating sound over the same time period” (in this case 1 hour)]

[**** L_{max} is defined as “the highest noise level recorded during a noise event or measuring period”. The time weighting should be stated]

- 6.144 **Paragraph 022** poses two questions i.e. “what type of operations may give rise to particularly noisy short-term activities?” and “what noise limits may be appropriate?” In answering these, it advises, “Activities such as soil-stripping, the construction and removal of baffle mounds, soil storage mounds and spoil heaps, construction of new permanent landforms and aspects of site road construction and maintenance. Increased temporary daytime noise limits of up to 70dB(A) $L_{Aeq, 1h}$ (free field) for periods of up to eight weeks in a year at specified noise-sensitive properties should be considered to facilitate essential site preparation and restoration work and construction of baffle mounds where it is clear that this will bring longer-term environmental benefits to the site or its environs. Where work is likely to take longer than eight weeks, a lower limit over a longer period should be considered. In some wholly exceptional cases, where there is no viable alternative, a higher limit for a very limited period may be appropriate in order to attain the environmental benefits. Within this framework, the 70 dB(A) $L_{Aeq, 1h}$ (free field) limit referred to above should be regarded as the normal maximum”.

- 6.145 The NPPG paragraphs, 013, 014, 017, 019-022 both align with and also support policy expressed within Paragraph 144 of the NPPF.

‘Air quality’

- 6.146 This section of the guidance on air quality (Section 32) provides “guiding principles on how planning can take account of the impact of new development on air quality” and explains within **Paragraph 001** when referring to why planning should be concerned about air quality that “action to manage and improve air quality is largely driven by EU legislation. The 2008 Ambient Air Quality Directive [...] sets legally binding limits for concentrations in outdoor air of major air pollutants that impact public health such as particulate matter (PM10 and PM2.5) and nitrogen dioxide (NO₂). As well as having direct effects, these pollutants can combine in the atmosphere to form ozone, a harmful air pollutant (and potent greenhouse gas) which can be transported great distances by weather systems”.
- 6.147 The NPPG confirms that planning should take air quality impacts from new development into account “where the national assessment indicates that relevant limits have been exceeded or are near the limit”. The national assessment is identified as the annual assessment undertaken by the Department for Environment, Food & Rural Affairs (DEFRA) using monitoring and modelling information.
- 6.148 It identifies that air quality could be a relevant material consideration where: “the development is likely to generate air quality impact in an area where air quality is known to be poor...where the development is likely to impact upon the

implementation of air quality strategies and action plans and/or...lead to a breach of EU legislation". Furthermore, the section also notes that when deciding whether air quality is relevant to a planning application, considerations could include (in summary) whether the development would: significantly affect traffic (through congestion, volumes, speed, or traffic composition on local roads); introduce new point sources of air pollution; give rise to potentially unacceptable impact (such as dust) during construction; or affect biodiversity (**Paragraph 005** refers).

6.149 If air quality could potentially be a concern, the NPPG advises that Planning Authorities may want to consider:

- *'baseline' local air quality;*
- *whether the proposed development could significantly change air quality...; and/or*
- *whether there is likely to be an increase in the number of people exposed to a problem with air quality...".*

6.150 **Paragraph 009** explains, through the means of a flowchart, the considerations in respect of air quality in dealing with proposals. Possible options for mitigation are likely to be "*locationally specific*", "*proportionate to the likely impact*" and are capable of being secured through appropriate conditions or obligations. Examples of mitigation could include amendments to a site's layout to increase distances between pollution sources and receptors; control of emissions and dust during both construction and operation; and the provision of funding to offset any air quality impacts.

'Water supply, waste water and water quality'

6.151 **Paragraph 016** (Section 34), in posing the question of when water is likely to be a material consideration, advises "*this will depend on the proposed development, its location and whether there could be concerns about water supply, water quality or both*".

6.152 With respect to water quality **Paragraph 016** goes on to state that water quality "*is only likely to be a significant planning concern when a proposal would:*

- *involve physical modifications to a water body such as flood storage areas, channel diversions and dredging, removing natural barriers, construction of new locks, new culverts, major bridges, new barrages/dams, new weirs (including for hydropower) and removal of existing weirs; and/or,*
- *indirectly affect water bodies, for example,*
 - *as a result of new development such as the redevelopment of land that may be affected by contamination, mineral workings, water or wastewater treatment, waste management facilities and transport schemes including culverts and bridges;*
 - *through a lack of adequate infrastructure to deal with wastewater.*

6.153 When assessing the impacts upon water quality, they could include:

- *the likely impacts of the proposed development (including physical modifications) on water quantity and flow, river continuity and groundwater connectivity, and biological elements (flora and fauna).*

- *how the proposed development will affect measures in the river basin management plan to achieve good status in water bodies.*
- *how it is intended the development will comply with other relevant regulatory requirements relating to the water environment (such as those relating to bathing waters, shellfish waters, freshwater fish and drinking water) bearing in mind compliance will be secured through the Environment Agency's permitting responsibilities.*

6.154 Paragraph 016 of the online guidance aligns with and provides support to Paragraphs 109 and 120 of the NPPF.

'Open space, sports and recreation facilities, public rights of way and local green space'

6.155 **Paragraph 004** of Part 2 of Section 37 to the NPPG signposts planning authorities to Rights of Way Circular (1/09) published by DEFRA in October 2009 which states that the *"effect of development on a public right of way is a material consideration in the determination of applications for planning permission and local planning authorities should ensure that the potential consequences are taken into account whenever such applications are considered."* Similarly, in respect of the requirements upon developers, it states *"the information supplied by an applicant should therefore make clear how the potential development will impinge on any rights of way"*.

'Travel plans, transport assessments and statements in decision-taking'

6.156 **Paragraph 004** of Section 42 of the NPPG explains that transport assessments are *"ways of assessing the potential transport impacts of developments"*.

'Land stability'

6.157 Section 45 of the NPPG places an expectation that authorities will take into account and consider land stability issues, especially within areas of known landslides, mining hazards or subsidence and ensuring against development where instability exists. Evidence available to the County Planning Authority does not suggest that the area within which the application is situated is vulnerable to either landslides, mining hazards or subsidence.

'Health and wellbeing'

6.158 **Paragraph 001** of Section 53 of the NPPG enquires of the role of health and wellbeing in planning and states that planning authorities *"should ensure that health and wellbeing, and health infrastructure are considered [...] in planning decision making"* in line with policy expressed within Paragraph 69 of the NPPF. **Paragraph 002** declares the built and natural environments to be *"major determinants of health and wellbeing"* and goes on to list, amongst others, that planning authorities should, in considering new development proposals, ensure *"potential pollution and other environmental hazards, which might lead to an adverse impact on human health, are accounted for"*. Planning authorities are advised to consider consulting relevant Directors of Public Health.

6.159 These paragraphs within the national guidance link to Paragraph 69 of the NPPF as earlier described.

Other Material Considerations: Draft North Yorkshire, York and North York Moors National Park Authority Minerals and Waste Joint Plan

- 6.160 Members will be aware that the County Council is currently working towards the adoption of a Joint Minerals and Waste Local Plan together with the City of York Council and North York Moors National Park Authority. When adopted the new policies in the Joint Plan will replace existing 'saved' policies in the Council's Minerals and Waste Local Plans. The current timetable for preparation of the Joint Plan indicates that adoption is anticipated this year.
- 6.161 As the Plan has progressed, a significant amount of public and other stakeholder engagement has taken place during consultation and a corresponding significant consideration of the implications of views expressed. It is acknowledged that there is the potential for the detail of the draft policies to be subject to varying degrees of change before the Plan is complete. The possible extent of that change will only become clearer as the Plan makes further progress. Notwithstanding, the Plan progressing through to adoption, is nevertheless material to the determination of this application before Members.
- 6.162 **Paragraph 216** within Annex 1 to the NPPF states that decision takers may give weight to relevant policies in emerging plans according to:
- *the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
 - *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and,*
 - *the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*
- 6.163 While the new policies within the emerging plan are potentially material to the consideration of the current planning application, it is considered that they should be given only limited weight at this stage with the scrutiny at *Examination in Public* by an Inspector appointed on behalf of the Secretary of State yet to take place. At this point in time, it must also be taken into account that there are significant unresolved objections to relevant draft policies.
- 6.164 The emerging plan aims to find further resources for sand and gravel and divides North Yorkshire up into 'northern' and 'southern' distribution areas. To this extent it maintains the approach set out in the [Minerals Local Plan 1997](#) 'saved' policies. The application site falls within the 'northern distribution area', and the emerging plan considers that this area will account for half of the future supply of sand and gravel in the area. More specifically, the application site has also been proposed as a *Preferred Option*, "in order to meet requirements during the plan period" of sand and gravel.

7.0 MATERIAL PLANNING CONSIDERATIONS

- 7.1 As earlier referred, the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004 require the 'starting point' in the determination

of planning applications to be the *Development Plan*. All planning authorities must determine each planning application in accordance with the planning policies that comprise the *Development Plan* unless there exist material considerations, including any impacts upon interests of acknowledged importance, indicating that planning permission should not be forthcoming. Therefore, the assessment of the overall planning balance is conveyed here within this section of the report.

- 7.2 In this particular instance of this application, there are a range of planning policies within the documents that form *the Development Plan* (Section 6.0 above refers) that need to be taken into account, as well as a number of other material considerations.
- 7.3 In considering the relationship of the proposals to the *Development Plan*, Members are advised to note that proposals should be judged against the *Development Plan* as a whole rather than against individual policies in isolation. Members are also advised to bear in mind the relative weight to be attached to the applicable policies in the various elements of the *Development Plan* relevant to this proposal against that which is laid down within national planning policy (Section 6.0 again refers).
- 7.4 The analysis that follows, therefore, assesses the proposed development against the extant planning policies contained within the Development Plan. Section 6.0 of this report refers to those policies that are considered most relevant to the determination of the planning application. This assessment will establish the acceptability, or otherwise, of the proposal against those policies to establish whether *'in principle'* the development either is, or is not, acceptable by virtue of degree of compliance and/or conflict with policies contained within each of the relevant Development Plan documents. It should be noted that it does not follow that where a proposal conflicts/complies with just one policy that a proposal must be deemed unacceptable/acceptable, but it is a question of the degree of conflict/ compliance and the weight apportioned in that circumstance that gives rise to the final analysis.
- 7.5 Within the paragraphs that follow this *'in principle'* position, lies the analysis of the proposal in respect of the effects of the proposed development upon various interests of acknowledged importance and the establishment of whether there exist any *'other material considerations'* that would outweigh/override the earlier referred *'in principle'* position.
- 7.6 The NPPF also confirms that local plan policies whilst they might be ones pre-dating the publication of the NPPF in 2012, they should not be considered out-of-date simply because of their age. This is particularly relevant within the applicable and extant planning policy context within which this particular application must be considered. The NPPF states that *"due weight should be given to relevant policies in existing plans according to their degree of*

consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)”.

- 7.7 The North Yorkshire Minerals Local Plan (NYMLP) was adopted in 1997 under legislation pre-dating the Planning and Compulsory Purchase Act 2004 (but with certain policies ‘saved’ by Direction of the Secretary of State in 2007. Weight should therefore be attached to the policies according to their degree of consistency with the NPPF (Section 6.0 above refers).

The principle of the proposed development

- 7.8 Amongst the aims of the NYMLP are those ensuring the adequate and steady supply of minerals, preventing the unnecessary sterilisation of mineral resources and sustaining the contribution of mineral-related employment to the rural economy whilst simultaneously ensuring the sustainable use of resources in a way which protects the local environment, both natural and historic as well as safeguarding the amenities of those living and working in local communities. The NPPF recognises minerals are a finite natural resource and can only be worked where they are found. It is, therefore, important to make the best use of them as a means to secure their long-term conservation (NPPF’s Paragraph 142 refers). Inherent in the applicant’s assessment of the likely significant effects of the proposed development is the question of whether the proposed development could take place elsewhere other than the chosen location of the planning application. A part of the applicant’s environmental impact assessment into alternative locations for the proposed development, the applicant company’s Environmental Statement explains the choice of the application site has been determined on the basis of geology of the area, the availability of the land to be worked and ease of operational access. The proposed application site meets these considerations insofar as the site has known sand and gravel deposits and is available. A further consideration is the avoidance of sterilisation of the remaining reserves within the proximate former Ellerton Quarry workings north of the River Swale.
- 7.9 The aims of the NYMLP are consistent with the NPPF which sets out policy on the importance of minerals and mineral extraction as being “*essential to support sustainable economic growth and our quality of life*” and emphasises the importance of ensuring a sufficient supply of mineral materials is available to the construction industry to provide the infrastructure and buildings that are needed by the country (Section 6.0 above refers). It states that great weight should be given to the benefits of minerals extraction (Paragraph 144 refers). It goes on to state in Paragraph 145 that it requires authorities to ensure a steady and adequate supply of aggregates which will contribute to the overall national need. In regard to the provision of sand and gravel, the NPPF states authorities should make provision for the maintenance of a landbank of *at least* 7 years within their areas.

- 7.10 At the time of the original submission of the proposals for the Killerby site, the landbank (the key indicator of the adequate levels of reserves), monitored by the Yorkshire and Humber Regional Aggregates Working Party (YHRAWP) calculated the sub-regional apportionment for North Yorkshire to equate to an extraction rate of 2.63 million tonnes per annum. The ES (July 2010) made reference to the County Planning Authority's Annual Report and Aggregates Monitoring Report for 2008 (published in October 2009) by YHRAWP, which the applicant company stated, identified that, as of the end of 2008, the permitted reserves of sand and gravel in the county were 20.02 million tonnes, equivalent to an overall landbank supply of 7.6 years. This was sub-divided into three subdivisions by the YHRAWP, which entailed three sites with a "*predominately northern distribution suitable for the production of concrete, sites with a predominately southern distribution suitable for the production of concrete and sites with reserves of mostly soft sand*". The applicant company maintains the proposed development falls within the first sub-division as it has a "*predominately northern distribution suitable for the production of concrete*" ('*saved*' Policy 5/1 of the NYMLP refers).
- 7.11 However, in the intervening time period, the most recent data (YHAWP) for sand and gravel production up to the period ending December 2015 identifies land bank reserves of sand and gravel across the county to be equivalent to 10.3 years; while this information does not provide a specific landbank figure for this 'northwards distribution area', the [Local Aggregates Assessment](#) (LAA) for North Yorkshire, approved by the YHAWP in September 2016, indicates a landbank to have reduced to 5.6 years by the end of 2015.
- 7.12 While at the time of the submission of the planning application, the landbank had been above the minimum 7 year period (at 10.05 years according to the *Aggregates Monitoring Report* (AMR) (2008)), the intervening years since the application's submission has seen a consistent depletion in reserves meaning that the landbank is now below the 7 year minimum. The national policy requirement is to maintain a landbank of at least 7 years. As expected, in the absence of further reserves coming '*on-stream*', the landbank has fallen below the required minimum level during the last five to six years. Furthermore, there no longer remain any '*Preferred Areas*' for sand and gravel working arising from the adopted NYMLP; having all been subject to consent and either have contributed or continuing to contribute toward the current landbank. There are, therefore, no remaining available '*Preferred Areas*' in the NYMLP that can be brought forward to either sustain or bring the level of the sand and gravel landbank above the 7 year minimum. The County Planning Authority's Monitoring Report (2014/2015) noted that in order to maintain the landbank level above the required 7 years in the future, there is the need for new reserves of sand and gravel to be developed "*if environmentally suitable locations can be identified, by extending existing quarry sites and/or opening new quarries*". It consequently follows that, in order to '*lift*' the landbank prior to the adoption of the new Local Plan, permission would need to be granted

on sites not currently allocated in the *Development Plan*. This would align and be consistent with national policy expressed within Paragraph 145 of the NPPF.

- 7.13 The applicant's estimated mineral reserve of the current proposal for the Killerby site at 11.37 million tonnes of sand and gravel points to the ability of this proposal to make a significant contribution toward the county's depleted '*northern distribution area*' landbank. The Environmental Statement accompanying the application explains that the mineral deposit at Killerby has been explored by rotary auger drilling undertaken between 1960 and 2009 and a total of 220 boreholes have been drilled across the site. The [borehole log data](#) that has been submitted in support of the application and has informed its submission has also been accompanied by data from 16 trial pits and cross references have been made with the three British Geological Survey boreholes. The proposed development in the view of the applicant company offers the opportunity to secure future sand and gravel supply for the local building market and enabling the exploitation of what remains of the reserve in the former Ellerton Quarry workings by the use of conveyors and the siting of processing plant within the proposed Killerby site.
- 7.14 The applicant company's Environmental Statement explains that the proposed development is required as a "*direct replacement for Ellerton and Scorton Quarries and would allow for the uninterrupted and continued supply of sand and gravel to the existing established market*". It maintains that without the security of the supply offered by the proposed Killerby quarry, the applicant company would not be in a position to guarantee long-term supply to the "*existing established market*" and that if permission were to be obtained for the Killerby site then with the Scorton site fully exploited, the applicant company could relocate processing plant enabling the processing of mineral within the unworked phases of former Ellerton Quarry removing any requirement for processing at Ellerton Quarry (as per its original permission ref: C1/21/28/PA dated 22nd November 1994) and allowing the processing of mineral at a single site. This could potentially have the advantage of removing heavy vehicular traffic from the local road network around Brompton-on-Swale and Scorton.
- 7.15 The reasoned arguments put forward point to the proposals having the potential to sustain a continuity of supply of sand and gravel for the local construction market without the need for increased pressure being applied on other existing sand and gravel sites as well as assisting the county in maintaining its landbank for a period in excess of twenty years.
- 7.16 The NYMLP '*saved*' policies set out an approach to the consideration of applications for new aggregate mineral working. '*Saved*' policies 3/2, 3/3 and 3/4 of the NYMLP provide the current *Development Plan* '*framework*' for the consideration of planning applications for new mineral sites and extensions to existing quarries. The NYMLP identifies '*Preferred Areas*' and '*Areas of Search*'. '*Saved*' Policy 3/2 directs that '*in order to maintain landbanks of*

permitted reserves, proposals for aggregates mineral working in Preferred Areas will be regarded as acceptable in principle. However, as earlier referred, there are no 'Preferred Area' allocations remaining in regard to those sites identified in the current NYMLP and the site currently under consideration is not designated as a 'Preferred Area'. For the purpose of considering the current application, this falls outside the requirement set out in 'saved' Policy 3/2 for the reason given. Notwithstanding this absence of 'preferred area' status, the majority of the application site (with the exception of an element of Phase 2 and all of sub-phase 1C) is identified within the south of Catterick 'Area of Search'. 'Saved' Policy 3/3 of the NYMLP indicates that permission may be granted for aggregate mineral working within 'Areas of Search' where the County Planning Authority is satisfied that sufficient mineral cannot be obtained from 'Preferred Areas'. It is considered that the requirements of 'saved' Policy 3/2 and 3/3 are broadly consistent with Paragraphs 144 and 145 of the NPPF that respectively both "give great weight to the benefits of the mineral extraction, including the economy" and provide "for a steady and adequate supply of industrial minerals by making provision for the maintenance of landbanks for at least 7 years for sand and gravel".

7.17 The proposal is not considered to conflict with the primary purposes of either 'saved' Policy 3/2 or 'saved' Policy 3/3 and a decision in favour of granting planning permission in this particular circumstance is considered to be consistent with Paragraph 145 of the NPPF in seeking to maintain landbanks of permitted sand and gravel reserves of at least 7 years. Therefore, taking into consideration the exhaustion of 'preferred sites' within the county, the application site, sequentially, is considered appropriate and therefore the principle of this site is acceptable in order to help ensure continuity of supply. Whilst only limited weight may be given to the emerging Plan, it is important to note that the Plan proposes the application site as a 'preferred allocation' to meet sand and gravel requirements during the plan period. The proposal introduces 'new reserves' which ought to be given due consideration. A refusal of planning permission could potentially lead to increased pressure at other sand and gravel sites within the 'northwards distribution area' and would prejudice the county's ability to reach and subsequently maintain an adequate landbank in the near term. Furthermore, it is not possible to predict future production capacity levels at any of the other sites with confidence and, therefore, there can be no certainty any shortfall can be made up from these other sand and gravel quarries.

7.18 It must also be borne in mind that, although a smaller area in spatial terms, an element of the Killerby proposals comprises land that falls outwith any 'preferred area' or even 'area of search' and therefore 'saved' Policy 3/4 of the NYMLP which concerns itself with the circumstance of sites brought forward outwith both 'preferred areas' and 'areas of search', is considered to be engaged in this particular instance. Although this proposed development would not constitute an extension to an existing working quarry *per se*, it is

important to note that Phase 1 of the proposal would be used for the processing of sand and gravel extracted from the neighbouring former Ellerton Quarry and would ensure the exploitation of a known and available mineral reserves that exist within the former workings. The proposed Killerby site, when assessed against 'saved' Policy 3/4 of the NYMLP, can be considered to be consistent with the objective of this policy in that it would safeguard against the possible sterilisation of mineral resources.

- 7.19 A decision granting permission for the proposal would, it is considered, be consistent with Paragraph 144 and Paragraph 145 of the NPPF that require authorities to give *'great weight to the benefits of mineral extraction, including the economy'* and *'plan for a steady and adequate supply of industrial minerals by making provision for the maintenance of landbanks for at least 7 years for sand and gravel'*.
- 7.20 Before bringing to a close the consideration of the acceptability of the development *'in principle'*, due regard must also be had to the policy relating to both the siting and scale of a proposed minerals-related development; the acceptability of which is sought by criterion (b) of NYMLP 'saved' Policy 4/1. In terms of siting, as earlier referred, the site of the proposed development has been the subject of a [Geological Investigation](#) explaining that over the last forty years, the site has been the focus of over 200 boreholes and trial pits. The submission of this information (including the borehole logs submitted with the original application documentation), together with the further information submitted during the processing of this application, is considered to be both adequate and satisfactory in order to determine the proposal's acceptability in respect of this specific consideration. In terms of scale, the proposal comprises a circa 213 hectares (ha) site, with an extraction area of 114ha, producing approximately 11.37 million tonnes of sand and gravel over a 17.5 year period, with a production rate of 650,000 tonnes per annum from the application site (excluding the material that will be processed from Ellerton Quarry). It is acknowledged that the proposed development introduces a large-scale quarry site within the landscape. However, with appropriate mitigation measures in place to assist in visually screening the development during its operational phase, the scale of development is considered acceptable and should be considered against its temporary nature and that it would assist the County Planning Authority's role in securing a long-term supply of sand and gravel in the county.
- 7.21 A new sand and gravel working at Killerby Quarry could play a significant role in the supply of sand and gravel in the county contributing to sustained resources for growth. The proposed development would secure productive capacity, ensuring continuity of supply from the county and assisting in maintaining a sufficient land bank reserve of sand and gravel. Were planning permission to be forthcoming, it would constitute an efficient use of mineral resources permitting the recovery of known reserves of sand and gravel within

the former Ellerton Quarry workings by means of infrastructure (i.e. river crossings) and the use of a single site for the purpose of processing. Another potential benefit arising would be the safeguarding against sterilisation of mineral reserves that remain. To this end, whilst normally a period of three years in which to implement a permission is common place, in this particular instance, taking into account the associated workings and proposed sequence of extraction, an additional three year period in which to implement is considered to be reasonable.

7.22 In summary, significant material considerations are, therefore, the absence of up-to-date allocations, the benefits of safeguarding against mineral sterilisation and the need to help support the landbank level which collectively lend policy support to the '*in principle*' acceptability of the proposed development and do not render the proposed development in significant material conflict with spatial distribution-related/locational policies of the NYMLP; nor is it rendered in significant material conflict with the general aims of NPPF's Paragraph 17 (encouraging economic development, amongst others, through the delivery of infrastructure and sustaining jobs and contributing to economic wealth) and the overarching presumption in favour of sustainable development within the NPPF as well as the more relevant policies of the NPPF i.e. paragraphs 142, 144 and 145; nor is there considered to be any significant conflict to any material degree with Policy CP3 and CP13 (supporting development which respects and enhances "*local context and its special qualities, including its design features, landscape, social activities, historic environment and nationally and locally recognised designation*") of the Richmondshire Local Plan; Policy CP1 and CP17 (which similar to that of RDC's CS Policy CP13 seeks development to "*respect and enhance the local context and its special qualities, including its urban design, landscape, social activities and historic environment*") of the Hambleton Core Strategy, with criterion (b) of NYMLP '*saved*' Policy 4/1, or with '*saved*' Policies 3/3, 3/4 and 5/1 of the NYMLP. It is therefore considered that, subject to the identified reserves being capable of being extracted without unacceptable harm to interests of acknowledged importance, the principle of granting planning permission for this development, is considered to be acceptable, for the reasons thus far explained.

7.23 However, the issue of whether any other material considerations are materially significant so as to find the development proposed in this particular instance unacceptable in land-use planning terms and, thereby, indicating a view contrary to the above '*in principle*' acceptability of the proposed development must be addressed and is discussed in the paragraphs that follow.

Assessment of the proposal against other material considerations

7.24 The assessment that follows comprises those matters that are regarded as the principal effects of the proposed development and aligns with the assessed likely significant effects within the scope of the environmental impact

assessment (EIA) undertaken to support the application; although the order in which they appear below is, by no means, an indication of their importance relative to one another. They comprise effects upon interests of acknowledged importance including those upon both the environment (flora and fauna) and local communities:

- [vibration, noise and air quality impacts](#);
- [landscape and visual impacts](#);
- [nature conservation, ecology and habitat protection](#);
- [cultural heritage and archaeological impacts](#);
- [transport and traffic impacts](#);
- [hydrological and hydrogeological impacts](#);
- [access and recreation](#);
- [impacts upon soil management and agricultural land](#);
- [restoration and 'after-care'](#);
- [socio-economic impacts](#); and,
- [cumulative impacts](#).

Vibration, noise and air quality impacts

7.25 It is recognised that mineral workings and associated activities have the potential to have considerable environmental impacts, to varying degrees depending upon the mineral proposed to be worked, but nevertheless, most notably those of vibration, noise and dust. The potential environmental effects of the proposed quarry at Killerby from a vibration, noise and air quality perspective which could potentially impact upon the amenity currently enjoyed by local residents in the vicinity of the application site have been subject to environmental impact assessment (EIA) and the methodology, evidence, findings and recommendations have been brought together within the submitted Environmental Statement (updated and revised).

Vibration

7.26 The assessment of the effects of the proposed development in respect of vibration has been explained within the Environmental Statement (Chapter 11 refers) which accompanies the planning application. It explains that taking into consideration that the “*highest levels of vibration from surface mineral workings are generally only associated with blasting*”, only a limited assessment of potential effects from vibration has been considered necessary by the applicant company in relation to this particular proposed development. This remained the consistent opinion upon the review of the development proposals in submissions made in February 2016, as there continues to be no blasting operations proposed.

7.27 However, the potential for effects from vibration from associated plant and machinery has been assessed and that assessment has concluded that, given the separation distance between such operations and those living nearby, any potential impact has been considered to be insignificant and would not constitute a significant adverse effect of the proposed development. There

have been no objections returned during the course of processing and consulting upon this application with regards to the issue of vibration either from statutory consultees or other interested parties; thereby rendering this specific effect of the proposed development being mitigated to such a degree as to not warrant a reason to arrive at a view contrary to the *'in principle'* acceptability of the proposed development.

Noise

- 7.28 With regards to the assessment of any potential significant adverse effects of the proposed development as a result of noise generated by activities associated with the proposed development, the Environmental Statement has confirmed that baseline noise surveys have been carried out in the area around the application site and that such measurements have confirmed that *"the site location [to be] dominated by traffic noise from the A1 and [therefore] appropriate noise criteria have been recommended"*.
- 7.29 The assessment has considered the potential noise impacts of the proposed development during temporary operations, e.g. soil stripping, and the long-term day operations upon a number of properties located close to the application site¹⁵.
- 7.30 The noise chapter of the Environmental Statement accompanying the application also has explained that when assessing the shorter term potential impacts of the operations, then a higher noise limit of up to 70dB $L_{Aeq,1h}$ is supported in national policy as being used as the threshold. Whilst acknowledging the impact of these temporary operations to be *'adverse'*, they have equally been acknowledged as being both *'short-term'* and *'reversible'* in their nature; thereby resulting in an assessed impact of *'slight'* significance. The Environmental Statement has concluded that the assessment *"shows that the 70dB(A) $L_{Aeq,1h}$ (free field) criterion for short duration activities such as soil stripping can be achieved"* and, therefore, the proposed development is capable of being operated in accordance with guidance.
- 7.31 Following an evaluation of potential temporary noise effects, the applicant company records that, during the planned temporary operations, the predicted noise levels *"at all of the noise sensitive receptors studied would be substantially below the 70 dB $L_{Aeq,1h}$ (free field) limit for temporary operations ... Depending upon the duration of activity, the noise impact would be considered to be no worse than minor/slight adverse"*.
- 7.32 The applicant company explains that the predicted noise levels *"at each noise sensitive receptor would be in the main below the 55 dB $L_{Aeq,1h}$ (free field) limit ... for all phases"* and in terms of longer term impacts, *"where the 55 dB $L_{Aeq,1h}$ (free field) limit is met the noise impact would also be below the criterion based*

¹⁵ The residential properties that were assessed comprise: Killerby Hall; Killerby Farm; The Bungalow; Broad Close Farm; Broad Close Cottage; Hook House Farm; Glebe Cottage; Hookcar Hill; and Oran House.

upon $\leq L_{A90,T}$, which is considered to be negligible, except at Hook House Farm during phases 4A and 5C. During these phases the noise impact predicted at Hook House Farm would be within the criterion $L_{90} - L_{90+5}$ and therefore considered to be minor/slight adverse. With “the exception of Hook House Farm (53 dB(A)) and Hook Car Hill (54 dB(A)), the 55 dB $L_{Aeq,1h}$ criterion would apply at all of the identified properties” when assessing potential long-term noise effects from the proposed development. The Environmental Statement also notes that the assessment undertaken by the applicant company “considers operations at their closest proximity to properties...is likely to reduce to negligible with distance and as operations progress”.

- 7.33 It also concludes that the noise assessments undertaken demonstrate that “noise levels can conform to the [nationally accepted] noise criterion ... except at Broad Close Farm during phase 3B”. However, it is also important to note that the Environmental Statement confirms that at this location “where the farm buildings [are proposed to be] demolished and the mineral excavated, the industrial farm buildings, e.g. the barns and outbuildings, would provide noise attenuation and would therefore be retained for the period that the farmhouse remains a residence”.
- 7.34 In terms of proposed mitigation to help alleviate any potential adverse noise impacts upon the amenity of the local community and the environment as a whole, the Environmental Statement has stated that such measures have been considered within the “context of the site design and as part of Tarmac Ltd’s good operational practice adopted at all sites”. It has confirmed that mitigation measures “have been considered within the context of the site design and as part of Tarmac Ltd’s good operational practice adopted at all sites”.
- 7.35 Firstly, in terms of site design, temporary soil storage mounds are proposed within the application site and on the boundary and illustrated on the phasing plans accompanying the planning application. The applicant company states that these measures would “provide acoustic barriers for mobile plant within the site. The soil mounds have been created through working of previous phases and would continue to provide mitigation against proposed operations”. The Environmental Statement also states that the applicant company “operates an Environmental Management Policy for [the] control of site noise”. The management system includes certain mitigation measures, which include, for example, measures to ensure that new “plant would be used where practical and regular maintenance undertaken, including maintenance related to noise emissions”.
- 7.36 The relevant *Development Plan* policies against which to assess the proposed development’s effects associated with noise and their potential for significant adverse impact upon both the local community and the natural environment have been outlined in Section 6.0 of this report. They include

'saved' NYMLP Policy 4/1, and, in particular, criterion (b), which requires developments to be acceptable in both siting and scale, criterion (c) which seeks applicants to demonstrate, through the method and proposed programme of works that the impacts of the development would be minimised, criterion (e) which directs that applications must be assessed for their environmental and amenity safeguards to effectively mitigate against the impacts of a proposed development and criterion (i) seeking to ensure against unacceptable cumulative impacts, 'saved' NYMLP Policy 4/14 ensuring proposals do not give rise to unacceptable environmental impacts, Hambleton District Council's Core Strategy Policy CP21 (which seeks measures to mitigate against the effects of noise), Hambleton's Development Policies DP1 (which seeks to preserve amenity) and DP44 (which seeks to direct noise-generating activities away from noise-sensitive locations).

- 7.37 Following the initial advertisement of the application, responses were received from the local community with understandable concerns about noise. These included concerns expressed surrounding the potential noise impacts from the development, questioning the methods undertaken by the applicant company in the assessment of potential noise and suggesting that guidance noise levels will be exceeded. The opportunity was taken by the applicant company to address these concerns explaining that the noise assessment had been based on "*information provided by the equipment manufacturers*". Nevertheless, notwithstanding any demonstrable evidence to suggest that significant adverse effects would ensue as a result of noise generating activities associated with the proposed development, the applicant company would seek to establish a Community Liaison Group for Killerby Quarry, should planning permission be forthcoming, that would facilitate resolution of any noise-related complaints arising from the proposed development. Furthermore, the proposals put forward by the applicant company also provide for the on-going monitoring of noise, controllable through the mechanism of appropriately worded planning conditions that could be imposed, in the event of a decision to grant permission.
- 7.38 The relevant expert on this particular aspect of the proposal, the Hambleton District Council Environmental Health Officer (EHO), has been consulted on the proposals put forward and, after scrutinising the information submitted by the applicant company confirmed, upon initial consultation, that the "*the details and proposals submitted by the applicant company are acceptable*". Importantly, the response confirmed that the application met the guidelines set out in *Minerals Policy Statement 2: Controlling and mitigating the environmental effects of mineral extraction in England – Annex 2: Noise*. While these were the relevant guidelines at the time of the submission of the planning application, they have since been replaced by the NPPF (supported by the technical guidance with the NPPG). The advice and guidance nonetheless carries the thrust of the preceding advice. The NPPG provides guidance on assessing the potential noise impacts from minerals-related

development proposals stating the total “*noise from the operations should not exceed 55dB(A) $L_{Aeq, 1h}$* ” whilst recognising that for short-term related activities associated with quarries, “*such as soil-stripping, the construction and removal of baffle mounds, soil storage mounds and spoil heaps, construction of new permanent landforms and aspects of site road construction and maintenance*” a 70 dB(A) $L_{Aeq, 1h}$ (free field) limit should be regarded as the normal maximum. As referred within Section 4.0 above, the most recent consultation (*the 2016 consultation*) with the relevant expert, the District Council’s Environmental Health Officer, returned no response at variance with that previously made.

7.39 The information submitted by the applicant company in respect of this particular effect of the development, i.e. noise, is considered to be both adequate and sufficient upon which to determine the planning application and due regard has been had to the advice provided within national planning guidance relevant to noise and minerals-related development (NPPG paragraphs 013 and 019 to 022 of Section 27 and paragraphs 001-003, 006 & 008 within Section 30 refer). Upon review of the applicant company’s environmental impact assessment with specific regard to noise and the responses to consultation as well as the representations made during the course of processing the application, there are considered to be limited effects, both in severity and duration, arising as a result of noise-generating activities associated with the proposed development. The proposed mitigation measures discussed in the noise chapter of the ES (July 2010) have been considered and it is recognised that the layout of the operational site has been carefully designed such that some of soil and overburden would be used for the construction of soil mounds that would act as noise barriers to increase attenuation from the site as well as providing a visual screen. The location of these bunds is shown on the plan accompanying the application, ‘[Phasing Plan-Composite](#)’ (drwg no. NT10306/12/Fig3.1 rev A, dated 4th March 2015). The proposed ‘*environmental management*’ measures that are also proposed to be implemented on site have similarly been duly considered and no reasons have been found to doubt their effectiveness.

7.40 Whilst of obvious and understandable concern to the local community, the effects of noise associated with the proposed development are considered to be capable of being adequately mitigated by artificial and natural barriers and capable of being acceptable in land-use planning terms should appropriate levels of control through the imposition of planning conditions be deemed sufficient. Suitably worded planning conditions could be attached to a permission that would ensure working operations are performed within acceptable noise thresholds as discussed above and these are conveyed in the recommendation within this Officer report for consideration by Members. Acknowledging the degree of consistency of the extant policies of the *Development Plan* with the NPPF, the proposed development is not considered to give rise to any significant material conflict with ‘*saved*’ NYMLP Policy 4/1 in particular criteria (b), (c), (e) and (i), and ‘*saved*’ NYMLP Policy

4/14, or Richmondshire District Council's (RDC's) Core Strategy Policy CP3, Hambleton District Council's (HDC's) Policies CP1 and CP21, and HDC's Development Policies DP1, DP32 and DP44.

Other material considerations

- 7.41 The consideration and assessment of this application is made also with due regard to national policy expressed within the core principles of the NPPF (4th and 7th principles of Paragraph 17 refer) seeking improved amenity for all and reduced levels of pollution. The national planning policy with particular relevance to noise can be found within Paragraph 69 (with reference to health-related impacts of noise), Paragraph 109 (4th bullet point relating to avoiding unacceptable adverse noise effects), Paragraph 120 (seeking appropriate development in appropriate places ensuring account is taken of the effects (including cumulative effects) of pollution on health, the natural environment or general amenity and potential pollution sensitivity), and Paragraph 123 (which is linked to the [Noise Policy Statement for England](#), published in March 2010).
- 7.42 This is further reiterated within Paragraph 144 which requires authorities to ensure that "*there are no unacceptable adverse impacts on the natural and historic environment [and] human health*" (3rd bullet point refers) and, particularly the 4th bullet point therein, requiring consideration of the possibility of controls, measures in mitigation, removal of sources of noise or limiting their levels at noise sensitive receptors. The acknowledged aims of which seek to prevent unacceptable risks to the natural environment and/or those living in communities being adversely affected by, *inter alia*, noise impacts. Planning authorities are advised, in NPPG's Section 27, on how noise, with particular regard to mineral development, should be controlled and ensure that new developments are appropriate for their proposed location in making decisions on planning applications and within Section 30 to the NPPG, Paragraph 008 advises that cumulative impacts of noise that can arise and also their effects upon wildlife and ecosystems, particularly upon designated sites, as well as those living in the vicinity of proposed developments should also be considered.
- 7.43 The national policy relating to potential noise effects from new development is to mitigate and reduce to a minimum such potential effects to avoid potential adverse health-related and amenity impacts. The NPPF clarifies that authorities should consider whether it is practicable to control or reduce noise levels, or provide mitigation for the impact of noise when considering development proposals and reaffirms the previous advice of MPS2 on the acceptability of noise limits in relation to minerals-related development proposals (NPPF Paragraph 109 and Paragraph 123 refer).
- 7.44 Taking into consideration the environmental and other additional information received both within the original submission and during the processing of this

planning application assessing the potential significance of any noise-related impacts arising from the proposed development; the representations and responses to consultation from experts in their related field free from objection; the measures proposed in mitigation (provided they are implemented following best practice) which are considered to be adequate and capable of being controlled, and no conflict of any significant material degree with the extant policies that comprise the *Development Plan*, there is nothing arising that would give rise to a conclusion that noise-related impacts arising from the proposed development would be, materially, both significant or adverse to such a degree as to warrant a refusal on this ground alone and no argument to sustain such a refusal is found to be sufficiently compelling in this instance.

Air Quality

- 7.45 With regards to the assessment of any potential significant adverse effects of the proposed development as a result of degradation of air quality through the generation of dust associated with the proposed development, the Environmental Statement has acknowledged that while dust can be created by ground disturbance, whatever the activity, mineral operations are often the source of elevated levels of dust in the immediate vicinity of the workings. In respect of this particular proposal, dust can be generated as a result of loading and/or placement of materials (be they mineral, soils, interburden and/or overburden), their processing (in relation to the mineral) as well as their haulage. It explains that the *“majority of dust emissions from the site are expected to be large particles (>30µm) which do not propagate more than 100m”*. The Environmental Statement goes on to confirm, however, that *“to account for smaller particle emission, all properties within 500m of site have been considered potentially dust-sensitive”*. These properties include Killerby Hall, Oran House, Broad Close Cottage, Hook House Farm, Glebe Cottage, Green Gate Farm and Hookcar Hill. In assessing the impact of dust as being, geographically, of local importance, the impact has been assessed as *‘neutral’* and *‘negligible’* in its significance once mitigated.
- 7.46 The Environmental Statement concludes that the assessment that has been undertaken has found that with appropriate mitigation measures in place *“there would be insignificant impacts of dust on properties located in proximity to the site”*. It also concludes that *“there would be no adverse impacts on health from any increases in PM₁₀ and the Air Quality Strategy would not be exceeded”*. The applicant company also considers that cumulative effects *“are not predicted to be likely”* from the proposed development, in relation to the former Ellerton Quarry.
- 7.47 Following the initial advertisement of the application in 2010, concern was expressed from some members of the local community surrounding a lack of clarification in the Environmental Statement to the potential impact on air quality and questions were raised on whether there will be *“monitoring of on-site dust mitigation measures in place”*. The agent acting on behalf of the

applicant company responded to such concerns by stating that the potential for dust from the proposed development “*would be actively controlled through rigorous site management in accordance with Tarmac’s Environmental Management Policy*”.

7.48 To this effect, the Environmental Statement further confirms in its conclusions within the ‘Air Quality’ chapter (ES Chapter 10) that the *Site Manager* would be “*responsible for the implementation of control measures on site in order to minimise dust nuisance*” and such measures would form part of site’s [Environmental Management Strategy](#). It confirms that these measures comprise of the following:

- *sufficient water would be available to enable dust suppression measures to be carried out when required;*
- *unsurfaced vehicle access roads would be suitably graded and watered during dry conditions as necessary;*
- *the access road and other hard surfaced areas and roads would be kept clean at all times and watered by motorised spray units during dry conditions;*
- *drop heights from the front loading shovel to the crusher would be minimised;*
- *wind speed and direction would be taken into account when organising operations;*
- *vehicle speed limits would be controlled to 10mph to prevent dust arising from vehicle access roads;*
- *vehicle exhausts would be directed away from the ground to minimise dust disturbance; and*
- *soil storage areas, topsoil bunds and restored areas would be seeded with grass as soon as practicable to prevent wind erosion of soils.*

7.49 Further measures put forward in mitigation include the availability of generally moisture-laden soils *in situ*, the grass-seeding of soil stockpiles, application of acknowledged ‘*best practice*’ in mineral processing, minimisation of areas of ‘*bare ground*’ at any point in time during operations, spraying of haul roads, sheeting of loads on vehicles, wheel-washing and on-site speed restrictions.

7.50 The relevant *Development Plan* policies against which to assess the proposed development’s effects associated with dust and their potential for significant adverse impacts upon the quality of air both for the local community and for the natural environment have been outlined in Section 6.0 of this report. They include ‘*saved*’ NYMLP Policy 4/1, and, in particular, criterion (b) which requires developments to be acceptable in both siting and scale, criterion (c) which seeks applicants to demonstrate, through the method and proposed programme of works that the impacts of the development would be minimised, criterion (e) which directs that applications must be assessed for their environmental and amenity safeguards to effectively mitigate against the impacts of a proposed development, and criterion (i) which seeks to ensure

that the cumulative impacts of development proposals are taken into account and assessed as being acceptable, 'saved' NYMLP Policy 4/14 ensuring proposals do not give rise to unacceptable environmental impacts, as well as RDC's Core Strategy Policy CP3 (seeking the minimisation of airborne pollution), and HDC's Core Strategy Policy CP1 (seeking to protect air quality).

- 7.51 While those making representations in respect of the proposed development have referred to the potential for adverse effects arising from the generation of dust, the applicant company has proposed a *Dust Management Plan* that would require the recording of wind direction and reporting of information to the County Planning Authority as well as other measures in mitigation explained below.
- 7.52 The District Council's Environmental Health Officer, the acknowledged expert in this field, having scrutinised the information submitted by the applicant company, has returned no comments with specific regard to the air quality issues (including dust) that have the potential to arise from a development of this nature.
- 7.53 The information submitted by the applicant company in respect of this particular effect of the development (i.e. potential detrimental impact upon air quality and in particular dust) is considered to be both adequate and sufficient upon which to determine the planning application and due regard has been had to the advice provided within national planning guidance relevant to air quality and minerals-related development proposals (NPPG paragraph 013 of Section 27 and paragraphs 001, 005 and 009 of Section 32 (specifically relating to air quality) refer). Upon review of the applicant company's environmental impact assessment with specific regard to air quality and, in particular, dust and the responses to consultation as well as the representations made during the course of processing the application, they are considered to be limited in their effects, both in terms of severity and duration, arising as a result of dust-generating activities associated with the proposed development. The proposed mitigation measures discussed in the '*Air Quality*' chapter of the Environmental Statement of containment, suppression, reduced drop heights, arrestment, wind dynamics management, covering, vehicle wheel-wash facilities and ensuring vehicle exhausts point away from the ground have been considered. In addition to these safeguards, the applicant company proposes an *Environmental Management Strategy*. It is recognised, therefore, that these would adequately mitigate against significant adverse effects arising from the proposed development in terms of air quality and, in particular, dust.
- 7.54 It is acknowledged that the potential for adverse effect upon air quality and, in particular, through the generation of dust, would be an obvious and understandable concern to the local community. However, these effects are considered to be capable of being adequately mitigated by the measures

proposed by the applicant company and are considered capable of being acceptable in land-use planning terms should appropriate levels of control through the imposition of planning conditions be deemed sufficient. Suitably worded planning conditions could be attached to a permission that would ensure working operations are performed within acceptable thresholds and these are conveyed in the recommendation within this Officer report for consideration by Members.

- 7.55 In acknowledging the degree of consistency of the extant policies of the *Development Plan* with the NPPF, the proposed development is not considered to give rise to significant conflict with 'saved' NYMLP Policy 4/1, and, in particular, criteria (b), (c), (e) and (i) as well as 'saved' NYMLP Policy 4/14 and RDC's Core Strategy Policy CP3 and HDC's Core Strategy Policy CP1.

Other material considerations

- 7.56 The safeguarding of local air quality is embedded in national planning policy contained in the NPPF's *core principles* (the 4th, 5th and 7th principles of Paragraph 17 refer) which seek to improve amenity for all and reduce levels of pollution. The national planning policy with particular relevance to air quality and, in particular, dust can be found within Paragraph 69, Paragraph 109 (4th bullet point), Paragraph 120 (which seeks to ensure that account is taken of the effects (including cumulative effects) of pollution on health, the natural environment or general amenity and potential pollution sensitivity), Paragraph 123 and Paragraph 144 which requires authorities to ensure that "*there are no unacceptable adverse impacts on the natural and historic environment [and] human health*" (3rd bullet point refers) and, particularly the 4th bullet point therein, which seek to prevent the natural environment and/or those living in communities being adversely affected by, *inter alia*, dust and particle emissions and that these are either controlled, mitigated or removed at source. Planning authorities are advised, in NPPG's Section 32, of the need to be mindful of the need to manage and improve air quality and ensure that new developments are appropriate for their proposed location in making decisions on planning applications.
- 7.57 Taking into consideration the environmental and other additional information received both within the original submission and during the processing of this planning application assessing the potential significance of any impacts relating to air quality and, in particular, dust arising from the proposed development; the representations and responses to consultation from experts in their related field free from objection; the measures proposed in mitigation (provided they are implemented following best practice) which are considered to be adequate and capable of being controlled, and no conflict of any significant material degree with the extant policies that comprise the *Development Plan*, there is nothing arising that would give rise to a conclusion that impacts arising from the proposed development relating to air quality and,

in particular, dust, would be, materially, both significant or adverse to such a degree as to warrant a refusal on this ground alone and no argument to sustain such a refusal is found to be sufficiently compelling in this instance.

Landscape and visual impacts

- 7.58 *Landscape impacts* are distinguishable from visual impacts in that they relate to changes in the fabric, character and quality of the landscape; whereas, *visual impacts* relate to specific changes in views and the attendant impacts therefrom upon others such as those living in the vicinity of the site or those enjoying the outdoors along public footpaths for instance.
- 7.59 With respect to landscape impacts, the assessment has taken into account the potential landscape impacts in respect of the landscape character of the site ‘*per se*’, the Vale of Mowbray, the former Special Landscape Area and the wider study area as well as the impacts upon the setting of the Historic Park & Garden of Killerby Hall. The Environmental Statement has acknowledged that the proposed development would alter the landscape character of the area by the very nature of the extraction activities exploiting the sand and gravel from the land and changing the landscape from one of being predominantly agricultural in nature to one of a mosaic of agriculture and wetlands. However, the Environmental Statement has noted that “*the wider area includes neighbouring quarries at Kiplin Hall, Scorton and Ellerton; these are currently giving rise to similar changes to the local landscape character of this area and this strategy is supported by the [Swale and Ure Washlands Project](#)*”. The landscape chapter of the Environmental Statement concludes that “*the application site is relatively well screened by the gently rolling topography and the surrounding hedgerows and woodland*”. The environmental impact assessment that has been undertaken has found that potential impacts “*on the local landscape character would not exceed slight adverse during operations changing to beneficial on restoration*” and that the progressive restoration on site “*would limit the extent of disturbed area affected at any one time*”.
- 7.60 In terms of cumulative effects, the Environmental Statement acknowledges that due to the close proximity of the former Ellerton Quarry and Kiplin Hall Quarry workings and with the presence of Scorton Quarry 3km to the north-west, the proposed development does have the potential to result in cumulative impacts, but not necessarily significantly adverse. The Environmental Statement explains that such sites are “*well screened by surrounding woodland meaning they are not intervisible; therefore any cumulative impacts of these sites would be imperceptible*”. The applicant company also clarifies within its Statement that the proposed Killerby Quarry would not be anticipated to be concurrently operational as these other three sites by the time the Killerby site could commence mineral working.

- 7.61 With respect to potential visual effects of the proposed development upon the views currently enjoyed by residents in proximity to the application site, the assessment has taken into account views from Killerby Hall, Hall Cottages, Killerby Farm and the Bungalow, Hook Car Hill Farmhouse, Hook House Farm, Denvon (Plane Tree Lane), Glebe Cottage, Glebe Farm, Broadclose Farm Broadclose Cottages, West Lodge, Kiplin Hall and gardens, Ellerton Caravan Park, the A1(T), Low Street, Lumley Lane, Greengate Lane and Tickergate Lane as well as views from the proposed diverted public right of way (footpath) south of Killerby Hall, the existing public right of way (footpath) south of Hook House Farm and views further afield along the network of footpaths and bridleways in the vicinity of the proposed site. All of these views have been deemed in the assessment to be of *local* importance as opposed to district, regional, national or international importance. Where potential adverse impacts have been identified, regardless of their level of significance, they have been assessed as being both '*short-term*' and '*reversible*' effects. Both the '*adverse*' (during the operational phases of the proposed development) and '*beneficial*' (during and after the restoration of each of the phases of the proposed development) significance of these impacts has ranged on the continuum from '*imperceptible*' to '*moderate*' with the exception of the case in respect of Broad Close Farm; the significance of impact of which has been assessed as '*substantial adverse*'. However, in the case of Broad Close Farm such '*substantial adverse*' impact is assessed as existing only insofar as the property remains '*in situ*'. As proposed, the property would be demolished and, therefore, upon such event, the '*substantial adverse*' effect would cease to subsist.
- 7.62 The Environmental Statement has acknowledged that there would be "*some significant impacts on the visual amenity of properties and users of rights of way closest to the site...and for users of the diverted footpath to the north-west of the site and the existing path south of the site*". However, it concludes that in respect of other visual receptors within the study area, the potential "*impacts would not be significant*".
- 7.63 By way of mitigating against the effects of the proposed development, the applicant company has put forward a number of measures within its Environment Statement so as to minimise as far as practically possible any potential adverse landscape and visual impacts arising from the proposed development. These measures include the screening of the proposed conveyors with linear soil bunds; the design of site levels to reduce the visual impact of the quarrying operations; progressive restoration to help reduce the duration of disturbance; improved restoration land cover to compensate for the loss of the small area of existing woodland and the hedges; and the creation of lakes with some woodland planting and marginal grassland to enhance the landscape character together with the return of land to agriculture. The Environmental Statement also notes that advance planting is proposed to screen the planned on-site processing plant from Killerby Hall.

- 7.64 The Environmental Statement also proposes that the final restoration scheme would be completed approximately twelve to twenty-four months after the completion of the extraction of the final Phase 5D in the year 2031. It also concludes that the proposed restoration proposals would bring “*significant/moderate beneficial effects to the landscape character of the area and would contribute positively to the wider setting of the Vale of Mowbray*”.
- 7.65 The relevant *Development Plan* policies against which to assess the proposed development’s effects associated with potential significant adverse landscape and visual impacts have been outlined in Section 6.0 of this report. They include ‘*saved*’ NYMLP Policy 4/1, in particular, criterion (b) requiring the siting and scale of the proposed development to be acceptable, criterion (d) which seeks to ensure that the landscaping and screening of proposed development have been designed so as to effectively mitigate the effects of a proposed development, criterion (e) which directs that applications must be assessed for their environmental and amenity safeguards to effectively mitigate against the impacts of a proposed development and criterion (i) which seeks to ensure that the cumulative impacts of development proposals are taken into account and assessed as being acceptable as well as ‘*saved*’ Policy 4/16 which seeks to ensure that minerals processing plants are sited and designed so as to ensure that any impacts that may arise in respect of those upon the environment or the amenity of the local community are kept to a minimum.
- 7.66 In addition, Richmondshire District Council’s Core Strategy Policies CP1, CP3 (supporting the promotion of local landscapes) and CP11 (supporting enhancements of cultural and recreational assets of open space); Hambleton District Council’s Core Strategy Policies CP1 (seeking to protect and enhance the character and quality of local landscapes and the wider countryside) , CP16 (seeking to support initiatives to improve the natural environment and biodiversity) and CP17 (seeking to enhance and respect local landscape context) and its Development Policies DP2 (seeking contributions for landscaping etc.), DP30 (seeking to safeguard and enhance local landscapes), DP32 (seeking landscape enhancement through high quality design) and DP33 (seeking local landscape protection and enhancement through new features reflecting the local landscape) are also considered relevant.
- 7.67 In terms of the consultation responses received in relation to this application, a number of points were raised from both statutory consultees and the local residents in relation to the potential effects upon the landscape and visual amenity of the area. Firstly, Natural England confirmed their satisfaction with the applicant company’s submitted *Landscape & Visual Impact Assessment* (LVIA) of the potential landscape and visual impacts within the Environmental Statement. Natural England also confirmed that “*screening of a low height*

should be sufficient in effectively limiting views of quarrying activities during the operation of the site”.

- 7.68 The County Council's in-house adviser on landscape matters, having scrutinised the applicant company's submissions during the course of the processing of this application and has arrived at a view contrary to those returned by Natural England. The County Council's in-house adviser's comments have been outlined earlier in this report within Section 5.0 above.
- 7.69 The adviser commented on the absence of a *Landscape Character Assessment* and stated the proposed development would result in impacts upon the landscape character of the area; visual impacts upon those living nearby, users of Public Rights of Way, and the local road network; and visual impacts upon the setting of the historic designed landscapes and on the River Swale corridor. This was followed by comments that there remained a number of issues with the proposed development, questioning the thoroughness of the applicant company's LVIA and the absence of an assessment of potential cumulative impacts on the relevant landscape character.
- 7.70 The agent on behalf of the applicant company has during the course of the processing of the application explained that the issue of the post glacial landscape has been addressed in both the Phase 1 *Archaeological Assessment* and, in particular, Section 1.9 *Geoarchaeological Assessment*; the loss of some of the low rides within the application site are “*an inevitable consequence of mineral extraction*”; and the lakes have been designed to reflect the depth and extend of the mineral in question and “*seeks to minimise sterilisation rather than them just being based on aesthetic appearance*”.
- 7.71 A number of concerns were also raised from representations from the local community relating to the level of proposed screening within the development, especially in relation to potential impacts upon the amenity of Killerby Hall and the adjacent residential receptors. Responses also considered there to be limited provision within the application site for advance planting and, in particular, there are concerns over the lack of proposed planting to replace the “*loss of a strip of woodland on the east of Killerby Farm*”.
- 7.72 Having received the comments of the County Council's own in-house adviser on landscape matters, the experts acting on behalf of the applicant company have considered the response and have maintained that the information that has been provided to support the application is of sufficient detail to be able to determine the acceptability of the proposed development. It goes further to suggest that views of the development from which the adviser had suggested may be obtained would either be unobtainable or sufficiently obscured by existing features lying within the landscape and local topography. Notwithstanding, the County Council's adviser's comments which stated that “*on the whole, quarrying operations are unlikely to be obtrusive in the wider*

landscape” were welcomed by the applicant company as was the absence of any objection to the proposed development whilst acknowledging the understandable concerns of the landscape adviser, but undertook to ensure that the input of such experts would be key to the preparation and development of subsequent strategies for landscaping enhancement.

- 7.73 While acknowledging that there are degrees of thoroughness into which a proposed development’s effects may be assessed, a reasonable and proportionate approach has been taken with regard to the amount of information requested of the applicant company with which to justify its proposals. Regard has also been had to the scale and degree of landscape enhancement opportunities presented by the proposed development which includes 25 hectares of managed woodland and carr, 16.5 hectares of species-rich grassland, 8,000 metres of headland margins (10 metres wide) and 4,280 metres of hedges with trees supporting such that this is considered to be significant in terms of landscape enhancement. Furthermore, the assessment also concluded no direct effects with regard to the non-designated park and garden or listed building.
- 7.74 It is acknowledged that the potential for adverse effect upon landscape would be an obvious and understandable concern to the interested stakeholders. However, these effects are considered to be capable of being adequately mitigated by the measures proposed by the applicant company and are considered capable of being acceptable in land-use planning terms should appropriate levels of control through the imposition of planning conditions be deemed sufficient. Suitably worded planning conditions could be attached to a permission and, as earlier referred, the delivery vehicle of a S106 Legal Agreement is capable of providing the mechanism to address the concerns that have been raised and these are conveyed in the recommendation within this Officer report for consideration by Members.
- 7.75 In terms of policy compliance, it is considered that the proposed screening would protect the environment and those living within the vicinity of the site from potential landscape and visual impacts and it is considered that, subject to the proposed restoration-related mitigation measures (controlled through the provisions of a S106 legal agreement), the proposed development does not give rise to any conflict with ‘*saved*’ Policy 4/1 criterion (d) and ‘*saved*’ Policy 4/16 of the NYMLP; Policies CP1, CP3 and CP11 of the Richmondshire Local Plan; Policies CP1, CP16 and CP17 of the Hambleton Core Strategy; Development Policies DP2, DP30, DP32 and DP33 of the Hambleton Development Policies DPD.

Other material considerations

- 7.76 From a national planning policy perspective, Paragraph 109 of the NPPF confirms that *“the planning system should contribute to and enhance the natural and local environment by...protecting and enhancing valued*

landscapes, geological conservation interests and soils” and, taking into consideration the proposals as put forward, they are considered to be consistent with the NPPF’s aims and objectives in this respect.

Nature conservation ecology and habitat protection

- 7.77 The assessment of the effects of the proposed development in respect of the flora and fauna (their conservation and enhancement), and, more specifically, protected species and designated habitats, is included within the Environmental Statement (Chapter 12 refers) which accompanies the planning application. The assessment has acknowledged the importance of each protected species and habitat (for example its rarity, diversity, fragility etc) and their sensitivity and that assessment has used, as part of its basis, the parameters of impact of magnitude as well as extent, duration, reversibility, timing and frequency of the effects of the proposed development.
- 7.78 The habitats that have been assessed have included arable/improved/semi-improved grassland, coarse grassland, dense shrub, plantation woodland, mature broadleaved field trees, broadleaved wet woodland, hedgerows, the River Swale, Fiddale Beck, drainage ditches, and areas of standing water. The assessment has identified that possible effects could arise from the proposed development as a result of direct habitat loss etc. as well as possible adverse impacts upon hydrology. These effects have been identified as potentially ‘*adverse*’ during the operational phases of the proposed development, but would then become ‘*beneficial*’ effects upon restoration and thereafter. With the exception of the potential impacts upon the River Swale (resulting from, *inter alia*, disturbance associated with the construction of the two bridges), having been assessed as being, in terms of magnitude, both ‘*substantial*’ and ‘*adverse*’ without mitigation, the impacts upon all other afore-mentioned habitats have been assessed for the majority as being adverse impacts of ‘*negligible/minor*’ significance; although the adverse effect upon mature field trees, through the loss of thirty in number, is acknowledged to be potentially a magnitude of ‘*moderate*’ significance without appropriate mitigation.
- 7.79 With respect to species, the applicant company explains that bats, birds, great-crested newt (GCN), otter, badger, white-clawed crayfish, lamprey/salmonids and species of reptiles have been assessed with regards the potential for significant adverse impacts. Bat surveys of the site have been undertaken in 2009, 2014 and 2016. They included:
- dusk vantage point surveys of Broad Close Farm,
 - dusk bat transect survey,
 - dusk and dawn car transect survey,
 - remote monitoring.
- 7.80 Without appropriate mitigation, ‘*minor adverse*’ effects have been assessed resulting from the proposed development upon species of bats through habitat

loss and disturbance. While acknowledging the existence of a local population of *pipistrelle bats* that would be directly and adversely impacted by the proposed development (i.e. the proposed demolition of buildings at Broad Close Farm and the loss of seventeen of the thirty mature trees that are thought to be likely to be suitable for supporting roosting bats), the assessment has found this unlikely to be significant by dint of the small population.

- 7.81 With respect to species of birds, the assessment that has been undertaken found, in the absence of any appropriate mitigation measures, a magnitude of *'moderate adverse'* effects arising in the event of proposed vegetation clearance works taking place and direct habitat loss were the proposed development phases to be implemented. No impacts have been predicted in respect of GCNs due to their absence during any survey work. A magnitude of *'negligible'* has been concluded in the assessment with regard to any potential impacts upon the local otter population due to the limited scale of any direct loss of relevant habitat; although the potential for *'moderate adverse'* impacts exists, in the absence of appropriate mitigation, when considering the potential for harm through disturbance. Only *'minor adverse'* impacts have been assessed in respect of badger without mitigation; notwithstanding the direct loss of two outlier setts on the basis that *"more well used setts [are] likely to be present"*. A *'negligible'* impact has been found to exist in respect of reptiles due to there being little value to reptiles in the habitat that is proposed to be lost as a result of the proposed development.
- 7.82 The potential for *'substantial adverse'* impacts exists, however, in respect of the species of white-clawed crayfish and lamprey/salmonids in the absence of any appropriate mitigation.
- 7.83 The environmental impact assessment of the proposed development has identified mitigation measures proposed by the applicant company to mitigate against the above effects of the development. These include, *inter alia*, conducting *presence/checking surveys* prior to works commencing (with specific respect to white-clawed crayfish, any found would be collected (by those licenced to do so), the provision of thirty bat boxes, the *"creation of a bespoke bat barn"* within the proposed site and twenty bird nest boxes; ensuring any outside lighting is designed so as to minimise any potential harmful effects; the creation of foraging habitat for species of birds, bats, otter, badger and brown hare too as well as the retention of the existing mature tree line within the centre of the proposed site maintaining a valuable wildlife corridor.
- 7.84 This is proposed to be augmented by the measures in mitigation in respect of habitat which comprise the creation of areas of dense scrub along the River Swale, areas of species-rich grassland, three large lakes with associated marsh habitat and a network of small ponds, 222 linear metres of ditches, 22.3 hectares of additional landscaping in the form of woodland, the return of 132.1

hectares of agricultural land and 4,380 linear metres of hedgerows interspersed with trees every thirty metres.

- 7.85 The restoration of the Killerby site to wetland, the applicant company has explained, “*would further extend and enhance the wetland habitats within the Swale Valley*”. The location of such wetland areas has therefore been determined by the depth of mineral reserve across the site. The applicant company has explained that the restoration design has sought to retain as much of the existing tree cover as possible and that it would “*include pools and grassland bordered by retained mature trees and hedges to enhance conditions for the regionally important local population of Soprano Pipistrelle bats and for a range of farmland bird species that have suffered national decline*” as well as including “*an irregular shaped lake bordered by retained trees in order to provide an ornithological habitat of county ornithological importance*” and “*landscape planting to maintain key green corridors within and around the site throughout the operational period, together with new wetlands to enhance the ecological value of the river corridor*”. Wildlife corridors, the applicant company explains, are proposed to be created that would “*connect the site to surrounding areas, thus creating linkages with surrounding habitats. Linking the restored site to existing habitats would improve species migration*”.
- 7.86 Relevant extant *Development Plan* policies against which to assess the proposed development’s affect upon the natural environment including protected species are ‘*saved*’ NYMLP Policy 4/1 and, in particular, criterion (b) of that policy which requires developments to acceptable in both siting and scale, criterion (c) which seeks to ensure applicants demonstrate through their proposed methodology and work programme that the impacts of the development would be minimised, criterion (e) which directs that applications must be assessed for their environmental and amenity safeguards to effectively mitigate against the impacts of a proposed development and criterion (i) seeking to ensure against unacceptable cumulative impacts, ‘*saved*’ NYMLP Policy 4/6a which seeks to ensure that protection is afforded to areas of nature conservation interest and importance, ‘*saved*’ NYMLP Policy 4/14 ensuring proposals do not give rise to unacceptable environmental impacts.
- 7.87 Within the Richmondshire Local Plan Core Strategy, Policies CP3 and CP12, are similarly considered relevant as are Policy CP1 of the Hambleton Core Strategy and its accompanying Development Policies DP2, DP31 and DP33.
- 7.88 While representations received by the County Planning Authority question the scale and degree of the survey work undertaken by the applicant company, it is acknowledged that the Environmental Statement which has accompanied the planning application had been subject to a ‘*scoping exercise*’ and a formal [Scoping Opinion](#) was formally adopted by the County Planning Authority which

'scoped' those matters either 'in' or 'out' of the list of those matters requiring surveys to be undertaken to inform the environmental impact assessment of the proposed development.

- 7.89 Those with whom the County Planning Authority has consulted during the processing of this particular application have included the County Council's own in-house adviser on matters of ecology, the Environment Agency and Natural England. During the processing of the application clarification has been sought from the applicant company regarding the quantity of hedgerows to be included as part of the restoration on site, an exact quantum of hedgerows to be replaced in relation to those lost during the operational phase of the quarry; notwithstanding the acknowledgement that the associated habitat of the hedgerows is considered to be of local ecological value, being species-poor, but nevertheless providing linkages across the site suitable for use by a range of wildlife, particularly where field trees are present.
- 7.90 As earlier referred within Section 4.0 of this report, Natural England have confirmed that they are satisfied with the range of ecological survey work that was carried out as part of the EIA and also the methodologies used during the information gathering process, acknowledged that the proposed restoration of the site has the potential to create an area of diverse habitats that could underpin existing species in the area and is satisfied that the proposed mitigation is appropriate and, so long as it is implemented, it could "*ensure that the value of the restored site for biodiversity is both maintained and enhanced*".
- 7.91 The County Council's own in-house adviser on ecological matters gave an opinion that the '*biodiversity gains*' should be increased and distributed more evenly throughout the application site and should include "*habitat connectivity between the water bodies, contoured woodland/ scrub planting and a much greater emphasis on biodiversity and floodplain connectivity in the western area*" of the site reiterating in a further response that there "*is an outstanding discrepancy between the level of biodiversity benefit being promoted within the ES and the actual benefits that can be delivered through the restoration and long term management proposed*"; notwithstanding an expression of satisfaction with additional survey work that had been undertaken to address the issued that had been raised.
- 7.92 With specific respect to the proposed Bird Management Plan (2014), this was also met with satisfaction, whilst at the same time, seeking clarification on the management of the restored site. Notwithstanding the valuable comments received by the County Planning Authority following consultation, it is noted that these comments have not been of sufficient gravity to constitute an objection to the development as proposed and, instead, the imposition of appropriate planning conditions has been recommended should planning permission be forthcoming. This is similarly the case with respect to the

recommendation of matters to be included within the proposed S106 Legal Agreement.

- 7.93 The Environment Agency responded to consultation initially stating there to be scant information provided with regard to the scale of biodiversity enhancements, or the timescales for their delivery and management and therefore conditions should be included in any planning permission. However, during March 2014, the applicant company amended the Environmental Statement to reflect changes in the habitat types that make up the proposed restored site and address the matters raised by the Agency.
- 7.94 It is acknowledged that, in terms of ecological considerations, the *River Swale* Site of Importance for Nature Conservation (SINC) encroaches into the northern part of the application site, affecting both the areas referred to as '*Killerby West*' and '*Killerby East*'. However, no significant adverse impact has been found to potentially exist upon this designation.
- 7.95 Two other SINCs are situated circa 1.3km to the east of the application site. *The Swales Lake* Site of Special Scientific Interest (SSSI) is situated circa 1.5km to the north west of the application site. This site is of interest for its diverse population of breeding birds and large numbers of wintering wildfowl and waders. Given the location of the application site in relation to these other designations, it is considered unlikely that the proposed development would have an adverse impact.
- 7.96 While the habitats that could be lost to the proposed extraction works primarily comprise arable fields and plantation woodland "*of low to local ecological value with a number of field trees of local to parish value...*", with appropriate mitigation in place including undertaking presence surveys and implementing precautionary working methods, "*the risk of harming or disturbing protected species during works can be minimised*". Furthermore, the habitats that would arise as a result of the proposed restoration scheme are considered to be capable of producing a mosaic that could support a range of fauna including species of bat and birds etc. that potentially could enhance biodiversity in this particular part of the county. The findings within environmental impact assessment undertaken point to "*the development of additional wetlands enhancing both the ornithological value of the site and strengthening and enhancing the series of wetlands, of national ornithological importance, strung along the River Swale*". Once fully restored, the site has the potential to further enhance the corridor of the River Swale, by underpinning the ecological value of the area. This enhancement, however, is measured to a degree by consideration of the concerns of the Ministry of Defence in respect of safeguarding against the hazard of bird strike and this is therefore proposed by the applicant company to be enshrined within a *Bird Management Strategy* and be controlled by the mechanism of a draft S106 legal agreement.

7.97 Provided mitigation measures that have been put forward by the applicant company are implemented and maintained during the course of the development, impacts of the proposed development that could be regarded as significantly material are considered unlikely to arise in this particular instance. Those effects likely to arise are considered to be capable of being controlled by the use of appropriately worded planning conditions were planning permission to be forthcoming. It is, however, considered important that the details of the restoration and management of the site should be secured through a S106 Legal Agreement. With these considerations taken into account, the proposed development is not considered to conflict with the relevant policies to which reference has been made above i.e. criteria (b), (c), (e) and (i) of 'saved' NYMLP Policy 4/1, 'saved' Policy 4/6a of the NYMLP and 'saved' NYMLP Policy 4/14. Similarly, no conflict is considered to arise with Policies CP3 and CP12 of the Richmondshire Local Plan Core Strategy; Policy CP1 of the Hambleton Core Strategy; Development Policies DP2, DP31 and DP33 of the Hambleton Development Policies DPD.

Other material considerations

7.98 Section 11 of the NPPF considers the issues of conserving and enhancing the natural environment. Paragraph 109 confirms that "*the planning system should contribute to and enhance the natural and local environment*" and, taking into consideration the proposals as put forward, they are considered to be consistent with the NPPF's aims and objectives in this respect.

Cultural heritage and archaeology

7.99 In terms of archaeology, the applicant company's submitted Environmental Statement has identified the impacts (both adverse and beneficial) as being the destruction of potential archaeological and/or paleoenvironmental remains during the proposed phases of mineral extraction and during the landscaping of the site as well as the potential for effects upon the settings of [Listed Buildings](#) and/or [Scheduled Monuments](#) and the designed landscape of the Killerby Hall parkland. While potential '*regional*' geographical significance considered together with the '*adverse*' impact resulting from their potential destruction has deserved a '*medium-to-high*' significance rating in the assessment, the *archaeological desk-based assessment* that has been undertaken as part of the EIA of the proposed development, "*revealed no certain buried archaeological remains surviving within the proposed development areas*" and has determined that, although both archaeological and/or paleoenvironmental remains could potentially exist, they are not thought to be of national significance.

7.100 The archaeological assessment found the prospect of opportunities for archaeological interpretation and improvements to intellectual access to be potential beneficial impacts arising from the proposed development. The submitted Environmental Statement has explained that the information known

from previous archaeological studies both in and around the application site together with that recovered from the programme of evaluation works “*has established that the ground below the ploughzone in the extraction area could contain archaeological remains, although it is unlikely these are of national importance*”. It confirmed, however, that notwithstanding “*an archaeological watching brief would be undertaken across all areas during topsoil stripping in advance of extraction*”.

- 7.101 During the course of the processing of the application, the applicant company submitted to the County Planning Authority (in November 2012 and later in November 2014) an [‘Archaeological Scheme of Works’](#) report, carried out in respect of the peat deposits present within sub-Phase 1B within the application site (an area now no longer proposed to be worked) and further submitted a revision to the ‘*Cultural Heritage*’ chapter of the Environmental Statement (Chapter 7 refers).
- 7.102 In mitigation, should Members resolve to grant planning permission, the applicant company has proposed the imposition of a condition to be attached to any permission that would serve to limit the development such that no development would commence without having first received the County Planning Authority’s written approval of a [Scheme of Investigation](#), including a timetable, for an [Archaeological Watching Brief](#) on all topsoil stripping and peat removal, targeted excavation of the peat deposits identified in Figure 7.1, and palaeoenvironmental analysis (as outlined in 7.3.3-7.3.9 of the Environmental Statement).
- 7.103 In terms of cultural heritage assets, the Environmental Statement explained that the proposed operations on site “*would not be visible from any of the cultural heritage sites (heritage assets) within the study area and their settings would not be adversely affected*”. Only ‘*slight adverse*’ effects (during the proposed operations) and ‘*slight beneficial*’ (upon restoration) effects have been found to potentially exist in respect of the proposed development’s effects upon the settings of [Listed Buildings](#) and upon the setting of the Killerby park designed landscape. ‘*Neutral*’ impacts of ‘*imperceptible*’ significance have been assessed as resulting in respect of scheduled monuments by dint of the absence of visibility.
- 7.104 The relevant local *Development Plan* policy context is considered to comprise Policies CP3, CP11, and CP12 of the Richmondshire Local Plan; Policy CP1 of the Hambleton Core Strategy and Development Policies DP2, DP28, DP29, DP30 and DP33 of the Hambleton Development Policies DPD. These policies also contain landscape-related policies and these are considered relevant in the context of potential effects on the setting of cultural heritage assets.
- 7.105 Historic England (formerly English Heritage) responded to consultation, raising no objections to the proposed development and recommending that it

be determined “*in accordance with national and local policy guidance*” and on the basis of specialist conservation advice.

- 7.106 The County Council’s own in-house adviser on matters relating to archaeology has confirmed that in respect of the additional archaeological information that has been submitted “*the significance of the expected archaeological resource has been determined, and that the level of harm has been established as acceptable*” and, having reviewed the revised [Archaeological Written Scheme of Investigation](#) (November 2014) has considered it to be acceptable. Notwithstanding, should planning permission be forthcoming, conditions have been recommended for consideration for imposition upon any grant of consent.
- 7.107 In terms of cultural heritage, there are a number of [Listed Buildings](#) within close proximity to the application site; immediately adjacent to the application site lies Killerby Hall, of which the stable element is listed and other listed buildings lie proximate to the application site, but further afield than Killerby Hall. Three [Scheduled Ancient Monuments](#) are also present within close proximity to the application site. However, it is considered that appropriate screening mitigation is in place during the operational phase of the site to limit potential visual effects on the setting of these cultural assets, particularly Killerby Hall. It also considered that the change in the nature of the existing landscape to introduce lakes into the scenery will not adversely detract from the setting of this historic asset.
- 7.108 Taking into consideration that the assessment of the potential impacts of the proposed development have been undertaken in accord with the guidance set down in respect of both designated and non-designated heritage assets within the NPPF and also taking into account that the safeguarding of these assets is capable of being controlled by the imposition of appropriately worded conditions to ensure an accurate record of any findings at the site is kept, it is considered that the proposed development does not give rise to any conflict with Policies CP3, CP11 and CP12 of the Richmondshire Local Plan; Policy CP1 of the Hambleton Core Strategy and Development Policies DP2, DP28, DP29, DP30 and DP33 of the Hambleton Development Policies DPD.

Other material considerations

- 7.109 The safeguarding against the potential adverse impacts upon interests of cultural and/or historic importance and/or heritage value from the effects associated with proposed developments is embedded within the core principles of the NPPF (10th principle of Paragraph 17 refers). The national planning policy with particular relevance to the safeguarding of the historic landscape and interests of heritage value can be found within Paragraph 128 (within Section 12 of the NPPF) that ensures that applicants have regard to the historic environment by assessing both its setting and significance when putting forward proposals and wherever possible avoid or minimising a

proposals impacts upon such interests (Paragraph 129 refers). Additionally, Paragraph 131 through to Paragraph 134 are also relevant in their emphasis upon ensuring that proposed developments are so planned such that their impacts do not give rise to substantial harm upon interests within the historic environment of significance being mindful that a feature of interest may not necessarily be disregarded in any assessment solely by virtue of its non-designation, so long as a both a reasonable and proportionate approach is taken.

- 7.110 Furthermore, the provisions of Section 66 of the Planning (Listed Buildings & Conservation Areas) Act 1990 are also engaged in the determination of this particular application. While this current application, *per se*, does not concern an application for Listed Building Consent nor any proposals directly affecting such designations, it does lie within the vicinity of assets and, therefore, the applicable test against which the County Planning Authority is obliged to assess such proposals is that ‘*special regard*’ must be had to the “*desirability of preserving [such] building[s] or [their] setting or any features of special architectural or historic interest which [they] possess*”.
- 7.111 Recent case law (*Barnwell Manor Wind Energy Ltd v. East Northamptonshire DC and others* [2014] EWCA Civ 137 and *R(on the application of Hughes) v. South Lakeland DC and Interested parties* [2014] EWHC 3979 Admin) has considered the policy in Paragraphs 132 to 134 . In the Court of Appeal in *Barnwell* it was held that, when considering the desirability of preserving the settings of listed buildings, this should be given ‘*considerable importance and weight*’ and, even where harm would be less than substantial, the balancing act cannot ignore the statutory duty imposed by the provisions of Section 66 of the Planning (Listed Buildings & Conservation Areas) Act 1990. In essence, Paragraph 134 should be read together with the first part of Paragraph 132 to comply with the obligation imposed by Section 66(1). Furthermore, Paragraph 144 (3rd bullet point), requires authorities to ensure that “*there are no unacceptable adverse impacts on the natural and historic environment*”. Planning authorities are advised, in NPPG’s Section 18a, of how safeguarding against the potential adverse impacts upon interests of cultural and/or historic importance and/or heritage value should be both assessed and controlled and ensure that new developments are appropriate for their proposed location in making decisions on planning applications.
- 7.112 The specific tests for consideration are whether the proposed development would give rise to a circumstance where substantial harm to the interests of either a listed building or structure or their settings or total loss of their significance would arise as a result of the effects of the development. Special regard must also be had the desirability of preserving any identified designated heritage asset. Where a proposed development is deemed to lead to less than substantial harm, the assessment of the development must be weighed against the attendant public benefits of a proposal.

- 7.113 In the particular instance of this current application, the assessment of the potential effects of the proposed development upon designated assets and their settings concluded there to exist only '*slight*' significance by dint of there being no vistas gained, either to or from, in terms of the listed element of Killerby Hall (the stable) and nor were views of the possible *motte* and *bailey* of Castle Hill or any other scheduled monument found to exist.
- 7.114 The outcome of public consultation and the seeking of expert views through consultation on the application revealed no contrary views against the conclusions of the assessment of visual impacts upon designated assets and/or their settings and acknowledge they are capable of being mitigated to a sufficient degree so as not to be significantly adverse. There are features in the local landscape would serve to minimise any potential significant adverse visual impact upon either of these nearest designated assets or their settings to a level sufficient to be considered acceptable in land use planning terms.
- 7.115 Taking into consideration the proposals as put forward, they are considered to be consistent with the NPPF's aims and objectives in this respect and the applicable test of Section 66 of the Planning (Listed Buildings & Conservation Areas) Act 1990 has, it is considered, been satisfied in this particular instance.

Transport and traffic impacts

- 7.116 The assessment of the effects of the proposed development in respect of traffic and transport is included within the Environmental Statement which accompanies the planning application (Chapter 13 refers). With respect to the effects of traffic and transport associated with the proposed development, the assessment has found there to be effects that are of '*local*' significance, geographically, and taking into consideration their *temporary* and *reversible* natures have been assessed as being '*minor*' in their significance.
- 7.117 The Environmental Statement has confirmed that there to be "*no evidence to suggest than (sic.) the application for Killerby Quarry would result in the capacity being reached on any of the roads or junctions within the area*". It has concluded, notwithstanding there being no evidence to suggest an accident problem relating to quarry traffic in the area, as a precaution, the applicant company's consultant recommended that signing should be provided to highlight the proposed Killerby quarry access.
- 7.118 In response to comments returned in consultation and in order to present the revised proposals for access to the site and assess the impact of the development in light of the Highways Agency's plans for the A1(T), further transport information was submitted which included a *Transport Statement* (May 2014). This *Transport Statement* has supplemented the transport chapter of the Environmental Statement.

- 7.119 The *Transport Statement* (May 2014) concluded that there is no evidence to suggest an “*accident problem*” in the vicinity of the application site. The statement confirms the applicant company’s position that the proposed access arrangements to the proposed site “*are suitable to serve the Quarry and would also provide a permanent improvement to Low Street to the benefit of all road users*”. Finally, it has concluded that the proposed development “*would not result in any detriment to highway safety, amenity or condition and therefore the submitted planning application is acceptable in planning terms*”.
- 7.120 Criterion (h) of ‘*saved*’ Policy 4/1 of the NYMLP requires, where appropriate, any proposed transport links to move mineral to market to be acceptable. ‘*Saved*’ Policy 4/13 of the NYMLP, concerned with the impact of traffic, seeks to ensure that the level of vehicle movements likely to be generated can be satisfactorily accommodated by the local highway network. Policy CP3 of the Richmondshire Local Plan; Policy CP1 of the Hambleton Core Strategy and Development Policy DP2 of the Hambleton Development Policies DPD are also considered relevant in this instance.
- 7.121 As earlier referred within Section 5.0 of this report, the local community initially raised concerns over the proposed access to the site. However, it is important to note that such concerns were raised in the absence of confirmation from the Highways Agency relating to the proposed A1 upgrade works. Issues were also raised in relation to access on private land and also the conflict of HGVs with “*normal motorists*” on the local highway network. The traffic associated with the proposed development would gain both access to, and egress from the site, by means of a new junction onto Low Street, to the north of Broad Close Cottages before travelling onto the new Local Access Road (LAR) negating any traffic along Low Street beside the properties of Glebe Farm & Cottages, Fleetham Lodge, Melton House, Oak Tree House and Warren House or passing through the village of Kirby Fleetham.
- 7.122 On 7th May 2013 the Highways Agency confirmed that “*the mainline design (A1(M)) has been approved and the side road/ local access road (LAR) are still at the design stage*”. It was also confirmed that as part of the LAR works package, there would be a new junction with Low Street. It was confirmed that a Road Safety Audit (RSA) would be required of the new junction “*with the design conditioned to the planning permission but again stressed that this may be abortive work*” for the applicant company. The Highway Authority confirmed that a Stage 1 RSA would also be required for access junction directly from the application site onto Low Street. The Highways Agency confirmed that a Section 278 (S278) Agreement (of the Highways Act 1980) would also be required for the proposed road works if the applicant company decided not to wait for the proposed A1(M) upgrade. However, the applicant company confirmed that they “*would be happy to wait until October/ November to await the outcome of the LAR design approval*” as the applicant company

would prefer that the Highways Agency undertook the improvements to the junction at Low Street and the A1(M).

- 7.123 However, during the processing of this application, the upgrading of the A1 to motorway status has taken place and the Local Access Road constructed.
- 7.124 Highways England has, therefore, returned no objections against the proposed development and confirm their view that the proposed upgrade of the A1(T), "*will provide an appropriate connection between Low Road and the new Local Access Road*".
- 7.125 The Highway Authority has set out a number of highways-related conditions that have been recommended could be attached to any planning permission. The nature of these conditions includes a prohibition on any mineral-loaded vehicles leaving the site until such time as the Local Access Road (LAR) is opened and in use as well as making the routing of HGVs to the LAR a part of a S106 Legal Agreement.
- 7.126 The Highway Authority also provided suggested wording for a '*Grampian*' condition, which would be dependent upon the construction and completion of the Local Access Road and the improvements to Low Street being completed by the applicant company. In particular, the proposed wording of the '*Grampian*' condition states that "*No sand and gravel shall be removed from the site area shown on drawing NT10306/12/figure 3 by road until the local access road (LAR) is constructed connecting to Low street allowing access to the A1 up grade as shown on Highway Agency plans dated 3rd April 2013 is completed and open to the public*".
- 7.127 The response also included a request that a S106 Legal Agreement be put in place to control the routing of HGVs. It also set out the matters to be included within the proposed S106 Legal Agreement, which should comprise a *Traffic Management Plan* to restrict HGV vehicle operation and movements to the site via the Local Access Road and the improved Low Street to the application site. Upon review it is considered an acceptable approach, should Members be minded to grant planning permission, that it be subject to a S106 Legal Agreement, which would include a schedule to secure the routing of HGV vehicles to and from the quarry operations. The schedule would take the form of a covenant to ensure that HGVs that would travel to and from the application site follow a specific route which is clearly indicated on an appropriately illustrated plan.
- 7.128 It is also important to note that any permission would also be subject to provisions under Section 278 of the Highways Act 1980 (as amended), which as the agent has noted in previous correspondence, may also contribute to maintenance of the grass verge through a *commuted sum*.

- 7.129 It would also be considered prudent to ensure the S106 Legal Agreement would include the need to provide appropriately located and maintained signage to guide drivers when exiting the site.
- 7.130 A further response from the Highway Authority provided a replacement set of specific conditions that the Highway Authority recommended be attached to any planning permission. These conditions have been reviewed as part of this assessment and are considered acceptable in order to help mitigate potential effects upon the local highway network resulting from the proposed development.
- 7.131 The application proposals have been scrutinised by the relevant experts, both the Highway Authority and Highways England, and it is noted that no objections have been returned against the proposed development from either of these acknowledged experts in their field. With the upgrading of the A1 to motorway status having now taken place and the Local Access Road constructed, there continues to be no objections raised against the proposed development in this specific respect.
- 7.132 Taking into consideration the proposed development is capable of being controlled by appropriately worded planning conditions and vehicle routing could be controlled through the mechanism of a Section 106 Legal Agreement, it is considered that the vehicular movements associated with the proposed development, including the transport links to move the mineral to market are considered acceptable. The traffic proposals would therefore be in accordance with criterion (h) of 'saved' Policy 4/1 and 'saved' Policy 4/13 of the NYMLP; Policy CP3 of the Richmondshire Local Plan; Policy CP1 of the Hambleton Core Strategy; Development Policy DP2 of the Hambleton Development Policies DPD.

Other material considerations

- 7.133 Paragraph 32 of the NPPF considers transport in relation to new development and states that "*all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment*" and, taking into consideration the proposals as put forward, they are considered to be consistent with the NPPF's aims and objectives in this respect.

Hydrological and hydrogeological impacts

- 7.134 The assessment of the effects of the proposed development in respect of the water environment, including potential adverse impacts upon both ground and surface waters, is provided within the applicant company's Environmental Statement (Chapter 9 refers) which accompanies the planning application. It has confirmed that the sand and gravel that is proposed to be extracted is, for the most part, situated beneath the water-table and therefore *de-watering* is

proposed to be undertaken to allow dry working of the mineral. An effect of changing groundwater levels and flow direction has been found to potentially impact upon the land to the north-west of the area that has been referred to as 'Killerby West' as a result of dewatering. While the assessment has found this impact to be 'adverse', it has further found it to be of 'local' significance, geographically, and both 'short-term' and 'reversible', resulting in a 'minor' assessed effect. This is similarly the case in respect of effects upon Fiddale Beck, the land to the south-east of the area known as 'Killerby South' and an associated minor watercourse within that area. The exception to the assessment's conclusions of 'minor' significance of effects in respect of hydrology and hydrogeology is that of the River Swale where an impact of 'moderate' significance has been concluded.

- 7.135 The findings of the environmental impact assessment on this specific issue have maintained that "*this would not result in significant adverse impacts on the surrounding area and no long-term impacts to groundwater flow and direction are predicted after the restoration of the quarry*". The resultant impact assessment deemed these effects to be *minor negative* impacts during the short- to medium- term. With regard to the long-term perspective, it is considered that opportunities exist for the improvement of water quality, for example, through the creation of habitats such as reed bed.
- 7.136 In terms of flood risk, the effects of the potential for an increase in flood risk both to, and from, the site during extraction has been assessed. Whilst acknowledging the application site to be situated "*predominantly on the floodplain of the River Swale*", the assessed impacts have been categorised as being of either 'negligible' or 'minor' significance with the exception of 'moderate' significance in the event of a pollution incident during a flood without appropriate mitigation. The [Flood Risk Assessment](#) that has informed the Environmental Statement has further confirmed that there would be "*no reduction in storm water storage during operations or post-restoration, therefore there would be no increase in the flood risk*". The applicant company does not propose to remove the current flood defences *in situ* to the north of the area referred to as 'Killerby East'. The applicant company has also clarified within its submitted Environmental Statement that upon completion of the proposed restoration, "*when the existing flood protection bund would be breached, the area of open water in Killerby East would provide further flood storage on site*".
- 7.137 In acknowledging the national significance, geographically, of ecological designations, a further assessment has covered the potential for effects upon the [Swale Lakes SSSI](#) (some 500 metres to the north-east of the area referred to as 'Killerby West'. However, by dint of its hydraulic separation from the proposed site, the assessment has concluded there to be no impacts arising.

- 7.138 With respect to groundwater quality, the impacts, *inter alia*, upon private water supplies and licensed abstractions have been assessed and that found no impacts would arise in these specific respects. With regard to the potential for impacts upon groundwater quality arising from operational dewatering of the site, the assessment concluded, for the most part, to be of ‘*minor*’ significance with the exception of that in respect of an event of accidental spillage of fluids from plant and machinery. In such a circumstance, a ‘*moderate*’ significance has been found.
- 7.139 The assessment of possible effects upon surface water quality in respect of potential spillage of contaminants directly into a watercourse has been assessed as being of ‘*moderate*’ significance and the surface water discharge into the river or Fiddale Beck, while an ‘*adverse*’ impact, its significance has been assessed as being ‘*minor*’ once mitigated through the use of settlement lagoons (as explained in the paragraphs that follow).
- 7.140 With respect to ensuring that any effects of the proposed development upon hydrology and/or hydrogeology are appropriately mitigated, the applicant company’s proposed measures include a high level of plant maintenance that would minimise any risk of pollution, such as the accidental loss of fluid from fixed or mobile plant and the operation of the quarry in strict accord with an ‘*Environment Management System*’. A 200 metre diameter area has also been stated as being the maximum area of any dewatering to be undertaken at any point in time for the duration of the proposed development. The Environmental Statement explains that following mitigation, such as the pumping of dewatering discharge water to on-site lagoons where settlement will occur prior to discharge and the regulated discharge of water from the settlement lagoon to compensate for reduction in the groundwater base flow. The assessment undertaken has confirmed that the “*possible reduction in baseflow to the Fiddale Beck can be compensated through discharge from the settlement lagoons to the watercourse. The discharge [would] be regulated to ensure the total flow does not exceed the capacity of the watercourse*”. Furthermore, so as to mitigate against the assessed impacts of ‘*moderate*’ significance in respect of the River Swale, the applicant company has proposed the placement of low conductivity material along working faces adjacent to the river that would serve to reduce groundwater flow into the site and outflow to the river. Therefore, de-watering would not result in significant adverse impacts and long-term alterations to groundwater flow would not be anticipated following restoration.
- 7.141 ‘*Saved*’ Policy 4/10 of the NYMLP is relevant in the consideration of the hydrological/hydrogeological issues such as the protection of water resources when considering new development proposals. The policy states that such proposals “*will only be permitted where they would not have an unacceptable impact on surface or groundwater resources*”. Other relevant *Development Plan* policies against which to assess the proposed development

comprise: Policies CP2, CP3 and CP12 of the Richmondshire Local Plan; Policies CP1 and CP2 of the Hambleton Core Strategy; and Development Policies DP2, DP32, DP33 and DP43 of the Hambleton Development Policies DPD.

- 7.142 Responses from the local community raised a number of hydrological / hydrogeological issues in terms of flood risk, impacts upon the water table, *“which could damage the quality of surrounding agricultural land”*.
- 7.143 The submissions made by the applicant company during the course of the processing of this application have all been scrutinised by the relevant experts including those Officers of the Yorkshire Water Services Limited, the Lead Local Flood Authority, the Swale and Ure Internal Drainage Board, the District Council and the Environment Agency within their respective jurisdictions (Section 4.0 of this report refers).
- 7.144 The Environment Agency has responded setting out a number of recommended conditions in relation to flood risk and groundwater and these have been outlined in Section 4.0 of this report. The applicant company has been advised that contact should be made with the Agency to discuss future requirements for an Environmental Permit under the Environmental Permitting Regulations.
- 7.145 The Swale & Ure Internal Drainage Board initially responded identifying the waterbodies affecting the application site and confirmed that their consent would be required for any structures affecting the relevant watercourses. Furthermore, the Land Drainage Act (1994) gives the IDB permissive powers to carry out its functions and the Board confirmed its understanding that it is unlikely the Board will continue to maintain the watercourses within the site boundary until full restoration works have concluded. However, the Board would *“continue to enforce the LDA and Byelaws during execution of the works to ensure compliance”*.
- 7.146 Yorkshire Water Services Ltd identified the need to take into account the presence of a third water main crossing the application site, falling within Phase 1 of the proposed works. Importantly, the response confirmed that the water main *“can remain in place throughout the quarry operations if it is decided to be the most appropriate option”*. The response confirms that the legislation this is controlled through is Schedule 14 of the Water Industry Act (1991) and would not require a planning condition. However, notwithstanding *“the phasing of development, subsequent extraction and restoration scheme should all take into account the presence of this water main as Yorkshire Water has the option to maintain the position of the infrastructure”*.
- 7.147 In order to satisfy the requirements of Yorkshire Water Services Limited, a condition requiring there to be no excavation within 5 metres of any water main

and that it should be “*protected from potential damage from machinery and excavations if it is to remain in its current position*” was recommended.

- 7.148 As earlier referred within Section 2.0 of this report, parts of the application site fall within delineated Flood Zones 2 and 3. The northern part of the site, both south and north of the River Swale is within Flood Zone 3 and forms part of the functional floodplain where water must be allowed to flow or be stored and other parts of the application site, to the east and in and around Killerby Hall fall within Flood Zone 2. However, in relation to flood risk, the Environment Agency, the relevant and acknowledged experts in this field, raise no objection against the proposed development and, as a consequence, notwithstanding the matters raised by those in making representations, no reasonable ground is considered to exist upon which to refuse to grant planning permission specifically upon this particular material consideration alone.
- 7.149 While the majority of the application site overlies a *Principal Aquifer* with a smaller proportion lying above a *Secondary Aquifer*, the Environment Agency acknowledge that potentially the proposed development, without appropriate and adequate mitigation, could adversely affect groundwater including physical disturbance of the aquifer and while the proposed site lies outwith any *Groundwater Source Protection Zones (SPZ)*; the north eastern part of the application site, which falls within former Ellerton Quarry workings lies adjacent to a Zone 3 (total catchment) SPZ.
- 7.150 In relation to groundwater therefore, the Environment Agency advised the applicant company that if the proposed development is considered to present a hazard to groundwater resources, quality or abstractions then the applicant company must provide an acceptable *Hydrological Risk Assessment*. In response during the course of the processing of the application, further submissions have been made to address the Agency’s concerns and the Agency is satisfied these risks can be managed and has raised no objections to the development subject to the imposition of any recommended conditions.
- 7.151 Furthermore, as part of the applicant company’s proposals in mitigation, a comprehensive groundwater monitoring regime for the site has been offered up since the original submission of the application (Section 9.0 of this report below refers).
- 7.152 Based on the responses of those consulted in respect of this application to their satisfaction and taking into account that the proposed development is capable of being acceptable in land use planning terms (provided appropriate and suitable planning conditions are imposed upon any permission to ensure that groundwater can be adequately safeguarded during the proposed operations (should planning permission be forthcoming), it is considered that the development does not give rise to any conflict with ‘*saved*’ Policy 4/10 of the NYMLP; Policies CP2, CP3 and CP12 of the Richmondshire Local Plan;

Policies CP1 and CP21 of the Hambleton Core Strategy; Development Policies DP2, DP32, DP33 and DP43 of the Hambleton Development Policies DPD.

Other material considerations

- 7.153 Section 10 of the NPPF sets out the national planning policy stance on flooding and, taking into consideration the proposals as put forward, they are considered to be consistent with the NPPF's aims and objectives in this respect.

Access and recreation

- 7.154 The applicant company explains that the restoration scheme would improve public access *"by including potential public access corridors and new public access points around the site. The proposals would aim to provide a riverside public access bridleway corridor which would contribute to the potential for a link between Catterick and Kirkby Fleetham"*. Furthermore, recreational after-use, which could be in the form of fishing, has been proposed by the applicant company to be the focus of the 'south lake'.
- 7.155 The accompanying Environmental Statement has confirmed that during the proposed operational phases, the existing *"public footpath that runs through the site between Killerby Hall and Broadclose Farm would be diverted westwards along the northern boundary of Killerby South, along the west side of the central processing area on an existing track and then eastwards along the Broadclose Farm access road where it re-joins its original route"*. It goes on to state that additional temporary access paths and bridleways would be established to provide *"a circular route around the perimeter of Killerby East along the riverside and to parts of Killerby South, throughout the operation of the site, to maintain public access and some new permanent new routes shown would be created during the works"* and has confirmed that the total length of the new bridleways created would be approximately 8.8km.
- 7.156 The assessment of potential impacts upon access and recreational assets within the Environmental Statement has concluded that there would be no significant adverse impacts on any of the other PRowWs within the study area, *"or on the wider recreational activities of the local area"*. It also concludes that *"In the longer term there would be substantial beneficial effects on the recreation and amenity use of the area from the provision of improved access and from the recreational use of the restored site area"*.
- 7.157 'Saved' Policy 4/15 of the NYMLP considers the implications of development upon the PRow network, supporting proposals where *"satisfactory provision has been made in the application for protecting the existing right of way or for providing alternative arrangements both during and after working"*. Other Development Plan policies that are considered relevant comprise: policies

CP11, CP12 and CP13 of the Richmondshire Local Plan; Policies CP1, CP16, CP17 and CP19 of the Hambleton Core Strategy; and Development Policies DP2, DP30, DP32, DP33, DP37 and DP38 of the Hambleton Development Policies DPD.

- 7.158 Those consulted, having expertise in this specific field, include Natural England which confirmed support in terms of access and recreation, for “*the creation of 8.8km of new bridleway*” and the proposed mitigation measures, which aim to “*limit the impact of this proposal on public rights of way and on recreational users of these routes*”.
- 7.159 The County Council’s own in-house adviser on Public Rights of Way issues advised that in terms of baseline, the application site and surrounding area is “*poorly served by public rights of way*”. The response also noted that both the A1(T) road and the River Swale created barriers, which were considered to be difficult for users to cross, particularly horse riders. In particular, a view was expressed that the footpath adjacent to Killerby Hall would be affected by the proposed development, but also pointed out an opportunity that the proposal could present in the creation of new accesses and developing links to the wider PRow network within the area, including the former Ellerton Quarry workings, north of the river. A number of specific recommendations were made that included the standards that should be applied to the creation of new PRow, a new route along the river edge and a new crossing of the River Swale, including equestrian access through the site. It was further reiterated that the existing PRow network within the application site should be protected and kept clear of obstruction “*until such time as any alternative route has been provided and confirmed under an Order made under the Town and Country Planning Act 1990*”. The North Yorkshire Local Access Forum has also been consulted by the County Planning Authority and their concerns are also capable of being accommodated within applicant company’s proposals.
- 7.160 In addressing access and recreation considerations, further details, which are considered to be satisfactory, have been submitted by the applicant company during the course of the processing of this application that have identified the potential for the lake within the area referred to as ‘*Killerby South*’ to be used for fishing, “*thus also improving the recreational value of the area*”.
- 7.161 In light of the above information and considering that no objections on the grounds of access and recreation have been returned as well as taking into account that the applicant company is considered to have adequately compensated for the diversion of a PRow and temporary diversions to the existing PRow network, together with the details of the proposed access and recreational routes within the *Draft Restoration Management Plan*; a constituent element of the draft S106 Legal Agreement, it is considered that the application is consistent with the recreational aims of ‘*saved*’ Policy 4/15 of the NYMLP; policies CP11, CP12 and CP13 of the Richmondshire Local

Plan; policies CP1, CP16, CP17 and CP19 of the Hambleton Core Strategy; and Development Policies DP2, DP30, DP32, DP33, DP37, and DP38 of the Hambleton Development Policies DPD.

Other material considerations

- 7.162 Paragraph 75 of the NPPF states that “*Planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails*” and, taking into consideration the proposals as put forward, they are considered to be consistent with the NPPF’s aims and objectives in this respect.

Impacts upon soil management and agricultural land

- 7.163 While the environmental impact assessment of the proposed development has identified an ‘*adverse*’ impact arising as a result of the extraction of mineral from the land, that impact has been assessed as being of ‘*low*’ significance by dint of the effect being both ‘*short-term*’ and ‘*reversible*’. With specific respect to land classified as ‘*best & most versatile land*’ (Grades 3a and above), the applicant company has acknowledged the resultant loss of 88.9 hectares of Grade 2 and Grade 3a agricultural land and 48 hectares of Grade 3b, but has stated, in mitigation, that “*progressive restoration will reduce the duration of soil storage*” and “*upon the cessation of mineral extraction, the topsoil and subsoil stripped and stored at the site would be used for restoration, adopting the best practice techniques*” returning 145.6 hectares of land back to agricultural use.
- 7.164 With regard to the potential impacts of the proposed development upon the drainage systems which support the affected agricultural land, the assessment, while acknowledging this to be ‘*adverse*’, has found this to be both ‘*short-term*’ and ‘*reversible*’ and of ‘*low*’ significance.
- 7.165 In mitigation, the proposed measures include the construction of perimeter ditches and silt lagoons with water arising from the de-watering of the site flowing through the lagoons and then being discharged into either the river or the beck; furthermore, the design of the scheme has incorporated measures to cope with storm water flow avoiding elevated levels of surface water run-off either onto, or off, the land and ensuring the quality of water remains unimpeded.
- 7.166 The relevant local *Development Plan* policy context is considered to comprise ‘*saved*’ policies 4/18 and 4/20 of the North Yorkshire Minerals Local Plan where ‘*saved*’ Policy 4/18, whilst seeking to minimise as far as possible any irreversible loss of agricultural land, seeks to ensure the proposed restoration scheme provides for the best practicable standard of restoration and ‘*saved*’

Policy 4/20 seeks to “bring the restored land up to an approved standard for the specified after-use”.

- 7.167 Those making representations in respect of the proposed development have questioned the justification for the proposals in light of the loss of high quality agricultural land. While the proposals do not affect any land of Grade 1 classification, they do impact upon 88.9 hectares of land classified as Grade 2 and Grade 3a, i.e. ‘best & most versatile’ land together with 48 hectares of Grade 3b agricultural land. However, with the exception of 19 hectares of BMV land, this loss is proposed to be temporary and not all of the land is proposed to be worked at any one point in time. In the determination of this application, this material consideration must be ‘weighed’ within the ‘planning balance’ against the material considerations of the statutory duty of the County Planning Authority to maintain a continued steady supply of mineral to market, together with increased accessibility to the countryside through public amenity access in the form of 8.59 kilometres of new footpaths and the benefits to nature conservation in terms of the bio-diversity enhancements which have been offered up within the restoration proposals of the proposed development; whilst being mindful, at the same time, of sustainable development principles.
- 7.168 The land-use acceptability or otherwise of the proposed development in terms of its effects upon soil management and agriculture are also closely linked to restoration and ‘after-care’ which are explained in more detail below.

Restoration and ‘after-care’

- 7.169 While, in this particular proposal put forward by the applicant company, proposes a restoration scheme that prioritises bio-diversity, it nevertheless also includes an element of agricultural restoration. Overall, the restoration land use types are proposed to include wetland in the form of lakes, and marshland, woodland, alder/birch/willow carr, hedgerows, footpaths, bridleways and agricultural land. For the most part, the area referred to as ‘Killerby South’ is proposed to be returned to agricultural after-use; the anticipated return of the ‘best and most versatile’ quality grade of land. Upon restoration, the land proposed to be returned to an agricultural after-use that would amount to 131.6 hectares (at the same time acknowledging an overall loss of 10.6 hectares post-restoration) along with a coverage of 32.6 hectares of restoration to lakes, 18.2 hectares of wet woodland alder/willow carr, 6 hectares of marsh and 7.4 hectares of woodland as well as 4,280 linear metres of hedges interspersed with trees. The restoration proposals, the applicant company explains, have sought to “re-establish the pre-development field boundary pattern of hedgerows and hedgerow trees, together with enhancement of the setting of Killerby Hall”. Recreational after-use, which could be in the form of fishing, has been proposed by the applicant company to be the focus of the ‘south lake’. The ‘west lake’ is proposed to be “an ornamental lake” and the ‘east lake’ a lake for nature conservation purposes.

Due to the proposed site's location within '[Aerodrome Safeguarding Zone](#)' for RAF Leeming, the planting strategies around the 'east lake' and 'south lake' have sought to "*discourage flocking birds and large species that could create a risk to aviation*". These restoration proposals are currently captured within the submitted drawing accompanying the application, the '[Restoration Masterplan](#)' (drwg no. NT10306/12/fig 3.8 Rev H, dated 7th July 2016). The applicant company has further explained that the restoration design has sought to retain as much of the existing tree cover as possible. A five-year period of statutorily-imposed 'after-care' is proposed to take place upon each phase of restoration having been completed.

- 7.170 The revised Environmental Statement explained that the findings of the Phase 1 Habitat Survey has justified the proposed design of the restoration scheme, which seeks to retain as much of the existing tree cover on the site as is feasible and that the scheme is so designed as to "*enhance conditions for the regionally important local population of Soprano Pipistrelle bats and for a range of farmland bird species that have suffered national decline*". As part of the restoration, in the eastern part of the application site, the applicant company intends to create "*an irregular shaped lake bordered by retained trees in order to provide an ornithological habitat of county ornithological importance*." It is also important to clarify that the proposed phased restoration would include landscape planting "*to maintain key green corridors within and around the site throughout the operational period, together with new wetlands to enhance the ecological value of the river corridor*". In addition, it has recognised that the restoration of the site to wetland would further extend and enhance the wetland habitats within the Swale Valley, making reference to the '[Swale Lakes SSSI](#)', which is protected for its ornithological value. It is acknowledged that a network of wildlife corridors is proposed to be created that would link the restored site to surrounding areas, and "*thus creating linkages with surrounding habitats*".
- 7.171 It is further acknowledged that, from a recreational perspective, the applicant company has identified the potential for the lake in 'Killerby South' to be used for fishing, "*thus also improving the recreational value of the area*" and the restored site would improve public access within the area by "*including potential public access corridors and new public access points around the site*" as well as riverside public access bridleway corridor which could contribute to the potential for a link between Catterick and Kirkby Fleetham.
- 7.172 A statutorily imposed five-year aftercare period would apply to the restored site were planning permission to be forthcoming and in light of the proposed progressive working on a phased basis, this is similarly the case in respect of the restoration of the site i.e. progressive and, therefore, the 'aftercare' would also be phased, starting as phases within the site have been restored. The applicant company is of the view that due to this progressive aftercare approach, "*much of the site would receive more than 5 years aftercare*".

- 7.173 The relevant policy section on restoration and ‘*after-care*’ within the NYMLP sets out that ‘*restoration should aim to work towards the longer term enhancement of the environment and local amenity and should ensure the best possible quality restoration of land*’.
- 7.174 Criterion (f) of ‘*saved*’ Policy 4/1 of the NYMLP states that the “*Mineral Planning Authority will need to be satisfied that, where appropriate... the proposals and programme for restoration are acceptable and would allow a high standard of restoration to be achieved*”. Criterion (g) of ‘*saved*’ Policy 4/1 of the NYMLP states that there is a need to be satisfied that, where appropriate, a high standard of aftercare and management of the land in question can be achieved.
- 7.175 ‘*Saved*’ Policy 4/18 of the NYMLP is engaged in this particular instance given the proposed restoration to agricultural land (in part), stating where agriculture is the intended primary afteruse, “*the proposed restoration scheme should provide for the best practicable standard of restoration. Such restoration schemes should, where possible, include landscape, conservation or amenity proposals provided that these do not result in the irreversible loss of best and most versatile land*”.
- 7.176 ‘*Saved*’ Policy 4/20 of the NYMLP relates to the ‘*after-care*’ of sites and states that “*Planning permissions which are subject to conditions requiring restoration to agriculture, forestry or amenity (including nature conservation) will additionally be subject to an aftercare requirement seeking to bring the restored land up to an approved standard for the specified after-use*”.
- 7.177 Policies CP3, CP12 and CP13 of the Richmondshire Local Plan, Policies CP1, CP16, and CP17 of the Hambleton Core Strategy and Development Policies DP30, DP31 and DP33 of the Hambleton Development Policies DPD are also considered relevant to the assessment of this application.
- 7.178 While representations made in respect of the proposed development have questioned the proposals relating to the site’s restoration and the restoration proposals insofar as they have the potential to affect interests at the MoD’s RAF Leeming, it is noted that no objections have been returned from those with whom the County Planning Authority has consulted in this particular instance in relation to either the restoration proposals for the site or the proposed duration of the ‘*aftercare*’ of the restored site and that the proposals are informed by a comprehensive knowledge of the underlying geology which to a large degree is determinant in the options for restoration as well as being accompanied by a proposed *Bird Management Strategy* to manage risk associated with attracting flocking birds to the restored lake areas.

- 7.179 Natural England expressed a view that the proposed restoration would create an area of diverse habitats capable of underpinning existing species in the area, but cautioned the need to be flexible with regard to the restoration scheme to enable “*habitat creation and restoration to be able to respond to unforeseen opportunities*”. Satisfaction with the proposed restoration scheme was therefore confirmed and in terms of *aftercare*, Natural England advised that the control of invasive plant species should be specifically referenced within the aims of the *aftercare* scheme.
- 7.180 The County Council’s own in-house adviser on matters of ecology expressed concern that the proposed restoration did not include a suitable level of biodiversity enhancement. However, in responding to the most recent consultation, whilst acknowledging concerns existed with regards the level of biodiversity value that could be achieved from the proposed restoration and the need for a long-term management across the whole of the restored site (including the consideration of how the “*multiple end uses*” could work cohesively), they were not concerns that amount to an objection to the proposed development and, instead, were capable of being satisfied by the use of appropriately worded planning conditions should planning permission be forthcoming.
- 7.181 In March 2014, the Agent notified the County Planning Authority of amendments to the proposed *Restoration Masterplan* (drwg no. NT10306/12/Figure 3.8 Rev C dated April 2013 which, indicated various amendments including the extent of undisturbed woodland, and shingle banks along the River Swale; the introduction of alder willow carr in place of reeds; and not reinstating hedgerows around the southern proposed lake in order to “*maintain the openness*” of this part of the application site. In May 2015, the applicant company submitted a further revised *Restoration Masterplan* drwg no. NT10306/12/Figure 3.8 Rev D dated March 2015. The applicant has confirmed (27th March 2015) that the changes related to the areas and types of vegetation cover. As a result of further discussions, the *Restoration Masterplan* has been revised and the most recent iteration is revision H (dated July 2016).
- 7.182 Concerns were also raised from the local community in relation to the proposed lake adjacent to the River Swale, raising the potential for erosion on the banks of the River Swale to potentially result in the banks breaking, with the resultant water flooding the proposed lake and ultimately flooding Killerby Hall. It is therefore suggested that this part of the site is actually restored to agricultural land instead.
- 7.183 As earlier referred, subsequent correspondence from the agent responded to this concern stating that flood bank defences to the River Swale would be maintained and the Environment Agency has identified “*the potential of*

Killerby East Lake to contribute to flood water storage and flood alleviation of areas downstream of the site and would lessen the risk to Kirkby Hall”.

- 7.184 Specifically in relation to the safeguards for the nearby RAF Leeming, in response to consultation, the Ministry of Defence made a number of suggested alterations to the proposed *Bird Management Plan* and advised it should be controlled through a S106 Legal Agreement. As noted in section 5.0 of this Committee Report, the Agent confirms that the applicant company has offered to provide a S106 Legal Agreement relating to the long-term management of the wetland margins within the application site. The Agent has also confirmed that restoration of the application site is restricted in part due to issues raised during consultation from the MOD. Schedule 3 of the draft Section 106 Legal Agreement, therefore, sets out the details of the proposed *Bird Management Plan*.
- 7.185 The proposed *Bird Management Plan* shall include the following overarching aims and objectives:
- management operations to deter flocking birds of certain identified species;
 - management of grasslands to reduce numbers of target species of birds;
 - monitoring of the application site during the Post Extraction Period;
 - a range of techniques for deterring the numbers of target species including but not limited to habitat management, potable acoustic deterrents, bird scarers, egg oiling and culling operations; and
 - access at specified times for the purposes of verifying bird population.
- 7.186 As confirmed in earlier correspondence from the Agent and discussed in Section 5.0 of this Committee Report, it is the applicant company’s intention that the long term management of the site would commence in the phase it applies to, after the 5 year *aftercare* period is complete, “*since the management is not for establishment of vegetation but to prevent birdstrike risk*”.
- 7.187 Upon review, it is important to note that the proposed *Bird Management Plan*, as set out in the proposed S106 Legal Agreement, has been considered by the County Planning Authority’s relevant specialists who have raised no objections to the proposed strategy. No objections have been received from Natural England to the proposed restoration scheme. It is, therefore, considered that the proposed *Bird Management Plan* contained within the draft Section 106 Legal Agreement would provide a satisfactory mechanism in which to allow the required restoration to be achieved.
- 7.188 Notwithstanding concerns raised in relation to the levels of ecological value of the proposed restoration scheme, it is considered that the applicant company has responded to such requests where feasible and it is considered that the principle of the proposed restoration programme would not conflict with the aims of national and local planning policy. However, it is considered prudent

that the S106 Legal Agreement provides for restoration and the provision of a *Detailed Restoration and Management Plan* (DRMP). The preparation of this DRMP should be undertaken in consultation with in-house experts to help address outstanding issues relating to landscape and ecology raised during consultation. The replacement of the loss of hedgerows on site would also need to be addressed.

- 7.189 For clarification purposes, details of the completed restoration scheme for the application site, encompassing the completed restoration for the existing quarry site have been set out on the revised [‘Restoration Masterplan’](#) (drwg no. NT10306/12/fig 3.8 Rev H, dated 7th July 2016). However, it is important to note that depending on the details of the DRMP, further amendments may be required to the *Restoration Masterplan*.
- 7.190 Taking the above into account in the overall assessment of the proposed development, it is considered that the proposed restoration and ‘after-care’ on the site can be achieved in accordance with criterion (f) and (g) of ‘saved’ Policy 4/1, ‘saved’ Policy 4/18 and ‘saved’ Policy 4/20 of the NYMLP; Policies CP3, CP12 and CP13 of the Richmondshire Local Plan, Policies CP1, CP16, and CP17 of the Hambleton Core Strategy; Development Policies DP30, DP31 and DP33 of the Hambleton Development Policies DPD.

Other material considerations

- 7.191 Paragraph 144 of the NPPF requires the restoration and aftercare of minerals-related developments at the earliest opportunity. The NPPG also makes reference to biodiversity and green infrastructure, stating that planning authorities should “*consider the opportunities that individual development proposals may provide to enhance biodiversity and contribute to wildlife and habitat connectivity in the wider area*” and, therefore, taking into consideration the proposals as put forward, they are considered to be consistent with the NPPF’s aims and objectives in this respect.

Socio-economic impacts

- 7.192 The applicant company’s Environmental Statement has stated that the proposed mineral extraction operations would result in the temporary loss of approximately 136.9 hectares of agricultural land of which approximately 83.7 hectares is classified as ‘*best and most versatile*’ (BMV) agricultural land.
- 7.193 The Environmental Statement also confirmed “*that quarry operations would be conducted in such a way to prevent, minimise or control any impact to the agricultural drainage of field outside the extraction area within the site and adjacent fields*” and that circa 145.6ha of the land both inside and outside the earmarked extraction boundary would be returned to agricultural land as part of the restoration scheme.

- 7.194 Policies CP1 and CP3 of the Hambleton Core Strategy are considered relevant in the assessment of this application due to their economic threads. This assessment will first consider the issue surrounding the loss of agricultural land as a result of the proposed development.
- 7.195 Natural England responded to the consultation and welcomed the planned return of much of the site to agricultural land, as shown on the initial *Restoration Masterplan*.
- 7.196 The County Council's landscape adviser also responded to consultation, seeking clarification that the proposed restoration scheme does not clarify which areas of land "*represent the restoration of Grade 2 agricultural land, or how the restored character will reflect the nature of the replaced soils*".
- 7.197 The value of such land to the agricultural economy is recognised, and also the stance of national policy to avoid the loss of high grade land. However, as discussed above, it is considered that the proposed development is a sustainable development, which will maintain the supply of sand and gravel to the market place and help sustain the construction trade. Furthermore, the proposals anticipate the continued direct employment of thirteen people in the minerals industry as well as those associated with the hauling of the mineral and the provision of supplies to the site. The economic benefits of such should be given weight in the determination of this application.
- 7.198 Therefore, the other aspect to consider in this assessment is the predicted economic benefits associated with the proposed development. Firstly, the applicant company states that the proposed development would support in advance of twenty direct jobs plus indirect employment effects in terms of "*hauliers and many suppliers*".
- 7.199 As earlier referred, there is a recognition that in order to maintain a long-term supply of sand and gravel for the marketplace that sites, which contain '*new reserves*' need to be given due consideration, especially if they fall within an 'Area of Search'. Significant weight is attached to the wider economic benefits that the proposed development will bring, both directly with the creation of immediate jobs and indirectly resulting from the supply of the extracted and processed sand and gravel to the market place.
- 7.200 While acknowledging Paragraph 112 of the NPPF to be of relevance to this application due to the presence of agricultural land within the application site stating that "*Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality*", Section 13 of the NPPF considers facilitating the sustainable use of minerals. Paragraphs 142 to 149 set out

national planning policy with respect to “*facilitating the sustainable use of minerals*” through effective plan making and the determination of planning applications. This includes reference to the economic importance of minerals to the country and emphasises that “*since minerals are a finite resource and can only be worked where they are found it is important to make the best use of them to secure their long-term conservation*”.

- 7.201 It is, therefore, considered that whilst the loss of such high quality agricultural land is not desirable, as stated in the NPPF, the economic benefits of the proposed development would render the proposed loss acceptable in this case and therefore not conflicting with the NPPF. The economic importance of minerals to the country is also recognised within the NPPF. It is therefore considered that the proposed development complies with the NPPF and the principles of ‘*saved*’ Policy 4/18 of the NYMLP and policies CP1 and CP3 of the Hambleton Core Strategy.

Cumulative impacts

- 7.202 The applicant company acknowledges within its submitted Environmental Statement that “*extensive mineral working has been undertaken along the Swale valley, with historically worked sites, currently active sites and future proposed sites lying within a 5km radius of the proposed Killerby site, including Ellerton quarry immediately to the north*” resulting in a mosaic of wetland and woodland habitats along the river. The assessment has concluded that the loss of low ecological value agricultural has resulted in positive cumulative impacts through the enhancement of biodiversity in the locality of the application site and that the development as proposed would not therefore result in negative, significant and/or materially adverse consequences cumulatively.
- 7.203 In terms of potential cumulative effects, each of the topics considered within the Environmental Statement have been considered against the relevant cumulative effects (where it is feasible to do so) of the existing quarries namely Kiplin Hall, Scorton and Ellerton Quarries immediately to the north of the site. It is noted that Kiplin Hall Quarry is no longer productive and Scorton Quarry, which is situated circa $\frac{3}{4}$ km to the north-west of the application site is expected to cease production by 2017/18 before any development were to commence in the Killerby site should planning permission to be forthcoming. The applicant company confirmed within its Environmental Statement at the time of its submission in 2010 that notwithstanding Ellerton Quarry being operational “*on a campaign basis*”, it would be predominantly screened from the Killerby site “*by riverside vegetation and landform*”. The applicant company also confirmed that production would not occur from both Ellerton and Killerby simultaneously. It is also considered that after four years of operations commencing, the reserves within Ellerton Quarry would be substantially

‘worked out’ and restored “so the opportunity for cumulative effects with Killerby is very restricted”.

- 7.204 Criterion (i) of ‘saved’ Policy 4/1 of the NYMLP requires the County Planning Authority to be satisfied that, where appropriate, any cumulative impact on the local area resulting from the proposal is acceptable. The NPPF is also relevant to this assessment when considering potential cumulative impacts.
- 7.205 In responding to consultation, the County Council’s in-house adviser on landscape matters was of the opinion that there would be “*significant cumulative impact of mineral extraction on the local landscape*” and pointed out that the applicant company had not provided strategic method to address this; further, that the cumulative impacts on the relevant landscape character also in their opinion had not been assessed within the ES. However, when viewed on balance and being mindful of reasonableness, acknowledging that there can exist levels of expectation in respect of quality and/or thoroughness into which an applicant would be expected to demonstrate certain elements within its submissions accompanying planning applications, it is considered nevertheless, in this particular instance, that the issues specifically relating to the proposed development’s potential cumulative effects have been addressed sufficiently satisfactorily in relation to the assessment of landscape and visual effects.
- 7.206 Taking into consideration the duration that the existing quarries to the north of the application site have been in operation within this location, it is acknowledged that a degree of cumulative impact within the area in terms of the time the operations have been and are proposed to occur within this location. These impacts, however, are weighed against both the need for the mineral and the positive biodiversity outcomes achievable upon and beyond restoration.
- 7.207 The County Planning Authority, as part of its work on the emerging Joint Minerals and Waste Local Plan published its ‘[Sustainability Appraisal – Assessment of Sites](#)’ document at ‘Preferred Options’ stage in which the following text specifically in respect of the Killerby site can be found which further supports the assessment of the potential cumulative effects of the proposed development:
“This area represents further quarrying in the Swale corridor in addition to existing and past quarries at Ellerton, Kiplin Hall and Scorton. Negative cumulative impacts are considered unlikely to be significant if appropriate mitigation is implemented. Potential cumulative benefits for biodiversity exist provided that restoration schemes are designed appropriately and any measures for biodiversity can be secured as part of the planning process. It is however noted that not all of the site is within the control of the operator so there is some uncertainty as to whether ecological benefits can be realised as part of the restoration scheme (biodiversity restoration is limited to a lake with

no surrounding land and MoD restrictions also limit the type of scheme that could be put in place)... In summary, in the short term negative impacts are anticipated associated with the loss of habitats and disturbance to a range of species. This disturbance continues into the medium term. Impacts in the long term depend on the ability to secure a high quality restoration and management. Opportunities exist to improve the habitat networks through the creation of high quality priority habitats.”

- 7.208 In light of the above, it is considered to be the case that any potential negative cumulative effects have been appropriately assessed as being limited in their significance. It is considered, therefore, based on the available information that the application does not conflict with the aims of ‘saved’ Policy 4/1(I) of the NYMLP.

Other material considerations

- 7.209 Paragraph 120 of the NPPF states that *“to prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account”*.
- 7.210 Paragraph 144 of the NPPF states that in granting permission for mineral development the cumulative effects of multiple impacts from individual sites and/or from a number of sites in a locality should be taken into account.

Other matters

- 7.211 A below-ground gas pipeline runs in a east-west alignment through the application site (including some of the planned phased working areas) as shown on the drawing accompanying the application, ‘*Topographical Survey*’ (drwg no. NT10306/12/fig 2 rev A, dated March 2015). The applicant company has confirmed within its revised Environmental Statement (March 2015) that consultation would be undertaken with the gas distributor to remove the gas pipeline in advance of working. The relevant utility undertaker has been consulted by the County Planning Authority and no objection to the proposed development has been offered in response. Each statutory undertaker takes benefit from either statutory powers or direct agreements with relevant landowners should the need arise to seek alternative alignments for their respective assets. The legislation that is relevant depends upon the nature of any agreement in place, but would be expected to be covered by any of the following:
- the *Mines (Working Facilities and Support) Act 1923* (known as the ‘*Mining Code*’);
 - the *Railway Clauses Consolidation Act 1845*; or,
 - the *Pipelines Act 1962*.

- 7.212 The applicant company's agent, in a letter dated [15th March 2017](#), has explained that utility companies "*either have to move their apparatus or pay compensation to the mineral extraction company and/or mineral owner for any loss caused by minerals being left unworked. This can include loss of profits, cost of protection works, additional working/restoration costs and professional costs. At Killerby the Landowners granted to Northern Gas Board a Deed of Easement in 1972. The Deed includes the provisions of the 1923 Act. The pipeline has a 20 feet width corridor and a further 10 feet either side for an access strip. Schedule 4 clause 2 includes the provisions of the Mining Code. So the gas pipeline is subject to a formal Deed incorporating the Act that provides a legislative mechanism for its retention or removal*". It goes on to explain that "*the normal process for service diversions on mineral sites is for the mineral operator to serve a formal 'notice of approach' to the utility company, following which the company will either serve a "counter notice" requesting the pipeline to remain, subject to a compensation payment or that it is content for it to be removed. This does not necessarily happen when planning permission is granted and a mineral scheme commences, but could be years later as extraction has to be approaching the utility before a Mining Code notice can be served. The timescale therefore depends where the gas main is located. The gas main at Killerby lies within extraction Phases 4 & 5 in the latter phases of the proposed development programme, so notice would not be served for several years*".
- 7.213 As noted earlier and in similar regard to the water mains that are the property of the relevant statutory undertaker, separate legislative provisions apply to instances where their assets are affected by proposed development. The matters are the subject of other legislative provisions and where these exist, national guidance advises that authorities should have regard to this in their determination of applications to avoid duplication and unnecessary conditions imposed upon prospective developers.
- 7.214 Other matters raised within representations to the County Planning Authority include those of concerns with regards to property values; however, it is established in the planning system in this country that considerations taken to be material in the determination of planning application cannot and must not concern themselves with changes to property values; be they negative or indeed positive. Furthermore, in respect of representations with regard to recent property purchases, planning applications are readily publically accessible and, therefore, capable of being known to those with pending property transactions; notwithstanding, such matters are again not ones to which any material weight may be given in the determination of planning applications.
- 7.215 Other matters raised within representations to the County Planning Authority have also included those of concerns with regards to company failure. Again, such matters cannot be considered to be not material in this particular instance

and hold no weight within the '*planning balance*'. Any planning permission, should that be forthcoming, would '*run with the land*' and not, in the circumstance of this specific case, with the proposed operator, the applicant company. Any owner, or other party, with an interest in the surface of the land would, ultimately, be responsible for compliance with any terms of any consent.

- 7.216 Finally, representations have been made to the County Planning Authority with regards the consultation undertaken in respect of this application. The preceding sections of this report have served to both explain and demonstrate that the process that has been undertaken during the handling of this application has been found to be compliant and not found wanting with regards the requisite legislative provisions pertaining to consultation in respect of planning applications of this nature.

8.0 CONCLUSION

- 8.1 It is considered that the policy support exists for the proposed development and is reasonably argued on the grounds that, having regard to the *Development Plan* as a whole and acknowledging that it is not necessary for proposals to comply with all policies to be found compliant, it accords with the relevant extant policies that comprise the *Development Plan* and national planning policy contained within the NPPF. The proposal constitutes a sustainable quarry development proposal that could help to maintain the long-term supply of sand and gravel to the market place.
- 8.2 Substantial weight should be attached to the fact that the majority of the site falls within an identified '*Area of Search*'. There is no identified quantifiable existing need for the proposed material, however, as discussed within this report, weight needs to be attached to the fact that the County Planning Authority's *Monitoring Report* (2014/2015) recognises the fact that in order to maintain the landbank level above the required seven years in the future, there is the need for new reserves of sand and gravel to be developed "*if environmentally suitable locations can be identified, by extending existing quarry sites and/or opening new quarries*".
- 8.3 Although this proposed development would not constitute an extension to an existing quarry *per se*, it is important to note that Phase 1 of the proposal relates to the processing of sand and gravel extracted from the existing neighbouring Ellerton Quarry, and would therefore constitute a continuation of operations from an existing adjacent quarry. The applicant company recognises the positive traffic implications and this amalgamated operational stance from the applicant company is acknowledged.
- 8.4 Other material considerations that must be weighed in the '*planning balance*' have been considered in the preceding section of this report such as impacts

upon the environment and the amenity enjoyed by the local community. These, while acknowledged to be impacts arising from the proposed development and understandably of concern to local residents living near the proposed site, are not considered to be significantly material so as to outweigh the economic benefits of the sustainable development and to be so sufficient as to warrant a determination that the application lies in conflict with the *Development Plan* to such a degree as to justify refusal of the application.

- 8.5 From an amenity perspective, in terms of noise and air quality, it is considered that there are proposed to be sufficient and appropriate safeguards either already in place (by dint of the existing topography within the vicinity of the site) or proposed. For instance, the proposed *Environmental Management Strategy* is considered capable of effectively mitigating any potential impacts upon air quality arising from the proposed development and prevent any unacceptable impacts on residential amenity in accordance with national and local policy.
- 8.6 It is therefore considered that the proposed safeguards, namely the sequence of extraction and the progressive restoration, with the implementation of acoustic barriers in the form of soil bunds, and the absence of undertaking mineral extraction in the extension area on weekends alongside controls on noise limits, would effectively mitigate the noise impact of the proposal.
- 8.7 In terms of the potential for disturbance from dust, satisfactory safeguards could be put in place, such as the fact that the site manager would be “*responsible for the implementation of control measures on site in order to minimise dust nuisance*” and such measures would form part of site’s *Environmental Management Strategy*.
- 8.8 It is considered that the proposed screening that would be phased throughout the operational period of the quarry, could protect the environment and residential receptors from potential landscape and visual impacts.
- 8.9 It is also considered that the potential impact of the proposal upon identified cultural heritage assets and archaeology have been and would continue to be fully assessed in accordance with the guidance set down in respect of heritage assets within the NPPF, and subject to the use of an appropriate planning condition will ensure an accurate record of an findings at the site is kept.
- 8.10 Given the proposed conditions, including those recommended by the Environment Agency, it is considered that the potential impact of the proposed development on the water environment has been fully assessed and it would be unlikely that the proposed land use would have an unacceptable impact upon groundwater, particularly the strategically important aquifer.

- 8.11 In terms of ecology, it is considered that details of the restoration and management of the site could be secured through a S106 Legal Agreement. It is also considered that with such measures in place and with the imposition of suitably worded ecological conditions then the proposed development is in accordance with the relevant national and local planning policy framework.
- 8.12 Notwithstanding that the proposed restoration for the site would only occur following a period of disturbance during the time mineral is being extracted, it is considered an acceptable approach given the proposed use of the site.
- 8.13 The potential transport impacts of the proposal are considered to be acceptable and there is no objection from Highways England or the Highway Authority. It is considered, taking into account the recommended highways conditions, and due to the fact that vehicle routeing is proposed to be controlled by a Section 106 Legal Agreement, then the vehicular movements associated with the proposed development, including the transport links to move the mineral to market are considered acceptable.
- 8.14 In terms of cumulative effects, it is acknowledged that taking into consideration the duration that the existing quarries to the north of the application site have been in operation within this location that, there could be a cumulative impact within the area in terms of the time the operations have been and are proposed to occur within this location; however, the potential cumulative effects have been appropriately assessed and have concluded these as being limited in their significance.
- 8.15 Furthermore, it is also acknowledged that the loss of high quality agricultural land cannot be considered a positive impact arising from the proposed development. However, as stated in national planning policy, the creation of jobs at Killerby Quarry and the wider economic benefits of the proposed development (providing sand and gravel to the construction sector), when weighed in the '*planning balance*' renders the proposed loss acceptable in this particular circumstance. When considering the economic benefits of mining this site and amalgamating the operations of two quarries, which will have associated transportation benefits, it is considered to be an absence of any issues so materially significant as to tip the balance against granting planning permission for the proposed development in this instance.
- 8.16 In light of the above, it is considered that the proposed development either accords, or does not give rise to any materially significant conflict with the aims of the relevant '*saved*' policies of the NYMLP, the Richmondshire Core Strategy, the Hambleton Core Strategy, the Hambleton Development Policies DPD and would constitute sustainable development, maintaining the contribution of mineral-related employment and enable the steady supply of mineral to the local economy. Therefore, on balance there are no material

considerations that would warrant the refusal of planning permission in this instance.

Obligations under the Equality Act 2010

- 8.17 The County Planning Authority in carrying out its duties must have regard to the obligations placed upon it under the Equality Act 2010 and due regard has, therefore, been had to the requirements of Section 149 (Public Sector Equality Duty) to safeguard against unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act. It also requires public bodies to advance equality of opportunity between people who share a protected characteristic and people who do not share it; and foster good relations between people who share a protected characteristic and people who do not share it. It is considered that the proposed development would not give rise to significant adverse effects upon the communities in the area or socio-economic factors, particularly those with '*protected characteristics*' by virtue that the impacts of the proposal can be mitigated so that they will not have a significant impact on groups with '*protected characteristics*'.

Obligations under the Human Rights Act 1998

- 8.18 The Human Rights Act 1998 requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country. Article 1 of protocol 1 provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.
- 8.19 Having had due regard to the Human Rights Act 1998, the relevant issues arising from the proposed development have been assessed as the potential effects upon those living within the vicinity of the site namely those affecting the right to the peaceful enjoyment of one's property and the right to respect for private and family life and homes, and considering the limited interference with those rights is in accordance with the law, necessary and in the public interest.

9.0 RECOMMENDATION

- 9.1 Upon considering that the Environmental Statement, including further and other information submitted by the applicant, includes such information as is reasonably required to assess the environmental effects of the proposed development and which the applicant could be reasonably be required to compile; and,
- 9.2 Having taken into account the environmental information relating to this application, namely the Environmental Statement, including further and other

information submitted by the applicant, and duly made representations about the environmental effects of the proposed development; and,

9.3 Having due regard to the Human Rights Act 1998, the relevant issues arising have been assessed as the potential effects upon those living within the vicinity of the application site, namely those affecting the right to the peaceful enjoyment of one's property and the right to respect for private and family life and homes, and considering that the limited interference with those rights is in accordance with the law, necessary and in the public interest; and,

9.4 For the following reasons:

- i. the proposed development is considered to accord with 'saved' policies 4/1, 4/6A, 4/10, 4/13, 4/14, 4/15, 4/16, 4/18, 4/20 and 5/1 of the North Yorkshire Minerals Local Plan (1997);
- ii. the proposed development is not considered to give rise to any conflict with 'saved' policies 3/2, 3/3 or 3/4 of the North Yorkshire Minerals Local Plan (1997);
- iii. the proposed development is not considered to give rise to any conflict with the aims and objectives of policies CP1, CP2, CP3, CP11, CP12 and CP13 of the Richmondshire Local Plan Core Strategy (2014);
- iv. the proposed development is not considered to give rise to any conflict with the aims and objectives of policies CP1, CP16, CP17, CP19, CP21 of the Hambleton District Council Core Strategy (2007);
- v. the proposed development is not considered to give rise to any conflict with the aims and objectives of Development Policies DP1, DP2, DP28, DP29, DP30, DP31, DP32, DP33, DP37, DP38, DP43 and DP44 of the Hambleton Development Policies Development Plan Document;
- vi. the proposed development is considered to be consistent with the objectives and policies pertaining to minerals-related development proposals as stated in the National Planning Policy Framework (2012) as well as being consistent with the advice and best practice as conveyed within the National Planning Practice Guidance (2014);
- vii. the proposed development is considered acceptable in land use planning terms taking into consideration:
 - a. the impacts of the proposed development in relation to vibration and air quality are capable of being effectively mitigated;
 - b. subject to adequate controls over noise emissions, the proposed development is considered unlikely to lead to an unacceptable detrimental effect upon the amenities of the occupants of nearby residential properties;
 - c. the visual and landscape impact of the proposed development can be mitigated through the proposed S106 Legal Agreement;
 - d. the assessed effects upon interests of nature conservation, ecology and habitat protection are capable of being effectively mitigated and controlled by condition as well as being capable of being enhanced through the proposed S106 Legal Agreement;

- e. any impacts upon assets of historic and/or archaeological interest are capable of being adequately mitigate through the submission of appropriate schemes;
 - f. existing highway network is capable of handling the volume of traffic generated by the proposed development
 - g. the assessed effects in terms of hydrology and hydrogeology have not given rise to impacts of any material significance;
 - h. the opportunities for enhanced recreation benefits and public access;
 - i. the continued employment opportunities within the minerals industry in the local area; and,
 - j. the absence of any unacceptable cumulative impacts arising.
- viii. the imposition of appropriate and suitably worded planning conditions are considered to provide sufficient safeguards against any unacceptable impacts upon the amenities of both the environment and the local community, through controls relating to both the operational and restoration/‘after-care’ phases of the proposed development

it is recommended that, subject to the signing of a Section 106 Legal Agreement controlling the long-term restoration and management, ecological management and appropriate lorry routeing, and subject to the signing of a Section 278 Agreement for proposed works to be carried out on the highway, **PLANNING PERMISSION BE GRANTED** for the purposes for the extraction and processing of sand and gravel including the construction of a site access, conveyors, bridges, associated plant and machinery with restoration to agriculture, nature conservation and wetland at Killerby subject to the conditions below

Conditions:

Time Limit

1. The development hereby permitted shall be begun within six years of the date of this permission. Written notification of the date of commencement of soil-stripping and mineral extraction shall be provided to the County Planning Authority within seven days from commencement of that soil stripping and mineral extraction.

REASON: To allow for the sequence of mineral extraction from each phase and in accordance with the provisions of Section 91(1)(b) of the Town & Country Planning Act 1990.

Definition of Development

2. The development hereby permitted shall be carried out in strict accordance with the application details dated 22nd September 2010, including those contained in the Environmental Statement and appendices, as amended, including:

- additional/further information received between May and October 2014 comprising:
 - further archaeological investigation, specifically an ‘Archaeological Evaluation of Peat Deposit, Killerby Prospect, North Yorkshire’ (October 2012);
 - a *Transport Statement* (May 2014);

- revised Transport Chapter of the Environmental Statement;
- revised ‘*Ecological Baseline Update Survey*’ and ‘*Bird Management Strategy*’ (BMS) (July 2014);
- ‘*Proposed Area of Long-Term Management Plan*’ (Plan 1 rev D in the S106 Agreement); and,
- revised ‘*Restoration Masterplan*’ (Rev H, dated July 2016).
- letter (dated 27th March 2015) including revised ES Non-Technical Summary (received May 2015), revised ES Ch.2 (March 2015), revised application drawings (Figs.2A-11A) & revised ES drawings Figs.2.1A, 2.3A, 2.4A, 3.1A-3.6A & 3.9A;
- letter (dated 26th February 2016) including revised ES Ch.3 (February 2015) and ‘*Proposed Area of Long Term Management Plan*’ (Plan 1 rev D in the S106 Agreement);
- letter (20th October 2016) including information from Hafren Water Ltd (dated 17th October 2016), an *Ecological Baseline Update Survey* (October 2016), Post-application Cross Section of Phase 2 (drwg no. K034/00198) (10th August 2016) and conveyance (dated 31st May 1960);
- letter (21st November 2016) & annexes plus revised ES Ch.12 (April 2013) & Ch.7 (November 2014), revised *Archaeological Scheme of Works* (November 2014), revised *Restoration Masterplan* (drwg no. K034-210 Rev.H) (dated 1st July 2016), *Statement on Geological Investigation* (10th November 2016) and revised draft S106 Legal Agreement and accompanying documents; and,
- e-mail (24th November 2016) including revised Annex 1 & enclosing revised ‘*Phasing Plan - Phase 5*’ (4th March 2015)
- a ‘*Preliminary Bat Mitigation Strategy*’ (January 2017) prepared on behalf of the applicant by E³ Ecology Ltd;
- detailed drawings submitted under cover of agent letter dated 25th January 2017;

as well as other details as may be subsequently approved and the following conditions, which at all times take precedence.

REASON:

Duration of planning permission

3. The development hereby permitted authorises the extraction of sand and gravel for a period of a twenty years from the date of the notification of the commencement of sand and gravel extraction (as required by condition no. 1 above); after which time those operations shall be discontinued and the land restored wholly in accordance with the agreed *Detailed Restoration and Management Plan* as contained within the Section 106 Legal Agreement within one year (twelve months).

REASON:

Limitations to the permission

4. Notwithstanding the provisions of Part 17 of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any other Act

revoking or re-enacting the order, no plant or buildings shall be erected within the application site outwith the plant site shown on application drawing 'Phasing Plan-Composite' (drwg no. NT10306/12/Fig3.1 rev A, dated 4th March 2015) without the prior grant of planning permission.

REASON:

5. No development within Phase 2 shall commence until a scheme providing detailed designs of the two river crossings (bridges) (the abutments of which shall be at least 5 metres from the channel edge), including their construction and their subsequent removal upon completion of mineral extraction, has been submitted to and approved by the County Planning Authority in writing. Thereafter, the two bridges shall be constructed in strict accordance with the approved scheme.

REASON:

6. Prior to the removal of the 'east bridge', a scheme for the feasibility of its retention for public access, shall be submitted to the County Planning Authority and, subject to prior consultation with the Environment Agency and the Swale & Ure Drainage Board or any successor bodies thereto, be subject to the County Planning Authority's written approval.

REASON:

Noise

7. No development shall commence until a 'Noise Management Plan' has been submitted to and approved in writing by the County Planning Authority which details how noise levels will be monitored at the monitoring locations as defined within the Environmental Statement. Such a scheme shall include measures to control noise from the use of fixed and/or mobile plant and Heavy Goods Vehicles (HGVs) at the site. Thereafter, the development shall not be carried out except in accordance with the approved scheme that shall be maintained at all times and reviewed on an annual basis.

REASON: PRE-COMMENCEMENT

8. The noise levels $L_{Aeq}(1 \text{ hour})$ operated by the quarrying operation at the site shall not exceed 55dB at the monitoring locations as defined in the Environmental Statement (as shown on *Figure 11.1 – Noise Sensitive Receptors* found within Environmental Statement and Table 11.6).

REASON:

9. The noise levels $L_{Aeq}(1 \text{ hour})$ operated by the temporary quarrying operations at the site shall not exceed 70dB for a maximum period of up to eight weeks in any one year.

REASON:

10. Within six months of commencement of each operational phase of the extraction operations as defined on drwg no ##, an assessment of

compliance with the above noise level limits shall be undertaken and submitted, which shall include a timescale for the delivery of any necessary noise mitigation measures. The methodology for the compliance assessment shall be submitted to and agreed with the County Planning Authority in advance of the assessment.

REASON:

Water protection

11. The development hereby permitted shall not commence until such time as a *Water Management Plan* is submitted and approved in writing by the County Planning Authority setting out the following:
- a) details of the proposed dewatering at the site;
 - b) measures for the protection of licensed sources;
 - c) measures for the maintenance of spring fed flows; and,
 - d) details of the monitoring of surface water and groundwater before, during and for a year after final cessation of works has been submitted to, and approved in writing, by the County Planning Authority. Any such scheme shall be supported by detailed information to include a maintenance programme and establish current and future ownership of the facilities such as sluice gates to also be provided;
 - e) the storage of any materials including chemicals, oils and/or other hazardous materials; and,
 - f) details of site drainage connections of the lakes to the River Swale and Fiddle Beck.

Any such scheme shall be fully implemented and subsequently maintained, in accordance with the approved scheme, or any changes as may subsequently be agreed, in writing, by the County Planning authority.

REASON: PRE-COMMENCEMENT

12. Surface water from all vehicle parking areas and hard-standing areas shall be passed through an oil interceptor(s) of adequate capacity prior to discharge to the drainage system.

REASON:

13. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

REASON:

14. The site office shall not be located within either Flood Zone 2 or 3 and a plan showing the location of the office shall be submitted to and approved in writing by the County Planning Authority.

REASON:

15. A minimum 20-metre stand-off from the channel edge of the River Swale in Phase 2, shall be set out on site and thereafter, no extraction shall approach closer than that point throughout the duration of the development hereby permitted. The channel edge, the edge of extraction and the lake-side edge (which shall be at least a further 10 metres from the line of the 20-metre stand-off from the channel edge) shall be first determined by the submission of detailed extraction designs to be submitted to the County Planning Authority for its written approval prior to the extraction of any mineral in Phase 2.

REASON:

16. Prior to the commencement of development in Phase 2, details of lakeside bank reinforcement to be incorporated into the design of the 'west lake' to protect against wave erosion within the lake and to mitigate against erosion by the River Swale shall be submitted to the County Planning Authority for its approval in writing.

REASON:

Soil handling

17. Prior to the commencement of the development in Phase 1 and prior to the commencement in each phase thereafter, a detailed *Soils Management Plan* shall be submitted to the County Planning Authority for its approval in writing. Thereafter, soils shall be managed in strict accordance with the *Soils Management Plan* approved under this condition.

REASON: PRE-COMMENCEMENT - regular consideration of this matter on a phase-by-phase basis is considered appropriate in respect of the development.

18. Any soil storage heaps shall either be located in Flood Zone 1 or in a location where satisfactory compensatory storage has been created. The satisfactory compensatory storage shall be completed prior to the commencement of the creation of the soil heap that the storage is designed to offset, or within any other period as may be subsequently agreed, in writing, by the County Planning Authority.

REASON: To provide compensatory storage for soil heaps in Flood Zone 3.

19. Any soil storage heaps located in Flood Zone 3 shall have level-for-level compensatory storage provided.

REASON:

20. All top-soil, sub-soil and overburden materials shall be identified separately and then stripped and stored accordingly and either placed directly to final restoration of the site or stored separately in temporary storage mounds in accordance with the submitted application details. All soils shall be handled in accordance with the guidance set out in DEFRA's '*Good Practice Guide for Handling Soils*'.

REASON:

21. No soils shall be stripped, moved, placed or removed during the months of November to March inclusive, unless the said soils are dry and friable. Soils shall only be stripped, moved, placed or removed during dry conditions and soils shall not be removed whilst wet. During soil stripping, placement and removal, machinery shall be routed so as to avoid compaction of such soils.

REASON:

Permitted hours of operation

22. No soil stripping or bund construction or overburden removal shall take place except between the following times:

0700 – 1900 hours Mondays to Fridays.

No soil stripping or bund construction or removal shall take place at all on Saturdays / Sundays / Public / Bank Holidays.

No mineral extraction shall take place except between the following times:

0700 – 1900 hours Mondays to Fridays; and,

0700 – 1300 hours on Saturdays.

Mineral processing, mineral export, and servicing and maintenance shall only take place between the following times:

0700-1900 hours Mondays to Fridays; and,

0700-1300 on Saturdays

No mineral processing, mineral export, and servicing and maintenance shall take place at all on Sundays / Public / Bank Holidays.

REASON:

Processing Plant

23. No fixed plant shall be erected within the site until full details of its siting, design, lighting, appearance and screening have been submitted to and approved in writing by the County Planning Authority.

REASON:

Access

24. There shall be no access to the site from the public highway other than by the access to the site from Low Street as shown on application drawing '*Phasing Plan-Composite*' (drwg ref. no. NT10306/12/Fig3.1 rev A, dated 4th March 2015).

REASON:

25. Wheel-cleaning facilities shall be made available from the commencement of the development on the site and be kept available and in full working order until such time as the County Planning Authority agrees in writing to their withdrawal.

REASON:

Dust management

26. Prior to the commencement of any development a *Dust Mitigation Scheme* shall be submitted to and approved in writing by the County Planning Authority.

REASON:

27. Measures, including the spraying of roadways and stockpiles and the discontinuance of soil movements during periods of high winds, shall be taken to ensure that the site is operated at all times with the aim to minimise dust emissions and, in particular, during periods of high winds.

REASON:

Archaeology

28. Development will be undertaken in accordance with the *Archaeological Written Scheme of Investigation* prepared by Archaeological Research Services Ltd (November 2014). No change shall be made to the *Written Scheme of Investigation* referred to in this condition without the prior written approval of the County Planning Authority.

REASON:

29. The applicant company shall formally notify the County Planning Authority in writing within 14 days of the completion of archaeological mitigation fieldwork.

REASON:

30. Within 24 months of completing the archaeological field investigations required by condition no. ##, a report which shall comprise of an assessment of the archaeological remains recovered from the site and an outline of the subsequent programme of analyses, publication (including a date for publication) and archiving, shall be submitted to and approved in writing by the County Planning Authority. The programme of analyses, publication and archiving shall thereafter be carried out in accordance with the details thus approved, and in accordance with a timetable agreed in writing with the County Planning Authority.

REASON:

Biodiversity and landscape matters

31. The development shall not be commenced until a *Landscape and Biodiversity Restoration and Management Strategy* has been submitted to

and approved in writing by the County Planning Authority. It shall include, amongst other matters, details of the following:

- advance and phased landscape and biodiversity mitigation and maintenance measures. Works intended to be temporary and those intended to be long-term shall be clearly distinguished and details provided shall also include
 - the trees, vegetation and habitats to be protected during extraction and the means of their protection;
 - the species to be planted and their source, size and spacing;
 - the method of planting, establishment and protection; and,
 - the replacement of failures;
- post-extraction phased amenity, nature conservation and agricultural restoration and enhancement works; and,
- maintenance and ‘*after-care*’, and post ‘*after-care*’ management and monitoring where relevant.

The *Landscape and Biodiversity Restoration and Management Strategy* shall be implemented and maintained in accordance with the approved programme and scheme.

REASON: PRE-COMMENCEMENT - To secure mitigation and progressive restoration of the site.

32. During the appropriate ecological survey period immediately prior to commencement of works on site, pre-commencement surveys for otter, water vole and white-clawed crayfish shall be undertaken. The surveys shall include mitigation measures as necessary including the timing/phasing thereof. The results of these surveys and the identified mitigation measures shall be submitted to and approved in writing by the County Planning Authority prior to the start of any works. The mitigation measures shall be implemented in strict accordance with the approved timing/phasing or any details as may be subsequently agreed, in writing, by the County Planning Authority.

REASON:

33. Prior to the commencement of development a scheme detailing the monitoring of bats shall be submitted to the County Planning Authority for its written approval. Thereafter, the scheme shall be implemented wholly in accordance with the details contained therein. The scheme shall provide for the undertaking of additional bat surveys upon the demolition of any buildings including that of Broad Close Farm or its associated buildings or the removal of any trees. The scheme shall also enure for the duration of the operational phase of the development hereby permitted as well as the duration of the statutory five year ‘*after-care*’ period.

REASON:

Highways

34. No development shall commence until full details of the following have been submitted to and approved in writing by the County Planning Authority in consultation with the Highway Authority:

a. vehicular parking within the site for Heavy Goods Vehicles using the site.

REASON:

35. No sand and gravel shall be removed from the site, as shown on application drawing '*Phasing Plan-Composite*' (drwg ref. no. NT10306/12/Fig3.1 rev A, dated 4th March 2015), by road, until the local access road (LAR) is constructed connecting to Low Street allowing access to the A1 upgrade as shown on Highways Agency plans dated 3rd April 2013 is completed and open to the public.

REASON:

36. There shall be no access or egress between the highway and the application site by any vehicles other than via the access point with the public highway at Low Street. The access shall be maintained in a safe manner which shall include the repair of any damage to the existing adopted highway occurring during construction.

REASON:

37. There shall be no access or egress by any vehicles between the highway and the application site until full details of any measures required to prevent surface water from non-highway areas discharging onto the existing or proposed highway together with a programme for their implementation have been submitted to and approved in writing by the County Planning Authority in consultation with the Highway Authority. The works shall be implemented in accordance with the approved details and programme.

REASON:

38. There shall be no movement by construction or other vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until that part of the access extending 25 metres into the site from the carriageway of the existing highway has been made up and surfaced in accordance with the approved details and/or *Standard Detail number E3* and the published *Specification of the Highway Authority*. All works shall accord with the approved details unless otherwise approved in writing by the County Planning Authority in consultation with the Highway Authority. Any damage during use of the access until the completion of all the permanent works shall be repaired immediately.

REASON:

39. There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until splays are provided giving clear visibility of 160 metres by 4.5 metres measured along both channel lines of the major road Low Street

from a point measured 4.5 metres down the centre line of the access road as shown on the WA Fairhurst Drawing 103821/1002 revA dated ## ## ##. The eye height will be 1.05 metres and the object height shall be 0.6 metres. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

REASON:

40. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works until:
- the details of the required highway improvement works, listed below, have been submitted to and approved in writing by the County Planning Authority in consultation with the Highway Authority:
 - a) an independent Stage 2 Safety Audit has been carried out in accordance with HD19/03 - Road Safety Audit or any superseding regulations; and,
 - b) a programme for the completion of the proposed works has been submitted. The required highway improvements shall include:
 - i. to improve the road alignment of Low Street towards the A1 (M) and strengthen that part of Low Street from the site access to the Local Access Road (see WA Fairhurst drawing 103821/1002a dated ## ## ##).

REASON:

41. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the following highway works have been constructed in accordance with the details approved in writing by the County Planning Authority
- a. works to improve the road alignment of Low Street towards the A1(M) and strengthen that part of Low Street from the site access to the Local Access Road (see WA Fairhurst drawing 103821/1002a dated ## ## ##).

REASON:

42. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works hereby permitted until full details of the following have been submitted to and approved in writing by the County Planning Authority in consultation with the Highway Authority:
- a) vehicular turning arrangements;
 - b) manoeuvring arrangements; and
 - c) loading and unloading arrangements.

REASON: PRE-COMMENCEMENT

43. There shall be no access or egress by any vehicles between the highway and the application site until details of the precautions to be taken to prevent the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site have been submitted to and approved in writing by the County Planning Authority in consultation with the Highway Authority. These facilities shall include the provision of wheel cleaning facilities where considered necessary by the County Planning Authority in consultation with the Highway Authority. These precautions shall be made available before any excavation or depositing of material in connection with the construction commences on the site and be kept available and in full working order and used until such time as the County Planning Authority in consultation with the Highway Authority agrees in writing to their withdrawal.

REASON: PRE-COMMENCEMENT

44. There shall be no establishment of a site compound, site clearance, demolition, excavation or depositing of material in connection with the construction on the site until proposals have been submitted to and approved in writing by the County Planning Authority for the provision of:
- (i) on-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public highway; and
 - (ii) on-site materials storage area capable of accommodating all materials required for the operation of the site.

The approved areas shall be kept available for their intended use at all times that construction works are in operation. No vehicles associated with on-site construction works shall be parked on the public highway or outside the application site.

REASON:

45. There shall be no establishment of a site compound, site clearance, demolition, excavation or depositing of material in connection with the construction on the site until details of the routes to be used by HCV construction traffic have been submitted to, and approved in writing by, the County Planning Authority in consultation with the Highway Authority. Thereafter, the approved routes shall be used by all vehicles connected with construction on the site.

REASON:

46. Prior to the development being brought into use, a *Travel Plan* shall have been submitted to and approved in writing by the County Planning Authority in consultation with the Highway Authority. This shall include:
- (i) the appointment of a travel co-ordinator;
 - (ii) a partnership approach to influence travel behaviour;
 - (iii) measures to encourage the use of alternative modes of transport other than the private car by persons associated with the site;
 - (iv) provision of up-to-date details of public transport services;
 - (v) continual appraisal of travel patterns and measures provided through the travel plan;

- (vi) improved safety for vulnerable road users;
- (vii) a reduction in all vehicle trips and mileage;
- (viii) a programme for the implementation of such measures and any proposed physical works; and
- (ix) procedures for monitoring the uptake of such modes of transport and for providing evidence of compliance.

The *Travel Plan* shall be implemented and the development shall thereafter be carried out and operated in accordance with the *Travel Plan*.

REASON:

Restoration

47. Full details of the works to be implemented to restore each phase shall be submitted to the County Planning Authority within six months of the commencement of mineral extraction within that phase.

The scheme shall include details of:

- soil and overburden movements, final levels, and ground preparation and cultivation;
- fencing and access;
- plant material (including species, sources, numbers, size and planting distance; and,
- establishment, plant protection, maintenance and management of existing and new planting and habitats for the duration of the development.

Thereafter restoration works shall take place in accordance with the approved details.

REASON: to reserve the rights of control by the County Planning Authority and in the interests of the environment and amenity

48. An annual meeting shall be held between representatives of the site operator and the County Planning Authority to review schemes of working, restoration, landscaping and aftercare issues. This meeting shall include all interested parties and technical advisers as required.

REASON:

After-care

49. Within six months of the certification in writing by the County Planning Authority of the completion of restoration, as defined in this permission, a scheme and programme for the ‘*after-care*’ of the site shall be submitted to the County Planning Authority for approval in writing

The scheme and programme shall contain details of the following:

- (i) maintenance and management of the restored site to promote its agricultural, forestry or amenity use;
- (ii) weed control where necessary;
- (iii) measures to relieve compaction or improve drainage; and,
- (iv) an annual inspection to be undertaken in conjunction with representatives of the operator and the County Planning Authority to assess the ‘*after-care*’ works that are required in the following year.

REASON:

50. Detailed schemes of 'after-care' for those parts of the site to be restored to amenity and nature conservation uses shall be submitted within twelve months of the commencement of mineral extraction within each phase, to include details of establishment, maintenance, protection and management of vegetation and habitats. Thereafter, the approved schemes shall be implemented for a period of five years from completion of restoration of each relevant phase

REASON: To ensure satisfactory restoration and beneficial after use of the site.

51. Within twelve months of the completion of development in any phase, the areas to be restored to agricultural use shall be restored in accordance with a detailed scheme of agricultural restoration to be submitted to and agreed in writing by the County Planning Authority. Thereafter, agricultural 'after-care' shall take place only in accordance with the approved scheme.

REASON: To ensure satisfactory restoration and beneficial after use of the site.

[N.b. Any *Informatives* together with an *Approved Documents List* to be completed following determination of this application]

Statement of compliance with Regulation 3 of the Town and Country Planning (Environmental Impact Assessment) (England & Wales) Regulations 1999

In determining this application, pursuant to Regulation 3 of the Town and Country Planning (Environmental Impact Assessment) (England & Wales) Regulations 1999, the County Planning Authority has considered the Environmental Statement (2009) and subsequent Revised Chapters (March 2015), including the further and other information submitted by the applicant company, including such information as is reasonably required to assess the environmental effects of the development and which the applicant company could be reasonably required to compile, and has taken into account the environmental information relating to this application, namely the Environmental Statement and subsequent revised Chapters and Addendum Non-Technical Summary, including further and other information submitted by the applicant company and duly-made representations about the environmental effects of the development.

Statement of Compliance with Article 35 of the Town and Country Development Management Procedure Order 2015

In determining this planning application, the County Planning Authority has worked with the applicant company adopting a positive and proactive manner. The County Council offers the opportunity for pre-application discussion on applications and the applicant company, in this case, chose to take up this service. Proposals are assessed against the extant policies that comprise the Development Plan (which have been subject to proactive publicity and consultation prior to their adoption) and their consistency with the National Planning Policy Framework. During the course of the determination of this application, the applicant company has been informed of the existence of all consultation responses and representations made

in a timely manner which provided the Applicant company/Agent with the opportunity to respond to any matters raised. The County Planning Authority has sought solutions to problems arising by liaising with consultees, considering other representations received and liaising with the applicant company as necessary. Where appropriate, changes to the proposal were sought when the statutory determination timescale allowed.

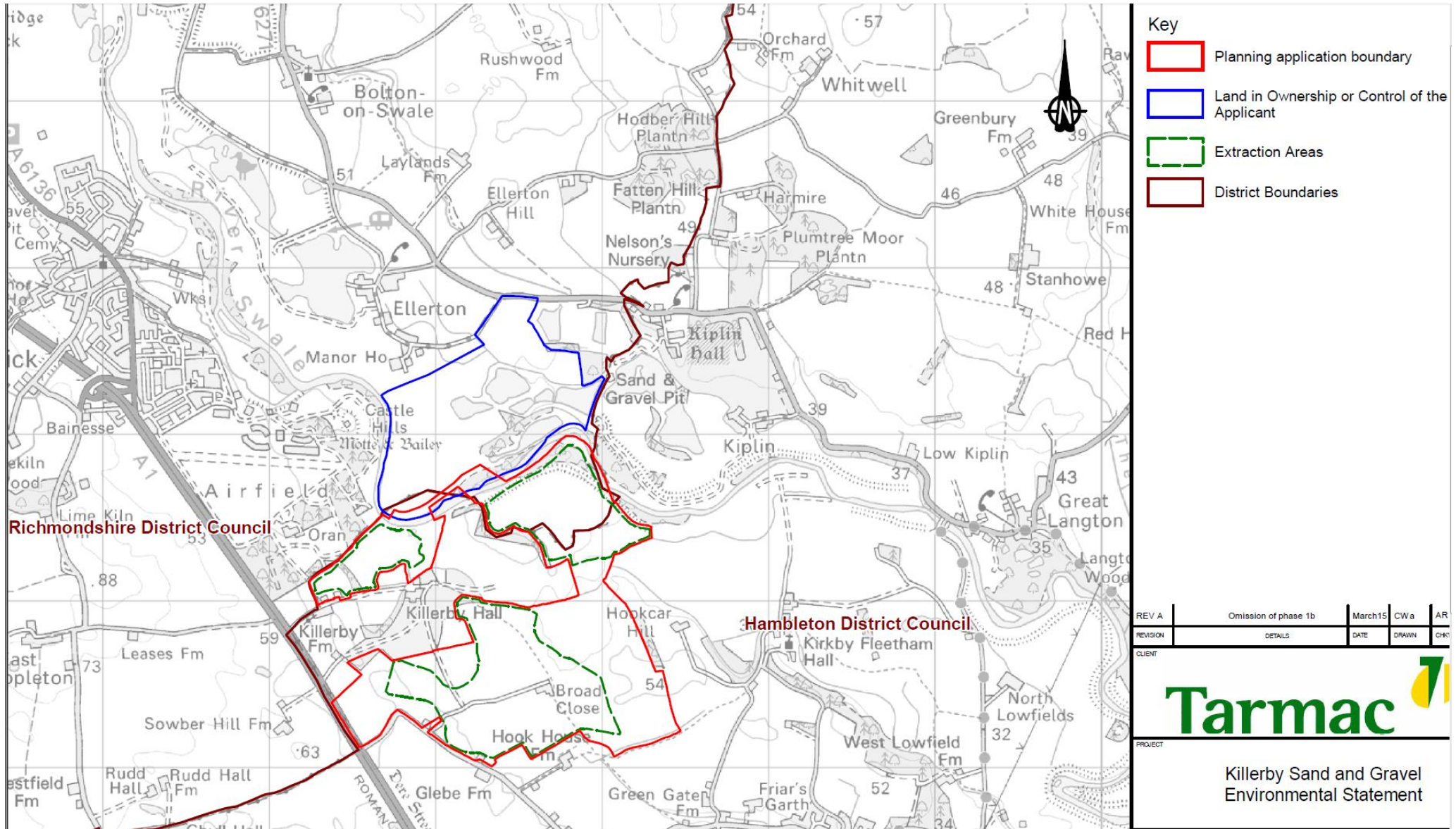
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Corporate Director, Business and Environmental Services

Background Documents to this Report:

1. Application ref. no. NY/2010/0356/ENV (registered as valid on 22nd September 2010). Application documents can be found on the County Council's Online Planning Register by using the following weblink:
<https://onlineplanningregister.northyorks.gov.uk/register/PlanAppDisp.aspx?recno=7585>
2. Consultation responses received;
3. Representations received; and,
4. Officer Report to Committee on Tuesday 30th August 2016.

Author of report: Vicky Perkin



Extract from application details (drwg ref. no. NT10306/12/fig 2.1, dated March 2015)