

North Yorkshire County Council

Business and Environmental Services

Planning and Regulatory Functions Committee

12 MAY 2020

C8/2020/0118/CPO - PLANNING APPLICATION FOR THE PURPOSES OF THE VARIATION OF CONDITION NO'S 1, 64 & 66 OF PLANNING PERMISSION C8/2013/1064/CPO FOR AN EXTENSION OF TIME FOR THE COMPLETION OF RESTORATION OF THE SITE UNTIL 31 DECEMBER 2025 AND A REVISED LANDSCAPING SCHEME AND RESTORATION LANDFORM ON LAND AT BROTHERTON QUARRY, BYRAM PARK, YORK ROAD, KNOTTINGLEY, BROTHERTON ON BEHALF OF DARRINGTON QUARRIES LTD (SELBY DISTRICT) (MID SELBY ELECTORAL DIVISION)

Report of the Corporate Director – Business and Environmental Services

1.0 Purpose of the report

- 1.1 To determine a planning application for the variation of condition no's 1, 64 & 66 of planning permission ref. no. C8/2013/1064/CPO, dated 6 October 2014 for an extension of time for the completion of restoration of the site until 31st December 2025 and a revised landscaping scheme and restoration landform on land at Brotherton Quarry, Byram Park, York Road, Knottingley, Brotherton on behalf of Darrington Quarries Ltd.
- 1.2 This application is subject to an objection having been raised in respect of this proposal on the grounds of noise disturbances and is, therefore, reported to this Committee for determination.

Site Description

- 2.1 The site to which this application relates is within Brotherton Quarry (also historically known as Foxcliffe Quarry). The quarry has been in operation for over 20 years on the current site footprint, but with a seven-year pause in operations from 2008 to 2015 due to the economic recession. The quarry site is located within a relatively rural area and is approximately 500 metres to the east of the A162 Brotherton to Sherburn in Elmet road and 1km to the east of the A1 (M). The villages of Burton Salmon, Poole and Byram (part of Brotherton) are all located within 1km of the application site, as shown on Appendix A to this report. Knottingley lies approximately 5km to the south. The site is bordered to the north by a belt of mixed woodland of varying width, between 100 to 150 metres, known as Poole Belt. A copse of semi-mature trees is situated to the west, beyond which is a paddock, and further north lies a dwelling known as North Lodge. To the south lies an area of woodland and Byram Hall is located further to the south.
- 2.2 The nearest residential properties and sensitive receptors to the application site include the property known as North Lodge located on Byram Park Road approximately 175 metres north west of the site, the properties located within the hamlet of Poole on Poole Row, approximately 200 metres to the north, Byram Park Estate, approximately 300m metres to the south east, and North Park Farm on the A162, approximately 520 metres to the west. Views from North Lodge, Poole and North Park Farm are screened by woodland. Views from Byram Park Estate are screened by the local topography and further woodland.

Planning Constraints

- 2.3 The application site is located within the Green Belt and is adjacent to the Site of Importance for Nature Conservation (SINC) of Bryam Park (29 metres to the north of the application site). The site is also within the Coalfield Consultation Area, an Airfield Safeguard Zone, an Impact Risk Zone for Fairburn and Newton Ings Sites of Special Scientific Interest which is 1.5km to the north west and affects land classified as Grade 2 agricultural land also termed best and most versatile (BMV) land.

Planning History

- 2.4 The quarry has operated under a number of planning permissions over a period of several decades. However, more recently, those permissions have included in 1998, planning permission which was granted on 29th July (refs. C8/49/44B/PA and C8/50/42B/PA) for an extension to the site on land to the north of the earlier historical workings. In addition to mineral extraction, the permission involved the construction of a new access road off the A162 and the provision of new processing plant.
- 2.5 In 2002, planning permission was granted on 6th September (ref. C8/50/42C/PA) for a further extension to mineral working on a smaller parcel of land adjoining the northern boundary of the 1998 planning permission. Both the 1998 and 2002 permissions authorised the restoration of the site to agriculture through the importation of around 1 million cubic metres of controlled waste including industrial, commercial and domestic waste.
- 2.6 In 2005, planning permission was granted on 22nd April (ref. C8/50/42D/PA) for an eastern extension to the quarry workings. This consent permitted the extraction of limestone on a 10.1-hectare piece of land with final restoration to agriculture and woodland through the importation of inert waste. The planning consent further permitted the retention of the existing processing plant whilst also amending the method and date for the completion of the restoration requirements under planning permissions C8/49/44B/PA and C8/50/42C/PA.
- 2.7 Planning permission Ref, C8/50/42D/PA has an associated Section 106 Agreement, dated 22nd April 2005, which obligates *the Company and the Landowner to the following*;
- (a) *Prior to the seventh week following the commencement of the Development they will:*
 - i) *Have established a Liaison Committee which shall be comprised of members from the Council, Selby District Council, the Parish Councils, the Company and Local Residents.*
 - ii) *Have agreed terms of reference for the Liaison Committee with the Council and a date for the first meeting of the Liaison Committee*
 - (b) *Prior to completion of the Development they will:*
 - i) *Ensure there are at least three meetings of the Liaison Committee in every calendar year unless agreed otherwise by the Liaison Committee.*
 - ii) *Be responsible for arranging and servicing meetings of the Liaison Committee including arranging the venue, notifying the members of the Liaison Committee of meetings, preparing agendas, taking Minutes of the meeting and circulating Minutes to the members after the meetings.*
 - iii) *Ensure that the Liaison Committee is kept reasonably informed of issues relevant to the Development whilst the Planning Permission subsists and shall take account of the views of the Liaison Committee*
 - (c) *That every HGV driver using, accessing or egressing the Land for the purposes of the Development shall be notified by the Company to use the route shown on Plan B and shall use that route at all times, save in the case of an emergency, provided that if there is any breach of the requirement to use the route shown on Plan B the Company will take appropriate action to prevent any reoccurrence of the breach. Provided that in the event that a breach of this clause occurs the Council will not take any action against the Landowner until;*
 - i) *the Council has informed the Company or any other person carrying out the operations authorised by the Planning Permission that a breach has occurred and has required the Company or such other person to remedy the breach within a reasonable time; and*
 - ii) *the Company or such other person has failed to remedy the breach within the time specified.'*

- 2.8 In 2014, planning permission was granted on 6th October (ref: C8/2013/1064/CPO) for the variation of condition No's 11, 12, 20, 21, 31, 63 and 64 of planning permission ref. C8/50/42D/PA to permit the extraction of limestone and restoration to agriculture and woodland involving importation of inert waste to continue until 31st December 2020 (including revised phasing), with the use of mobile processing plant, within the quarry extension area authorised by planning permission ref. C8/50/42D/PA.
- 2.9 Planning permission Ref, C8/2013/1064/CPO, dated 6th October 2014 was also associated with this aforementioned Section 106A Agreement, paragraph 2.7 above refers, by way of a *Deed of Variation* dated 2nd October 2014. The S106 agreement in regards to this site continues to be in force and was varied to take into account the previous application
- 2.10 A further application was submitted on 25th May 2016 (Ref. C8/50/0220/PA). This was for the variation of condition No. 6 of Planning Permission Ref. C8/2013/1064/CPO to refer to an updated Dust Monitoring Scheme which removes the requirement to actively monitor for fugitive dust. This application was never issued due to the requirement of a legal agreement being signed, which was never completed. As a consequence, the application was subsequently withdrawn on 10th February 2020.
- 2.11 An Environment Impact Assessment was carried out at the time of the original application C8/50/42D/PA this assessed the likely significant environmental effects of the development. The current application relates to the variation of planning permission C8/2013/1064/CPO, dated 6th October 2014. When this planning permission C8/2013/1064/CPO was submitted it included further environmental information in regards to the site. Consideration of whether the information provided is adequate to assess the environmental effects of the development is required under Regulation 8 of the Environmental Impact Assessment Regulations (2011). In this instance it is considered that the applicant has submitted sufficient environmental information previously and therefore this information shall be taken into consideration in the decision making for this subsequent consent. The current application was also screened under Town and Country Planning (Environmental Impact Assessment) Regulations 2017 on 28 April 2020, where it was determined that this application was unlikely to give rise to any significant environmental effects beyond those assessed in the original EIA. As such it was determined the current application would not require an Environmental Statement.
- 2.12 The planning conditions attached to the 2014 permission that are the subject of this application are:
1. The development hereby permitted shall be carried out only in accordance with the application details submitted under planning permission C8/50/42D/PA, the application form dated 09 October 2013; Brotherton Quarry Planning Statement dated October 2013; Outline Phasing Method Statement and Mobile Plant Zoning; Extended Phase 1 Habitat Survey – Brotherton Quarry Extension dated 17 July 2013; Precautionary Working Method Statement for Protected Species (ref: 47071207) dated August 2014; Brotherton Quarry Noise Assessment dated August 2014; the approved plans:
 - 'Application Boundary Plan' (ref: 282A003) dated 10 May 2013;
 - 'Operation Phasing Plan' (ref: 282A006) dated 04 September 2013;
 - 'Mobile Plant Zones' (ref: 282A007) dated 04 September 2013;
 - 'Phase 1 Mobile Plant Commencement' (ref: 282A008) dated 04 September 2013;
 - 'Phase 2 Mobile Plant Commencement' (ref: 282A009) dated 04 September 2013.
 and in accordance with such other details as may subsequently be approved in writing by the County Planning Authority.

Reason: To reserve the rights of control by the County Planning Authority.

64. The development hereby permitted shall cease on or before 31 December 2020 by which date all plant, machinery, buildings, and hard standings shall be removed from the site and the site restored in accordance with the application details from planning permission C8/50/42D/PA and the requirements of this Decision Notice (which in all cases will take precedence).

Reason: To secure the satisfactory restoration of the site in the interests of amenity.

66. Final restoration levels shall accord with the restoration levels indicated in the application drawing 'Restoration Option 1' (ref: 12175/P63) dated 11 May 2004.

Reason: To secure the satisfactory restoration of the site in the interests of amenity.

3.0 The Proposal

- 3.1 Planning permission is sought under Section 73 of the Town and Country Planning Act 1990 for the variation of condition no's 1, 64 & 66 of planning permission C8/2013/1064/CPO for an extension of time for the completion of restoration of the site until 31st December 2025 and a revised landscaping scheme and restoration landform on land at Brotherton Quarry, Byram Park, York Road, Knottingley, Brotherton on behalf of Darrington Quarries Ltd.
- 3.2 This application is to vary conditions regarding a previous Section 73 application, reference C8/2013/1064/CPO, which was approved on 6th October 2014. The application seeks to vary a number of approved documents, the time limit in which to complete the development and revise the approved restoration drawing. The quarry re-opened in February 2015.
- 3.3 The applicant states the reason for the variation is firstly to optimise the agricultural use of the site after extraction has been completed, which is why condition 1 and 66 have been stated to be varied. The second reason is the need for a time extension for the extraction and restoration of the site to be completed as at present insufficient material has currently been imported onto the site to complete the restoration. The applicant states that the extraction of stone would be complete by mid-2020. As of October 2019, 95,000 tonnes of stone remained *in-situ* with the expected completion of extraction by the end of 2020. As the extraction of mineral would be completed by the previously permitted date of 31 December 2020, the extension of time for this application is for the continued importation of inert waste to complete the restoration of the site.
- 3.4 This proposal requests a five-year extension to complete the restoration works to a satisfactory standard. The waste permit for the site allows the importation of 422,000 tonnes of waste; of which 218,800 tonnes has already been imported. Therefore, the applicant states, at the current rate of tipping, it would take four years to import the remaining material. The principal reasons for this are that no restoration took place while the site was mothballed, the availability of material and the final phase not being able to be restored until the final remaining stone reserve is extracted.
- 3.5 In regards to the amendments to the restoration scheme, the landscape appraisal concludes that to optimise the use of the site after restoration is complete, changes to the tree planting and the site's contours are required. The revised tree planting scheme would move tree planting from a belt on the north of the site to two new areas; one on the south-east of the site application site and another south-west which lie outside the red line boundary of the application site, but within the applicant's control, which would be secured by a S106 agreement. This is shown on Appendix B (the Restoration Plan) attached to this report. Areas of the site are already planted as a requirement of the extant permission's restoration and any new permission granted would require further tree planting in an alternative location to that previously approved. The reason for the amendment in tree planting locations is to optimise the site's use for agricultural purposes.

3.6 Further to this, the revised contours would overall benefit the site in respect to the intended agricultural use and long-term management of the site. The contours can be seen on Appendix C (the Contours Plan) attached to this report. It also states the amendments raising the contours by overall 1 metre would be appropriate in the context of the surrounding area and propose shallower gradients on the site, which would be more suitable for farming. The applicant further states that the proposed contour amendments would improve the drainage of the site as the new low point of the contour is one metre higher than previous.

3.7 The proposed new wording for the conditions to be varied are as follows:

- The development hereby permitted shall be carried out only in accordance with the application details submitted under planning permission C8/2013/1064/CPO, as amended the application form dated 9 December 2019; Brotherton Quarry Planning Statement dated October 2013; Outline Phasing Method Statement and Mobile Plant Zoning;_Extended Phase 1 Habitat Survey – Brotherton Quarry Extension dated 17 July 2013;_Precautionary Working Method Statement for Protected Species (ref: 47071207)_dated August 2014; Brotherton Quarry Noise Assessment dated August 2014; the approved plans:
 - 'Application Boundary Plan' (ref: 282A003) dated 10 May 2013;
 - 'Operation Phasing Plan' (ref: 282A006) dated 04 September 2013;
 - 'Mobile Plant Zones' (ref: 282A007) dated 04 September 2013;
 - 'Phase 1 Mobile Plant Commencement' (ref: 282A008) dated 04 September 2013;
 - 'Phase 2 Mobile Plant Commencement' (ref: 282A009) dated 04 September 2013;
 - Revised Proposed Restoration Levels Ref. Plan 3-TL/031, dated March 2020;
 - Proposed Restoration Scheme, Ref. Plan 2-TL/031, dated March 2020;
 - Restoration Programme Ref. Plan 1-TL/031, dated March 2020,

and in accordance with such other details as may subsequently be approved in writing by the County Planning Authority.

- The Mineral Extraction hereby permitted to be completed on or before 31 December 2020 and restoration hereby permitted to be completed on or before 31 December 2025 and by which date all plant, machinery, buildings, and hard standings shall be removed from the site and the site restored in accordance with the application details from planning permission C8/2013/1064/CPO, as amended, and the requirements of this Decision Notice (which in all cases will take precedence).
- Final restoration levels shall accord with the restoration levels indicated in the application drawing Revised Proposed Restoration Levels Ref. Plan3-TL/031, dated March 2020.

4.0 Consultations

4.1 The consultees responses summarised within this section of the report relate to responses to the initial consultation on 5th February 2020 and the subsequent re-consultation (on 17th March 2020) following the receipt of further/amended information relating to revised landscape documents.

4.2 **Selby District Council (Planning)** – A response was received on 25th February 2020 stating no objection or comments to make in respect of the application. However, note condition 67 also refers to the restoration option 1 plan which is being replaced yet no change is noted to the condition in the submission. Further to this the consultee states the application form references the need for an additional 4 years working but the supporting statement sets out the revised wording to be until 31 December 2025 which is 5 years. The applicant has clarified that the application is to continue the extraction until 31 December 2020 and a further 5 years after this until 31 December 2025 to complete the restoration, therefore the 4 years in the supporting statement was incorrect. The other point clarified is previously approved condition 67 is to be amended through this application and is proposed to now be condition 65.

- 4.3 **NYCC Heritage - Ecology** – A response was received stating the principle of the restoration involves changing the contouring of the restored landform and re-configuring the arable farmland and woodland elements, therefore giving a small net increase in the area of broadleaved plantation woodland. Therefore, the ecologists have no concerns in regards to this. The ecologists request whether a more native mix of trees be included including small-leaved lime, however they state they do not have strong views on this. A further response was received on 7th April 2020 stating the applicant has taken the comments into account regarding the tree species in the restoration scheme, therefore has no further comments.
- 4.4 **NYCC Heritage - Principal Landscape Architect** – A response was received on 14th February 2020 requesting clarification on the updated restoration phasing and programme with information on areas completed, in progress and outstanding. The Officer requested a clear simple restoration plan with proposed contours and that the current submitted contours plan showing existing and proposed, along with adjacent levels is clarified. A further response was received on 7th April 2020 after further information on the restoration programme and planting species list. The Officer states no objection, but recommends woodland planting outside the red line boundary to be secured by legal agreement and the need for a landscape scheme to be secured by condition. Both of these elements were agreed to by the applicant and will be included in any permission granted.
- 4.5 **Environment Agency York** – A response was received on 25th February 2020 stating no objections or comments in relation to conditions 1, 64 or 66, which are within the remit of the groundwater protection and contaminated land team.
- 4.6 **Natural England** – A response was received on 11th February 2020 stating no comment on this application.
- 4.7 **Brotherton Parish Council** – A response was received on 24th February 2020 stating no comments in regards to the application.
- 4.8 **Burton Salmon Parish Council** – A response was received on 24th February 2020 stated no comments.
- 4.9 **Ministry of Defence Safeguarding Organisation** – A response was received on 26th February 2020 stating no objections to the proposal.
- 4.10 **Stutton with Hazlewood Parish Council** – no response received to date.
- 4.11 **Selby District Council (Environmental Health)** – no response received to date.
- 4.12 **Danvm Drainage Commissioners** – no response received to date.
- 4.13 **Highway Authority** – no response received to date.

Notifications

- 4.14 **County Cllr. Christopher Pearson** – Was notified on 5th February 2020.

5.0 Advertisement and Representation

- 5.1 The proposal has been advertised by means of three Site Notices posted on Friday 13th March 2020 (responses to which expired on 3rd April 2020). The Site Notices were posted in the following locations: One on the site entrance, one on Poole Lane in Burton Salmon and one next to a bus stop on main street in Burton Salmon. A Press Notice appeared in the Selby Times/Post on 13th February 2020 (responses to which expired on 27th February 2020). Part of the consultation period to 3rd April 2020 was within the

period under which the Government made a declaration of a threat to public health due to Covid-19 in England which restricted movement and which came into force on 26th March 2020. However, it is considered that the County Council, through extensive neighbour notification letters, placing two site notices in the village of Burton Salmon and a press notice in the Selby Times has provided sufficient opportunity for the public to view the proposal and comment.

5.2 Neighbour Notification letters were sent on 5th February 2020 and the period in which to make representations expired on 26th February 2020. The following properties received a neighbour notification letter:

- 1-7 Poole Row, Burton Salmon, Leeds, LS25 5JX;
- Woodlands, Burton Salmon, Leeds, LS25 5JX;
- Keepers Cottage, Poole Lane, Burton Salmon, Leeds, LS25 5JU;
- North Park Farm, York Road, Burton Salmon, Leeds, LS25 5JP;
- Sunnyside, Tadcaster Road, Brotherton, Knottingley, WF11 9EF;
- North Lodge, New Lane Burton Salmon, Leeds LS25 5JR; and
- Low Farm and Lakeside, Bryam Park, Bryam, Knottingley, WF11 9NG;
- Trust Fold, Burton Salmon, Leeds, LS25 5PG;
- Byram Hall, Byram Cum Sutton, Castleford, WF11 9NG;
- Camelot, Poole Lane, Burton Salmon, Leeds, LS25 5JX;
- Deux Ponda, Poole Lane, Burton Salmon, Leeds, LS25 5JU;
- Manor Farm, Poole, Burton Salmon, Leeds, LS25 5JX;
- Oakdene, Poole Lane, Burton Salmon, Leeds, LS25 5J;
- Rowan, Poole, Burton Salmon, Leeds, LS25 5JX;
- Woodlands, Poole, Burton Salmon, Leeds, LS25 5JX;
- Connemara, Poole Lane, Burton Salmon, Leeds, LS25 5JU;
- Green Acre, Poole Lane, Burton Salmon, Leeds, LS25 5JU;
- Invergare, Poole Lane, Burton Salmon, Leeds, LS25 5JU;
- Lakeside, Byram Park, Byram, Knottingley, WF11 9NG;
- Long Acres, Poole Lane, Burton Salmon, Leeds, LS25 5JU;
- Meadowcroft, Poole Lane, Burton Salmon, Leeds, LS25 5JU;
- Park View, 21 New Lane, Burton Salmon, Leeds, LS25 5JR;
- Poplars, Poole Lane, Burton Salmon, Leeds, LS25 5JU;
- The Dormers, Poole Lane, Burton Salmon, Leeds, LS25 5JU;
- The Hawthorns, Poole Lane, Burton Salmon, Leeds, LS25 5JU;
- White Oaks, Poole Lane, Burton Salmon, Leeds, LS25 5JU;
- Willow House, Poole Lane, Burton Salmon, Leeds, LS25 5JU.

5.3 An Objection was received on 2nd February 2020 expressing great dismay at another five years of quarry activity. The objector is very concerned that the extraction of limestone is to continue for a further year which would subject residents to more “intolerable” noise disturbance, especially during the summer months. The resident states they have complained via the Parish Council to the Quarry Community Liaison Committee about the *“interminable, intrusive clanking and clattering and reverse bleeping’ we experienced for days on end during the summer of 2019, which started early in the morning and continued until late afternoon”*. The resident further states they understand that part of the extension requested relates to tree planting and restoration, which are welcomed, provided the noise level is kept to an absolute minimum. The resident questions the timeframe of a further four years for the importation of waste material to complete the restoration. Requesting if *“this cannot be dealt with in a much shorter period of time. Local residents have had to put up with many years of disturbance from the quarry and its activities and it needs to be brought to an end quickly”*.

6.0 Planning policy and guidance

The Development Plan

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each planning application in accordance with the planning policies that comprise the Development Plan unless material considerations indicate otherwise. In this instance, therefore, the *Development Plan* consists of policies contained within a number of planning documents. These documents include:
- any extant planning policies contained within Plan(s) adopted by the County and District (or Borough) Councils ‘saved’ under direction of the Secretary of State; and,
 - any planning policies contained within *Development Plan* Documents adopted under the Local Development Framework regime.
- 6.2 The Development Plan for the determination of this particular application comprises the following:
- The ‘saved’ policies of the North Yorkshire Minerals Local Plan (1997);
 - The ‘saved’ policies of the North Yorkshire Waste Local Plan (2006);
 - The extant policies of the Selby District Core Strategy Local Plan (2013); and
 - The ‘saved’ policies of the Selby District Local Plan (2005).
- 6.3 Emerging local policies may also be afforded weight in the determination process, depending on their progress through consultation and adoption. In this respect, it is worth noting that the following document contains emerging local policies that are of relevance to this application:
- Minerals and Waste Joint Plan (North Yorkshire County Planning Authority, the City of York Council and North York Moors National Park Authority).

North Yorkshire Minerals Local Plan (NYMLP) ‘saved’ policies

- 6.4 The North Yorkshire Minerals Local Plan was adopted in 1997 and in the absence of a more up-to-date Plan and in accordance with the provisions of the Planning and Compulsory Purchase Act 2004, as of 27 September 2007, only the ‘saved’ policies continue to form part of the statutory ‘development plan’ against which to assess minerals-related proposals.
- 6.5 The ‘saved’ policies relevant to the determination of this application are the general policies from Section 4 of the NYMLP which seek to protect the environment and local amenity from potential harm from minerals development:
- Mineral extraction and resource protection:
- Policy 4/1 – titled ‘Determination of Planning Applications’;
 - Policy 4/6a – titled ‘Nature Conservation and Habitat Protection – Local’;
 - Policy 4/13 – titled ‘Traffic Impact’;
 - Policy 4/14 – titled ‘Local Environment and Amenity’;
 - Policy 4/17 – titled ‘Importation of Waste’;
 - Policy 4/18 – titled ‘Restoration to Agriculture’; and
 - Policy 4/20 – titled ‘Aftercare’.
- 6.6 ‘Saved’ Policy 4/1 – Determination of Planning Applications, states that:
‘In considering an application for mining operations, the Minerals Planning Authority will need to be satisfied that, where appropriate: -
- 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;*
 - i) any cumulative impact on the local area resulting from the proposal is acceptable’.*
- 6.7 With regard to criteria f) and g), Paragraph 205 of the NPPF states that 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. Criterion i) of 'saved' Policy 4/1 is consistent with paragraph 205 of the NPPF. Paragraph 205 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. In terms of this application listed above are the only relevant points in 'Saved' Policy 4/1 the other elements of the policy relate to a minerals application. Therefore, significant weight can be apportioned.

- 6.8 'Saved' Policy 4/6a 'Nature Conservation and Habitat Protection – Local', states that in making decisions on planning applications, the Mineral Planning Authority will 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.
- 6.9 This Policy is consistent with paragraph 170 of the NPPF, therefore significant weight can be apportioned. Paragraph 170 states that that the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity. In terms of this application the effect of the proposal on the approved restoration scheme and how this would affect nature conservation and habitat protection are the relevant aspects of this policy.
- 6.10 'Saved' Policy 4/13 – 'Traffic Impact', states proposals will only be permitted where the level of vehicle movements likely to be generated can be satisfactorily accommodated by the local highway network. This policy does not conflict with the provisions of the NPPF paragraphs 102-104 and 109, however, there are differences in the objectives in that the NPPF states that improvements to the transport network should be considered, therefore, the NPPF should be given more weight in this instance. Therefore, limited weight should be given to this policy.
- 6.11 'Saved' Policy 4/14 – Local Environment and Amenity, states that proposals for mining operations and the associated depositing of mineral waste will be permitted only where there would not be an unacceptable impact upon the local environment or residential amenity. This Policy is considered to be consistent with paragraph 205 of the NPPF. Paragraph 205 states that when determining planning applications, local planning authorities should ensure that there are no unacceptable adverse impacts on the natural environment and human health and should take into account cumulative impacts of a development in a locality. Therefore, significant weight can be apportioned to this policy.
- 6.12 'Saved' Policy 4/17 'Importation of waste', states that if agriculture is the primary afteruse, the restoration scheme should provide the best practicable standard of restoration, including landscape, conservation and amenity proposals. This is to protect the loss of best and most versatile land. It is considered that the Policy does not conflict with the aims and objectives of the NPPF paragraph 170 and 180 therefore, should be given some weight in this instance. This application affects the approved restoration scheme for this site so therefore this policy is relevant to the determination of this application.
- 6.13 'Saved' Policy 4/18 – 'Restoration to Agriculture', states that *'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.'* It is considered that the Policy does not conflict with the aims and objectives of the NPPF paragraph 205, therefore, should be given some weight in this instance. This application affects the approved restoration scheme for this site so therefore this policy is relevant to the determination of this application.

- 6.14 'Saved' Policy 4/20 – 'After-care', 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. This Policy is considered to be consistent with paragraph 205 of the NPPF. Paragraph 205 states that 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. Therefore, full weight can be apportioned to this policy.

North Yorkshire Waste Local Plan 'Saved' Policies (2006)

- 6.15 In the absence of an adopted Waste Core Strategy and in accordance with the provisions of the Planning and Compulsory Purchase Act 2004 as of 27 September 2007 only the 'saved' policies can now be considered as comprising of the Development Plan.
- 6.16 The 'saved' policies from the NYWLP relevant to the determination of this application are:
- Policy 4/22 – Site restoration;
 - Policy 4/23 - Aftercare;
 - Policy 6/1 - Landfill proposals.
- 6.17 'Saved' policy 4/22, in relation to site restoration, states proposals for waste disposal should demonstrate that the restoration proposals will restore and enhance, where appropriate, the character of the local environment. With regard to policy 4/22 NPPF Paragraph 205 (e) with the focus on mineral sites states that 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. In this case the waste disposal would allow for the restoration of the former quarry and it is considered that the above policy which seeks restoration appropriate to the locality is considered consistent with the NPPF and should be given some weight.
- 6.18 'Saved' policy 4/23, in relation to aftercare states that "*Planning permissions which are subject to conditions requiring restoration to agriculture, forestry or amenity uses will additionally be subject to an aftercare requirement seeking to bring the restored land up to an approved standard for the specified afteruse* The Policy aims to secure an aftercare scheme and Policy 4/23 is considered to be consistent with the para 205 of the NPPF and therefore some weight can be given to this policy.
- 6.19 'Saved' policy 6/1 gives details of where proposals for waste disposal via landfill would be appropriate stating it is required for the restoration of a former mineral void, which cannot be reclaimed in any other way (criterion b), where the highways network and access can satisfactorily accommodate the proposal (criterion d) and that it would not have an unacceptable impact on local amenity or the environment (criterion e).
- 6.20 The NPPF is silent on guidance relative to landfill and waste and, therefore, the relevant point in regards to this application which is criterion b). It is noted that the NPPW makes reference to landfill, but only in relation to seeking suitable restoration and aftercare. As such, it is considered that this policy is only partially consistent with the NPPF and NPPW, and more weight should be given to the both policy documents. Regarding criterion d) highways and traffic issues it is considered that this is broadly consistent with the NPPF paragraph 102-104, 109 and NPPW Paragraph 7 and Appendix B. Regarding criterion e) covering impacts on local amenity or the environment it is considered this is broadly consistent with the NPPF paragraphs 170 and 180 and NPPW Paragraph 7 and Appendix B. Therefore, only some weight can be given to 'Saved' policy 6/1.

Emerging Minerals and Waste Joint Plan (in examination)

- 6.21 Emerging local policies may also be afforded weight in the determination process, depending on their progress through consultation and adoption. In this respect, it is worth noting that the following document contains emerging local policies that are of relevance to this application:
- Minerals and Waste Joint Plan (North Yorkshire County Planning Authority, the City of York Council and North York Moors National Park Authority).
- 6.22 The draft MWJP was published in November 2016 to receive representations, and submitted to the Secretary of State for Communities and Local Government on 28 November 2017. While the Hearings have taken place the Plan continues to remain under 'examination'. Upon receipt of the appointed Inspector's report, it is anticipated the Plan could be adopted at some point during 2020/21. There are no significant matters proposed in the Main Modifications in respect of the policies listed below which would affect the general policy position on those topics.

As the Joint Plan has been, and continues to be, produced post-publication of the NPPF, there is no requirement to include herein NPPF-consistency statements in respect of the emerging draft MWJP policies that follow below.

Strategic Policies for waste

- W01 Moving waste up the waste hierarchy
- W05 Meeting waste management capacity requirements- Construction, Demolition and Excavation waste (including hazardous CD&E waste)

Development Management Policies

- D01 Presumption in favour of sustainable minerals and waste development;
- D02 Local amenity and cumulative impacts;
- D03 Transport of minerals and waste and associated traffic impacts;
- D05 Minerals and Waste Development in the Green Belt
- D06 Landscape;
- D07 Biodiversity and geodiversity;
- D10 Reclamation and afteruse;
- D11 Sustainable design, construction and operation of development;
- D12 Protection of agricultural land and soils;

- 6.23 Policy W01 in regards to Moving Waste up the Waste Hierarchy point one states proposals would be permitted where they contribute by minimising waste or increasing reuse, recycling or composting of waste. Point four of the policy is also relevant which states landfill of inert waste would be permitted if it facilitates a high standard of quarry reclamation in accordance with agreed objectives or brings a substantial improvement to a derelict or degraded site.
- 6.24 Policy W05 of the Publication Draft Joint Plan deals with Construction, Demolition and Excavation waste which states Provision of capacity for management of CD&E waste is also supported through site allocations for landfill at land at Brotherton Quarry, Burton Salmon (WJP21). Further stating proposals for landfill at sites would only be permitted to enable reclamation of any minerals workings and that sites within the Green Belt would have to have regard to national Green Belt policy, key sensitivities and incorporate mitigation measures set out in Appendix 1 of the MWJP.
- 6.25 Policy D01 in regards to presumption of sustainable development states has a requirement to work proactively with applicants and find solutions so a proposal can be approved securing improvements to the locality's social, economic and environmental conditions.
- 6.26 Policy D02 in regards to Local Amenity and Cumulative Impacts states minerals and waste development would be permitted if it could be demonstrated there will be no

unacceptable impacts on local amenity which would include noise, dust and vibration lighting. With any proposals being required to prevent adverse impacts where possible and use robust mitigation if these impacts cannot be mitigated fully. The policy also encourages meaningful engagement with the local community is undertaken before the application is submitted.

- 6.27 Policy D03 in regards to Transport of minerals and waste and associated traffic impacts states where road transport is necessary it is essential there is capacity within the local road network and the proposed nature and volume which not have an unacceptable impact on the area, that the access to the site is appropriate to the location with traffic controls and routing arrangements agreeable and that there is enough space on site for manoeuvring, parking and loading. Proposals should where needed include improvements when the above is not complied with.
- 6.28 Policy D05 in regards to Minerals and Waste Development in the Green Belt state in regards to minerals that proposals will supported where the development would preserve the openness of the Green Belt and that reclamation and afteruse are compatible with the Green Belt objectives. In regards to waste substantial weight must be given to any harm to the Green Belt and inappropriate waste development would only be permitted in very special circumstances, which must be demonstrated by the applicant. However, some forms of waste development are appropriate in the Green Belt providing they preserve the openness and do not conflict with the purposes of including the land in the Green Belt which includes landfill of quarry voids including for the purposes of quarry reclamation and where the site would be restored to an after use compatible with the purposes of the Green Belt designation.
- 6.29 Policy D06 in regards to Landscape has relevant points in regards to proposals only being permitted where it can be demonstrated there would be no unacceptable impact on the quality or character of the landscape, including if there are any mitigation measures proposed. The policy further states schemes should be designed to have a high quality standard to mitigate any adverse impacts on landscape or tranquillity, especially in regards to the wider landscape context and any visual impact.
- 6.30 Policy D07 in regards to Biodiversity and Geodiversity states proposals would be permitted where there are no unacceptable impacts on biodiversity or geodiversity, having taking into account mitigation measures. Any proposal within a SSSI risk zone which could have a negative impact on such asset should include a detailed assessment of the potential impacts and proposed mitigation. Specially in regards to SSSI's proposals with unacceptable impacts would only be permitted if the benefits of the development would clearly outweigh the impact or loss. Proposals should also contribute positively towards the delivery of the County Councils agreed biodiversity objectives or be in line with agreed priorities of any relevant Local Nature Partnership.
- 6.30 Policy D10 in regards to Reclamation and Aftercare states restoration and aftercare elements are required to be carried out to a high standard and have taken into account the scale, location and context of the site. The restoration of the site must give rise to positive impacts and consider cumulative impacts and the potential impact of climate change. The restoration of the site must also where appropriate be progressive and phased so it is complete at the earliest opportunity and include the minimum of a 5-year period of aftercare. The above is stated as part one of the proposal, in addition to this part two gives further specifics stating targets and objectives for developments within certain landscapes. In this instance the relevant categories are the delivery of significant net gains to deliver benefits at a landscape scale.
- 6.31 Policy D11 in regards to Sustainable design, construction and operation of development states proposals would be permitted where the operation would minimise the amount of greenhouse gas emissions, including through the transport of materials,

minimising the amount of waste and increasing energy efficiency. In regards to this proposal this would also include the implementation of native landscape planting and where possible incorporating new wildlife habitat.

- 6.32 Policy D12 in regards to Protection of agricultural land and soils states best and most versatile agricultural land should be protected and any development on this land should prioritise the protection and enhancement of soils and the long term protection of the area, this would include the requirement of aftercare to protect the high standard of agriculture created through restoration. Furthermore, the policy states for a proposal to be acceptable on site soil resources would have to be shown to be protected in the application documents

Selby District Core Strategy Local Plan (2013)

- 6.33 The Selby District Core Strategy is the long-term strategic vision for how the District will be shaped by setting out a number of broad policies to guide development. The policies relevant to the determination of this application are:

- SP1 – titled ‘Presumption in Favour of Sustainable Development’;
- SP3 – titled ‘Green Belt’;
- SP18 – titled ‘Protecting and Enhancing the Environment’; and

- 6.34 The Selby District Core Strategy Local Plan (2013) does not contain any policies specific to mineral-related development (‘County Matters’) but the policies above are general development management policies which would usually be applicable to District-scale development which, in this instance, are relevant to the determination of this application.

- 6.35 Policy SP1 of the Selby District Core Strategy states a positive approach taking into account the presumption of sustainable development would be required, working pro-actively with developers to improve the locality’s in regards to the economic, social and environmental conditions in the area. Further stating applications must accord with the local plan and relevant NPPF policies. Finally stating they must take further account of any adverse impacts of granting permission which would outweigh the benefits against the NPPF and specific policies within the framework. This policy is therefore considered consistent with the NPPF in regards to its presumption of sustainable development and paragraph 11 in regards to the determination of planning applications and can be given full weight.

- 6.36 Policy SP3 of the Selby District Core Strategy states: *‘In accordance with the NPPF, within the defined Green Belt, planning permission will not be granted for inappropriate development unless the applicant has demonstrated that very special circumstances exist to justify why permission should be granted’*. This Policy is considered to be consistent with Chapter 13 of the NPPF paragraphs 133-134, 143-144, 146 in regards to the Green Belt and can be given full weight in the determination of this application.

- 6.37 Policy SP18 of the Selby District Core Strategy seeks to sustain the high quality and local distinctiveness of the natural and manmade environment. The policy is sets out that safeguarding and enhancing the historic and natural environment is important in the determination of any planning application. Acknowledging the importance of the landscape character and setting of the area. The policy states this also includes promoting stewardship of wildlife safeguarding protected sites and ensuring developments retain and protect features of biological importance, seeking to produce a net gain and encouraging positive biodiversity actions as defined by the local biodiversity action plan. This Policy is generally considered to be consistent with Chapter 15, paragraphs 170 and 180 of the NPPF and therefore substantial weight can be given to this policy.

'Saved' Policies of the Selby District Local Plan (2005)

6.38 Notwithstanding the adoption of the Selby District Core Strategy Local Plan in 2013, referred to above, some of the policies in the existing Selby District Local Plan (adopted in 2005 and saved in 2008 by Direction of the Secretary of State) remain extant. As these policies pre-date the adoption of the NPPF, weight can be afforded to them depending on their consistency with the NPPF. The 'saved' policy considered relevant to the determination of this application is:

- ENV1 – titled 'Control of Development'.

6.39 'Saved' Policy ENV1 states Proposals for development will be permitted provided a good quality of development would be achieved. In considering proposals account will be taken of the effect on the character and amenity of neighbours properties, the relationship of the proposal to the highways network, the layout and design of the proposal, the potential loss or impact on habitats in the area and the accessibility of the site. It is considered that limited weight can be attached to 'saved' Policy ENV1 as the NPPF paragraph 170 and 180 goes further in the mitigation required in regards to a proposals impact on the natural environment and general amenity, with the potential sensitivity of the area to adverse effects from pollution, should be taken into account. Similarly, with regards to transport, the NPPF para 109 states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

Other policy considerations:

National Planning Policy

6.40 The policy relevant to the determination of this particular planning application provided at the national level is contained within the National Planning Policy Framework (NPPF) (published February 2019)

National Planning Policy Framework

6.41 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. The overriding theme of Government policy in the NPPF is to apply a presumption in favour of sustainable development. For decision-making this means approving development proposals that accord with the development plan without delay (if plans are up-to-date and consistent with the NPPF). The Government defines sustainable development as that which fulfils the following three roles "an economic objective, a social objective and an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment;

6.42 Within the NPPF, paragraph 11 of the Framework advises development proposals that accord with the development plan should be approved without delay, with permission should be granted unless there is a clear reason for refusing the application and any adverse impacts would demonstrably outweigh the benefits.

6.43 Paragraph 102-104 within Chapter 9 (Promoting sustainable transport) of the NPPF states that plans and decisions should take account of whether opportunities for sustainable transport modes have been taken up depending on the nature and location of the site; safe and suitable access to the site can be achieved for all people; and improvements can be undertaken within the transport network that cost effectively limits the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

- 6.44 Paragraph 109 within Chapter 9 (Promoting sustainable transport) of the NPPF states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 6.45 Paragraph 110 states that applications should give priority to pedestrians and cycle movements and facilitate high quality public transport. It further states that transport should address needs of all people and have good quality access for all. The policy further states to be considered acceptable proposals must create places which are safe, secure and attractive, minimising the scope for conflicts between different types of users.
- 6.46 Paragraphs 124-127 within Chapter 12 (Achieving Well Designed Places) of the NPPF state that local plans should include robust and comprehensive policies setting out a clear design vision and expectations of development. This should make sure developments add to the overall quality of the area throughout the lifetime of the development, are visually attractive through good landscaping and layout, are sympathetic to the locality and landscape setting, establish a good sense of place, optimise the potential of the site and create places which are safe, inclusive and accessible.
- 6.47 Under the heading Protecting Green Belt land, NPPF states in Paragraph 133 that *'The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence'*.
- 6.48 Paragraph 134 states that Green Belt serves five purposes:
- a) to check the unrestricted sprawl of large built-up areas;
 - b) to prevent neighbouring towns merging into one another;
 - c) to assist in safeguarding the countryside from encroachment;
 - d) to preserve the setting and special character of historic towns; and
 - e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- 6.49 Paragraphs 143 and 144 state respectively that:
- *'Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'*.
 - *'When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations'*.
- 6.50 Paragraph 146 states: *'Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it'*. The forms of development listed in the paragraph include mineral extraction. Although a proposal may not conflict with the purposes of including land in the Green Belt, it could still represent inappropriate development if it was deemed to have a greater impact on the openness of the Green Belt than the site does at present. It is necessary to consider the effect of the proposed development upon the openness of the Green Belt.
- 6.51 Paragraph 170 within Chapter 15 (Conserving and enhancing the natural environment) of the NPPF sets out principles for determining planning applications to conserve and enhance biodiversity. These include protecting and enhancing valued landscapes, biodiversity and soil, recognising the intrinsic character of an area and its benefits,

minimising impacts on and providing net gains for biodiversity, preventing development being affected by unacceptable levels of soil, air, water or noise pollution.

- 6.52 Within paragraph 180 of the Framework it is noted that decisions should ensure developments are appropriate for their locations taking into account impacts of pollution on health and the natural environment, as well as the sensitivity of the wider site and cumulative impacts. Therefore, the NPPF states developments should mitigate and reduce potential adverse impacts resulting from noise and avoid noise being a significant adverse impact on the health and quality of life in the area, furthermore the paragraph also states the impact of light pollution on local amenity should also be limited and mitigated where necessary.
- 6.53 Chapter 17 states at paragraph 203 that minerals are essential to support sustainable economic growth and 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 best use of them to secure their long-term conservation.
- 6.54 Furthermore, when determining the application consideration needs to be given to the bullet points in Paragraph 205 of the NPPF relevant to the proposed development, which states “*great weight should be given to the benefits of mineral extraction, including to the economy*”. In considering proposals for mineral extraction, minerals planning authorities should provide for the maintenance of landbanks of non-energy minerals outside National Parks and other protected landscapes, also ensuring that there are no unacceptable adverse impacts on the natural and historic environment at a specific locality, while also ensuring noise, dust and emissions are controlled and mitigated sufficiently at noise sensitive properties. Finally, proposals should provide for restoration and aftercare at the earliest opportunity, to be carried out to high standards, with the appropriate conditions attached to guarantee a high quality restoration and aftercare.

National Waste Management Plan for England (NWMP) (2013)

- 6.55 National waste planning policy in England forms part of a wider national waste management plan to meet the requirements of the Waste Directive. As previously set out, the UK Government adopted the National Waste Management Plan for England (NWMP) in December 2013. It should be noted that the plan is an overview and does not introduce new policies or change how waste is managed. The aim is to bring waste management under one national plan.
- 6.56 The NWMP identifies a commitment to achieving a zero waste economy. It states that using the waste hierarchy as a guide to sustainable waste. The hierarchy gives top priority to waste prevention, followed by preparing for re-use, then recycling, other types of recovery, and last of all disposal (e.g. landfill). The guide policy states inert waste should be recovered or recycled whenever possible and landfill remains a valid way of restoring quarries and worn out mineral workings.

National Planning Practice Guidance (PPG) (2014)

- 6.57 On 6th March 2014 the Department for Communities and Local Government (DCLG) launched the National Planning Practice Guidance (PPG) web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning practice guidance documents cancelled. The NPPG supports the

national policy contained within the NPPF. The guidance relevant to the determination of this application is contained within the following sections: -

- (i) Air Quality
 - 6.58 This section provides guiding principles on how planning can take account of the impact of development on air quality. It states mitigation will be site specific and depend on the proposal and the proportionate impact. There the Local Authority should work with the applicant to consider appropriate mitigation to make sure any proposal is appropriate for its location, this can be done through conditions and obligations.
- (ii) Natural Environment
 - 6.59 This section explains key issues in implementing policy to protect biodiversity, including local requirements. It reiterates that the NPPF is clear sustainable development includes achieving net gains for biodiversity and nature with a core principle being to conserve and enhance the natural environment.
- (iii) Use of Planning Conditions
 - 6.60 The guidance states that when a Section 73 application is submitted to the County Planning Authority *some or all of the conditions could be removed or changed*. It is noted though the original permission would continue to exist whatever the outcome of the new application. For clarity unless a condition has been discharged previous conditions should still be attached to any new permission. Furthermore, in granting new permission the County Council may also impose new conditions, provided they do not materially alter the original permission.

7.0 Planning Considerations

- 7.1 Section 73 of the Town and Country Planning Act 1990 provides for applications for planning permission to develop land without complying with conditions previously imposed on a planning permission. The local planning authority can grant such permission unconditionally or subject to different conditions, or they can refuse the application if they decide the original condition(s) should continue.
- 7.2 With a Section 73 application, the Planning Authority is required to consider only the question of the conditions subject to which planning permission should be granted. This does not prevent the Planning Authority from looking at the wider considerations affecting the original grant of permission, but the permission itself should be left intact. Section 73 enables the Planning Authority to grant permission subject to conditions differing from those subject to which the previous permission was granted or to refuse the application, for example, where there has been a change in policy.
- 7.3 Section 38(6) of the Planning and Compulsory Purchase Act 2004 also requires that all planning authorities must determine each planning application in accordance with the planning policies that comprise the Development Plan unless material considerations indicate otherwise. In making its decision the Council should focus its attention on national or local policies or other material considerations which may have changed significantly since the original grant of permission, as well as the changes sought. It is confirmed that there have been no changes to local policy and that in terms of the local built environment in the locality of the quarry there have been no significant changes since the last grant of Planning Permission (ref. C8/2013/1064/CPO, dated 6th October 2014) that are deemed relevant to this application. Since this approval there has been updated national policy with the NFFP (2019), it is though considered that the changes in the NPPF do not significantly impact this proposal and in Section 6 of this report the local policy has been considered against these updated National policies. In light of the abovementioned policies, the main considerations in this instance are the impact upon local amenity, the impact upon highways safety and the existing conditions.

Principle of the proposed development

- 7.4 The proposal is in relation to a proposed extension of time to enable the completion of restoration. This is because the extant planning permission ref. C8/2013/1064/CPO, dated 6th October 2014, which allows extraction until 31st December 2020 would expire without the completion of the restoration. The current application also includes amendments the previously approved restoration and planting plan, but does not propose a physical extension to or deepening of the quarry. It is considered that the principle of development, the impact upon the Green Belt, the visual impact, and the character of the landscape were established and acceptable at the time of the most recent grant of planning permission in 2014. In regards to the importing of waste the site currently has permission which authorises the disposal of inert waste until 31 December 2020, this means that the principle of importing waste for the restoration of the site has already been established to be acceptable in this location. Both the Landscape officer and Ecologist stated no objections with the continuation of the importation of waste and were happy for this method of restoration to be continued on site.
- 7.5 The objection to the proposed development is mainly in regards to the continued working of the quarry as the previous permission stated the site would be complete and restored by 31 December 2020. It is considered that although this is the second extension of time for the site the principle of extraction and restoration by inert landfill is still acceptable as the restoration requirements are still outstanding to bring the site up to a standard where it can be used for agriculture and have a positive impact on the local landscape and amenity. If the restoration of the quarry were not to be completed this would leave the site in an unfinished state and have a long term negative impact on the local area, with also a negative impact on local habitats. It is therefore considered the application is in compliance with 'Saved' Policy 4/18, 4/20 of the NYMLP and 'Saved' Policy 4/22, 4/23 and 6/1(b) of the NYWLP as it would provide the best practicable form of restoration and aftercare and is a quarry void which it is considered an acceptable location for disposal of inert waste via landfill. This is also consistent with the approach of the NWMP as this would be the most appropriate method for restoration of the site. Although not adopted MWJP policies W01 and W05 are relevant in regards to the waste hierarchy and meeting waste management capacity requirements for construction and demolition waste. It is considered the application would be broadly in agreement with these draft policies as the Brotherton Quarry site is allocated for the provision of inert landfill.
- 7.6 It has been confirmed the extraction should be completed by the end of this summer, therefore this permission would continue to limit extraction up to 31 December 2020 as conditioned in the previous application. This permission would then allow further time for restoration requirements to be completed until 31 December 2025. The objection states the proposal should be completed in a shorter timeframe to lessen the noise disturbance on local residents. The response to the objection can be split into two parts first in regards to extraction of mineral, this application is not applying to vary the length of time for mineral extraction and therefore would continue as previously approved. This application though does give the opportunity to review conditions relevant to the application and it is considered that the proposal is adequately controlled and conditions mitigating local amenity would be carried forward. The second part is in regards to the timeframe for the importation of waste. It is considered that the extraction of material from the quarry, is the most intensive part of the use of the site and once completed by 31 December 2020 restoration activities would have a lower impact. Further to this it is considered that for the quarry to be kept at the current level of importation of waste the proposed amount of time is required to complete the development. If the time extension was for a shorter period, the intensity of operation at the site would be increased and have the potential to have an increased impact on residential amenity. Furthermore, this is supported by there being no objections from Selby District Planning or the Parish Council. Therefore, it is considered that the

principle of an extension of time to complete the restoration with inert waste until 31 December 2025 is acceptable and in compliance with the 'Saved' Policies of the NYMLP and Waste Local Plan, specifically 'saved' Policies 4/1, 4/6a, 4/18 and 4/20 of the NYMLP and 'saved' policies 4/22 and 4/23 of the NYWLP in regards to restoration and aftercare. Although not adopted MWJP policy D01 is also relevant in regards to the need for a presumption of sustainable development.

- 7.7 The proposal is also in compliance with policies SP1 and SP18 of the Selby District Core Strategy and 'saved' policy ENV1 of the Selby District Local Plan as the extension of time and proposed amendments to the sites restoration moving the tree planting areas would allow a high quality restoration and improve the natural environment in the locality. Further to this the proposal is considered consistent with paragraphs 124-127, 203 and 205 of the NPPF as it is considered that there would be no significant additional impacts associated with the extension of time to complete the restoration of the site or the slight amendments to the restoration scheme.

Green Belt

- 7.8 Brotherton Quarry is wholly located within the West Yorkshire Green Belt. The fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open and the essential characteristics are openness and permanence. Chapter 13 of the NPPF seeks to protect Green Belt land by preventing development that would affect its openness and permanence. Paragraph 143 in regards to the Green Belt states that inappropriate development is by definition, harmful to the Green Belt and should only be approved in 'very special circumstances'. However, paragraph 146 of the NPPF advises that mineral extraction is considered to be appropriate development provided that there is no conflict with the openness or purpose of including land within the Green Belt. It was established at the time of the previous grant of planning permission, that the extraction of mineral at the site is an appropriate development within the Green Belt. The current application does not seek any significant alteration to the previously approved development which would impact upon the openness of the Green Belt. For this reason, it is considered that the development remains in compliance with national policy contained within the NPPF, adding further weight in support of the application.
- 7.9 The openness of the Green Belt is preserved as the operations would continue within the existing operational quarry area and would not introduce any new built development within the Green Belt nor does the proposal represent urban sprawl or result in encroachment into the countryside. The development, if granted, would be subject to restoration and aftercare conditions and it is considered that the development does not conflict with the purposes of including the land within the Green Belt. It is considered that the continuation of mineral extraction within the existing quarry until 31st December 2020 and for the restoration of the quarry until 31st December 2025 would not be inappropriate development within the Green Belt and would be consistent with the Green Belt policy contained within the NPPF. While the MJWP is not yet adopted the proposal is also in compliance with the general direction of the policy D05 as the proposed landfilling of a quarry void for reclamation and a compatible afteruse is regarded as an appropriate use in the Green Belt.
- 7.10 At a local level, the Selby District Core Strategy is consistent with the NPPF in reiterating that development within the Green Belt should not be permitted if deemed to be inappropriate development. As noted above, the current proposal is deemed to be appropriate development under the criteria of the NPPF para 146 and therefore is in full compliance with Policy SP3 of the Selby District Core Strategy, adding further weight in support of the application. and is therefore considered to be an appropriate development within the Green Belt, the restoration elements of 'saved' Policies 4/17, and 4/20 of the NYMLP and with Policy SP3 of the Selby District Core Strategy.

Local amenity

- 7.11 One of the principal considerations at the time of the previous grant of planning permission was the potential impact of the development upon residential amenity, due to the location of the residential settlements of Poole and Burton Salmon to the north of the site. It is further noted that an objection from a member of the local community to the current application has highlighted concerns in relation to noise levels emitted from the site. The nearest residential properties to the application site include the property known as North Lodge located on Byram Park Road approximately 175 metres north west of the site, the properties located within the hamlet of Poole on Poole Row, approximately 200 metres to the north, Byram Park Estate, approximately 300m metres to the south east, and North Park Farm on the A162, approximately 520 metres to the west. North lodge, Poole and North Park Farm are screened from the application site by the woodland of 'Poole Belt' and Byram Park Estate are screened by local topography and further woodland.
- 7.12 It was noted at the time of the grant of the extant planning permission, that the potential impacts on air quality arising from dust were assessed by the Environmental Health Officer, who have not commented on this current application. It was concluded that subject to the implementation of appropriate dust mitigation measures, the impact of dust upon residential amenity is likely to be minimal. It is noted that the mitigation measures detailed and implemented following the grant of the previous planning permission are proposed to be continued by the applicant. Notwithstanding this point, it is considered appropriate that the dust mitigation measures are brought forward from the previous planning permission, through the imposition of conditions, in the event that planning consent is granted for the current planning application. In such instances it is considered that there would be no adverse impacts upon residential amenity arising from dust emissions, above those presently consented, in the event that planning consent is granted. This is considered to be in compliance with the guidance on dust control contained within the amenity protection elements of 'saved' Policy 4/14 of the NYMLP and Policy ENV1 of the Selby District Local Plan which seek to ensure that there are no significant effects upon amenity arising from developments, adding further weight in support of the application.
- 7.13 The quarry has been operating for approximately 5 years since re-opening in February 2015. There has been one objection letter received from a local resident stating that this application should be refused due to the noise disturbance which is stated in further detail in paragraph 5.3 of this report, the previous extension of time application granted on 6 October 2014 (ref. C8/2013/1064/CPO) also included objections from members of the public stating concerns regarding noise at the site. Due to the objection in regards to this application in regards to noise it is considered it is appropriate that the noise mitigation measures, noise emission levels restrictions and restrictions to working hours at the site are brought forward from the previous planning permission in the event that planning consent is granted for the current planning application.
- 7.14 The imposition of such conditions will ensure that there is a requirement for operations at the site to comply with the requirement that operations shall not exceed the existing background noise levels ($L_{A90\ 1\ \text{hour}}$), as measured at the noise sensitive locations by a level of more than 10 dB_A . Only soil stripping and replacement and construction and removal of screening bunds would be permissible to a level of 70 and even then only for 8 weeks of the year. The noise monitoring scheme, approved 16 February 2015 requests noise monitoring be conducted at least once a year at four locations in close proximity to noise sensitive receptors. The noise monitoring scheme also requests that noise monitoring be undertaken after the receipt of a complaint. The noise monitoring report also requests any complaints to the operator should be logged and reported in writing to the County Planning Authority to investigate. Any further complaints from members of the public regarding the operation would be investigated and if a breach in noise levels was found the County Planning Authority would work with the operator to

find a solution and if necessary the County Council would be able to use their enforcement powers to require the site to work in compliance with the approved conditions. The continued operation of the site within the conditioned noise level limit would ensure that the impacts of noise are mitigated so as not to result in any environmental harm. Therefore, it is considered that the current mitigation and control through conditions would be acceptable to stop any adverse noise impacts upon residential amenity arising from noise emissions, above those presently consented, in the event that planning consent is granted.

- 7.15 This is also supported by there having been no objections raised by consultees in regards to noise including Selby District Council Planning and the Local Parish Councils, adding further weight in support of the application. The Environmental Health Officer has not though submitted any comments in response to the consultation for this application. For these reasons, it is considered that the development would not have an unacceptable impact on local amenity and that the proposal is consistent with paragraphs 170 and 180 of the NPPF, PPG natural environment and compliant with policies SP1 and SP18 of the Selby District Core Strategy, 'saved' policy ENV1 of the Selby District Local Plan, 'saved' Policies 4/14 of the NYMLP. This is also in compliance general direction of the draft MWJP policy D02 in regards to local amenity.

Landscape, Restoration and Aftercare

- 7.16 The application site is an active magnesian limestone quarry which is subject to restoration and aftercare requirements. It is considered that the proposal would not have a long term adverse effect on the characteristics of the local landscape. The acceptability of the restoration of the quarry through landfilling and the importation of inert waste, with restoration to agriculture was established by the previous grant of planning permission. The imported material would be used for the infilling of the void space to achieve the final restoration levels approved at the time of the previous grant of planning permission. It is considered that method of restoration with inert was is still the most appropriate proposal for the site and is in compliance with 'Saved' Policy 4/18, 4/20 of the NYMLP and 'Saved' Policy 4/22, 4/23 and 6/1(b) of the NYWLP. While the MJWP is not yet adopted the proposal is also in compliance with the general direction of the policies W01 and W05 in regards to the waste hierarchy and construction and demolition waste management. This application requests small amendments to the final restoration levels which the applicant states would optimise the future use of the site. It is considered that the previously approved restoration scheme overall remains satisfactory, however this application and the proposed amendments give an opportunity to review the restoration of the site.
- 7.17 There have been no housing developments in the area of the site since the previous grant of planning permission, nor have any tree felling works take place. As such the site continues to be entirely screened from views to the residential properties to the north of the site by the extensive mature woodland known as Poole Belt. Further mature trees and gentle rises in topography ensures that there are no views of the application site to any residential properties to the south and west of the site. There are no residential properties located to the east of the site, whilst mature trees at Byram Park screen the application site from view to Byram Hall to the south east. Furthermore, there are no views from the nearby public highway of the A162 due to the aforementioned screening, whilst no public rights of way pass through or near to the application site. This is considered to be in compliance with the screening element of 'saved' Policy 4/1 of the NYMLP which seeks to ensure that the visual impact of developments is effectively mitigated, adding considerable weight in support of the application. Therefore, the on-going mineral extraction operations within the floor quarry are screened from viewpoints from outside of the quarry. It is considered that the proposal would have a negligible impact in terms of visual amenity above and beyond that which has previously been assessed and consented.

- 7.18 This Section 73 application submits a new restoration scheme which amends the approved tree planting and site final contours. The applicant states the amendment is required to optimise the farming operation after the sites restoration is complete. The detail of the revised restoration can be found in paragraphs 3.5 and 3.6 of this report and is shown on Appendix B (the Restoration Plan) and Appendix C (the Contours Plan). The revised tree planting would increase the total area of tree planting on site and infill areas of existing woodland to the south of the application site. Part of this land is outside the red line boundary but still in close proximity to the site and is within the applicants control, therefore planting would be secured through an updated S106 Agreement. The three areas of tree planting would enhance the character of the area further than the existing restoration scheme due to the updated mix of tree planting agreed with by the Ecologist and Landscape officer. In regards to the revised contours it is considered that the slight raise in height up to one metre would create shallower gradients and mean the site would fit in more naturally with the landscape. The applicant also states that this would improve its potential for agricultural use and the drainage of the site.
- 7.19 The County Council's Principal Landscape Architect and Ecologist through their consultation responses requested slight amendments to the scheme which have been accepted by the applicant with new proposals submitted and consulted upon. After the re-consultation both consultees are now state the proposal is acceptable, with the landscape officer requesting a Landscape Scheme condition to give further detail on the restoration plans. Therefore, the restoration scheme with contours at a level 1 metre higher and tree planting being moved to the south of the site are considered to remain in compliance with the restoration elements of 'saved' Policies 4/6a, 4/14, 4/17, 4/18 and 4/20 of the NYMLP which seek to ensure that a high level of restoration is achieved following mineral extraction, supported by suitable aftercare.
- 7.20 For the reasons detailed above, it is considered that the proposed development would not result in any adverse impact upon the character of the area and would achieve a suitable final restored landform. The raising of the restoration landform by 1 metre in height would also give rise to an overall lower level of visual impact on the area, although this would not be a significant change. It is considered that the amended tree species which were requested by the Ecologist would have a positive impact on the area and would not have an unacceptable or harmful impact on the landscape character of the area and that the Landscape Officer has no issues with the re-location of the tree planting from the previously approved locations. Therefore, the proposed development is considered to be consistent with the principles of the NPPF in relation to local landscape character as outlined within paragraphs 170 and 180 and the PPG natural environment in regards to the natural environment. It is also in compliance with the landscape and character protection elements of 'saved' Policies 4/6a, 4/14, 4/17, 4/18 and 4/20 of the NYMLP, 'saved' Policies 4/22 and 4/23 of the NYWLP, Policy SP18 of the Selby District Core Strategy and 'saved' Policy ENV1 of the Selby District Local Plan. It is also considered that the proposed development is in compliance with the direction of draft Policies W01 W05, D06, D07, D10 and D12 of the MWJP in regards to the principle of landfilling in a quarry void, Green Belt, local amenity, cumulative impacts, landscape and biodiversity.

Ecology and Nature Conservation

- 7.21 An important consideration at the time of the grant of the extant planning permission was the impact of the development upon ecology and nature conservation. It was noted that the most significant local nature conservation feature is the woodland to the north of the site known as Poole Belt (Byram Park), which was noted as being a Site of Local Importance for Nature Conservation (SINC) within the Selby District Local Plan. In the previous application the Ecologists made comment on the previous restoration scheme not being acceptable in terms of species types, however it was considered outside of the remit of the application. With this new application the amendments to the restoration

scheme mean that these comments are now relevant and updated comments from the NYCC Ecologists have been taken into account in the consideration and amendments of the updated restoration scheme as stated in paragraphs 7.16-7.20. For the reasons detailed above, it is considered that the proposed development is not likely to have a significant impact upon the ecology of the site and is a welcome improvement to the restoration scheme. As such the development is considered to be in accordance with the biodiversity enhancement and protection element of Policy SP18 of the Selby Local Plan.

- 7.22 Therefore, it is considered that the development would continue not to have an adverse impact upon the woodland and the habitats contained within. This is considered to be consistent with the principles of the NPPF on the sustainable use of minerals in ensuring that developments do not have an adverse impact upon the natural environment. It is also this is considered to be in compliance with the environmental protection element of 'saved' Policy 4/14 and the wildlife habitat protection element of 'saved' Policy 4/6A of the NYMLP, Policy ENV1 of the Selby District Local Plan and the protection of locally protected nature conservation element of Policy SP18 of the Selby Local Plan.

Highways

- 7.23 It is noted that due to the close proximity of the A162, A1246 and A1(M), the proposed development does have the potential to result in cumulative impacts upon the public highway and its safety. It is noted that there have been no significant developments in the area of Brotherton Quarry since the previous grant of planning consent in 2005 which have altered the volume or nature of traffic upon the A162. Furthermore, the current proposal of the continued importation of waste would not result in any alteration to access arrangements at the site, with the predicted rates of extraction and vehicle movements mirroring those considered at the time of the original consent. In the extant permission consultation period the County Highways Authority initially noted concern in relation to the current lack of visibility splays at the entrance of the site which would have the potential to impact upon highway safety. Following confirmation from the applicant that the visibility splay would be maintained in line with the recommendations made, the County Highway Authority confirmed their satisfaction. However, this condition in the extant permission was not updated appropriately to take this into account. Therefore, through this proposal Condition 34 would be updated to incorporate this requirement.

- 7.24 Overall in terms of highways, whilst the potential exists for cumulative impacts resulting from the continued operation of the quarry the impact is considered likely to be limited due to the proposed mitigation procedures relating to the public highways which include speed controls on site, that all outgoing vehicles will be checked for overloading to avoid spillage, and shall be sheeted, all permanent surfaces on site shall be swept regularly and damped down by means of water; and when weather conditions are such that on site mitigation does not control the emissions of dust, site operations shall be temporarily suspended. Therefore, it is considered that such impacts upon the public highway already presently exist due to current workings and that the impact of the proposed variation would have a neutral effect upon the working and therefore a limited impact upon the public highways. It is considered that the proposal is consistent with paragraph 102-104 of the NPPF, 'saved' Policy 4/13 of the NYMLP. Further to this while not adopted the proposal is also compliant with the general direction of the MJWP policy D03 in regards to the transport of minerals and waste and associated traffic impact.

Existing Conditions

- 7.25 All existing conditions (72) and informative (1) attached to Planning Permission ref. C8/2013/1064/CPO, dated 6th October 2014 are proposed to remain; with the exception of previous conditions 7, 16, 24, 34, 35 and 65. Condition 7 (noise monitoring scheme) has previously been discharged since the grant of planning permission on 16th February

2015. However, a condition (see condition No. 11) should remain to ensure strict accordance with the 'Noise Monitoring Scheme' dated January 2015. Condition 16 (background noise) has subsequently been discharged since the previous grant of planning permission and is to be removed. Condition 24 (extraction below groundwater table) has been removed as it is not relevant to this application. Condition 34 (access visibility) is proposed to be updated, as splays giving clear visibility of 215m measured along both channel lines of the major road A162 from a point measured 2.4m down the centre line of the access road are present. However, a condition (see condition No. 34) is proposed to remain to ensure they are maintained, cleared of any potential obstructions and retained for their intended purpose at all times. Previous Condition 35 is proposed to be updated as the warning signs have been erected, (see condition No. 35) ensuring they are maintained, cleared of any potential obstructions and retained for their intended purpose at all times. Previous condition 46 is proposed to be amended to take into account the new restoration drawings submitted under this application and is now still condition 47. Previous condition 65 would be removed as the previous condition was an open condition which no longer meets the requirements of modern planning conditions in terms of precision. Previous conditions 28, 29, 66 and 70 have been retained; however, they are proposed to be moved to now be conditions 8, 9, 2 and 3 respectively so the conditions are ordered more appropriately. Furthermore, all conditions which specifically mention other conditions have been updated to reference the relevant conditions.

Section 106 Agreements

- 7.26 It is acknowledged that planning permission ref, C8/50/42D/PA has an associated Section 106 Agreement, dated 22nd April 2005 and that planning permission ref, C8/2013/1064/CPO, dated 6th October 2014 has an associated Section 106A Agreement, dated 2nd October 2014. The agreements refer to the establishment of a Liaison Committee prior to the seventh week following commencement, comprising of members from the Council, Selby District Council, the Parish Councils, the Company and Local Residents. Further to which, at least three meetings of the Liaison Committee in every calendar year unless agreed otherwise by the Liaison Committee, this element of the S106 has been undertaken with the Liaison Committee set up. The agreements also refer that all HGV drivers using, accessing or egressing the Land for the purposes of the Development shall be notified by the Company to use the route the permitted routes only.
- 7.27 The proposed development does not propose changes to physical extent but rather propose an extension of time to enable restoration until 31st December 2025 after the previously consented time period within planning permission ref. C8/2013/1064/CPO, dated 6th October 2014. Therefore, it is considered that the proposed development would not alter the existing Liaison Committee. There are no proposals to alter or amend any previously approved working or operational processes with the exception of the updated planting and restoration Scheme, and it is considered that there are no changes to the information provided to all HGV drivers. However, it is considered that the Section 106 and 106A Agreements dated 22nd April 2005 and 6th October 2014 respectively require a deed of variation, to make reference to the above considered planning application.

8.0 Conclusion

- 8.1 There are no material planning considerations to warrant the refusal of this application for the Variation of condition No's 1, 64 & 66 of Planning Permission C8/2013/1064/CPO for an extension of time for the completion of restoration of the site until 31st December 2025 and a revised landscaping scheme and restoration landform.

- 8.1 For the reasons mentioned above, it is therefore considered that, the proposed development is compliant with the policies which comprise the Development Plan currently in force for the area and all other relevant material considerations.

9.0 Recommendation

9.1 For the following reasons:

- i) the principle of the proposed development has been established through the previous grant of planning consents;
- ii) the proposed development is the most appropriate means of achieving an improved standard of restoration for the site;
- iii) the proposed development would not result in any adverse impacts upon residential amenity;
- iv) the proposed development would not result in any adverse impact upon the character of the area and would continue to achieve a suitable final restored landform which would have a positive impact;
- v) the proposed development would not have an adverse impact upon the local highway network, which is capable of continuing to accommodate the proposed vehicle movements;
- vi) the proposed development is consistent with the principles of the NPPF, NWMP, PPG and in compliance with 'saved' Policies 4/22, 4/23 and 6/1 of the North Yorkshire Waste Local Plan, 'saved' Policies 4/1, 4/6a, 4/13, 4/17, 4/18 & 4/20 of the North Yorkshire Minerals Local Plan, Policies SP1, SP3 and SP18 of the Selby District Core Strategy and 'saved' Policy ENV1 of the Selby District Local Plan. Finally, it is in compliance with direction of the draft Minerals and Waste Joint plan policies W01; W05; D01; D02; D03; D06; D07; D09; D10; D11; and D12.

That, subject to prior completion of an updated S106 Legal Agreement, **PLANNING PERMISSION BE GRANTED** subject to the following conditions:

Conditions:

DEFINITION OF DEVELOPMENT

1. The development hereby permitted shall be carried out only in accordance with the application details submitted under planning permission C8/2013/1064/CPO, as amended the application form dated 9 December 2019; Brotherton Quarry Planning Statement dated October 2013; Outline Phasing Method Statement and Mobile Plant Zoning; Extended Phase 1 Habitat Survey – Brotherton Quarry Extension dated 17 July 2013; Precautionary Working Method Statement for Protected Species (ref: 47071207) dated August 2014; Brotherton Quarry Noise Assessment dated August 2014; the approved plans:
 - 'Application Boundary Plan' (ref: 282A003) dated 10 May 2013;
 - 'Operation Phasing Plan' (ref: 282A006) dated 04 September 2013;
 - 'Mobile Plant Zones' (ref: 282A007) dated 04 September 2013;
 - 'Phase 1 Mobile Plant Commencement' (ref: 282A008) dated 04 September 2013;
 - 'Phase 2 Mobile Plant Commencement' (ref: 282A009) dated 04 September 2013;
 - Revised Proposed Restoration Levels Ref. Plan 3-TL/031, dated March 2020;
 - Proposed Restoration Scheme, Ref. Plan 2-TL/031, dated March 2020;
 - Restoration Programme Ref. Plan 1-TL/031, dated March 2020;
 - Tree Species - Spec 2, No Ref, dated 7 April 2020.

And in accordance with such other details as may subsequently be approved in writing by the County Planning Authority.

Reason: To reserve the rights of control by the County Planning Authority.

DURATION OF PERMISSION

2. The Mineral Extraction hereby permitted to be completed on or before 31 December 2020 and restoration hereby permitted to be completed on or before 31 December 2025 and by which date all plant, machinery, buildings, and hard standings shall be removed from the site and the site restored in accordance with the application details from planning permission C8/2013/1064/CPO, as amended, and the requirements of this Decision Notice (which in all cases will take precedence).

Reason: To secure the satisfactory restoration of the site in the interests of amenity

WITHDRAWAL OF PERMITTED DEVELOPMENT RIGHTS

3. Notwithstanding the requirements of the Town and Country Planning (General Permitted Development) Order 2015 (or any other order revoking or re-enacting that order), no plant or buildings shall be erected on the site except as provided for in the development hereby permitted.

Reason: To reserve the rights of control by the County Planning Authority.

NATURE CONSERVATION

4. The development hereby permitted shall be carried out in strict accordance with the 'Precautionary Working Method Statement for Protected Species' (ref: 47071207) dated August 2014.

Reason: In the interests of nature conservation

5. The fence constructed along the northern boundary of the application area shall be maintained in a sound condition for the duration of the development hereby permitted.

Reason: In the interests of nature conservation

6. No development shall take place within a horizontal distance of 10 metres from the boundary of woodland within Poole Belt.

Reason: In the interests of nature conservation

ARCHAEOLOGY

7. The development hereby permitted shall be undertaken in strict accordance with the 'Written Scheme of Investigation for a Strip and Record Operation' dated March 2005.

Reason: The application area contains archaeological remains requiring recording.

AIR QUALITY

8. The development hereby permitted shall be undertaken in strict accordance with the 'Dust Monitoring Scheme' dated May 2016. Dust monitoring and suppression shall be implemented in accordance with the approved scheme.

Reason: In the interests of amenity.

9. Any overburden removed from the surface and stored on the site shall be protected from wind exposure until it has been exposed to water spray or rainfall and a crust has been formed.

Reason: In the interests of amenity.

10. On occasions when weather conditions are causing dust to be carried beyond the site boundary and mitigation measures cannot prevent this, operations giving rise to dust generation shall cease. The operations shall not restart until the weather conditions change or further mitigation measures can be taken to prevent dust emissions from crossing site boundaries.

Reason: In the interests of amenity.

NOISE

11. The development hereby permitted shall be undertaken in strict accordance with the 'Noise Monitoring Scheme' dated January 2015. Noise monitoring and suppression shall be implemented in accordance with the approved scheme.

Reason: In the interests of amenity.

12. The screen bund located to the north of the former fixed processing plant area shall be retained for the duration of the permission hereby permitted.

Reason: In the interests of amenity.

13. No stripping of top soil or bund construction operations within the proposed quarry extension area shall take place prior to the provision of notice to residents of all noise sensitive properties which are in close proximity to the four noise monitoring locations stated below from the approved 'Noise Monitoring Scheme', dated January 2015:

1. Byram Farm;
2. North Lodge;
3. Woodlands;
4. Oak Dene.

Reason: In the interests of amenity.

14. The extraction of minerals shall take place only in accordance with the phasing arrangements indicated on the drawing 'Operational Phasing Plan' (ref: 282A006) dated 4 September 2013.

Reason: In the interests of amenity.

15. No mineral extraction shall take place except utilising a single dumper truck and hydraulic excavator. The processing of aggregate products shall only take place utilising the mobile processing plant and in accordance with the drawing 'Mobile Plant Zones' (ref: 282A007) dated 4 September 2013.

Reason: In the interests of amenity.

16. No transfer of stone within the proposed quarry extension area shall take place except utilising a dump truck fitted with a rubber-lined carrying area.

Reason: In the interests of amenity.

17. No mobile plant operating within the proposed quarry extension area shall utilise reverse warning systems audible beyond the site boundary.

Reason: In the interests of amenity.

18. All mobile plant operating within the former fixed processing plant area shall utilise either non-audible reverse warning systems or be fitted with “white noise” type reverse warning systems.

Reason: *In the interests of amenity.*

19. All vehicles, plant and machinery operating within the site shall be maintained in accordance with the manufacturer’s specification at all times and shall be fitted with and use effective silencers.

Reason: *In the interests of amenity.*

20. No blasting shall take place at the site.

Reason: *In the interests of amenity.*

21. With the exception of temporary operations for the stripping and replacement of soil and the construction and removal of screening bunds noise arising from the development shall not exceed the existing background noise levels ($L_{A90\ 1\ \text{hour}}$), as measured at the noise sensitive locations by a level of more than 10 dBA.

Reason: *In the interests of amenity.*

22. Noise due to soil stripping and replacement and construction and removal of screening bunds shall not exceed a level of 70 dBA $L_{eq\ (1\ \text{hour})}$ as measured at the noise sensitive locations for a maximum of eight weeks per year.

Reason: *In the interests of amenity.*

23. Prior to the commencement of operations within each phase of the development, noise monitoring shall be undertaken with the results submitted to the County Planning Authority. Thereafter, should any complaints be received regarding noise levels, additional monitoring should be undertaken in agreement with the County Planning Authority to confirm the source of the noise and outline any mitigation measures required to reduce this noise, where the limits specified in conditions 20 and 21 are demonstrated to being exceeded. Any required mitigation measures shall then be implemented in full in accordance with the agreed timescale and shall be retained thereafter.

Reason: *In the interests of amenity.*

HOURS OF WORKING

24. With the exception of use of the mobile processing plant and loading of road-going vehicles with aggregate from stockpiles, no operations associated with the development shall take place except between the hours of 0800 to 1700 Monday to Friday and no operations associated with the development shall take place on Bank or Public holidays.

Reason: *To secure the orderly working of the site in the interests of amenity.*

25. No operation of the mobile processing plant or associated operations within the plant site areas shall take place except between the hours of 0800 to 1700 Monday to Friday and 0800 to 1230 on Saturdays, with the exception of loading of road-going vehicles with processed aggregate, where operations are authorised to commence from 0730 hours Mondays to Saturdays and to cease at 1700 Monday to Friday and 1230 on Saturdays and no such operations shall take place on Bank or Public Holidays.

Reason: *To secure the orderly working of the site in the interests of amenity.*

26. Any mobile pump associated with the development shall be silenced and provided with acoustic enclosures and shall be operated only during normal site operational hours as defined in Conditions 23 and 24 above.

Reason: *To secure the orderly working of the site in the interests of amenity.*

PROTECTION OF THE NATURAL ENVIRONMENT

27. No extraction shall take place below the base of quarry levels depicted on drawing 'Cross Sections – Base of Quarry and Final Restoration Profiles (ref: 12175/P62) dated 07 April 2004.

Reason: *To prevent pollution in the interests of protecting the environment.*

28. Any chemical, oil or fuel storage containers on the site shall be sited on an impervious surface with bund walls; the bunded areas shall be capable of containing 110% of the container or containers total volume and shall enclose within their curtilage all fill and draw pipes, vents, gauges, on-site glasses. There must be no drain through the bund floor or walls.

Reason: *To prevent pollution in the interests of protecting the environment.*

29. The repair, maintenance and refuelling of plant and machinery shall where practicable take place only on an impervious surface drained to an interceptor and the contents of the interceptor shall be removed from the site to a suitable disposal facility.

Reason: *In the interests of highway safety and amenity.*

TRAFFIC AND HIGHWAYS

30. Any vehicles transporting material from the site shall be securely sheeted.

Reason: *In the interests of highway safety and amenity.*

31. No access between the site and the public highway shall take place except via the existing access.

Reason: *In the interests of highway safety and amenity.*

32. No commercial vehicles shall enter the public highway from the site unless their wheels have been cleaned to prevent material being deposited on the highway.

Reason: *In the interests of highway safety and amenity.*

33. The surface of the internal access road between the wheel washing facilities and the highway shall be metalled, drained and kept clear of debris throughout the life of the site.

Reason: *In the interests of the safety and convenience of highway users.*

34. The splays provided, giving clear visibility of 215m measured along both channel lines of the major road A162 from a point measured 2.4m down the centre line of the access road shall be maintained, clear of any obstruction and retained for their intended purpose at all times.

Reason: In the interests of the safety and convenience of highway users.

35. The warning signs that are erected in both directions, of HGV's turning at the site access onto A162, shall be maintained, clear of any obstruction and retained for their intended purpose at all times.

Reason: In the interests of the safety and convenience of highway users.

SOIL STRIPPING, MANAGEMENT, AND STORAGE

36. All undisturbed areas of the site and all topsoil, subsoil, soil making material and overburden mounds shall be kept free from agriculturally noxious weeds. Cutting, grazing or spraying shall be undertaken, as necessary, to control plant growth and prevent the build-up of a seed bank of agricultural weeds or their dispersal onto adjoining land.

Reason: To prevent a build-up of weed seeds in the soil that are harmful to agriculture.

37. All soils and soil making materials shall only be stripped, handled, stored and replaced in accordance with details outlined in section 4.2 of the Environmental Statement dated July 2004 except as modified by this schedule of conditions.

Reason: To prevent loss or damage of soil, or mixing of topsoil with subsoil; or subsoil with overburden, or mixing of dissimilar soil types.

38. Following stripping of topsoils, subsoils and soil making materials shall be immediately utilised for restoration; where this is not reasonably practicable they should be stored on site.

Reason: Direct replacement of soil without storage is normally beneficial.

39. All topsoil and subsoil shall be permanently retained on site and used in restoration.

Reason: To prevent loss of soil needed for restoration.

40. No plant or vehicles shall cross any area of unstripped topsoil or subsoil except where such trafficking is essential and unavoidable for purposes of undertaking permitted operations. At all times when topsoil or subsoil remain unstripped on any working phase, the essential trafficking routes shall be marked in such a manner as to give effect to this condition.

Reason: To prevent unnecessary trafficking of soil by heavy equipment and vehicles as this may damage the soil.

41. In each calendar year, soil stripping shall not commence on any phase until any standing crop or vegetation has been cut and removed, and the County Planning Authority has received written notification at least 5 working days before soil stripping is due to commence.

Reason: To ensure that the County Planning Authority is given the opportunity to check that soil operations do not occur under unsuitable conditions and to avoid incorporation of concentrations of decaying vegetation in soil. The latter can create anaerobic conditions and impediments to root growth.

42. Topsoil and subsoils shall only be stripped when they are in a dry and friable condition, movements of soils shall only occur:
- (a) during the months April to September inclusive, or
 - (b) when all soil is in a suitable dry and friable condition that it is not subject to smearing; and
 - (c) when topsoil is sufficiently dry that it can be separated from subsoil without difficulty.

Reason: To prevent damage to soils by avoiding movement whilst soils are wet or excessively moist and as such does not meet the defined criteria

43. No part of the site shall be excavated or traversed by heavy vehicles or machinery (except as necessary to strip that part of topsoil or subsoil) or used for a road or for the stationing of plant or buildings, or storage of subsoil or overburden or waste or mineral deposits, until all available topsoil and subsoil has been stripped to a minimum depth of 1.2 metres from that part.

Reason: To prevent the damage of soils by trafficking.

44. All topsoil, subsoil, imported soils and soil-making materials shall each be stored in separate mounds, which do not overlap. Such mounds:
- (a) shall be located in positions specified and agreed with the County Planning Authority in advance, so as to avoid loss or contamination to the materials therein;
 - (b) shall be constructed with a minimum of soil compaction necessary to ensure stability and so shaped as to avoid collection of water in surface undulations;
 - (c) shall not be traversed by heavy vehicles or machinery except where essential for purposes of mound construction or maintenance;
 - (d) shall not be subsequently moved or added to until required for restoration unless otherwise agreed by the County Planning Authority;
 - (e) a minimum 3.0 metre stand-off shall be undisturbed around storage mounds.

Reason: To prevent the loss of soil and minimise damage to soil structure during storage.

45. Within three months of completion of soil handling operations in any calendar year, the County Planning Authority shall be supplied with a plan showing:
- (a) the area stripped of topsoil and subsoil;
 - (b) the location of each soil storage mound; and
 - (c) the quantity and nature of material therein.

Reason: To facilitate soil stock-taking and monitoring of soil resources.

RESTORATION AND AFTER-CARE

46. Restoration to agriculture shall be carried out in accordance with the document proposed Restoration Scheme (Ref. Plan 2-TL/031) dated March 2020 and overburden shall be replaced and levelled so that:
- (a) after replacement of topsoil and subsoil and after settlement, the contours conform with those of surrounding land; and
 - (b) there is satisfactory site and surface drainage, the land being free from ponding and capable of receiving an effective artificial under-drainage system; and
 - (c) ensure agricultural machinery is not unduly restricted, erosion is minimised, and gradients do not exceed 7 degrees.

Reason: To ensure adequate surface drainage and to enable an effective under-drainage scheme to be installed. Excessive slopes increase risk of soil erosion, and also hinder use of agricultural machinery.

47. Prior to re-spreading of soil making materials, subsoil or topsoil, the upper 500mm of the surface shall be:
- (a) prepared so that it does not contain toxic material injurious to plant growth;
 - (b) ripped at a spacing of 500mm or closer to remove rock, stone boulder, wire rope, cable, other foreign objects or compacted layers capable of impeding normal agricultural and land drainage operations including mole ploughing or subsoiling.

Reason: Reinstate and treat overburden, soil making materials, subsoil and topsoil so as to provide 1.2 metres depth of material that is free from objects that will seriously impede cultivation, subsoiling or installation of underdrainage. Also to fissure compacted layers of soil so as to facilitate drainage and plant root growth.

48. Stones, materials and objects which exceed 200 mm in any dimension and occur on the surface of the ripped and loosened ground shall be removed from the site or buried at a depth of not less than 2 metres below the final pre-settlement contours.

Reason: To ensure the reinstatement and treatment of overburden, soil making materials, subsoil and topsoil so as to provide 1.2 metres depth of material that is free from objects that will seriously impede cultivation, subsoiling or installation of underdrainage. Also to fissure compacted layers of soil so as to facilitate drainage and plant root growth.

49. The County Planning Authority shall be notified when condition 48 has been fulfilled and given at least 2 working days to inspect the area before further restoration of this part is carried out.

Reason: To provide sufficient notice for site inspection.

50. Soils or soil making material shall only be replaced when they and the ground on which they are to be placed are in a dry and friable condition, no movement, re-spreading, levelling, ripping or loosening of topsoil or subsoil shall normally occur:
- (a) during the months October to March (inclusive);
 - (b) when it is raining, except light drizzle;
 - (c) when there are pools of water on the surface of the storage mound or receiving area; and
 - (d) except in accordance with section 4.2 of the Environmental Statement dated July 2004 as amended by this schedule of conditions.

Reason: To prevent trafficking of the soil during wet periods. Also to ensure that restoration is completed sufficiently early in the year as to enable vegetation to be established to protect soil over winter.

51. Where wet weather conditions render it impractical to complete topsoil reinstatement and it becomes clear that operations cannot be completed before winter then the surface of the reinstated soil should be temporarily seeded (by hand if necessary) to provide some ground cover and aid drying out the soil in the spring. Also necessary precautions should be undertaken to control surface water run-off and prevent soil erosion.

Reason: To avoid land being without a vegetation/crop cover becoming waterlogged over winter, and control soil erosion.

52. Plant and vehicles shall not cross any area of replaced and loosened ground, replaced subsoil or topsoil except where essential and unavoidable for purposes of spreading soils or beneficially treating such areas. Earth moving machines should run on overburden rather than subsoil or topsoil. Soil replacement must be arranged in a sequence that avoids the need for excessive travel over the replaced soils.

Reason: To avoid smearing and compaction.

53. Subsoil and any soil making materials shall be:
 (a) only spread onto ground upon completion of condition 48; and
 (b) levelled to provide an even depth across the re-laid area so that the total thickness of settled subsoil conforms with the ALC and Soil Resources Report dated May 2003.

Reason: To restore subsoil to the best potential condition.

54. Each layer formed in accordance with condition 53 shall be ripped or cross-ripped using a wing time implement:
 (a) to provide loosening equivalent to a single pass at a tine spacing of 500 mm or closer,
 (b) to its full depth or non-soil making material or rock, boulder or larger stone greater than 200 mm in any dimension shall be removed from the loosened surface before further soil is laid. Materials that are removed shall be disposed off-site or buried at a depth not less than 2 metres below the final pre-settlement contours.

Reason: Width specification based on one pass that is effective to the full depth of working specified in (b). Varies according to texture, degree of compaction and stone content;

(c) To remove compaction and stone. Ripping into underlying layer is necessary to overcome compaction caused when replacing soil on the previously ripped layer; and

(d) To remove obstacles capable of impeding normal agricultural and land drainage operations including mole ploughing or subsoiling.

55. Only low ground pressure machines should work on re-laid topsoil or subsoil to replace and level topsoil. Wherever practicable topsoil shall be lifted onto subsoil by equipment that is not standing on either re-laid topsoil or subsoil.

Reason: To avoid compaction of the topsoil and upper subsoil.

56. Topsoil shall be carefully and evenly re-spread to at least the minimum settled depths specified in the ALC and Soil Resources Report dated May 2003.

Reason: Minimum depth specified to safeguard land quality

57. The re-spread topsoil shall be rendered suitable for agricultural cultivation by ripping and loosening:
- (a) to provide loosening equivalent to a single pass at a tine spacing of 500 mm or closer;
 - (b) to full depth of the topsoil plus 100 mm; and
 - (c) any non-soil making material or rock or boulder or larger stone lying on the loosened topsoil surface and greater than 100 mm in any dimension shall be removed from the site or buried at a depth not less than 2 metres below the final settled contours.

Reason: To remove compaction and lift stone to the surface for removal.

58. The County Planning Authority shall be notified in writing within 2 days of completion of the previous condition and given an opportunity to inspect the completed works before the commencement of any cultivation operations.

Reason: To provide sufficient notice for site inspection.

59. Any area of the site which is affected by surface ponding or by local settlement caused by the approved operations shall be re-graded to resolve the problem. Topsoil, subsoil and other overburden moved in the course of re-grading shall not be mixed and shall be handled and replaced in accordance with the above conditions.

Reason: To deal with differentials settlement when required.

60. All areas delineated as such shall undergo agricultural aftercare management for a 5-year period. This aftercare period shall commence on the date that restoration is completed to the County Planning Authority's satisfaction.

Reason: To bring the land to the required standard for agricultural use.

61. An agricultural aftercare scheme outline strategy shall be submitted for the approval of the County Planning Authority at least 3 months before spreading of subsoil commences. This strategy shall outline the steps to be taken, and the period during which they are to be taken, and who will be responsible for taking those steps, to bring the land to the required standard so that the physical characteristics are restored, as far as it is practical to do so, to what they were when the land was last used for agriculture and as described in the ALC and Soils Resources Report dated May 2004. The aftercare scheme shall include provision of a field drainage system and provide for an annual meeting between the applicants, the County Planning Authority and DEFRA.

Reason: To ensure that the outline strategy and proposals to comply best practice guidance current at the time that land enters aftercare.

62. Before end March and every subsequent year during the aftercare period the mineral operator shall provide the County Planning Authority, and the landowner/occupier with a detailed annual programme including:
- (a) proposals for managing the land in accordance with the rules of good husbandry including planting, cultivating, seeding, fertilising, draining, watering or otherwise treating the land for the forthcoming 12 months; and
 - (b) A record of aftercare operations carried out on the land during the previous 12 months.

Reason: To ensure compliance with best practice guidance current at the time that land enters aftercare.

63. Aftercare operations shall be carried out in accordance with the submitted aftercare scheme.

Reason: To secure the satisfactory restoration of the site in the interests of amenity.

64. Final restoration levels shall accord with the restoration levels indicated in the application drawing Revised Proposed Restoration Levels Ref. Plan3-TL/031, dated March 2020,

Reason: To secure the satisfactory restoration of the site in the interests of amenity.

65. Within six months of the cessation of mineral extraction, a detailed scheme of tree planting for those areas to be restored to woodland, as indicated on drawings Restoration Scheme (Ref. Plan 2-TL/031) dated March 2020; Restoration Programme Ref. Plan 1-TL/031, dated March 2020; and Tree Species - Spec 2, No Ref, dated 7 April 2020, shall be submitted for the written approval of the County Planning Authority. The scheme shall include details of the species to be planted, the sizing, spacing and method of planting, protection and replacement of failures, after care for a period of 5 years and the detailed timetable for planting. Thereafter tree planting shall be carried out only in strict accordance with the details so approved.

Reason: To secure the satisfactory restoration of the site in the interests of amenity.

66. No materials shall be imported into the site for restoration purposes except for solid inert material comprising uncontaminated soil rock, clay, brick, concrete and excavation waste.

Reason: To secure the satisfactory restoration of the site in the interests of amenity.

67. In the event of the mineral extraction and deposit of inert waste ceasing on the site for a period in excess of 12 months before the completion of the development a revised scheme of restoration and tree planting shall be submitted to the County Planning Authority for written approval within 18 months of the cessation. The approved scheme shall be implemented in accordance with a programme to be included in that scheme.

Reason: To ensure the satisfactory restoration of the site

68. Every 12 months from the date of this permission, a review of the previous year's landscaping, working, restoration and after-care shall be carried out in conjunction with the representative of the County Planning Authority. The review shall take account of any departure from the approved restoration requirements and a revised scheme shall be submitted to the County Planning Authority for approval providing for the taking of such steps as maybe necessary to continue this satisfactory landscaping, working, restoration and after-care of the site including replacement of any tree or shrub which may have died, been removed or become seriously damaged or diseased. Thereafter all such work shall be carried out in accordance with the approved schemes.

Reason: To secure an orderly and progressive pattern of working of the site.

RECORD OF PLANNING PERMISSION

69. A copy of the Planning Permission and any agreed variations, together with the approved plans, shall be kept available at the site office at all times.

Reason: To ensure that the development is undertaken in accordance with the approved documents and conditions

Informative:

- No vegetation clearance shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the vegetation for active birds' nest immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should also be sent to the minerals planning authority.

**Statement of Compliance with Article 35(2) of the Town and Country Planning
(Development Management Procedure) (England) Order 2015**

In determining this planning application, the County Planning Authority has worked with the applicant adopting a positive and proactive manner. The County Council offers the opportunity for pre-application discussion on applications and the applicant, in this case, chose to take up this service. Proposals are assessed against the National Planning Policy Framework, Replacement Local Plan policies and Supplementary Planning Documents, which have been subject to proactive publicity and consultation prior to their adoption. During the course of the determination of this application, the applicant has been informed of the existence of all consultation responses and representations made in a timely manner which provided the applicant/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 as necessary. Where appropriate, changes to the proposal were sought when the statutory determination timescale allowed.

D BOWE

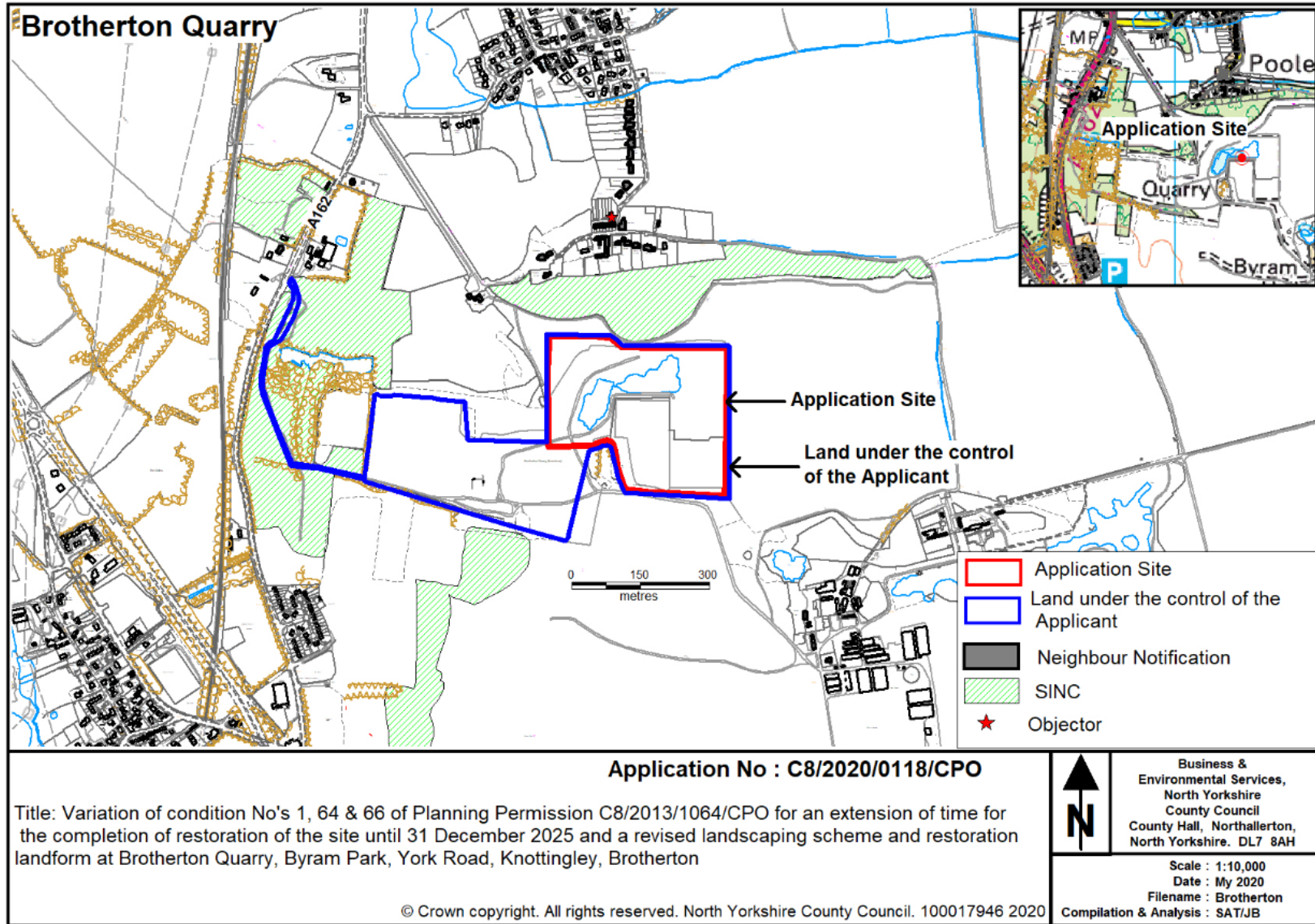
Corporate Director, Business and Environmental Services
Growth, Planning and Trading Standards

Background Documents to this Report:

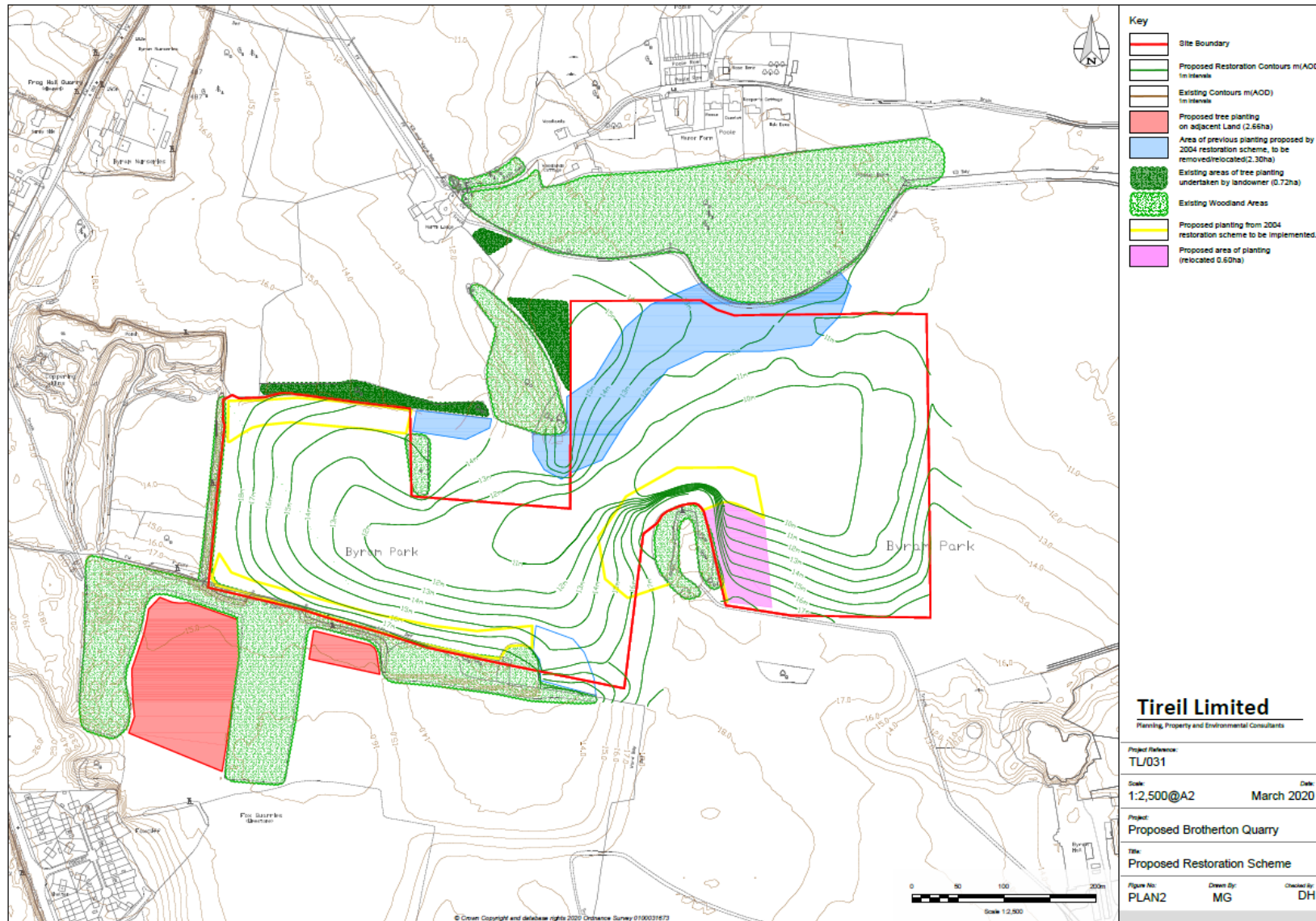
1. Planning Application Ref Number: C8/2020/0118/CPO (NY/2020/0012/73) registered as valid on 3rd February 2020. Application documents can be found on the County Council's Online Planning Register by using the following web link:
<https://onlineplanningregister.northyorks.gov.uk/register/>
2. Consultation responses received.
3. Representations received.

Author of report: Sam Till

Appendix A – Committee Plan



Appendix B – Restoration Plan



Appendix C – Proposed Site Contours

