

NORTH YORKSHIRE COUNTY COUNCIL

PLANNING AND REGULATORY FUNCTIONS COMMITTEE

26 AUGUST 2008

C2/06/01616/CCC – FULL PLANNING APPLICATION ACCOMPANIED BY AN ENVIRONMENTAL STATEMENT FOR THE EXTRACTION OF SAND AND GRAVEL AND MODIFICATION OF CONDITION 2 OF PLANNING PERMISSION REF: C2/92/500/53, LADYBRIDGE FARM, THORNBOROUGH FOR TARMAC NORTHERN LTD (HAMBLETON DISTRICT) (BEDALE ELECTORAL DIVISION)

1.0	<u>PURPOSE OF REPORT</u>
1.1	The purpose of the report is to determine a revised planning application accompanied by an Environmental Statement for the extraction of sand and gravel and variation of Condition 2 of planning permission ref: C2/92/500/53 at Ladybridge Farm, Thornborough.
1.2	Members will recall that this current application constituted a revised proposal following the refusal of planning permission in February 2006 (Ref C2/92/500/53A) in respect of a more extensive proposal on grounds that the proposal would have an unacceptable adverse impact on nationally important archaeological remains and would not constitute a small scale extension.
	<ul style="list-style-type: none">1.3 This Committee previously considered this application in January 2007. However, the planning permission granted following that meeting has now been quashed owing to administrative errors in the Decision Notice. These can be summarised as follows:- Two additional conditions regarding hydrology/hydrogeology as recommended by the Environment Agency were not set out in the decision notice.Although identifying relevant development plan policies the decision notice did not set out a summary of these policies.
	A copy of the proposed S106 Agreement was not placed on the statutory planning register.
1.4	Following the quashing of the decision on this application that was issued in October 2007 and in recognition of the opinions expressed by the Environment Agency back in 2006 whilst the application was originally under consideration, the applicant has submitted in March 2008 further information in respect of hydrogeology and hydrology with further additional information in June 2008. The applicant has also reviewed and provided updates on the original baseline information surveys in the Environmental and Supporting Statements in respect of air quality, traffic, noise and ecology in order to check for continuing validity, robustness of conclusions and to review the mitigation recommendations.

1.5	Therefore this report is presented to Committee for reconsideration of the application for the extraction of sand and gravel and variation of Condition 2 of planning permission ref: C2/92/500/53 at Ladybridge Farm, Thornborough taking account of the application submitted in July 2006 and its accompanying Environmental Statement, and opinions expressed thereon, the additional Environmental information submitted in March and June 2008 and views expressed thereon as set out in this report.
1.6	A plan showing the location of the proposed site is attached to this report.

2.0

EXECUTIVE SUMMARY

The Proposal

- Application submitted July 2006.
- Proposed extraction of sand and gravel from 30.9 hectare north east of Nosterfield. The extended quarry area would be 33.6ha (see Plan attached to this report).
- Variation of time limit in relation to current mineral working
- 1.1 million tonnes of sand and gravel to be extracted over
- Restoration to a mix of recreation and nature conservation

Revisions to previous application that was refused in February 2006

- Extraction area reduced from 45.7ha to 30.9ha.
- Mineral yield reduced from 2.2 million tonnes to 1.1 million tonnes.
- Area of archaeological interest omitted from application.

The Context

- The proposed site forms an extension to existing workings
- Site located 1kilometre (km) to north east of Thornborough
- Site and surrounding area is predominantly agricultural.
- Current workings form the largest sand and gravel unit in
produce over 20% of sand and gravel in North Yorkshire.

Consultations

- Consultation has led to representations both for and against
- Objections relate primarily to archaeology.
- Support relates principally to the retention of jobs and the
development provides no threat to the Thornborough Henges.
- No objections received from English Heritage,
Hambleton District Council, English Nature and Countryside Agency now
known as Natural England, and Tanfield Parish Council.
- Objections received from the Council for British Archaeology,
Thornborough Henges, and the Yorkshire Archaeological Society.
- Support received from the Employees of Tarmac.

Recommendation

That planning permission is granted subject to conditions and a Section 106 legal agreement to ensure protection of archaeological interests, restoration and aftercare management plan and lorry routing.

3.0 BACKGROUND

- 3.1 The current workings at Nosterfield Quarry are located 6 kilometres east of Masham, to the north of the B6267. Nosterfield village itself is approximately 400 metres to the south of current mineral workings while the village of Thornborough is some 500 metres to the southeast.
- 3.2 The application site lies in a predominantly agricultural landscape, however mineral extraction has taken place over a prolonged period in the area and restored mineral workings also now form part of the local landscape. The proposed extension area is bounded to the north and east by agricultural land, to the west by Moor Lane and the current Nosterfield Quarry.
- 3.3 The southern boundary of the site has been drawn to exclude the area of archaeological interest identified in archaeological survey and investigation during 2004/05. Approximately 1km to the south west of the proposed extension area is The Thornborough Henges, a Scheduled Ancient Monument.
- 3.4 Mineral activity has taken place in the vicinity of Nosterfield for many years. Extensive areas of land to the south of Nosterfield village were quarried in the period between the 1950s and the 1990s as part of the West Tanfield Quarry and the former Nosterfield Quarry. In 1992 a major application was submitted in respect of the current Nosterfield Quarry. This site was described at that time as the Northern Extension Site and comprised an area of 106 hectares, a new low profile processing plant and a new access which permits all lorries to exit the quarry and travel direct to the A1, avoiding Nosterfield village. Planning permission in respect of current operations at Nosterfield Quarry was granted in January 1995 and allows for operations to continue to October 2010 (Ref: C2/92/500/53).

4.0 DESCRIPTION OF PROPOSALS

- 4.1 In accordance with the Town & Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (as amended), hereafter referred to as the EIA Regulations, the application is supported by an Environmental Statement setting out a detailed assessment of environmental impacts and mitigation measures identifying the key issues as:
- Visual impact
 - Landscape impact
 - Agriculture and soils
 - Ecology and nature conservation
 - Noise
 - Archaeology and Heritage
 - Hydrology/Hydrogeological impact

The EIA Regulations require that alternatives must be considered and an outline must be provided in the Environmental Statement of the reasons for the final choice of the submitted scheme. In this instance alternatives are examined in

relation to the site area application, quarry design, mineral haulage, restoration and afteruse. The cumulative impact of the development is also assessed. A detailed restoration strategy for the site is set out within the Environmental Statement.

- 4.2 In view of the complexity of the issues raised within the Environmental Impact Assessment, the Institute of Environmental Management and Assessment (IEMA) an independent organisation established to promote best practice standards in environmental management, auditing and assessment, was commissioned by the County Council to make an independent assessment as to whether the Environmental Statement submitted in support of this application meets the statutory requirements set out in the EIA Regulations. IEMA based its assessment upon a number of performance criteria and that review assessment was delivered to the County Council in January 2007. IEMA confirmed that the Environmental Statement met the statutory requirements of the Environmental Impact Assessment Regulations. The further information submitted by the applicant to the County Planning Authority in March and June 2008 provides additional survey results and supplementary information which updates that which was previously submitted. It is considered on the basis of an internal desk based study that this additional information is such as to not warrant a further consideration of the revised Environmental Statement by IEMA.
- 4.3 The application area extends to some 76.4ha. Of this total, 42.8ha forms part of the current Nosterfield Quarry, including the plant site and silt lagoon. The extended quarry would be 33.6ha, comprising an extraction area of 30.9ha and 2.7ha for ancillary operations such as site access and screen bunds.
- 4.4 It is anticipated the proposed extraction area would yield approximately 1.1m tonnes of sand and gravel. At current rates of production the extension would provide an additional two years life to the Nosterfield Quarry. However, the extraction rate from the extension site would be likely to vary between 250,000 tonnes per annum and 500,000 tonnes per annum due to the need to blend the material with existing production reserves to achieve the required aggregate specifications.
- 4.5 Mineral working is proposed to take place in three phases. Following on from the phasing of the current Nosterfield Quarry working Phases 6 and 7 would involve extraction from the bulk of the proposed extension lying to the east of Ladybridge Farm. Phase 8 is a small area comprising two small pastures and lying directly adjacent to the existing workings (see attached plan for details of phasing).
- 4.6 The thickness of the mineral deposit is much reduced on the Ladybridge Farm site extension and this precludes the use of a suction dredger to extract the mineral, which is currently the case at the existing workings. The applicant is therefore proposing to work the mineral using an hydraulic excavator. The mineral would be worked wet below the water table, so no de-watering of the site would take place.
- 4.7 Following excavation, material would be transported by dump truck along a dedicated haul road crossing over Moor Lane to the existing plant site for processing. Following processing, material would be transported from the site by HGV, turning left out of the existing site access and travelling along the

B6267 to its junction with the A1. This route currently forms part of a legal agreement entered into upon the grant of the planning permission in 1995.

- 4.8 In order to allow the continued use of the plant site, silt lagoons and existing Nosterfield Quarry access after 31 October 2010, the applicant is also seeking to amend condition 2 of planning permission ref: C2/92/500/53 such that mineral extraction and processing operations are discontinued and the site restored by 31 October 2014.
- 4.9 The site would be restored on a phased basis to a mixture of uses including recreation and nature conservation. The restoration scheme submitted by the applicant envisages a predominantly wet restoration due to the nature of the sand and gravel deposit, being located below the water table, and the lack of available restoration material.

5.0 ADVERTISEMENT AND REPRESENTATIONS

- 5.1 In accordance with the EIA Regulations the proposal was advertised by way of a Site Notice and a Press Notice published in the Darlington & Stockton Times on 4 August 2006. A deposit copy of the application and Environmental Statement was lodged at Bedale Library. Following the receipt of further information in March 2008 and June 2008 (as described in paragraph 4.2 above and 7.1 below) the application has been advertised pursuant to Regulation 19 of the EIA Regulations. A copy of the draft Section 106 Legal Agreement was placed on the planning register at Hambleton District Council in April 2008.
- 5.2 In response to this publicity in 2006 representations were received from the Council for British Archaeology and also the Yorkshire Branch of the CBA, the Yorkshire Archaeological Society and also the two Action Groups, namely the Friends of Thornborough Henges and Heritage Action.
- 5.3 The Council for British Archaeology, whilst recognising that the revised application has moved some way toward accommodating earlier objections, continues to have serious reservations about the overall impact of gravel extraction on the landscape context of the Thornborough Henges.
- 5.4 The Yorkshire Branch of the Council for British Archaeology objects to the application for three reasons. Firstly, that the archaeological assessment has failed to take sufficient account of recent and ongoing historic landscape studies which place the Thornborough Henges at the centre of an important organised landscape through time. Secondly, that the Henges and their associated landscapes are "of at least national significance" and thirdly, whilst acknowledging that the afteruse strategy is carefully thought out, the CBA Yorkshire maintain that the visual appearance of the area would be changed.
- 5.5 The Friends of Thornborough Henges detail a number of specific objections as follows:-
- Cumulative impact
 - Loss of best and most versatile land
 - Lack of need for the mineral

- The site and landscape is of national archaeological importance
- Unacceptable adverse impacts on the landscape
- Hydrology/Hydrogeological concerns
- The archaeological landscape has not been adequately assessed
- Unacceptable adverse impacts on the setting of the Thornborough Henges
- Inappropriate restoration scheme and afteruse which does not enhance the setting of an important monument
- The site is not allocated as a Preferred Area or Area of Special Interest and would constitute a small scale extension

The Friends of Thornborough Henges also comment that should planning permission be granted, it would be necessary to secure recording of any archaeological remains.

- 5.6 Yorkshire Archaeological Society objects to the application and refer to the inadequacy of the archaeological assessment of the Ladybridge Farm site and that the proposal to extract aggregate will have an "unacceptably erosive impact upon an overall archaeological landscape which is recognised to be of national importance".
- 5.7 Heritage Action is particularly concerned regarding the cumulative impact of quarrying and considers the Thornborough complex as a jewel of British culture and without parallel internationally.
- 5.8 An objection on archaeological grounds has also been received from Dr Jan Harding who is Senior Lecturer in Archaeology at Newcastle University and has undertaken extensive research in respect of Thornborough Henges.
- 5.9 Eight individual letters of objection have also been received. These letters generally reflect the concerns listed above.
- 5.10 Some four letters of support have been received including one from The Federation of Master Builders. These letters raise the following points:-
- The need for the continuation of reliable supplies of construction materials to meet public demands for housing and infrastructure.
 - Restoration proposals would provide enhancement and nature conservation interest.
 - The site is a satisfactory distance from Thornborough Henges and local communities.

A further letter has been received on behalf of the employees of Tarmac Ltd representing 15 employees and 40 haulage drivers expressing concern that the loss of jobs would have a serious impact locally and also noting the positive changes that have been made to the revised application.

- 5.11 Additionally, both The Friends of the Thornborough Henges and the employees of Tarmac wish to remind Members of the substantial volume of representations made and petitions submitted in respect of the previous application being 869 letters of objection and three petitions of objection totalling 9,680 signatories. Also, 80 letters of support were received together with a petition of support containing 334 signatories. However, Members must be aware that the proposals had been substantially amended in response to archaeological survey and investigations undertaken during 2004/05 and

whilst noting the substantial overall concern regarding quarrying in this area, Members must have regard only to the specific objections to the revised application.

6.0 CONSULTATIONS

Consultation has taken place with statutory and non-statutory consultees following the receipt of the application in July 2006. Further consultation has also taken place in relation to the addition of hydrological and hydrogeological information provided by the applicant in March and June 2008. The responses received as a result of the consultations undertaken between July 2006 and October 2007 are summarised below. The responses received as a result of the consultations undertaken in respect of the further information received in March and June 2008 are summarised in Section 7 below.

- 6.1 Hambleton District Council - raises no objection in principle to the revised application but would welcome consultation and involvement in the future form and management of the wildlife and landscape elements.
- 6.2 Tanfield Parish Council – raises no objections to the proposed development.
- 6.3 Well, Kirklington and Carthorpe Parish Councils – have made no comment on the revised application.
- 6.4 Environment Agency – raise no objections, subject to the imposition of conditions to secure the implementation of flood protection measures, the continued monitoring of groundwater and surface water and to preclude de-watering. Comments are made regarding protection of the fish populations. The submission of additional information on hydrological issues as described at Section 7 has been considered by the Environment Agency. The Agency's further comments are set out at paragraph 7.9 and revised conditions set out as Conditions 19 – 23 in Appendix 1.
- 6.5 Bedale and Upper Swale Internal Drainage Board - requires the imposition of a condition to control any development including hedge and tree planting within 9 metres of the Ings Goit.
- 6.6 Government Office for Yorkshire and the Humber – make no comment.
- 6.7 English Heritage - makes detailed comments in respect of the application and a summary of its view is as follows:
"English Heritage welcomes the revised proposal and supporting Environmental Statement (June 2006) relating to the extraction of gravel at Ladybridge Farm, Well, North Yorkshire. We feel it has addressed our initial concerns with regard to the preservation of archaeological deposits of national importance by omitting the southwestern corner of the previous application site from this revised proposal. Subject to the resolution of a number of issues relating to the clarification of the Detailed Archaeological Mitigation Strategy and the Afteruse Strategy contained in the Environmental Statement we raise no

objections to this application and are content for it to be determined by the Mineral Planning Authority. Whilst we continue to have reservations about the application site representing a small scale extension to the existing works we are content to leave clarification of this matter to the Mineral Planning Authority in line with relevant policy".

6.8 DEFRA – does not wish to object to the proposal because the area of best and most versatile land that would be lost as a result of the development is not regarded as significant in terms of the national agricultural interest. DEFRA does however consider that there are significant issues with regard to the sustainable use of the soil resource of the agricultural land.

6.9 Natural England (formerly English Nature) has no objection to the proposed development in principle as the effect of the proposed mineral extraction on the existing ecology of the area would be negligible, provided that the suggested mitigation measures are employed. Natural England register concerns regarding the high percentage of deep water proposed in the restoration plan. It is considered the reduction of deep water to shallow water (2m or less in depth) would further enhance the proposed UK Biodiversity Action Plan priority habits, these being reed beds and lowland neutral dry and grasslands, and thus its associated fauna.

6.10 The Countryside Agency – raises no objection in principle but has great concerns regarding the change to landscape character and considers the area to be returned to wetland (some 54% of the development area) and in particular the proportion of deep water (28%) to the extension and should be reduced or eliminated.

6.11 Defence Estates – confirms that the site is located 8.8km to the southwest of RAF Leeming, within the birdstrike safeguarding zone surrounding the aerodrome. Defence Estates raises no objection to the proposal in principle subject to the design of the restoration scheme being amended in order to ensure the attractiveness of the site to hazardous birds is minimised, details of planting and the management of grassland being provided and confirmation that a bird management plan will be incorporated into a Section 106 Agreement.

6.12 Yorkshire Wildlife Trust – has been consulted but has not made any comments

6.13 Yorkshire Water – has no comment to make.

6.14 County Council's Heritage Section :
Archaeology – requests that the mitigation strategy and a management plan for the long term conservation of nationally important archaeological remains to the south of the application boundary be secured through a Section 106 agreement.

Landscape – considers the revised application raises significant landscape issues relating to the area of the proposed extension, the effects of mineral extraction over a wider area of landscape and the management of adjoining and related landscapes. It is requested that the existing management plan for Nosterfield Quarry is reviewed to incorporate the extended area of mineral working and restoration and through a strategic and integrated approach to secure a good

standard of restoration and enhance nature conservation interest and biodiversity.

Ecology – requests that restoration proposals are clarified prior to the commencement of working and that the site management plan is secured through a Section 106 Agreement.

- 6.15 County Council's Highway Authority – has no objection in principle subject to the provision of satisfactory visibility splays at the haul road crossing over Moor Lane.

7.0 FURTHER INFORMATION IN RESPECT OF HYDROGEOLOGY AND HYDROLOGY AND UPDATED CONSULTATION RESPONSES

- 7.1 Following the quashing of the decision on this application that was issued in October 2007 and in recognition of the opinions expressed by the Environment Agency back in 2006 whilst the application was originally under consideration, the applicant has submitted further information in respect of hydrogeology and hydrology in March 2008 and June 2008. The applicant has also reviewed and provided updates on the original baseline information surveys in the Environmental and Supporting Statements in respect of air quality, traffic, noise and ecology in order to verify the continuing validity, robustness of conclusions and to review the mitigation recommendations. This further information has been duly advertised pursuant to Regulation 19 of the EIA Regulations by means of a Site Notice and a Press Notice and copies forwarded to consultees on each occasion.
- 7.2 English Heritage confirms that it still considers the proposals in the application represent the most appropriate extraction strategy for this site. It notes that works that have taken place in the intervening period, (between the original application in 2004 and June 2008), as set out in the agreed archaeological mitigation strategy, which have demonstrated the veracity of the strategy and the characterisation of the archaeological deposits in the area.
- 7.3 Subject to the resolution of a number of issues relating to the after-use strategy contained in the Environmental Statement, English Heritage is content for the application to be determined. These issues relate to the positive and sustainable management of the area to the south of the extraction zone and its relationship to Ladybridge Farm and the wider landscape. Whilst English Heritage continues to have reservations about whether the application site represents a small scale extension to the existing works, it is content to leave clarification of this matter to the Mineral Planning Authority in line with relevant Policy.
- 7.4 The Yorkshire Branch of the Council for British Archaeology confirmed in April 2008 previous objections and questioned the interpretation of the site as a small scale site. The CBA consider the proposal would have an unacceptable impact on the setting of Scheduled Monument and expresses a view that

archaeological remains should be preserved in situ. No further comments have been received in respect of the June 2008 information.

7.5 The Friends of Thornborough Henges considered in April 2008 that the interpretation of borehole data by consultants representing the applicant company incorrect and invalidate the conclusions and recommendations. The Friends of Thornborough Henges commented in April that:-

"The consequences would be:-

- (i) an exacerbation of the vulnerability of the monuments to gypsum cavern collapse and
- (ii) a considerable increase in the sulphate content of the water drainage into the Ings Goit".

7.6 In response to the June 2008 The Friends of Thornborough confirmed that they still objected. The grounds including:

- The scale of the extension relative to the present quarry which is considered to not be small scale;
- That the after-use proposals will lead to pollution (from excessive nutrient loads in agricultural soils and surface drainage waters), to the creation of large areas of wetlands with deep water and the associated risk of a collapse of the Scheduled Ancient Monuments;
- Consider the buried remains associated with and within the setting of the Thornborough Henges should be preserved in situ.
- Consider that inadequate weight has been given to the potential for tourism arising from the Henges area.
- The need for prior consultation with both the public and with the Tourist Board;
- The lack of consistency in judging this application relative to nearby quarrying applications, including the submissions made in connection with the Minerals and Waste Development Framework relative to the setting of Thornborough Henges, the draft Henges Conservation Plan and the evolving Heritage White Paper;
- The lack of a full Environmental Impact Assessment, for example not taking account of the Regional Spatial Strategy and the Hambleton Local Development Framework;
- The lack of consideration of alternatives to quarrying this sensitive landscape.
- A concern is raised about the proposed water levels and their maintenance.

7.7 Defence Estates has confirmed that it has no safeguarding objections in respect of the proposal arising from either the March and June 2008 information.

7.8 Tanfield Parish Council has no comments on the additional technical information supplied in March and June 2008.

7.9 Well Parish Council confirmed in April 2008 that it remained very concerned about the silt disposal area because this was extremely hazardous especially to children.

7.10 Yorkshire Water has confirmed that it has no observations on the additional information.

- 7.11 Natural England has confirmed that it has no comments on the agriculture and soils elements of the additional information.
- 7.12 County Council's Heritage Unit has confirmed that it has no further comments in respect of the archaeological matters arising from the June 2008 information as it does not appear to change the comments previously referred to in paragraph 6.14 above.
- 7.13 The County Council Highway Authority has taken into account that the applicant has indicated that the proposed extension will use the existing access onto the B6267; will not increase the total annual volume of materials extracted and will be brought to the access on the B6267 by a haul route crossing Moor Lane. On that basis it is recommended that conditions are attached to any permission granted covering use of the existing access, the submission of details of access, turning and parking areas and ensuring that no part of the development is brought into use until the approved haul route crossing on Moor Lane is available for use.
- 7.14 Consultations were also sent in June 2008 to Hambleton District Council (Planning and Environmental Health), Carthorpe Parish Council, Kirklington with Sutton Howgrave Parish Council, the Yorkshire Wildlife Trust and the Bedale and Upper Swale Internal Drainage Board. In the event of any additional views being received following the publication of this report in the Agenda, these will be reported orally.
- 7.15 A total of 19 objections in connection with the information publicised in March 2008 have been received and reiterate concerns summarised at paragraph 5.5 above. One letter and a separate email letter of objection have been received in connection with the publicity of the June 2008 information that raise in addition is a concern about loss of agricultural land and the sustainability of the proposed afteruse is questioned.
- 7.16 The views of the Environment Agency taking into account the March and June 2008 additional information are set out below:
- "In general terms, we agree with Tarmac and Hafren Water's conceptual understanding of the hydrogeology of the Nosterfield and Ladybridge area.
 - With regard to Section II.5 we agree that the catchment divide passes through the southern portion of the Ladybridge site.
 - We agree with Tarmac's understanding of the hydrological effects associated with Lingham water, as noted in Section II.21, where they state that the modified catchment divide is moved southward. We agree that the likely distance that the catchment divide will shift will be small and therefore we do not consider this difference in conceptual understanding to be materially significant.
 - We agree that at present the groundwater within the sand and gravel underlying the Ladybridge extension area will have a flow gradient towards Ings Goit.
 - We agree with the Darcian calculations that indicate that the proposal will not induce flow from Lingham water into the Ladybridge extension and that the discharge of water into Ings Goit will not increase.

- It is our opinion that there is sufficient information within this document to satisfy the requirements of an appropriate hydrogeological risk assessment.”
- 7.17 The Environment Agency also states: “We would also like to make the following points regarding discussions that have been on-going between Tarmac’s hydrogeological consultants and ourselves:
- Given that quarrying in the Ladybridge extension will be managed with a water level similar to that which occurs at present, and given the Darcian calculations that indicate a degree of hydraulic isolation from the surrounding water environment, the alteration to the catchment divide is very unlikely to result in the inclusion of the Nosterfield Nature Reserve and Thornborough Henges within the Ings Goit/Healam Beck/River Swale catchment. We believe Tarmac have supplied sufficient information to indicate that these features are extremely likely to remain hydraulically isolated from the proposed development.
 - Tarmac have reviewed the likelihood of Gypsum dissolution. We agree with their suggestion that gypsum dissolution is a risk in situations where groundwater is under-saturated in gypsum. As Tarmac are not intending to alter the groundwater in the Permian rocks, it can be expected that the groundwater surrounding the gypsum will maintain its current gypsum saturation level. With no material alteration to the hydrochemistry of the Permian groundwater, we agree that there will be no material alteration to the likelihood of gypsum dissolution occurring. Tarmac have therefore satisfied our previously stated concerns with regard to gypsum dissolution.”
- 7.18 “Having reviewed Tarmac's hydrogeological and hydrological impact assessment (HIA), the Environment Agency no longer requires our previously suggested conditions requiring the production of a desk study and hydrogeological impact assessment to be imposed as this information has now been provided.”
- 7.19 “We would like to recommend that the conditions that were originally suggested (in our letter dated 21 August 2006, reference DN/2006/008429/01) are replaced with the conditions stated below, which are based on the mitigation measures contained within the Section II of the revised supporting statement.”
- 7.20 “In the light of the information supplied to us we consider it important that low permeability material is emplaced around the perimeter of the Ladybridge workings to ensure that the created water body is hydraulically less connected to the surrounding system than would otherwise be the case. This is outlined within the revised supporting statement and we have recommended a condition to ensure this action is undertaken.”
- 7.21 “Therefore on the basis of the above the Environment Agency recommend that the following **CONDITIONS** are included on the decision notice should planning permission be granted”. The full text of these conditions is set out as at Conditions 16 – 20 in Appendix 1. The reason given by the Environment Agency for each of these 5 conditions is “to ensure the hydrogeological and hydrological impact is mitigated as identified in the impact assessment”.

- 7.22 The concerns of The Friends of Thornborough regarding pollution, hydrology, hydrogeology and water levels have been forwarded to the Environment Agency and any comments received will be reported orally.

8.0 PLANNING POLICY

National Policy - Minerals Policy Statement 1 (MPS1)

- 8.1 MPS1 was published by the Department of Communities and Local Government in November 2006 and brings forward updated advice on planning and minerals setting a general context as follows: “Minerals are essential to the nation's prosperity and quality of life, not least in helping to create and develop sustainable communities. It is essential there is an adequate and steady supply of material to provide the infrastructure, buildings and goods that society, industry and economy needs, but that this provision is made in accordance with the principles of sustainable development”.
- 8.2 Furthermore, MPS1 states “Minerals development is different from other forms of development because minerals can only be worked where they naturally occur. Potential conflicts can therefore arise between the benefits to society that minerals bring and the impacts arising from their extraction and supply.
Minerals planning aims to provide a framework for meeting the nation's needs for minerals sustainably, by adopting an integrated policy approach to considering the social, environmental and economic factors of doing so and securing avoidance or appropriate mitigation of environmental impacts where extraction takes place”.
- 8.3 MPS1 sets out national policies for minerals planning which include:-
- Provide for the maintenance of landbanks, ie appropriate levels of permitted reserves, for non-energy minerals as far as is practicable from outside National Parks, the Broads, Areas of Outstanding Natural Beauty and World Heritage Sites.
 - Consider the benefits in terms of reduced environmental disturbance and more efficient use of mineral resources including full recovery of minerals, of extensions to existing minerals workings rather than new sites.
 - Adopt a presumption in favour of the preservation of Listed Buildings, Nationally Important Archaeological Remains (including Scheduled Ancient Monuments) in situ and their settings, if mineral proposals would cause damage or have a significant impact on them, unless there are overriding reasons of national importance for the development to proceed.
 - Take account of the value of the wider countryside and landscape, including opportunities for recreation, including quiet recreation, and as far as practicable maintain access to land. Minimise the impact of mineral operations and its quality and character and consider the cumulative effects of local developments.
 - Take account of the opportunities for enhancing the overall quality of the environment and the wider benefits that sites may offer including nature

conservation and increased public accessibility which may be achieved by sensitive design and appropriate and timely restoration.

- 8.4 Annex 1 of MPS1 sets out Government Planning Policy on the provision of construction aggregates in England including sand and gravel. It states that “Mineral Planning Authorities should use the length of landbank in its area as an indicator of when new permissions for aggregates extraction are likely to be needed. The landbank indicators are at least seven years for sand and gravel and at least ten years for crushed rock. A longer period may be appropriate to take account of the need to supply a range of types of aggregate, locations of permitted reserves relative to markets, and producing capacity of permitted sites. A landbank below these levels indicates that additional reserves will need to be permitted if acceptable planning applications are submitted”.

Minerals Policy Statement 2 – Controlling and Mitigating the Environmental Effects of Minerals Extraction in England (MPS2)

- 8.5 Paragraph 2 of MPS2 advises that “Since minerals can only be worked where they are found, and as this may be in environmentally-sensitive or designated landscape areas and/or in close proximity to communities, the need to keep these impacts to an acceptable minimum in the planning and operating of extraction sites is a high priority. Where adverse environmental effects cannot be adequately controlled or mitigated through the design of proposals or the attachment of conditions, planning permission should be refused”. This is further re-iterated in paragraph 4 which advises Mineral Planning Authorities to ensure that the environmental impacts caused by mineral operations and the transport of minerals are kept to an acceptable minimum; to encourage sensitive working, restoration and aftercare practices during minerals extraction and to conserve or enhance the overall quality of the environment once extraction has ceased; to safeguard the long-term capability of best and most versatile agricultural land, and conserve soil resources for use in a sustainable way.
- 8.6 Paragraph 12 states that “... proposals should take into account the level of existing activity and impacts, the duration and nature of proposals for new or further working, and the extent of impacts which a particular site, locality, community, environment or wider area of mineral working can reasonably be expected to tolerate over a particular or proposed period. With respect to an individual site, the effect of all relevant impacts (i.e. of noise, dust, traffic, on landscape etc.) should be considered objectively. Impacts that are acceptable individually should not be regarded as unacceptable in combination without a proper assessment. MPAs should also have regard where relevant to cumulative impacts of simultaneous and/or successive working of a number of sites in a wider area of commercially-viable deposits. These may affect communities and localities over an extended period, depending on the nature, age and size of the site(s).”

Minerals Planning Guidance 7 – Reclamation of minerals workings (MPG7)

- 8.7 Paragraph 3 of MPG7 states that “The overall standards of reclamation have continued to improve over recent years, and with the development and implementation of appropriate reclamation techniques, there is potential for land to be restored to a high standard suitable for a variety of uses. Consistent and diligent application of the appropriate techniques will ensure that a wide range of sites are restored to appropriate standards. This may

lead to the release of some areas of land which would not otherwise be made available for mineral working, for example, the best and most versatile agricultural land. Conversely, where there is serious doubt whether satisfactory reclamation can be achieved at a particular site, then there must also be a doubt whether permission for mineral working should be given”.

- 8.8 Paragraph 13 states that “On many sites, the ability to achieve high standards of reclamation should enable mineral extraction to occur without the irreversible loss of land quality. Where minerals underlie the best and most versatile agricultural land it is particularly important that restoration and aftercare preserve the long-term potential of the land as a national, high quality, agricultural resource.”
- 8.9 Government policy seeks also to encourage the diversification of the rural economy “where this will not result in the significant loss of high quality agricultural land. Therefore whilst agriculture remains the most appropriate after-use for many mineral sites, other uses such ... including nature conservation ... should also be considered on land which was originally in agricultural use. Where these alternatives are proposed on the best and most versatile agricultural land, the methods used in restoration and aftercare should enable the land to retain its longer-term capability to be farmed to its land classification potential, thus remaining a high quality agricultural resource for the future. A wider range of non-agriculture after-uses may be appropriate on land of lower quality. Land of lower quality and fertility may be particularly suited to nature conservation as an after-use, resulting in a greater diversity of habitats.”

Planning Policy Statement 7 - Sustainable Development in Rural Areas (PPS7)

- 8.10 PPS7 states that “The presence of best and most versatile agricultural land (defined as land in grades 1, 2 and 3a of the Agricultural Land Classification), should be taken into account alongside other sustainability considerations (e.g. biodiversity; the quality and character of the landscape; its amenity value or heritage interest; accessibility to infrastructure, workforce and markets; maintaining viable communities; and the protection of natural resources, including soil quality) when determining planning applications. Where significant development of agricultural land is unavoidable, local planning authorities should seek to use areas of poorer quality land (grades 3b, 4 and 5) in preference to that of a higher quality, except where this would be inconsistent with other sustainability considerations. ... If any undeveloped agricultural land needs to be developed, any adverse effects on the environment should be minimised.”
- 8.11 Paragraph 29 of PPS7 includes the statement: “It is for local planning authorities to decide whether best and most versatile agricultural land can be developed, having carefully weighed the options in the light of competent advice”.

National Policy - Planning Policy Guidance Note 16 (PPG16) – Archaeology and Planning

- 8.12 This PPG gives advice on the handling of archaeological remains and discoveries under the development plan and control systems, including the weight to be given to them in planning decisions and the use of planning conditions. It advises that “where nationally important archaeological remains whether scheduled or not, and their settings are affected by proposed development there should be a presumption in favour of their physical preservation”. Paragraph 27 goes on to advise that “the case for the preservation of archaeological remains must however be assessed on the individual merits of each case, taking into account the archaeological policies in detailed development plans, together with all other relevant policies and material considerations, including the intrinsic importance of the remains and weighing these against the need for the proposed development”.

The Yorkshire and Humber Plan Regional Spatial Strategy

- 8.13 The Secretary of State for Communities and Local Government issued The Yorkshire and Humber Plan Regional Spatial Strategy to 2026 in May 2008 (hereafter referred to as the Regional Spatial Strategy). There are a number of policies in this new document that are relevant to the determination of this application:

RSS Policy ENV4 – Minerals

- “A Plans, strategies, investment decisions and programmes should safeguard mineral deposits in the region, including aggregates (sand, gravel, limestone and sandstone), silica sand, coal, clay, brick earth, chalk and potash, from sterilisation by other types of development and provide for an adequate and steady supply of minerals.
- B The Region will maximise the use of secondary and recycled aggregates to reduce dependency on primary extraction.
- C Mineral Planning Authorities should:
1. Maximise the contribution by substitute and secondary materials wherever possible, and facilitate sites and operations (including those to blend secondary and primary aggregates, reprocessing and the transfer of materials), especially in West Yorkshire
 2. Make provision for the sub regional apportionments as set out in Table 10.1 and endeavour to maintain a landbank for all nationally and regionally significant minerals
 3. Seek a progressive reduction in aggregate production from National Parks and Areas of Outstanding Natural Beauty, noting that there is no strategic justification for the provision of any new crushed rock sites within these areas within the Plan period
- D The sub-regional aggregate apportionments should be updated in a review of the Plan, in particular to taking account of the 2nd Phase of the Yorkshire and Humber Sand and Gravel Study.”

- 8.14 Table 10.1 of the Regional Spatial Strategy, based on supply and demand figures calculated by the Regional Aggregates Working Party, states that North Yorkshire (outside the National Parks) should make provision for 42.1 million tonnes of sand and gravel over the period 2001 – 2016.

8.15 RSS Policy ENV7 – Agricultural Land

- “A If development of agricultural land is required it should take place on poorer quality land wherever possible and appropriate.

- B Development or use of agricultural land in appropriate locations will be encouraged for the following:
1. Provision of renewable energy crops, especially biomass for co-firing in power stations in the Selby area
 2. Tourism, especially in the Yorkshire Dales, North York Moors, Yorkshire and Lincolnshire Wolds, Humberhead levels and the coast
 3. Creation of woodland, especially in East, South and West Yorkshire
 4. Positive land management for flood alleviation, and increased water storage capacity on farms, especially in remoter rural areas
 5. Wildlife habitat creation schemes, especially links between habitats
 6. Outdoor recreation projects, especially in areas of poor health in South and West Yorkshire
 7. Local produce for sale on site of main farm business
 8. Local waste management schemes, such as composting.”

8.16 RSS Policy ENV9 – Historic Environment

- “A The Region will safeguard and enhance the historic environment, and ensure that historical context informs decisions about development and regeneration.
- B Plans, strategies, investment decisions and programmes should conserve the following regionally-distinctive elements of the historic environment, enhance their character and reinforce their distinctiveness:
1. World Heritage Sites and their settings at Saltaire, and Fountains Abbey and Studley Royal
 2. Prehistoric landscapes, especially the Wolds, the Southern Magnesian Limestone Ridge, the Vale of Pickering, and Ilkley and Rombalds Moors
 3. Medieval settlements and landscapes, especially the Lincolnshire Coversands, the waterlogged landscapes of the Humber and the relict industrial landscapes of the North York Moors and Yorkshire Dales
 4. Former industrial landscapes, housing areas and civic buildings of note, especially in West and South Yorkshire
 5. Roman military and civil settlements and communications, especially in North Yorkshire
 6. The street patterns, sky lines, views and setting of the historic City of York
 7. Maritime archaeological assets, seaside resorts, and the purpose built historic ports, docks and infrastructure of the East Coast and the Humber
 8. Historic landscapes including registered battlefields, parks and gardens
 9. The unique record of historic urban development present as archaeological deposits in large areas of the region’s cities and towns.”

8.17 RSS Policy ENV10 - Landscape

“The Region will safeguard and enhance landscapes that contribute to the distinctive character of Yorkshire and the Humber. Plans, strategies,

investment decisions and programmes should safeguard and enhance the following landscapes and related assets of regional, sub-regional and local importance:

- A Yorkshire Dales and North York Moors National Parks and the Nidderdale, Howardian Hills, Forest of Bowland, North Pennine and Lincolnshire Wolds Areas of Outstanding National Beauty.
- B The coastal landscapes of the East Coast and the Humber
- C Derelict and despoiled urban fringe landscapes, especially in the former coalfield and older industrial parts of South and West Yorkshire
- D Degraded rural landscapes, especially in parts of the Vale of York and Humberhead Levels”

8.18 RSS Policy E6 – Sustainable Tourism

- “A Local Authorities, Yorkshire Forward, Yorkshire Culture, the Yorkshire Tourist Board, and other agencies should promote, support and encourage tourism by adopting an overall approach which:
1. Recognises the sustainable growth of tourism as an integral contributor to the economy and makes best use of indigenous resources and existing tourism infrastructure
 2. Promotes responsible investment in the quality of the tourism and related services in order to provide a high quality experience, throughout the year, for all segments of the market
 3. Secures investment in local people skills and capacities in Yorkshire’s tourism industry, making full use of the local labour supply to fill a range of existing and new high quality jobs in the tourism sector
 4. Supports local cultural distinctiveness and contributes to the quality of life in the communities of the Region
 5. Conserves and enhances the built and natural environment, particularly internationally and nationally important biodiversity sites and high quality historic environment, through effective visitor management
 6. Integrates tourism activity with a viable transport infrastructure that enables a realistic choice of travel mode to and within the region, supported by a management regime that encourages greater use of public transport by visitors
- B Plans, strategies, investment decisions and programmes should promote tourism in the following priority areas:
1. Coastal resorts - economic diversification while consolidating and upgrading tourism facilities in ways which promote higher value activity, reduce seasonality and support urban regeneration
 2. Rural areas - where tourism and recreation can provide jobs for local residents of a scale and type appropriate to their location.
 3. Waterways – promoting tourism and associated development of an appropriate scale and type along waterways in both urban and rural areas
 4. Cities and Towns - Realise the potential of the heritage, leisure and cultural assets by promoting their roles as modern, varied and colourful destinations of choice. Local distinctiveness should be promoted, for example by encouraging use of local produce and services by businesses and visitors.”

North Yorkshire Minerals Local Plan (NYMLP)

8.19 Under the provisions of the Planning and Compulsory Purchase Act 2004, the Secretary of State had powers to direct that only certain policies of the development plan could remain extant after 27 September 2007. All Local Plan policies not listed in the Direction could no longer be used after this date, such as Policy 4/2 Best and Most Versatile Agricultural Land which was one of a number of policies that was not saved. The North Yorkshire Minerals Local Plan contains detailed policies in respect of mineral working within the County.

“The aims of the Plan are as follows:

- To ensure an adequate and steady supply of minerals
- To encourage greater use of alternatives to primary resources
- To limit the adverse effects of mineral extraction on the local amenity
- To encourage, through the reclamation of mineral workings, the enhancement of the environment and local amenity
- To encourage the utilisation of the most environmentally sound standards of mineral operation and processing
- To prevent the unnecessary sterilisation of mineral resources and potential conflict with non-mineral development
- To sustain the contribution of mineral related employment to the economy.”

8.20 The relevant ‘saved’ policies of the North Yorkshire Minerals Local Plan (1997), hereafter referred to as the NYMLP, that remain extant for development control purposes are as follows:

NYMLP Policy 3/2 – Preferred Areas

8.21 “In order to maintain landbanks of permitted reserves, proposals for aggregate mineral working in Preferred Areas will be regarded as acceptable in principle. Satisfactory details will have to be submitted before planning permission can be granted.”

NYMLP Policy 3/3 – Areas of Search

8.22 “Planning permission may be granted for aggregate mineral working within Areas of Search where the Mineral Planning Authority is satisfied that sufficient mineral cannot be obtained from the Preferred Areas.”

NYMLP Policy 3/4 - Other Areas

8.23 “Outside Preferred Areas and Areas of Search, planning permission for aggregate mineral working will normally only be granted for borrow pits and small-scale extensions to existing sites.”

NYMLP Policy 4/1 – Determination of Planning Applications

8.24 “In considering an application for mining operations, the Mineral Planning Authority will need to be satisfied that, where appropriate:-

- (a) the mineral deposit on the application site has been fully investigated;
- (b) the siting and scale of the proposal is acceptable;
- (c) the proposed method and programme of working would minimise the impact of the proposal;
- (d) landscaping and screening has been designed to effectively mitigate the impact of the proposal;

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

NYMLP Policy 4/10 – Water Protection

- 8.25 “Proposals for mining operations and the associated depositing of mineral waste will only be permitted where they would not have an unacceptable impact on surface or groundwater resources.”

NYMLP Policy 4/13 – Traffic Impact

- 8.26 Where rail, waterway or other environmentally preferable modes of transport are not feasible, mining operations other than for coal, oil and gas will only be permitted where the level of vehicle movements likely to be generated can be satisfactorily accommodated by the local highway network and would not cause undue disturbance to local communities

NYMLP Policy 4/14 – Local Environment and Amenity

- 8.27 Proposals for mining operations and the associated depositing of mineral waste will be permitted only where there would not be an unacceptable impact on the local environment or residential amenity.

NYMLP Policy 4/18 – Restoration to Agriculture

- 8.28 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.

NYMLP Policy 5/1 – Sand and Gravel Landbanks

- 8.29 “The County Council will identify three landbanks for calculating sand and gravel provision, as follows:-

- (a) Sand and gravel (northwards);
- (b) Sand and gravel (southwards); and
- (c) Building sand.

In determining which of the landbanks for sand and gravel a site falls within, the County Council will take into account the geographical location of the site and the likely external markets for the material.”

North Yorkshire Minerals and Waste Development Framework

- 8.30 The Minerals Core Strategy Submission Draft (January 2008) included within Policy CSM10: Extensions to Extant Sites the following text:
 “Proposals for the limited extension of established sites on land not allocated for working in the minerals site allocations development plan document will be permitted where appropriate.” ~~The Minerals Core~~
 Strategy is subject to ‘Examination in Public’ and Policy CSM10 has been

subject to objections. Therefore, it is not appropriate to attach weight in terms of development control to that document or any policy within it at this stage.

Hambleton District Council Local Development Framework - Development Policies (February 2008)

- 8.31 The Development Policies Development Plan Document provides further details to assist the delivery of the Hambleton District Council's Local Development Framework's Core Strategy, which sets out the long-term spatial vision, and the spatial objectives and strategic policies to deliver that vision. The District Council adopted the Core Strategy document on 3 April 2007 and relevant policies from the Development Policies DPD are given below.

Policy DP29 – Archaeology

- 8.32 "The preservation or enhancement of archaeological remains and their settings will be supported, taking account of the significance of the remains as follows:

i. in the case of Scheduled Monuments (shown on the Proposals Map) and other nationally important archaeological sites and their settings, by operating a presumption in favour of their preservation; and

ii. in the case of other remains of lesser significance, development affecting the site and its setting will only be permitted where the need for development and other material considerations outweigh the importance of the remains. Such remains should be preserved in situ. Where this is not justifiable or feasible, appropriate and satisfactory arrangements will be required for the excavation and recording of the archaeological remains and the publication of the results.

In areas of known or potential archaeological interest, an appropriate assessment and evaluation must be submitted to accompany any development proposals. Where appropriate, provision should be made for interpretation and access of remains in situ, and for realising tourism and cultural benefits where public access is possible without detriment to the site."

Policy DP30 – Protecting the character and appearance of the countryside

- 8.33 "The openness, intrinsic character and quality of the District's landscape will be respected and where possible enhanced. Development within the Areas of Outstanding Natural Beauty shown on the Proposals Map will be subject of particular controls, in accordance with national planning policy, in order to secure the conservation of these important landscape assets. Throughout the District, the design and location of new development should take account of landscape character and its surroundings, and not have a detrimental effect on the immediate environment and on any important long distance views. The design of buildings, and the acceptability of development, will need to take full account of the nature and distinctive qualities of the local landscape. The use of techniques such as landscape character analysis to establish the local importance, and the key features that should be protected and enhanced, will be supported. Where possible opportunities should be taken to add appropriate character and distinctiveness through the contribution of new landscape features, particularly to landscapes which otherwise lack interest."

Policy DP31 – Protecting natural resources: biodiversity/nature conservation

- 8.34 Permission will not be granted for development which would cause significant harm to sites and habitats of nature conservation, geological or geomorphological value, together with species that are protected or under threat. Support will be given (and permission granted for related development, if also acceptable in terms of other LDF policies) to the enhancement and increase in number of sites and habitats of nature conservation value, and in particular to meeting objectives identified in the proposals of the Biodiversity Action Plan. Sites designated under national legislation are shown on the Proposals Map (Sites of Special Scientific Interest - SSSIs, and Local Nature Reserves - LNRs), and will be protected under the terms of that legislation. Locally important sites are also identified (Sites of Importance for Nature Conservation – SINC)s and will be protected and enhanced as appropriate to their local importance. Outside the areas designated, the interests of nature conservation must be taken into account, in accordance with national guidance. Any proposed development that could have an adverse effect on the integrity of an international wildlife site (Natura 2000 or Ramsar site) alone or in combination with other plans or projects will not be permitted unless it can be demonstrated that the legislative provisions to protect such sites can be fully met. The restoration or creation of new habitats will be supported (and permission granted for related development, if also acceptable in terms of other LDF policies) where these contribute to the Biodiversity Action Plan, and to the targets, priorities and enhancement proposals of the RSS.

9.0 POLICY AND PLANNING CONSIDERATIONS

Minerals Supply Policy and Sand and Gravel Landbank Calculation

- 9.1 National Planning Policy Guidance on the provision of minerals is set out in Minerals Policy Statement 1 (MPS1). This document was published in November 2006, partially replacing Mineral Planning Guidance Note 6 (MPG6).
- 9.2 MPS1 requires that Mineral Planning Authorities should seek to maintain a stock of permitted sand and gravel reserves equivalent to at least seven years production. This is known as the landbank.
- 9.3 Requirements for aggregate mineral production are established at the national level for each Region. These regional figures are further broken down to provide a sub-regional apportionment. This is the figure that each Mineral Planning Authority Area must seek to contribute to the overall supply. The current Minerals Local Plan (MLP) identified production requirements for the period 1992-2006, as was required by MPG6 at that time.
- 9.4 In 2003 Central Government provided updated figures for production covering the period 2001-2016. The sub-regional apportionment of these figures was approved by the Yorkshire and the Humber Regional Assembly in 2004 and supersedes those figures quoted in the North Yorkshire Minerals Local Plan (NYMLP). The new apportionment envisages an overall contribution from North Yorkshire (outside the National Parks) of 42.1 million tonnes of sand and gravel over the period 2001 - 2016. This apportionment was included within the new Regional Spatial Strategy as mentioned in paragraph 8.14 above.
- 9.5 This equates to an annual rate of production of 2.63 million tonnes. The most recent data available for the assessment of landbank is contained within the Yorkshire and the Humber Regional Aggregates Working Party (RAWP) Annual Report 2006. That report identifies that as at 31 December 2006 sand

and gravel reserves in the County stood at 22.85 million tonnes, equivalent to 8.7 years of production.

- 9.6 In order to maintain the supply of sand and gravel to appropriate markets, the NYMLP currently splits the overall landbank into northwards and southwards distribution areas and building sand. The current Nosterfield Quarry and this proposed extension area fall within the southwards distribution area, serving mainly markets in North and West Yorkshire.
- 9.7 The 2006 RAWP report indicates that as at 31 December 2006, the landbank for the southwards distribution area stood at 9.15 million tonnes, equivalent to 5.6 years of production. Sand and gravel production has remained at a generally even level of around 2.63 million tonnes over recent years. On this basis it is therefore considered that the southwards distribution area landbank will be around the equivalent of 5 years production and below that level set down in MPS1. This calculation takes into account the small additional reserve of 150,000 tonnes at Allerton Park Quarry for which planning permission was granted in June 2007.
- 9.8 All those areas identified within the NYMLP as Preferred Areas for sand and gravel working have been granted planning permission and contribute towards the current landbank figures. Pending the adoption of the Minerals and Waste Development Framework, there are currently no Preferred Areas remaining by which to make up the landbank shortfall therefore the landbank is likely to diminish further during this period unless applications for appropriate extensions to existing sites come forward. In the period since the meeting in January 2007 permission has been granted for a small extension at Allerton Park Quarry as noted above. Two further applications have been submitted for sand and gravel extraction in the Southern Distribution area but decisions in respect of these two applications remain pending.
- 9.9 The present workings at Nosterfield Quarry form the largest sand and gravel operation in North Yorkshire and currently contribute approximately 500,000 tonnes of sand and gravel per year. In 2006, the most recent year for which sales figures are available, this equated to 20% of total sand and gravel sales in North Yorkshire and 11.45% of total regional sales. It is anticipated that the proposed extension area would be worked at a similar rate to the existing quarry. A refusal of planning permission in this instance will lead to increased pressure at other sites/locations to provide the mineral currently supplied by Nosterfield Quarry.
- 9.10 The flexibility to make good such shortfall could be significantly affected by production capacity constraints at other sites. Furthermore, whereas Nosterfield Quarry is conveniently located in relation to the Trunk Road network via the A1 giving access to the main markets in West Yorkshire, many other sand and gravel quarries are less well located in proximity terms.

Mineral Supply

- 9.11 Policies 3/2, 3/3 and 3/4 of the North Yorkshire Minerals Local Plan – These policies set a framework for consideration of planning applications for new mineral sites and extensions to existing sites. The submitted application does

not fall within the requirements set by Policy 3/2 Preferred Areas or Policy 3/3 Areas of Search.

9.12 At the time the policies of the North Yorkshire Minerals Local Plan (NYMLP) were formulated, the County Council considered that in addition to the Preferred Areas and Areas of Search identified for the purposes of securing the required landbank of sand and gravel reserves, there would be circumstances which would warrant the grant of planning permission in respect of small scale extensions to existing sites. It was stated in the Inspector's Report on the Inquiry into the NYMLP in 1997 that "it is not practicable to define small scale extensions in detail. The criteria contained in the supporting text at the end of para 3.2.9 provides reasonably clear guidance". The criteria referred to by the Inspector are mineral quantity, working life, annual production and the geographical extent and scale in relation to the existing quarry area.

9.13 Policy 3/4 provides a degree of flexibility where proposals come forward outside of preferred areas and areas of search. The guidance contained in the NYMLP states that "the County Council considers that limited extraction around an existing quarry can be acceptable in principle to avoid either sterilising a resource or re-starting working at a later date after mineral working in the existing quarry has ceased". Policy 3/4 sets the framework for the grant of planning permission in respect of such small scale extensions. Planning permission was refused in February 2006 in respect of the previous application at Ladybridge Farm on the ground that it was not considered small scale. The scale of the current application in the terms of the tonnage of mineral proposed for extraction is, in comparison with the previous application, significantly reduced to 1.1m tonnes (previously 2.2m tonnes).

9.14 It is necessary to consider whether the substantial reduction in the scale of the proposal is such that it can now be considered small scale. The guidance contained in the NYMLP states that "due to the individual nature of mineral workings, it is not appropriate to quantify the term 'small scale' but the County Council will assess proposed extensions, including the deepening of quarries, against the following criteria – mineral quantity, working life, annual production and the geographical extent and scale in relation to the existing quarry area. Taking each of the four criteria specifically:-

- i) Mineral quantity - is approximately 1.1m tonnes which equates to 18% of the mineral reserve of 6.1m tonnes at Nosterfield Quarry for which planning permission was granted in 1995
- ii) Working life – At current rates of extraction on an average of 500,000 tonnes per annum the additional reserve would prolong the working life of Nosterfield Quarry by approximately two years. Due to the need to blend material with existing reserves annual production from the extension area will vary between 250,000 and 550,000 tonnes and working will last between two and four years. The existing time limit for the completion of mineral working and restoration will be set back from

October 2010 to October 2014, a total of four years to enable reworking of previous extraction areas within the existing Quarry and thereby fully exploit the mineral and avoid sterilisation of the remaining reserve on the existing Quarry.

- iii) Annual production would not increase and would remain at approximately 500,000 tonnes per annum. Given the existing productive capacity of the quarry plant Nosterfield Quarry it is inevitable that the volume of annual production will remain at this level. However, the site has the benefit of plant built to modern standards, and good direct access to the A1 such that the proposal would bring no significant adverse impact on residential and local amenity.

- iv) Geographical extent – the extended quarry area, that is the land take, equates to 33.6ha (31.7%) of the original 106 hectare permission. With the deletion of the deeper reserve on land to the south, the land take is affected by the relative shallowness of the reserve within the revised application site. Within this extended area the extraction area extends to 30.7ha with some 2.7ha comprising access and screen bund. The calculation of geographical extent is based on the extended quarry area (land take).

9.15 Advice as set out in the North Yorkshire Minerals Local Plan requires that an assessment of whether an extension is small scale must be judged in the context of the existing quarry area due to the individual nature of mineral workings. The "existing quarry area" is considered to be the extraction area, plant site and ancillary operations such as silt lagoon access and landscaped areas. Policy 3/4 applies to all existing quarries within the County, of which Nosterfield is one. It is the largest sand and gravel quarry in the County. Policy 3/4 seeks to provide for extensions to all sites in appropriate circumstances. In the specific context of Nosterfield Quarry and considering all the relevant criteria given in the supporting text to Policy 3/4 the proposed extension is judged to be small scale as defined by the specific criteria in Policy 3/4 and thereby accords with the adopted guidance in the North Yorkshire Minerals Local Plan. To interpret Policy 3/4 otherwise would exclude all large quarries such as Nosterfield from consideration under Policy 3/4 thus restricting the flexibility that this Policy seeks to provide for all sites to have proportionate small scale extensions in appropriate circumstances. The revised proposal at Ladybridge Farm would yield a relatively modest increase in mineral reserves at the site equating to two years production with no increase in existing production levels. The end date for restoration would be set back by four years to allow for full extraction of the mineral reserve.

9.16 Schedule 1 of the EIA Regulations requires the submission of a formal Environmental Statement where proposals come forward for the quarrying of land in excess of 25 hectares. This threshold is exceeded by the current application at Ladybridge Farm and a formal Environmental Statement has been duly submitted by the Applicant setting out a detailed assessment of

environmental impacts and mitigation measures. Representations submitted in relation to the application suggest that the existence of the 25 hectare threshold figure is relevant to whether the proposal could be reasonably described as a 'small scale extension'. The County Council as Mineral Planning Authority also considers this to be a relevant consideration but not one that is, in itself, determinative of scale. Rather it is one consideration that must be considered in the context of the application. Whereas this is an indication of the significance of this proposal in relation to the criteria set out by the EIA Regulations, assessment of the scale of the proposal in relation to Policy 3/4 must address the specific criteria set out at paragraph 3.2.9 of the NYMLP and dealt with at paragraph 9.14i – iv above.

- 9.17 Furthermore, MPS1 directs that the Mineral Planning Authority should consider the benefits of reduced environmental disturbance and more efficient use of mineral resources including full recovery of minerals as achieved through extensions to existing mineral workings rather than new sites. There is benefit in utilising the existing modern plant; the site has good access to the A1 and the retention of the production capacity that constitutes 20% of the County's sand and gravel production. Without the grant of a further permission, reserves would shortly be exhausted leading to the closure of the quarry and the potential sterilisation of the mineral reserve. As outlined in paragraph 9.7 above, it is calculated that the southwards distribution area landbank equates to around 5 years production and this represents a significant deficit in relation to the level of 7 years set down in MPS1 and Policy ENV4 of the Regional Spatial Strategy.

Landscape

- 9.18 A number of consultees have expressed concern with regard to the impact of the workings and proposed wet restoration scheme on the landscape. Mineral working has taken place in the vicinity of Nosterfield for a number of years and has led to a patchwork of restored sites.
- 9.19 Substantial areas of former mineral workings have been restored to wetland habitats. The current Nosterfield Quarry is currently being restored to a predominantly wet area, but there will also be a substantial area of reed bed and magnesian limestone grassland created.
- 9.20 The landscape of Ladybridge Farm and the surrounding area remains an agricultural landscape of large open fields. The area does not benefit from any national or local landscape designation, but was within the area defined in the Hambleton District Local Plan (adopted in 1999) as being an area of 'landscape enhancement' where it was considered that development can be used to bring about improvements to the landscape. However, the Policy relating to this designation (Policy L11) was not 'saved' under the Direction from the Secretary of State in September 2007. The applicant contends that as a result of mineral working at Ladybridge Farm, improvements can be made through the implementation of appropriate, high quality restoration schemes.

- 9.21 Whilst it is acknowledged that mineral working has resulted in significant changes to the nature of the landscape in the Nosterfield area, the majority of former mineral working has been, or is in the process of being restored and, as such, it is considered that the landscape proposals for working and restoration would provide a satisfactory level of mitigation of potential adverse impacts upon the landscape. A substantial area of land previously worked as part of Nosterfield Quarry to the south of Nosterfield village is now designated and managed as a Local Nature Reserve and noted as a key site of ornithological interest.
- 9.22 The Yorkshire and Humber Plan RSS Policy ENV10 states that “The Region will safeguard and enhance landscapes that contribute to the distinctive character of Yorkshire and the Humber ...”. It advises that various landscapes and related assets should be safeguarded and enhanced. The Ladybridge Farm application site is not within either of the National Parks, in any of the Areas of Outstanding National Beauty, in a coastal landscape, derelict or despoiled urban fringe. However the Ladybridge Farm area lies on a lowland area within the Landscape Character Area designated by Natural England as the ‘Southern Magnesian Limestone’. This zone stretches from Bedale south through Wetherby to Doncaster and Nottingham. Amongst its characteristics are intensively farmed arable land with large fields, estates parklands and woodland. Previous planning permissions at Nosterfield and at other quarries in the area near Ripon have already created additional wetland habitats in the area but it is not considered that these have a detrimental effect on the immediate environment and on long distance views. It is not considered that the proposed working and restoration will have an impact on the openness of the landscape of the District of Hambleton and neither will it have an impact on the Conservation Area of the village of Well as this designated zone is tightly drawn about the village and does not extend towards the application area.
- 9.23 No representations have been received from Hambleton District Council following the consultation in June 2008 that would indicate any conflict with Policy DP30 of the District Council’s Development Policies Document. Indeed the Policy states that “where possible opportunities should be taken to add appropriate character and distinctiveness through the contribution of new landscape features ...”. It is also considered that there is no conflict with Policy ENV10 of the Regional Spatial Strategy.

Ecology

- 9.24 As part of the production of the Environmental Statement the applicant has carried out a number of ecological surveys. Hambleton District Council’s Policy DP31 indicates that support will be given to the enhancement and increase in the number of sites and habitats of nature conservation value. Policy DP31 states that the interests of nature conservation must be taken into account, in accordance with national guidance. Both English Nature and the County Council’s Ecologist are of the opinion that the proposed development will not have any significant adverse effect on ecology. Part of the existing Nosterfield Quarry is already designated as a Local Nature Reserve. The restoration or creation of new habitats will be supported where

these contribute to the Biodiversity Action Plan, and to the targets, priorities and enhancement proposals of the RSS. It is considered therefore that there is no conflict with Policies DP30 and DP31.

(Source: Environmental Statement - Table 3: Distribution of Restored Landuses)

'DRY LAND' restoration of which	14.1 ha	'WET LAND' restoration of which	16.8 ha
Agriculture/pasture	3.2 ha	Marsh/marginal vegetation/reed fringe (water depth < 1.5m)	6.7 ha
Neutral grassland	8.1 ha	Shallow water (1.5m – 2.0m)	1.4 ha
Native broadleaved woodland	2.8 ha	Deeper water (> 2m deep)	8.7 ha

Site Restoration

- 9.25 The landscape restoration proposals are designed to significantly upgrade the nature conservation value and landscape character of the site that is currently in arable use. As set out in the table above a proportion of agricultural land is to be restored in the form of small pasture fields enclosed by hedgerows. One large and two small water bodies would be created. Extensive areas of native broadleaved woodland would be planted together with the creation of areas of neutral grassland, marginal vegetation and reed bed. (Note: By definition, neutral grassland is neither strongly acidic as occurs on heathlands or strongly alkaline as with chalk grasslands. They often occur on damp soils.)
- 9.26 The Environmental Statement indicates that the proposed area of extraction is Grade 3a agricultural land. Therefore as stated in PPS7 the presence of this best and most versatile agricultural land must be taken into account alongside other sustainability considerations such as the creation of biodiversity, the quality and character of the landscape and its amenity value or heritage interest, etc. PPS7 also states that “if any undeveloped agricultural land needs to be developed, any adverse effects on the environment should be minimised” and that the decision to allow development on best and most versatile agricultural land should carefully weigh the options in the light of competent advice. The Yorkshire and Humber Plan Regional Spatial Strategy Policy ENV7 also advises that if development of agricultural land is required it should take place on poorer quality land wherever possible and appropriate. However, it also states that development of agricultural land in appropriate locations will be encouraged for wildlife habitat creation schemes.
- 9.27 MPG7 acknowledges in paragraph 3 that the overall standards of reclamation have improved in recent years, and that with the implementation of appropriate

reclamation techniques there is potential for land to be restored to a high standard suitable for a variety of uses. This may lead to the release of some areas of land which would not otherwise be made available for mineral working. It gives as an example that this may include best and most versatile agricultural land. However it also acknowledges that where there is serious doubt whether satisfactory reclamation can be achieved at a particular site, then there must also be a doubt whether permission for mineral working should be given. Objectors have questioned whether the proposed reclamation at Ladybridge Farm will be satisfactory.

- 9.28 Paragraph 13 of MPG7 states that “Where minerals underlie the best and most versatile agricultural land it is particularly important that restoration and aftercare preserve the long-term potential of the land as a national, high quality, agricultural resource.” However Government policy seeks also to encourage the diversification of the rural economy “where this will not result in the significant loss of high quality agricultural land” but it acknowledges that whilst agriculture remains the most appropriate after-use for many mineral sites, other uses such as nature conservation should also be considered on land which was originally in agricultural use. Where these alternatives are proposed on the best and most versatile agricultural land, the methods used in restoration and aftercare should enable the land to retain its longer-term capability to be farmed to its land classification potential, thus remaining a high quality agricultural resource for the future.
- 9.29 Whilst it is acknowledged that the proposed extraction will lead to the loss of 16.8 hectares to ‘wet’ restoration the remainder will be restored to dry restoration. No objections were raised by DEFRA in 2006 because the area of best and most versatile land that would be lost as a result of the development is not regarded as significant in terms of the national agricultural interest. Furthermore, no objections have been subsequently raised by Natural England, a statutory organisation that includes the land management team which was formerly part of DEFRA. The proposed restoration plan will create 8.7 hectares of deep water, 6.7 hectares of marsh is also to be created which will benefit the biodiversity of the area by creating additional habitat. It is considered that on balance this is not in conflict with the guidance given in MPG7, PPS7 and Policy ENV7 of the Regional Spatial Strategy. It is also considered that there is no conflict with the principles of Policy 4/18 in that agriculture whilst is not the intended primary afteruse and there will be some loss of best and most versatile land the proposed restoration scheme should provide for the best practicable standard of restoration.
- 9.30 The application area lies within the aerodrome safeguarding area for RAF Leeming. Whilst Defence Estates has no objection in principle to the development, concerns have been expressed about the potential for the restoration scheme to attract increased numbers of wading birds and thereby increase the risk of bird strike to aircraft using RAF Leeming. It is therefore recommended that if planning permission were to be granted it should be subject to the imposition of a planning condition requiring the submission of a detailed scheme of restoration.

Residential Amenity

9.31 The proposed site is located further away from the village of Nosterfield than current mineral workings, but is closer to the village of Thornborough. Hambleton District Council's Environmental Health Officer (EHO) has confirmed that no complaints with regard to operations at the site have been received in the last five years. However, the EHO has recommended a number of conditions relating to dust and noise in order to protect residential amenity from any potential adverse impact.

9.32 The site is well served by the B6267 and the route taken by HGVs exiting the site does not pass any residential properties, other than Upsland Farm that is set some way back from the public highway. The Highway Authority has recommended several conditions that it is considered would ensure highway safety. It is therefore considered that the proposed development would have no significant adverse impact upon residential amenity and accords with Policies 4/13 and 4/14 of the NYMLP.

Hydrology and Hydrogeology

9.33 The proposed site is to be worked wet with no dewatering. Concerns have been expressed by objectors to the potential eutrophication (nutrient over-enrichment) of the proposed wetlands. However, the Bedale and Upper Swale Internal Drainage Board raises no objection to the proposal and, subject to the imposition of conditions relating to groundwater monitoring and dewatering, the Environment Agency raises no objection. It is therefore considered that the proposal accords with 'saved' Policy 4/10 of the NYMLP.

Employment

9.34 The NYMLP sets the aim "to sustain the contribution of mineral related employment to the rural economy", similarly the Hambleton District Local Plan 1999 had as one of its objectives "To encourage economic activity in rural areas to provide a wider more varied choice of employment for the rural community, where this can be accommodated without serious planning problems".

9.35 The refusal of planning permission would lead to the closure of Nosterfield Quarry with the loss of 15 jobs at the site directly employed by the applicant and have wider implications for those local hauliers and contractors with whom the developer carries out business. Nosterfield Quarry is also the largest sand and gravel quarry in North Yorkshire and makes a significant contribution to mineral supply at a sub-regional level.

Conservation Plan

9.36 Under the guidance of the Thornborough Henges Consultation and Working Group, English Heritage has in partnership with Tarmac and North Yorkshire County Council commissioned the preparation of a Conservation Plan for the Henges and their immediate surroundings (essentially Thornborough Moor). This Plan deals specifically with the significance of the Thornborough Henges and the future management options for them. However, this Plan is still at draft stage having been subject to public consultation in February 2006 but has not formally been signed off by the Thornborough Henges Consultation and Working Group. It has not been adopted by the County Council for use in

development control matters. If formally signed off the Conservation Plan may be relevant during the consideration of future submissions made under the terms of planning conditions or the proposed Section 106 agreement, should Members resolve to grant planning permission to this application. It is not considered that the evolving Heritage Bill is yet at a stage where it would be a material consideration as it is still potentially subject to change.

Tourism

- 9.37 This is as stated in Policy E6 of the Regional Spatial Strategy is an integral contributor to the economy. The Nosterfield Local Nature Reserve and its associated visitor centre already has the scope to attract visitors and the current proposal will build on this diversity by increasing the area of wetland. This proposal is not considered to affect the Henges, so they will remain as a locally cultural distinctive feature of the historic environment of the area. Aftercare of mineral developments is usually for 5 years post-restoration, but it is proposed as part of the Section 106 Legal Agreement to secure the long-term management of the site. The application for this development has been on the public register since 2006 and a copy of the draft legal agreement has been on the public register since April 2008. It is therefore considered that there is no conflict with the principles of Policy E6 of the Regional Spatial Strategy.

10.0 ARCHAEOLOGICAL ASSESSMENT

- 10.1 The previous application (C2/92/500/53) attracted a significant objection from English Heritage who recognised that the south-west part of the Ladybridge Farm site contained nationally important archaeological remains relating to the Neolithic and Bronze Age periods. Other objections were received from the Council for British Archaeology and the Yorkshire Archaeological Society as well as two pressure groups, the Friends of Thornborough Henges and Timewatch.
- 10.2 The applicant undertook additional archaeological assessment in response to criticism from several objectors, notably English Heritage, that the archaeological remains in the application site had not been adequately characterised by earlier assessments. Officers of the County Council's Heritage Section worked closely with English Heritage and the applicant's archaeological consultants to agree a methodology for implementing further archaeological evaluation of the application site. The principle objective of this investigation was to define the limits of Neolithic/Early Bronze Age features recorded previously in the south-west corner of the Ladybridge Farm site and further characterise the nature of those remains.
- 10.3 The additional work was carried out in October and November 2005 and the resulting 200 page report was presented at the end of December 2005 as being further information as defined by the EIA Regulations.
- 10.4 English Heritage, the Council's Heritage Section and the Council for British Archaeology subsequently agreed that the additional work at Ladybridge Farm

was of a very high quality and, most importantly, that the archaeology was sufficiently characterised to allow an assessment of significance to be undertaken. The sample size of the assessment was increased from 2% to 6% of the total application area.

- 10.5 The report confirmed that features of Neolithic/Bronze Age date, generally in the form of pits are confined to an area of slightly higher land in the south-west part of the application site. This higher ground, defined in the report as an area of potential, exists as a promontory of dry gravel extending northward to Ladybridge Farm. The further work allowed a more refined model of the landform in the prehistoric period to be proposed. The majority of the application site to the north appears to have been an area of wet and boggy ground, unsuited to human settlement or significant activity.
- 10.6 In terms of the land form model, the most significant archaeological potential is therefore in the south western part of the Ladybridge Farm site, approximately 33% of the extraction area of the previous application submitted under reference C2/92/500/53A.
- 10.7 English Heritage, in a letter of 27 January 2006, stated that the report identified a clear relationship between the prehistoric activity on Ladybridge Farm and a much wider area that they refer to as Thornborough Moor, which includes the scheduled Thornborough Henges. They stressed that the original assessment and the further assessment had identified a “swathe of nationally important early prehistoric archaeology and activity from the Nosterfield site into Ladybridge Farm”. They also noted, in agreement with the report that the significant archaeology lay in the southern part of the application site. English Heritage went on to state that the application “will have a clear and negative impact on nationally important archaeology”. They concluded that this should be “...preserved in situ”.
- 10.8 The revised application boundary avoids the area containing nationally important archaeological remains that had previously been identified through archaeological assessment associated with the previous application (C2/92/500/53A) to extract sand and gravel from Ladybridge Farm, Moor Lane.
- 10.9 This same archaeological assessment, as summarised in Appendix VII of the Environmental Statement concludes that the current application area is very unlikely to contain nationally important archaeological remains. The applicant concludes, on page 14 of Appendix VII that, “...the revised area of mineral extraction is characterised by an area of marginally low lying land which would have been wet, boggy and unsuitable for occupation, settlement or burial until the post medieval period.” The applicant further suggests that, “...it is highly unlikely that early prehistoric archaeological remains will be present in the area of mineral extraction.”
- 10.10 English Heritage has accepted the archaeological deposit model set out in the applicant’s Environmental Statement and has stated that “the archaeological evaluations have adequately characterised the deposits within the Ladybridge

Farm site”, a view shared by the County Council’s Heritage Section. The evaluation has therefore fulfilled all PPG16 and North Yorkshire Minerals Local Plan and Hambleton District Council Local Development Framework Development Policies requirements relating to the assessment of archaeological remains.

- 10.11 The applicant recognises that despite the 6% evaluation there is clearly potential for archaeological remains to exist in the application area. The applicant has therefore put forward a mitigation strategy that is iterative (subject to review), of a high standard, follows current best practice, and allows for research level investigation or preservation in situ in exceptional circumstances as required.
- 10.12 The County Council’s Heritage Section is of the opinion that the concerns raised by English Heritage in their letter of 11 September 2006 have largely been addressed by the applicant in their further clarification of 24 October 2006. The outstanding issues raised in English Heritage’s letter of 14 December 2006 and subsequent correspondence from 2008 can be secured through a 106 Agreement. Other objections have also either been dealt with or are not material to a determination of this application apart from the matter of the setting of nationally important archaeological remains which is dealt with below.
- 10.13 Many of the objectors to the previous application were concerned that the setting of Thornborough Henges would be adversely affected by development of the Ladybridge Farm site. This concern has also been expressed by a number of the same objectors in relation to this revised application. Planning Policy Guidance 16, Archaeology and Planning, states in paragraph 27, “... where nationally important archaeological remains, whether scheduled or not, and their settings, are affected by proposed development there should be a presumption in favour of their physical preservation in situ ie, a presumption against proposals which would involve significant alteration or cause damage, or which would have a significant impact on the setting of visible remains”.
- 10.14 Both English Heritage and the County Council’s Heritage Section are satisfied that, in the context of this revised application, the visual setting of the Scheduled (and therefore nationally important) Thornborough Henges will not be affected by the proposed development as the area of extraction will not be visible from either of the three henges at ground level.
- 10.15 In the context of the previous application, both English Heritage and the County Council’s Heritage Section had been extremely concerned about the impacts of development on buried nationally important archaeological remains forming part of the wider prehistoric landscape that provided archaeological context as distinct from visual setting for the Thornborough Henges and other contemporary archaeological sites.
- 10.16 Regional Spatial Strategy RSS Policy ENV9 states that the Yorkshire and Humber Region will safeguard and enhance the historic environment, and ensure that historical context informs decisions about development and regeneration. It advises that various regionally-distinctive elements of the historic environment should be conserved, and their character enhanced and

distinctiveness reinforced. This includes the prehistoric landscape of the Southern Magnesian Limestone Ridge (of which the Thornborough Henges is a part).

- 10.17 The revised application successfully preserves in situ, archaeological remains of national significance, identified through the archaeological assessment of the Ladybridge Farm site.
- 10.18 The proposed mitigation strategy takes account of the concerns of English Heritage and the County Council's Heritage Section and proposes a high quality response.
- 10.19 It is considered that there are now no grounds for refusing this application on matters relating specifically to archaeology and the proposals accords with the principles of both PPG16 and Policy ENV9 of the Regional Spatial Strategy. However, the long term preservation of nationally important archaeological remains to the south of the application area is still uncertain and hence it is recommended that any future planning approval should be subject to a Section 106 Agreement covering the following issues:
- The development of a long-term management plan for the nationally important archaeological remains to the south of the application area at Ladybridge Farm;
 - Agreement on timetables for the investigation and publication of archaeological work in the Nosterfield area.
- 10.20 A copy of the draft of the Section 106 Agreement between the relevant parties was placed on the public register at Hambleton District Council's offices in Northallerton in April 2008. The current version (amended to reflect the fact that Tarmac Limited is now the owner rather than Tarmac Northern Limited) is attached at Appendix 2. Any comments received will be reported orally. The main provisions that include those requirements set out above are:-
- Lorry routing
 - The long-term management plan
 - Restoration and aftercare plan
 - Bird management plan
 - Scheme of reduced cultivation
 - Scheme of archaeological investigation and publication

11.0 CONCLUSION

11.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that unless material considerations indicate otherwise the proposal must be determined in accordance with the planning policies of the Development Plan currently in force.

11.2 In this case the most relevant development plan is the North Yorkshire Minerals Local Plan, the policies of which seek to interpret national and regional policies in the context of mineral working within North Yorkshire. Other significant guidance and relevant policy considerations in the context of determining this application include MPS1, MPS2, the Regional Spatial Strategy, PPS7,

PPG16 and the Hambleton District Council Local Development Framework Development Policies.

- 11.3 Following consideration of this application at the meeting on 16 January 2007, and in response to conditions recommended by the Environment Agency a further detailed assessment of hydrology and hydrogeology has been undertaken. A detailed critique has been presented by the Friends of Thornborough Henges rejecting the findings. However, the Environment Agency, the Government's Statutory Adviser on groundwater issues has made a detailed response and confirms that the further submission by the applicant satisfies the requirements for an appropriate hydrogeological risk assessment. Updates to the baseline survey information in the Environmental Statement have also been provided and considered.
- 11.4 It is considered that the proposal accords with the aims of the NYMLP in that the applicant has submitted a scheme which would protect archaeological interests, give rise to no significant adverse impact upon local amenity in accordance with Policy 4/14 of the NYMLP, would see the phased restoration of the site to a mix of afteruses, would contribute to the short term supply of minerals and sustain employment in the area.
- 11.5 Current Government advice in MPS1 states that landbanks should be maintained at an appropriate level of permitted reserves as far as practicable from outside National Parks and Areas of Outstanding Natural Beauty. This is further emphasised in the Regional Spatial Strategy which advises that Mineral Planning Authorities should make provision for the sub-regional apportionments and endeavour to maintain a landbank for all nationally and regionally significant minerals. Nosterfield Quarry is in neither of these designated areas and supplies mineral for the southern area landbank. This landbank currently has a reserve of around 5 years, which is significantly below the minimum 7 year requirement set out in MPS1. The landbank reserve is likely to continue to fall pending the allocation of additional preferred areas through the Local Development Framework, which is expected to be adopted in 2009. There are other outstanding applications for sand and gravel extraction; however, these are still to be determined and each application must be considered on its individual merits.
- 11.6 Policy 3/4 of the NYMLP is relevant to the determination of this planning application. Nosterfield Quarry is the largest sand and gravel quarry in North Yorkshire. However, in the context of the existing quarry the current proposals have been reduced by 50% in terms of mineral volume and now propose the working of 1.1m tonnes of sand and gravel (approximately 18% of the original quarry reserve) and equating to two years production from the Quarry. The end date for restoration would be set back for four years in total to allow for better recovery of existing reserves. Without the further grant of planning permission those reserves would be sterilised. The land take of the extension area as revised has been significantly reduced, but not halved, as is the case in the reduction in mineral volume. This arises due to the thinning of the gravel reserve in the revised site, which extends to 33.6 hectares. The land now omitted from the proposal had a significantly deeper reserve. Production will continue at approximately 500,000 tonnes per annum which brings no increase over and above the existing workings, and which, over the working life of the quarry, have not led to any material adverse impact or harm to local amenity.

Although exceeding the threshold of 25 hectares set out in the EIA Regulations for the requirement of an Environmental Statement, that threshold is prescribed for that particular purpose and there is no equivalent threshold under the Development Plan policy. It is considered that the current proposal constitutes a small-scale extension when taken within in the context of existing Nosterfield Quarry and thereby accords with 'saved' Policy 3/4 of the NYMLP.

- 11.7 Nosterfield Quarry plays an important role in the supply of sand and gravel in North Yorkshire comprising 20% of the County's supply. The further grant of planning permission will secure important productive capacity for an additional four years. The refusal of planning permission would lead to the exhaustion of permitted reserves at the site leading to increased pressure at other sites and locations.
- 11.8 Extensive archaeological research has been undertaken and, although there remain a number of archaeological bodies and individual archaeologists raising objection, the Government's statutory adviser on archaeology, English Heritage and the County Council's Heritage & Environment Manager do not object to the revised proposals now that the southern most part of the site has been omitted from the application proposals. Archaeological surveys had indicated that there were, or are, archaeological remains of national importance in this deleted area which should be preserved in situ. The visual setting of the Scheduled Monument of Thornborough Henges will not be adversely affected by the proposed development. It is therefore considered that the proposal accords with the principles of PPG16 and Policy DP29 of the Hambleton District Council Local Development Framework Development Policies.
- 11.9 The declining reserve within the southern sand and gravel landbank now constitutes a significant deficit with only 5 years supply as opposed to the recommended level of 7 years. The interpretation of Policy 3/4 of the NYMLP regarding small-scale extensions is an important issue in determining this application. However, the determination of the revised application does not rest solely on this one issue. There are a number of other relevant material considerations which have been highlighted above.
- 11.10 Whereas the recommendation to Members in respect of the previous application (C2/92/500/53A) was one of refusal as it was considered to be contrary to the policies of the North Yorkshire Minerals Local Plan in respect of both archaeology and mineral supply, this is not considered to be the case in respect of this revised application. The revised application (C2/06/01616/CCC) does not conflict with relevant planning policies in respect of archaeology and mineral supply and it is recommended that planning permission be granted.
- 11.11 Whilst it is acknowledged that the proposed extraction will lead to the loss of 16.8 hectares of best and most versatile agricultural land to 'wet' restoration the remainder will be restored to dry restoration. DEFRA did not object in 2006 because the area of best and most versatile land that would be lost as a result of the development was not regarded as significant in terms of the national agricultural interest.

No objections have been subsequently raised by Natural England, a statutory organisation that includes the land management team that was formerly within DEFRA. It is not considered that on balance this is conflict with the guidance given in MPG7, PPS7 and Policy ENV7 of the Regional Spatial Strategy in respect of protection of best and most versatile agricultural land.

12.0 HUMAN RIGHTS ACT 1998

- 12.1 All decisions relating to planning matters should take into account the relevant sections of the Human Rights Act 1998 (HRA) and although the report as a whole considers the impact of granting permission on both the locality and those living within it, the specific issues are set out in this section.
- 12.2 Article 8 of the HRA sets out the right to respect for private and family life, home and correspondence whilst Article 1 of Protocol 1 sets out the right to peaceful enjoyment of possessions and protection of property.
- 12.3 The action of allowing the extension to the quarry could result in an interference to the homes and family life of local residents and although the report concludes at paragraph 9.32 that the impact on residential amenity will be minimal, this impact must be balanced against the public interest purpose in granting the permission.
- 12.4 In this case any interference with human rights that arises from the grant of permission has been considered to be minimal and can be considered proportionate to the purpose of the Authority in allowing the extension to the quarry to proceed.

13.0

RECOMMENDATION

13.1 That following due consideration of the Environmental Statement, other Environmental Information [as defined by the Town & Country Planning (Environmental Impact Assessment) Regulations 1999] and all other material considerations, it is recommended that subject to prior completion of a Section 106 Agreement to cover matters detailed at (a) below PLANNING PERMISSION BE GRANTED subject to conditions to cover the matters detailed at (b) below for the following reasons:-

- (i) The development accords with national objectives and policies for minerals planning as stated in Mineral Policy Statement 1 published by Department for Communities and Local Government in November 2006 and Mineral Policy Statement 2 published by the Office of the Deputy Prime Minister in 2005.
- (ii) The development accords with 'saved' Policy 3/4 of the North Yorkshire Minerals Local Plan, which states that outside Preferred Areas and Areas of Search planning permission for aggregate mineral working will normally only be granted for borrow pits and small scale extensions to existing sites.

Due to the individual nature of mineral workings the assessment of small scale extensions will be based on mineral quantity, working life, annual production and the geographical extent and scale in relation to the existing quarry area and it is considered that this development does fit within the criteria.

- (iii) The development does not conflict with the guidance in respect of best and most versatile land in Planning Policy Statement 7 (2004).
- (iv) The development accords with the aims and objectives and 'saved' Policies 4/1, 4/10, 4/13 and 4/14 of the North Yorkshire Minerals Local Plan (1997).
- (v) The proposed mitigation measures will protect archaeological interests.
- (vi) The development will contribute to the maintenance of the County Council's landbank of permitted reserves and ensure the County's adequate contribution to the region's aggregate requirements in accordance with Mineral Policy Statement 1 and Policy ENV4 of The Yorkshire and Humber Plan Regional Spatial Strategy to 2026.
- (vii) The imposition of conditions as recommended by the Environment Agency will protect the water environment.
- (viii) The imposition of appropriate conditions will further limit the potential impact of the development on the environment and residential amenity.
- (a) The GRANT OF PLANNING PERMISSION shall be SUBJECT TO A SECTION 106 LEGAL AGREEMENT TO COVER THE FOLLOWING MATTERS:

- (a) Traffic Routing
- (b) Development of a long term management plan for the nationally important archaeological remains to the south of the application

RICHARD FLINTON
Corporate Director, Business & Environmental Services

Background Documents

Application Files

(Application Ref : C2/06/01616/CCC)

Environmental Statement

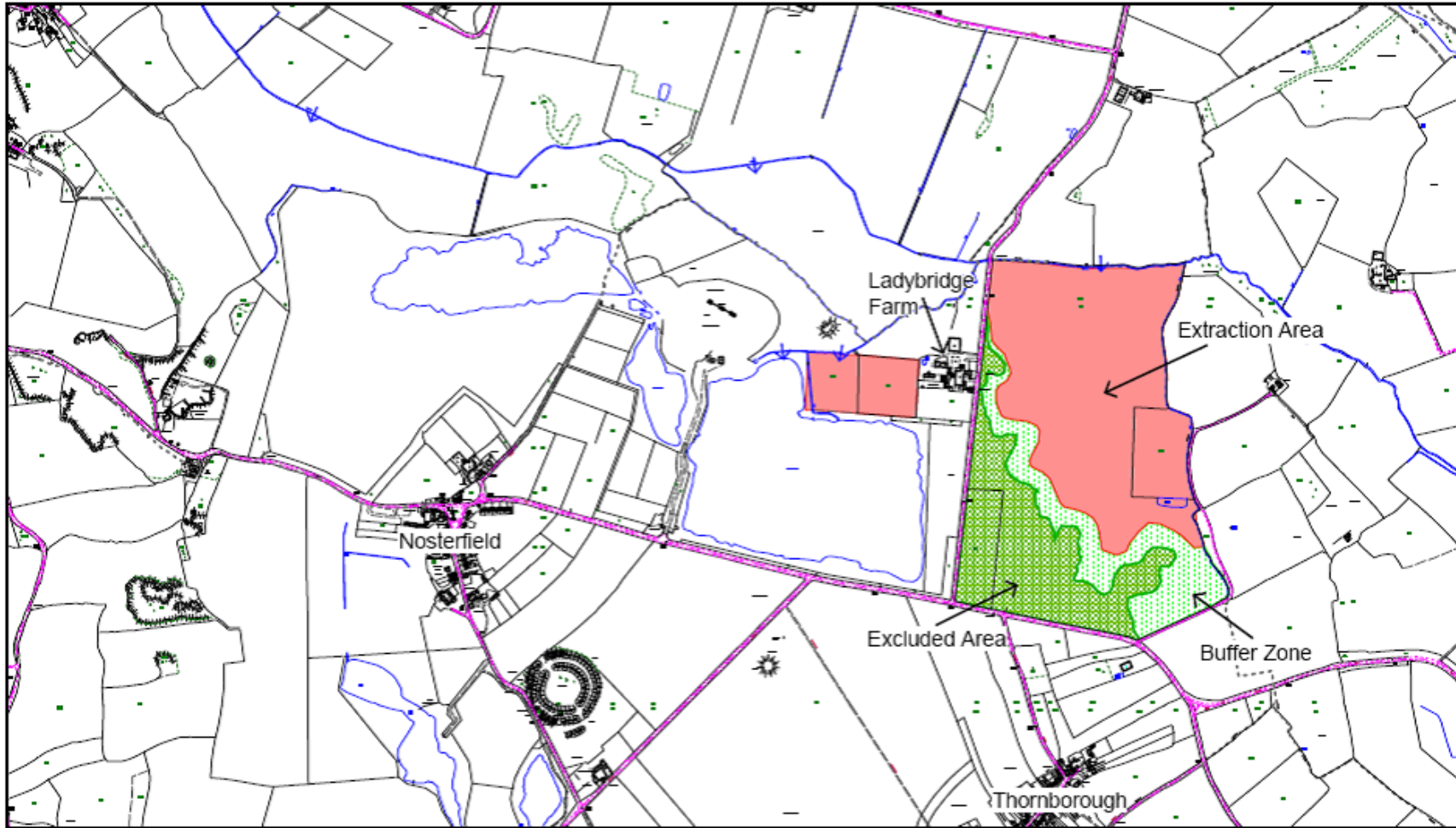
Other information as defined by the Town & Country Planning (Environmental Impact Assessment) Regulations 1999 and including:

Consultation responses and representations

Regional Aggregates Working Party Annual Report 2006

Further information regarding Hydrology and Hydrogeology received in March and June 2008

Case Officer: Rachel Pillar



TITLE:
Application accompanied by an Environmental Statement for the extraction of sand and gravel at Ladybridge Farm, Thornborough

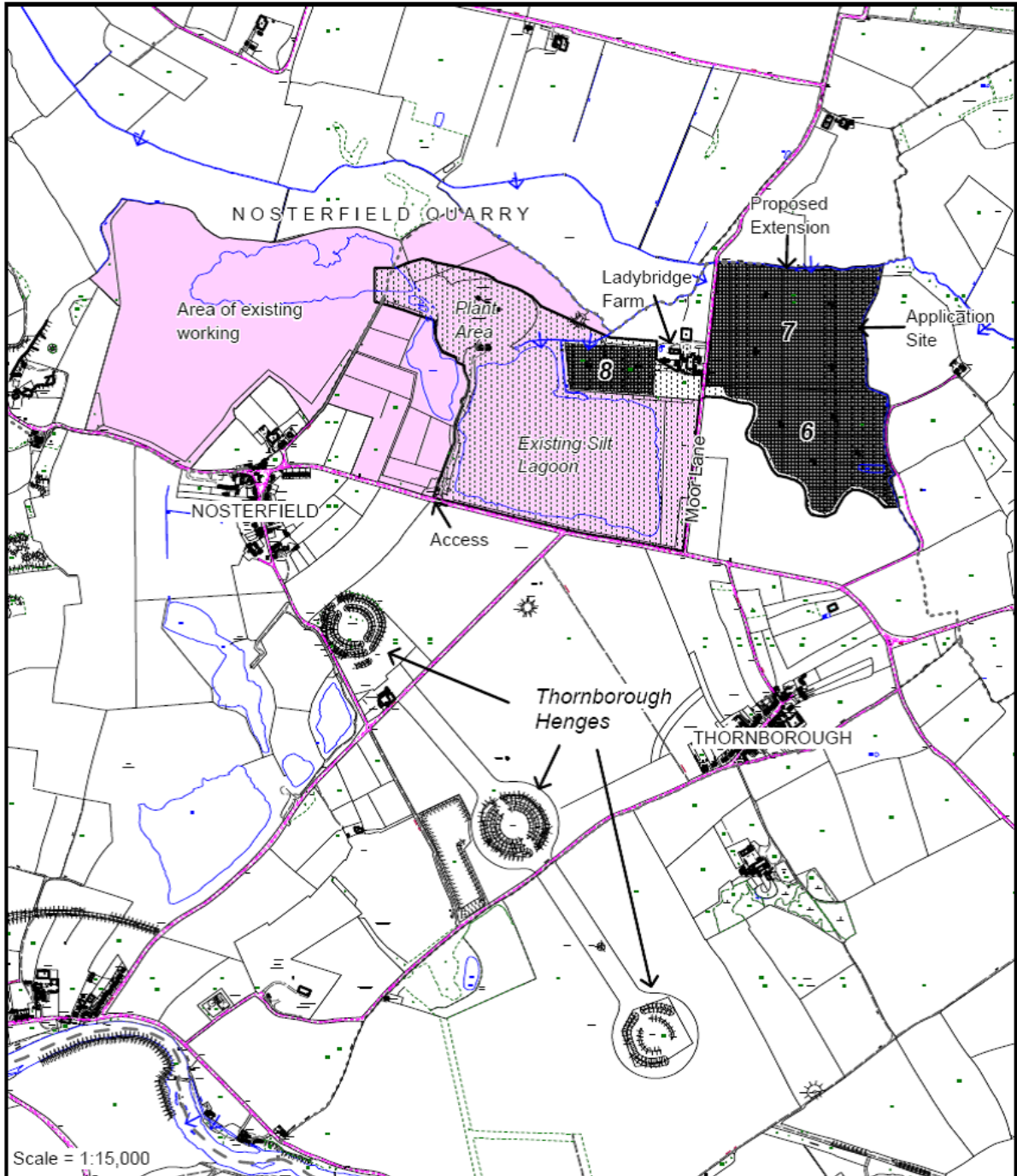
Revised extraction area Area of Archaeological Potential Buffer Zone

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Business and Environmental Services
 North Yorkshire County Council
 County Hall,
 Northallerton,
 North Yorkshire
 DL7 6AH

COMPILATION & ANALYSIS: HD
 DATE: 26 August 2008
 FILENAME: Ladybridge Farm



Application accompanied by an Environmental Statement for the extraction of sand and gravel at Ladybridge Farm, Thornborough

Application Site  Working phases 6 - 8 



Environmental Services
North Yorkshire County Council
County Hall,
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DL7 8AH

COMPILATION & ANALYSIS: HD
DATE: 26 August 2008
FILENAME: Ladybridge Farm

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**FULL PLANNING APPLICATION (C2/06/01616/CCC) ACCOMPANIED BY AN
ENVIRONMENTAL STATEMENT FOR THE EXTRACTION OF SAND AND
GRAVEL AND MODIFICATION OF CONDITION 2 OF PLANNING PERMISSION
REF: C2/92/500/53, LADYBRIDGE FARM, THORNBOROUGH FOR TARMAC
NORTHERN LTD**

**DRAFT
PLANNING CONDITIONS**

Definition, Commencement and Duration of Development

1. The development hereby permitted shall be begun on or before (3 years). Written notification of the date of commencement shall be forwarded to the County Planning Authority within seven days of the commencement.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The permission hereby granted in respect of mineral extraction and processing is valid only until 31 October 2014 and the mineral extraction and processing operations hereby approved shall be discontinued and the land shall be restored in accordance with conditions numbered 7, 8, 39 and 40 before 31 October 2014.

Reason: To reserve the rights of control by the County Planning Authority to ensure restoration of the land with the minimum of delay in the interests of amenity in accordance with 'saved' Policy 4/1 of the North Yorkshire Minerals Local Plan (1997).

3. The development hereby permitted shall be carried out in accordance with the application details and supporting Environmental Statement dated 4 July 2006 as amended by the details attached to the letter reference N051/P/00213 dated 20 March 2008 and further amended by the details attached to the letter referenced N051/P/0028 dated 6 June 2008 and in accordance with such other details as may be subsequently approved in writing by the County Planning Authority.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details and in accordance with 'saved' Policy 4/1 of the North Yorkshire Minerals Local Plan (1997).

Phasing of Extraction

4. The removal of existing quarry plant, buildings, associated structures and stockpiles of minerals and the extraction of sand and gravel from beneath the existing plant shall take place in accordance with details specified in part 5 of the planning application reference C2/92/500/53 dated 29 May 1991 or in accordance with such other details as may be subsequently approved in writing by the County Planning Authority.

Reason: To ensure early restoration of the existing plant site in accordance with 'saved' Policy 4/1 of the North Yorkshire Minerals Local Plan (1997).

5. The mineral extraction hereby permitted shall take place only in accordance with the phasing arrangements indicated on Drawing L93/10C unless otherwise approved in writing by the County Planning Authority.

Reason: To secure an orderly and progressive pattern of working and restoration of the site in accordance with 'saved' Policy 4/1 of the North Yorkshire Minerals Local Plan (1997).

6. Unless otherwise agreed in writing with the County Planning Authority, following the removal of sand and gravel from beneath the existing quarry plant the haul road linking the existing plant site and Thornfield Road and the access points to Green Lane and Thornfield Road shall be removed and the land restored to a condition suitable for agricultural use, in accordance with details to be submitted for the written approval of the County Planning Authority.

Reason: In the interest of amenity in accordance with 'saved' Policy 4/1 of the North Yorkshire Minerals Local Plan (1997).

Detailed Working and Restoration Schemes

7. Prior to commencement of extraction in each phase a detailed scheme of working and restoration shall be submitted to and approved in writing by the County Planning Authority. Such scheme shall give details of:

Soil Handling

- (i) Timing, phasing and method of stripping of topsoils and subsoils
- (ii) Location, height and treatment of soil storage mounds
- (iii) Depth of topsoils and subsoils to be separately stripped
- (iv) Measures to be taken to prevent soil smearing during stripping, handling, storage or replacement

Working Programme

- (v) Extent, depth and direction of working
- (vi) Phasing of dry/wet extraction and specification of excavation plant
- (vii) Retention of unexcavated margins and height and slope of working phases
- (viii) Erosion control measures

Agricultural Restoration

- (ix) Timing, phasing and method of replacement of subsoils and topsoils including depth of restoration soil layers

Nature Conservation Restoration

- (x) Location of shoreline to include promontories and bays
- (xi) Shoreline treatment to include gradients of water margins and specification for planting, soil/shingle covering
- (xiii) Retention and protection of peat soils

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

Reason: To secure an orderly and progressive pattern of working and a high standard in restoration in accordance with 'saved' Policy 4/1 of the North Yorkshire Minerals Local Plan (1997).

Annual Review Meeting

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

Reason: To secure an orderly and progressive pattern of working and restoration of the site in accordance with 'saved' Policy 4/1 of the North Yorkshire Minerals Local Plan (1997).

Access and Parking

9. There shall be no access or egress between the highway and the application site by any vehicles other than via the existing access with the public highway at the B6267. This access shall be used for all vehicular movements to the site save for hauling of extracted materials which may use haul road crossing of Moor Road. There shall be no other use of the haul road crossing to Moor Road. The access to the B6267 shall be maintained in a safe manner which shall include the repair of any damage to the existing adopted highway occurring during construction.

Reason: In the interests of both vehicle and pedestrian safety and the visual amenity of the area in accordance with 'saved' Policies 4/13 and 4/14 of the North Yorkshire Minerals Local Plan (1997)

10. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works hereby permitted until full details of the following have been submitted to and approved in writing by the County Planning Authority in consultation with the Highway Authority:
- i) the haul route crossing of Moor Road
 - ii) traffic management proposals for the haul route crossing of Moor Road.

Reason: To ensure appropriate on-site facilities in the interests of highway safety and the general amenity of the area in accordance with 'saved' Policies 4/13 and 4/14 of the North Yorkshire Minerals Local Plan (1997)

Informative: The proposals shall cater for all types of vehicles that will use the site. The parking standards are set out in the North Yorkshire

publication 'Transport Issues and Development – A Guide' available at www.northyorks.gov.uk

11. No part of the development shall be brought into use until the approved haul route crossing of Moor Road approved under Condition No. 10 is available for use. Thereafter once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:_____To provide for appropriate on-site facilities in the interests of highway safety and the general amenity of the area in accordance with 'saved' Policies 4/13 and 4/14 of the North Yorkshire Minerals Local Plan (1997)

Precautions to prevent material being deposited on the highway

12. Precautions, including if necessary the provision of wheel cleaning facilities, shall be taken and maintained to ensure that all vehicles leaving the site are in a clean condition, such that no dirt and/or mud are deposited on the public highway by vehicles travelling from the site.

Reason: In the interests of highway safety and safeguarding the local environment in accordance with 'saved' Policies 4/13 and 4/14 of the North Yorkshire Minerals Local Plan (1997).

Archaeology

13. No development shall take place within the application site until the applicant has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation submitted by the applicant and approved by the County Planning Authority.

Reason: To ensure that archaeological remains are preserved by record in accordance with advice as set out in Planning Policy Guidance Note 16.

Protection of soils

14. No topsoil, subsoil or overburden shall be removed from the site and all such materials shall be utilised in the restoration of the site in accordance with restoration schemes required by Condition 7.
15. Except with the prior written approval of the County Planning Authority, no stripping, movement, replacement of topsoil or subsoil shall be carried out during the months of October to March (inclusive).
16. Notwithstanding the requirements of condition 15 above the stripping, movement, replacement or cultivation of topsoil and subsoil shall only be carried out when the soils are sufficiently dry and friable to avoid soil smearing and compaction.
17. Topsoil and subsoil shall be stored separately from each other in such locations as shall first be approved in writing by the County Planning Authority.

18. Restoration to agricultural purposes of those areas identified in the application shall take place in accordance with the specification as set out by DEFRA in the letter dated 16 August 2006.

Reason (14-18): To protect soil resources in the interests of achieving a good standard of agricultural restoration in accordance with 'saved' Policy 4/18 of the North Yorkshire Minerals Local Plan (1997).

Ground and surface water monitoring

19. Prior to the commencement of development, a detailed scheme for the continued monitoring of groundwater and surface water shall be submitted to and approved in writing by the County Planning Authority. Thereafter, during the carrying out of the development permitted by this planning permission, monitoring shall be undertaken in accordance with the approved scheme. Monitoring results will be reported to the County Planning Authority within one year of the commencement of development and at annual intervals thereafter.
20. The surface water monitoring results shall be used to obtain a stage discharge relationship for Ings Goit. The initial stage discharge relationship shall be submitted to the County Planning Authority within one year of commencement of development and shall be updated at annual intervals from the initial submission thereafter.
21. No dewatering shall take place unless with specific prior written agreement from the County Planning Authority.
22. An outflow from the water body which develops as a result of mineral extraction in the Ladybridge extension will be made along the northern end of the ditch which runs from Ings Goit (in the north) to the track to Upland (in the south). The water level in the outflow channel will be regulated via a variable control structure to maintain a water level of approximately 38.0 metres Above Ordnance Datum, unless the County Planning Authority agree otherwise in writing.
23. Prior to the commencement of development, a detailed scheme for the emplacement around the perimeter of the Ladybridge extraction void of all topsoil, subsoil, over-burden, inter-burden, and basal deposits from within the Ladybridge extension mineral extraction area shall be submitted to and approved in writing by the County Planning Authority. Thereafter, emplacement of this material shall be undertaken in accordance with the approved scheme. In this context, the term "interburden" is defined as those horizons within the sand and gravel extraction area which are not suitable for mineral extraction.

Reasons 19-23: For the protection of the water environment in accordance with 'saved' Policy 4/10 of the North Yorkshire Minerals Local Plan (1997) and to ensure the hydrogeological and hydrological impact is mitigated as identified in the impact assessment.

Surface Water Drainage

24. No development which would constitute a permanent obstruction, including buildings, fences, trees, hedges shall take place within a 9 metre standoff measured from the drain bank top of the Ings Goit.

Reason: For the protection of surface water drainage in accordance with 'saved' Policy 4/10 of the North Yorkshire Minerals Local Plan (1997).

Flood Protection

25. There shall be no storage of any materials including soil within that part of the site liable to flood as shown within the Environment Agency Flood Zones on the Flood Map.

Reason: To ensure that there will be no increased risk of flooding to other land/properties due to impedance of flood flows and/or reduction of flood storage capacity in accordance with advice from the Environment Agency

26. Flood warning notices shall be erected in numbers, positions and with wording all to be agreed with the County Planning Authority. The notices shall be kept legible and clear of obstruction.

Reason: To ensure that owners and occupiers of premises are aware that the land is at risk of flooding in accordance with advice from the Environment Agency.

Mineral Extraction Operations

27. Transport of mineral within the site shall take place in accordance with the application details or in accordance with such other details as may be subsequently approved in writing by the County Planning Authority.

28. Notwithstanding the provisions of the Town and Country Planning General Development Order 1995 (or any other Order revoking or re-enacting that Order) no plant or building shall be erected except as provided in the development hereby permitted, unless specifically approved in writing by the County Planning Authority.

29. Stockpiles shall not exceed the levels specified in the application details unless otherwise approved in writing by the County Planning Authority.

30. No material shall be brought onto the site for processing stockpiling or merchenting or any other purposes unless specifically approved in writing by the County Planning Authority.

Reasons 27 – 30: To ensure minimum disturbance from operations and avoidance of nuisance to the local community in accordance with 'saved' Policy 4/14 of the North Yorkshire Minerals Local Plan (1997).

Hours of Working

31. (i) Except with the prior written approval of the County Planning Authority no quarrying or associated operations other than essential repair and maintenance shall take place except between the following times:-
0700 - 1800 hours Monday to Friday
0700 - 1200 hours Saturday
- (ii) Except with the prior written approval of the County Planning Authority no transport of mineral shall take place except between the following times:-
0630 – 1800 hours Monday to Friday
0630 – 1200 hours Saturday
- (iii) Except with the prior written approval of the County Planning Authority no quarrying or associated operations other than essential repair and maintenance, and no transport of mineral from the site shall take place on Sundays or Bank Holidays.

Reason: To ensure minimum disturbance from operations and avoidance of nuisance to the local community in accordance with 'saved' Policy 4/14 of the North Yorkshire Minerals Local Plan (1997).

Noise

32. The equivalent continuous noise level due to operations at the quarry shall not exceed 55dB(A) measured as L_{AeqT} (1 hour) in a free field at any point on the boundaries of Ladybridge Farm and not exceed the background noise level L_A 90 by more than 10dB(A) at any other residential premises in the vicinity.
33. Within seven days of receiving written notice from the County Planning Authority, such noise monitoring as may be required by the County Planning Authority to assess compliance with the limit specified in Condition 32 above shall be undertaken. If the specified limit is exceeded, operations shall be modified to ensure compliance with the specified limit.
34. All plant machinery and vehicles on any part of the site shall be properly maintained and fitted with effective silencing equipment.
35. Temporary operations such as soil stripping, construction of screen bunds and final restoration shall be excluded from the requirements of Condition 32 above, but shall only proceed with the prior written approval of the County Planning Authority and under no circumstances exceed 70dB L_{Aeq} for 8 weeks in any 52 week period.

Reasons 32 - 35: To minimise the adverse impact of noise generated by operations in the interests of amenity in accordance with 'saved' Policy 4/14 of the North Yorkshire Minerals Local Plan 1997).

Dust

36. Dust control measures shall be employed to minimise the emission of dust from the site. A visual assessment shall be made at the commencement of daily operations and at intervals during the day. A daily log of assessments and necessary remedial measures shall be kept at the weighbridge office and made available to the County Planning Authority upon written request.

Remedial measures shall include the spraying of roadways, hard surfaces and stockpiles and discontinuance of soil movements during periods of high winds.

37. All loaded lorries leaving the site shall be sheeted.

Reason (36 and 37): To minimise the adverse impact of dust generated by operations in the interests of amenity in accordance with 'saved' Policy 4/14 of the North Yorkshire Minerals Local Plan (1997).

Landscaping

38. All landscaping works, including advanced tree and shrub planting at the site shall be undertaken in accordance with the details and specifications set out in the Detailed Restoration Strategy (Appendix 1 Environmental Statement) dated July 2006 as may be amended by schemes submitted in accordance with Condition 7. Such works shall provide for the protection and maintenance of trees and hedgerows as specified. Habitat creation and restoration planting shall be progressed in accordance with approved schemes. Thereafter, all landscaping and planting shall be subject to management and maintenance on an annual basis .

Reason: To improve the appearance of the site in the interests of visual amenity and nature conservation in accordance with 'saved' Policy 4/1 of the North Yorkshire Minerals Local Plan (1997).

Restoration and Aftercare

39. In the event that mineral extraction is temporarily suspended for a period that exceeds one year, then within 14 months from the suspension of mineral extraction an interim restoration scheme and timetable for its completion shall be submitted for approval to the County Planning Authority. Restoration shall then take place in accordance with the approved details.

Reason: To ensure full restoration of the site in accordance with 'saved' Policy 4/1 of the North Yorkshire Minerals Local Plan (1997).

40. Prior to the completion of mineral extraction within each phase of extraction, a scheme of aftercare shall be submitted to the County Planning Authority specifying the steps to be taken in accordance with the requirements, as set out by DEFRA in the letter dated 16 August 2006, to restore the site to a condition suitable for use for agriculture and amenity purposes. Upon completion of restoration within each phase the programme of aftercare shall be implemented in accordance with the approved schemes and with such other details as may subsequently be agreed in writing with the County Planning Authority. The period of aftercare shall be five years.

Reason: To comply with the requirements of Schedule 5 of the Town and Country Planning Act 1990 and to ensure restoration of the land to the standard required for agriculture and amenity purposes in accordance with 'saved' Policies 4/1 and 4/18 of the North Yorkshire Minerals Local Plan (1997).

Provision of Visibility Splays

41. The haul road crossing of Moor Lane shall not be brought into use until details of the visibility splays along Moor Lane have been submitted to, and approved in writing by the County Planning Authority and set out in accordance with the approved details.

Reason: In the interests of highway safety in accordance with 'saved' Policy 4/13 of the North Yorkshire Minerals Local Plan (1997).

Display of Conditions

42. The terms of this planning permission and any scheme or details approved pursuant thereto shall be displayed at the office on the site, and shall be made known to any person(s) given responsibility for the management or control of operations.

Reason: To enable easy reference to the requirements of this permission.

DRAFT SECTION 106 LEGAL AGREEMENT

Dated

2008

- (1) NORTH YORKSHIRE COUNTY COUNCIL
 - (2) WILLIAM AMBROSE ALMACK AND JOYCE MAY ALMACK
 - (3) WILLIAM AMBROSE ALMACK AND JOYCE MAY ALMACK AS TRUSTEES
 - (4) WILLIAM AMBROSE ALMACK, JOYCE MAY ALMACK AND IRENE JOYCE ALMACK
 - (5) TARMAC LIMITED
-

Agreement

under section 106 Town and Country Planning Act 1990 relating to Land at Ladybridge Farm, Nosterfield, North Yorkshire

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THIS AGREEMENT is made on

2008

BETWEEN:

- (1) **NORTH YORKSHIRE COUNTY COUNCIL** of County Hall, Northallerton, North Yorkshire, DL7 8AD ("**the Council**"); and
- (2) **WILLIAM AMBROSE ALMACK AND JOYCE MAY ALMACK** of Ladybridge Farm, Well, Bedale, North Yorkshire, DL8 2RJ ("**the First Landowner**"); and
- (3) **WILLIAM AMBROSE ALMACK AND JOYCE MAY ALMACK** aforesaid as Trustees of W A Almack Limited (Company No 01289895) whose registered office is at Ladybridge Farm, Well, Bedale, North Yorkshire, DL8 2RJ ("**the Second Landowner**"); and
- (4) **WILLIAM AMBROSE ALMACK, JOYCE MAY ALMACK AND IRENE JOYCE ALMACK** of Ladybridge Farm, Well, Bedale, North Yorkshire, DL8 2RJ ("**the Third Landowner**"); and
- (6) **TARMAC LIMITED** (Company No 00453791) whose registered office is at Millfields Road, Ettingshall, Wolverhampton, West Midlands WV4 6JP ("**the Developer**").

BACKGROUND

- (A) For the purposes of the 1990 Act, the Council is the Mineral Planning Authority for the area within which the Site is located and the person who is entitled to enforce the obligations contained in this Agreement.
- (B) The Site Owners are the freehold owners of part of the Site free from encumbrances that would prevent the Site Owners entering into this Agreement. The part of the Site which is owned by the Site Owners is marked as areas 6, 7 & 8 on the Plan and is unregistered.
- (C) The Developer is the freehold owner of part of the remainder of the Site free from encumbrances that would prevent the Developer from entering into this Agreement. The part of the Site which is owned by the Developer is registered under title numbers NYK97782, NYK161654 and NYK107369.
- (D) Tarmac Limited will enter into a lease with the Landowners over part of the Site and will purchase the freehold of the remainder of the Site presently owned by the Landowners.
- (E) The Green Land Owners are the owners of the Green Land free from encumbrances that would prevent the Green Land Owners from entering into this Agreement.

- (F) Pursuant to the Planning Application Tarmac Northern Limited has applied to the Council for full planning permission for the Development.
- (G) On _____ the Council’s Planning Committee resolved to grant the Planning Permission subject to conditions and to the completion of this Agreement.
- (H) The parties have agreed to enter into this Agreement with the intention that the obligations contained in this Agreement may be enforced by the Council against the Landowners and the Developer and their respective successors in title.

OPERATIVE PROVISIONS

1. INTERPRETATION

0.1 In this Agreement, the following words and expressions have the following meanings:

“1990 Act”	the Town and Country Planning Act 1990
“Commencement Date”	the date on which the Development commences by the carrying out on the Site pursuant to the Planning Permission of mineral extraction
“Development”	the winning and working of sand and gravel at the Site pursuant to the Planning Permission
“Green Land”	the freehold property to the south of the Site shown shaded green on the plan marked at Figure 1 contained in Schedule 3 of this Agreement.
“Green Land Owners”	means the First Landowner, the Second Landowner and the Third Landowner
“Landowners”	means the Site Owners and the Green Land Owners
“Phase[s]”	the phases of the Development which are numbered on the Phasing Plan
“Phasing Plan”	the plan showing the phases of working for the Development submitted with the Planning Application carrying the reference L93/10C
“Plan”	the plan attached to this Agreement

“Planning Application”	an application for full planning permission for the carrying out of the Development made by Tarmac Northern Limited on 4 July 2006 carrying the reference C2/06/01616/CCC
“Planning Permission”	the planning permission that may be granted in pursuance of the Planning Application in the form set out in Schedule 1
“Site”	the freehold property known as land at Ladybridge Farm Nosterfield North Yorkshire shown edged red on the Plan part of which is registered at HM Land Registry under Title Numbers NYK97782, NYK161654 and NYK107369 and part of which is unregistered.
“Site Owners”	means the First Landowner, the Second Landowner and the Third Landowner
“Specialist”	has the meaning given to it in clause 7.2

0.2 In this Agreement:

- 0.2.1 the clause headings do not affect its interpretation;
- 0.2.2 unless otherwise indicated, references to clauses and Schedules are to clauses of and Schedules to this Agreement and references in a Schedule to a Part or paragraph are to a Part or paragraph of that Schedule;
- 0.2.3 references to any statute or statutory provision include references to:
 - 0.2.3.1 all Acts of Parliament and all other legislation having legal effect in the United Kingdom as enacted at the date of this Agreement as directly or indirectly amended, consolidated, extended, replaced or re-enacted by any subsequent legislation; and
 - 0.2.3.2 any orders, regulations, instruments or other subordinate legislation made under that statute or statutory provision;
- 0.2.4 references to the Site or to the Green Land include any part of it;
- 0.2.5 references to any party in this Agreement include the successors in title of that party. In addition, references to the Council include any successor Mineral Planning Authority exercising planning powers under the 1990 Act;

- 0.2.6 "including" means "including, without limitation";
- 0.2.7 where two or more people form a party to this Agreement, the obligations they undertake may be enforced against them all jointly or against each of them individually; and
- 0.2.8 if any provision is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remainder of the Agreement is to be unaffected.

0.3 The parties to this Agreement do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

1. **EFFECT OF THIS AGREEMENT**

1.1 This Agreement is made pursuant to section 106 of the 1990 Act. To the extent that they fall within the terms of section 106 of the 1990 Act, the obligations contained in this Agreement are planning obligations and are enforceable by the Council.

1.2 To the extent that any of the obligations contained in this Agreement are not planning obligations within the meaning of the 1990 Act, they are entered into pursuant to the powers contained in section 111 Local Government Act 1972, section 2 Local Government Act 2000 and all other enabling powers.

1.3 Nothing in this Agreement restricts or is intended to restrict the proper exercise at any time by the Council of any of its statutory powers, functions or discretions in relation to the Site or otherwise.

1.4 This Agreement will be registered as a local land charge by the Council.

1.5 Nothing in this Agreement prohibits or limits the right of the Landowners or the Developer to develop any part of the Site or the Green Land in accordance with a planning permission, other than one for the Development as specified in the Planning Application, granted after the date of this Agreement, whether or not pursuant to an appeal.

2. **COMMENCEMENT DATE**

2.1 The obligations contained in this Agreement will come into effect on the later of the following dates:

- 2.1.1 the Commencement Date; and

2.1.2 subject to **clause 3.2**, the date thirteen weeks after the date on which Planning Permission is granted subject to no legal proceedings having been commenced by any person to challenge the validity of the Planning Permission.

2.2 If, before the expiry of the thirteen week period referred to in **clause 3.1.2**, any person commences legal proceedings to challenge the validity of the Planning Permission, then the thirteen week period will be extended until seven days after the final determination of those legal proceedings in a form that leaves the Planning Permission in place. Any extension under this **clause 3.2** will include the period allowed for any appeal and any appeal hearing and, where applicable, for any necessary re-determination by the Council.

3. **OBLIGATIONS OF THE PARTIES**

3.1 The Landowners and the Developer agree with the Council to comply with the obligations set out in **Schedule 2** in relation to the Development.

3.2 The Council agrees with the Landowners and the Developer that it will issue the Planning Permission within five working days of the date of this Agreement.

3.3 The Council agrees with the Landowners and the Developer to act reasonably, properly and diligently in exercising its discretion and discharging its functions under this Agreement. In particular, where any notice, consent, approval, authorisation, agreement or other similar affirmation is required under the terms of the Agreement, the Council will not unreasonably withhold or delay such notice, consent, approval, authorisation, agreement or other similar affirmation.

3.4 No person will be liable for any breach of the terms of this Agreement occurring after the date on which they part with their interest in the Site or the Green Land or the part of the Site or the Green Land in respect of which such breach occurs, but they will remain liable for any breaches of this Agreement occurring before that date. Neither the reservation of any rights or the inclusion of any covenants or restrictions over the Site or the Green Land in any transfer of such land will constitute an interest for the purposes of this **clause 4.4**.

3.5 For the avoidance of doubt the provisions of clause 4.4 have no effect on any indemnities given in any separate agreement between the Landowners and the Developer.

4. **TERMINATION OF THIS AGREEMENT**

4.1 This Agreement will come to an end if:

- 4.1.1 subject to **clause 5.2**, the Planning Permission is quashed, revoked or otherwise withdrawn at any time so as to render this Agreement or any part of it irrelevant, impractical or unviable;
- 4.1.2 the Planning Permission expires before the Commencement Date without having been implemented; or
- 4.2 **Clause 5.1.1** will not apply in respect of any minor modifications to the Planning Permission or the Development agreed from time to time between the Council and the Developer prior to the Commencement Date.
- 4.3 Where the Agreement comes to an end under **clause 5.1** the Council is to vacate or cancel the entry made in the Local Land Charges register in relation to this Agreement or otherwise to record the fact that it has come to an end and no longer affects the Site or the Green Land.
- 5.4 Where the Agreement is released in part by a future agreement, the Council will place a note against the entry made in the Local Land Charges Register stating which obligations no longer have effect.
- 5.5 If the Landowners or the Developer makes a request in writing for the Council to place a note against the entry made in the Local Land Charges Register stating which obligations under this Agreement have been discharged and complied with, the Council will place such a note against the entry.

5. **NOTICES**

- 5.1 Any notice, demand or any other communication served under this Agreement will be effective only if delivered by hand or sent by first class post, pre-paid or recorded delivery.
- 5.2 Any notice, demand or any other communication served is to be sent to the address of the relevant party set out at the beginning of this Agreement or to such other address as one party may notify in writing to the others at any time as its address for service.
- 5.3 Unless the time of actual receipt is proved, a notice, demand or communication sent by the following means is to be treated as having been served:
 - 5.3.1 if delivered by hand, at the time of delivery;
 - 5.3.2 if sent by post, on the second working day after posting; or
 - 5.3.3 if sent by recorded delivery, at the time delivery was signed for.

5.4 If a notice, demand or any other communication is served after 4.00 pm on a working day, or on a day that is not a working day, it is to be treated as having been served on the next working day.

5.5 For the avoidance of doubt, where proceedings have been issued in the Courts of England and Wales, the provisions of the Civil Procedure Rules must be complied with in respect of the service of documents in connections with those proceedings.

6. **DETERMINATION OF DISPUTES**

6.1 Subject to **clause 7.7**, if any dispute arises relating to or arising out of the terms of this Agreement, either party may give to the other written notice requiring the dispute to be determined under this **clause 7**. The notice is to propose an appropriate Specialist and specify the nature and substance of the dispute and the relief sought in relation to the dispute.

6.2 For the purposes of this **clause 7** a "Specialist" is a person qualified to act as an expert in relation to the dispute having not less than ten years' professional experience in relation to developments in the nature of the Development and property in the same locality as the Site.

6.3 Any dispute over the type of Specialist appropriate to resolve the dispute may be referred at the request of either party to the President or next most senior available officer of the Law Society who will have the power, with the right to take such further advice as he may require, to determine the appropriate type of Specialist and to arrange his nomination under **clause 7.4**.

6.4 Any dispute over the identity of the Specialist is to be referred at the request of either party to the President or other most senior available officer of the organisation generally recognised as being responsible for the relevant type of Specialist who will have the power, with the right to take such further advice as he may require, to determine and nominate the appropriate Specialist or to arrange his nomination. If no such organisation exists, or the parties cannot agree the identity of the organisation, then the Specialist is to be nominated by the President or next most senior available officer of the Law Society.

6.5 The Specialist is to act as an independent expert and:

6.5.1 each party may make written representations within ten working days of his appointment and will copy the written representations to the other party;

6.5.2 each party is to have a further ten working days to make written comments on the other's representations and will copy the written comments to the other party;

- 6.5.3 the Specialist is to be at liberty to call for such written evidence from the parties and to seek such legal or other expert assistance as he or she may reasonably require;
 - 6.5.4 the Specialist is not to take oral representations from the parties without giving both parties the opportunity to be present and to give evidence and to cross-examine each other;
 - 6.5.5 the Specialist is to have regard to all representations and evidence before him when making his decision, which is to be in writing, and is to give reasons for his decision; and
 - 6.5.6 the Specialist is to use all reasonable endeavours to publish his decision within 30 working days of his appointment.
- 6.6 Responsibility for the costs of referring a dispute to a Specialist under this **clause 7**, including costs connected with the appointment of the Specialist and the Specialist's own costs, but not the legal and other professional costs of any party in relation to a dispute, will be decided by the Specialist.
- 6.7 This **clause 7** does not apply to disputes in relation to matters of law or the construction or interpretation of this Agreement which will be subject to the jurisdiction of the courts.

7. **JURISDICTION**

- 7.1 This Agreement is to be governed by and interpreted in accordance with the law of England and Wales.
- 7.2 The courts of England and Wales are to have jurisdiction in relation to any disputes between the parties arising out of or related to this Agreement.

8. **EXECUTION**

The parties have executed this Agreement as a deed and it is delivered on the date set out above.

1 SCHEDULE 1

Draft Planning Permission

2 SCHEDULE 2

The Obligations

2. Defined terms

In this Schedule, the following words and expressions have the following meanings:

"Bird Management Plan" a bird management plan relating to the Site to be submitted to and agreed with the Council pursuant to paragraph 6 of Schedule 2

"Long Term Management Plan" a plan for the management of the Green Land to be agreed between the Council, the Green Land Owners and the Developer in consultation with English Heritage, which shall not restrict the use of the Green Land so as to prevent reasonably beneficial agricultural use.

"Scheme of Reduced Cultivation" the scheme for the protection of the Green Land from the effects of tillage and cultivation a copy of which is contained in **Schedule 3**

"Restoration and Aftercare Plan" means the management plan for the restoration of the Site and its aftercare for a period of 25 years from the date of the cessation of sand and gravel extraction

"Scheme of Archaeological Investigation and Publication" the scheme of archaeological investigation of the site and the publication of the findings of that investigation which incorporates the timetables for publication and integration of the archaeological work in the Nosterfield area approved by the Council, a copy of which is contained in **Schedule 4.**

9. Lorry Routeing

- 9.1 The Site Owners and the Developer shall use all reasonable endeavours to require that every driver of a vehicle using the Site in respect of the Development and carrying sand and gravel extracted from the Site shall be bound by his transport contract to only use the route specified by the Developer

being to turn left upon leaving the Site and then travel along the B6267 to the A1 or to the service road adjoining the A1(M) when upgrading to motorway standard is completed. Furthermore the Site Owners and Developer shall :

9.1.1 erect notices at the weighbridge and at the exit onto the B6267 advising that loaded vehicles are not permitted to turn right and are not permitted to use Moor Lane.

9.1.2 in the event of any breach of paragraph 2.1 take appropriate action, namely warning the driver or prohibiting him from the Site.

9.1.3 advise third parties carrying sand and gravel from the Site of the existence of this restriction.

9.1.4 provide to the Council the name and telephone number of an employee to whom complaints about traffic routeing should be addressed.

9.2 The routeing restriction contained in **paragraph 2.1** shall not apply to vehicles making local deliveries which require use of the A6108. Deliveries to locations within the City of Ripon should be routed as indicated in **paragraph 2.1** above.

10. **The Long Term Management Plan**

10.1 On or before the Commencement Date the Green Land Owners shall implement the Scheme of Reduced Cultivation and shall not carry out any activity or use on the Green Land which breaches the requirements of the Scheme of Reduced Cultivation for a period of 3 years from the Commencement Date.

10.2 Prior to work commencing on Phase 8 of the Development the Developer and the Green Land Owners shall facilitate meetings and discussions with the Council and English Heritage with a view to developing a Long Term Management Plan for the Green Land.

10.3 The Developer and the Green Land Owners shall use their reasonable endeavours to hold the first of the meetings referred to in **paragraph 3.2** within 6 months of the Commencement Date and thereafter to meet with the Council and English Heritage not less than once every year until such time as the Long Term Management Plan is approved by the Council.

10.4 As soon as a Long Term Management Plan has been approved by the Council then the Green Land Owners shall implement its provisions in accordance with any timetable approved therein.

11. **Archaeological Investigation and Publication**

11.1 The Developer shall in carrying out the Development comply with the requirements of the Scheme of Archaeological Investigation and Publication.

11.2 The Developer may amend the Scheme of Archaeological Investigation and Publication at any time with the prior written approval of the Council (such approval not to be unreasonably withheld or delayed).

12. **Restoration and Aftercare Plan**

12.1 Prior to the extraction of mineral in Phase 8 of the Development the Developer shall have reviewed the existing restoration and management plan for Nosterfield Quarry and incorporated the site of Phases 6, 7 & 8 and submitted the draft Restoration and Aftercare Plan to the Council for its approval.

12.2 Before submitting the draft Restoration and Aftercare Plan to the Council the Developer shall consult the Site Owners on its contents and provide no less than 14 days for the Site Owners to provide any written representations on the draft.

12.3 The Developer shall have regard to the reasonable representations put forward by the Site Owners in preparing and amending the draft Restoration and Aftercare Plan.

12.4 The Restoration and Aftercare Plan shall be in accordance with the general principles and objectives set out in the Planning Application and relevant conditions to the Planning Permission. This will include a review of existing management plan objectives relating to the Nosterfield workings in addition to a strategic overview of restoration and aftercare relating to both the natural and historic environment set within the landscape context.

12.5 The Restoration and Aftercare Plan shall make provision for the following matters:

12.6 Restoration of the Site in a manner designed to achieve landscape enhancement and to maximise nature conservation opportunities through habitat creation, management and enhancement and in accordance with relevant targets set out within the Hambleton Biodiversity Action Plan;

12.7 Control of recreational uses and the exclusion of all watercraft, powered or un-powered, from the nature conservation zones in order to safeguard them from disturbance, unless they are connected with the purposes of the Restoration and Aftercare Plan objectives;

12.7.1 The formation of a management advisory group to meet at appropriate and regular intervals to include representatives of the Developer, the Council, the Site Owners and nature conservation interest groups;

12.7.2 Within three months of the Commencement Date, the terms of reference of the management advisory group will be submitted for approval by the Council;

- 12.7.3 A detailed specification for the protection, maintenance and management of planted areas, existing and new hedgerows and all other habitats within the site which also includes timing and phasing of works to ensure no conflict between different interests; and
 - 12.7.4 A scheme of monitoring to assess the effectiveness of the restoration works in achieving nature conservation objectives, which also includes contingency measures in the event of failure to achieve nature conservation objectives.
- 12.8 As soon as the Restoration and Aftercare Plan has been approved by the Council in accordance with paragraph 5.1 above the Site Owners and Developer shall implement its provisions in accordance with the timetable approved therein.
- 12.9 The Developer may amend the Restoration and Aftercare Plan at any time with the approval of the Council (such approval not to be unreasonably withheld or delayed) and provided that paragraphs 5.2 and 5.3 shall also apply to any amendment to the Restoration and Aftercare Plan.

13. **Bird Management Plan**

- 13.1 Prior to work commencing on Phase 6 of the Development the Developer shall submit the draft Bird Management Plan to the Council for its approval.
- 13.2 Before submitting the draft Bird Management Plan to the Council the Developer shall consult the Site Owners on its contents and provide no less than 14 days for the Site Owners to provide any written representations on the draft.
- 13.3 The Developer shall have regard to the reasonable representations put forward by the Site Owners in preparing and amending the draft Bird Management Plan.
- 13.4 The Bird Management Plan shall make provision for the following matters during the 25 year post extraction period:
- 13.4.1 Successful breeding by and establishment of a significant population of feral / wild geese and/or gulls is avoided.
 - 13.4.2 Proposed lake shorelines, residual water body configurations and lake marginal planting are designed to minimise their attractiveness to large flocking birds, but do not conflict with 5.3.1
 - 13.4.3 Maintenance of appropriate lake shoreline profiles and marginal planting is in accordance with the Restoration and Aftercare Plan.
 - 13.4.4 Access to the site at reasonable times and on reasonable notice to be granted to the Council and the Ministry of Defence for the purposes of verifying bird populations.

- 13.5 As soon as the Bird Management Plan has been approved by the Council the Site Owners and Developer shall implement its provisions in accordance with the timetable approved therein.
- 13.6 The Developer may amend the Bird Management Plan at any time with approval of the Council (such approval not to be unreasonably withheld or delayed) and provided that Paragraphs 6.2 and 6.3 shall also apply to any amendment to the Restoration and Aftercare Plan.

4 SCHEDULE 3

Scheme of Reduced Cultivation

Scheme of Reduced Cultivation For Land to the

South of Ladybridge Farm

Introduction

This scheme ("the scheme") has been developed by the landowner of Ladybridge Farm in consultation with Tarmac Limited. The purpose of the scheme is to remove the direct impacts of cultivation on any "in situ" archaeological deposits. It has been designed as an interim measure for a period of three years, during which time the landowner has agreed to enter into discussions with the appropriate third parties to explore the viability of a longer term management plan.. During this interim period the landowner has agreed to implement the scheme on a voluntary basis as a gesture of good will.

The Site

The area to be covered by the scheme of reduced cultivation is shown in Figure 1. It comprises two fields to the south of the mineral extraction site and is approximately 14hectares in extent. The site is bounded by Moor Lane to the west, Thornfield Road to the south and the mineral extraction area to the north.

The topography of the site is characterized by an area of slightly higher ground along the southern boundary and southwest third of the scheme area (approx 42.8m AOD), which falls gently to the north to 41.5m AOD. The higher ground corresponds with an area of archaeological potential defined during previous site investigation and is formed by deposits of gravel.

The site is classified as Grade 3a agricultural land - **(good to moderate quality agricultural land)** Land with moderate limitations, which affect the choice of crops, timing and type of cultivation, harvesting or the level of yield. Where more demanding crops are grown yields are generally lower or more variable than on land in Grades 1 and 2. (MAFF 1988)

The ploughsoil varies in depth between 0.21m and 0.5m across the scheme area (see below) and is comprised of a variable silty clay soil with frequent gravel inclusions. The soil is considered to be relatively free draining but susceptible to compaction and subsequent water logging where ground conditions have been affected by machinery or traffic.

The site is divided into two production units which are farmed in rotation. The Western Area (5.4ha) and the Eastern Area (8.6ha)

The crop rotation for these areas has been fixed for the next three years. shown in Table 1 and illustrated in Figure 2.

	Area ha (approx)	Spring 2007	September 2007	Spring 2008	September 2008
Western Area	5.4	Fodder Beet		Oil Seed Rape	Wheat
Eastern Area	8.6	Oil Seed Rape	Wheat		Barley

Table 1 – Summary of crop rotation

Due to the timing of the scheme, the Spring 2007 crops have already been sown.

The Archaeological Background to The Scheme

Archaeological investigation has recorded archaeological deposits in the southern third of Ladybridge Farm. These comprise a dispersed pattern of shallow pits containing pottery and flint artefacts of an early prehistoric date and a scatter of worked lithics in the ploughsoil. These deposits have been substantially investigated and are the subject of a number specialist archaeological reports (Garner-Lahire et al 2005, Timms & Dickson 2005)

The pits that have been recorded are dispersed, shallow and have been heavily truncated by past agricultural activity. Their archaeological potential has been severely affected by loss of context (*op cit*). The pits have low environmental potential and do not contain well preserved organic or waterlogged material (Carter 2005). All the features excavated to date have exhibited evidence of modern disturbance from rootlets and have poor provenance for absolute dating (Carrot et al 2005). The significance of the features lies in their early date and proximity to the Scheduled Ancient Monuments of the Thornborough Henges.

The lithics in the ploughsoil show a general distribution across the southern third of Ladybridge Farm and are a general indication of prehistoric activity across this area from the Mesolithic to the Bronze Age. There is, however, no recorded correlation of surface finds and below ground archaeology (*op cit*) and there are a number of outstanding questions relating to the interpretation of this material.

Ploughing Experiments

Two experiments to monitor the impact of the normal cultivation regime at Ladybridge Farm were undertaken in September 2005 and March 2006 (Dickson, Hopkinson, Timms, 2005, Timms, S. & Hopkinson 2006). The results of these experiments have shown that the normal cultivation being undertaken on Ladybridge Farm has had an adverse direct impact on *in situ* archaeological deposits on these occasions. Moreover it was clear from other evidence on the site that the truncation from ploughing had been occurring over a prolonged period and had resulted in the potential loss of an estimated 0.4m of deposit across some areas of the site (Griffiths and Timms 2005).

The experiments also recorded that the displacement of marker material in the ploughsoil was far more significant in a single episode of ploughing than previously thought. In one instance this resulted in material being moved 7m from its point of origin in a single episode.

The potential displacement of material from its buried source on this scale has been recorded elsewhere (McAvoy 2002) and raises serious concerns over the integrity of artefact scatters and their significance beyond general site identification.

Depth of Ploughsoil

During the plough experiments, the disturbance of the marker material was recorded in four instances when ploughing was undertaken at a depth of 0.3 m (12 inches) in 2005 and 0.28m (11 inches) in 2006. Although a number of issues were identified, the results from the experiments highlighted that the main contributing factor to the disturbance was the depth of ploughsoil.

Archaeological work undertaken across the Ladybridge Farm site between 2004 and 2007 has shown that the ploughsoil varies in depth on the site between 0.21m and 0.5m. The recorded depth of ploughsoil has been taken from a total of twenty six separate interventions. For most of the scheme area, the ploughsoil is consistently

between 0.3m (12inches) and 0.35m (14 inches) deep. This includes the majority of the higher ground to the south.

The areas of deeper deposits (up to 0.5m deep) appear to be limited to the base of shallow slopes along the northern edge. The shallowest recorded depth was located to the east of Ladybridge Farm itself (Test Pit E) where ploughsoil was recorded between 0.21m (8 ½ inches) and 0.27m (10 ½ inches) deep. The depth of ploughsoil at this location does not appear to be consistent with the bulk of the site and appears to represent a relatively localized phenomenon.

With the exception of Test Pit E, it can be said with a high degree of certainty that the interface between archaeological deposits and the ploughsoil appears therefore to lie at between 0.28m (11 inches) and 0.35m (14 inches).

The Objectives of the Scheme of Reduced Cultivation

The specific objective of this scheme is to remove the impact of cultivation on *in situ* archaeological remains in the southern area of Ladybridge Farm (as shown in Figure 1) for a fixed period of three years. This is to allow time for discussions to take place between the landowner (Mr. Ambrose Almack) and third parties (including NYCC, EH and Natural England) to explore the viability of a longer term management agreement for the site.

The scheme of reduced cultivation has been designed with direct reference to evidence and data recorded during archaeological investigation on the site and experiments undertaken to assess the impact of cultivation.

In order to mitigate the impact on *in situ* archaeological deposits the landowner proposes to undertake traditional cultivation at a reduced depth of 0.2m (8 inches) for the duration of this scheme. This would allow a buffer of between 0.08 and 0.1m (3 – 4 inches) over the interface with potential archaeological deposits.

Considering that the site has been ploughed by the landowners family for at least the last 60 years with further evidence of cultivation before that it is not considered that further ploughing will have a significant impact on the distribution of material already in the ploughsoil.

The impact of root crops and other factors have not be established but in view of the crop rotation in place, these are not considered to be the primary threat to the archaeological significance of the area for the duration of this scheme. The archaeological work on the site has recorded that features have already been subject to significant modern root penetration and are of low environmental potential. Whilst it may be beneficial to mitigate further damage at this stage it is not a viable choice for the short term of this proposal.

The Scheme Details

This scheme of reduced cultivation will be appended to the section 106 agreement (Town and Country Planning Act 1990) for Ladybridge Farm as a schedule, to be undertaken by the landowner for a fixed term of three years starting on the Commencement Date as defined in the s.106 Agreement.

For the period of the scheme the Landowner will;

- ***cultivate the land to a maximum depth of 0.2m (8 inches) for all operations within the scheme area shown in figure 1.***
- ***Implement a scheme of monitoring using eight separate locations, which will be checked for disturbance following each episode of ploughing or***

- ***other agricultural operations on the site.***
- ***not undertake activities which are likely to disturb deposits below the level of the ploughsoil including subsoiling.***
- ***not allow metal detecting to be carried out in the scheme area.***

Other Factors

Reduced cultivation is being offered as the most appropriate short term solution to the issue of cultivation damage to *in situ* archaeological deposits on the site. Other techniques of minimal cultivation or direct drilling are not seen as an appropriate or viable solution for a short term scheme. There is currently not enough information to establish whether this approach would be viable in the longer term due to possible reduced yields, soil compatibility and capital investment, but these issues will be monitored as part of the scheme.

Monitoring

The monitoring stations will be inserted at points across the scheme area and will comprise a series of eight pits seeded with marker material and will be of the same specification as those undertaken for previous experiments on the site. Following an episode of ploughing each monitoring station will be visually checked to ensure that marker material has not been disturbed. The results of each monitoring event will be recorded and reported to the landowner. The results will also be published on the MGA Ltd website.

The results of the monitoring will be reviewed by the landowner after each event as part of an iterative process. In the instance that any disturbance of marker material is recorded at a cultivation depth of 0.2m (8 inches) the scheme will be revised. Any subsequent cultivation undertaken within the area will then be carried out at a maximum depth of 0.15m (6 inches) for the remainder of the scheme.

Conclusion

This scheme of reduced cultivation will conserve *in situ* archaeological deposits from damage from ploughing for a fixed period of three years. In the instance that the monitoring indicates that measures are not sufficient to prevent damage from cultivation, the scheme will be revised to reduce the depth of ploughing further as part of an iterative process. This scheme is an appropriate response to deposits which have already undergone a high level of truncation, are not densely concentrated and of poor environmental potential.

References

Carter, S, 2005. Site notes from Ladybridge Farm

Griffiths, M. & Timms, S. 2005. An Archaeological Assessment of Nosterfield, Ladybridge and The Thornborough Plain. (MG&A)

Garner-Lahire, J, Spall, C & Toop, N. 2005. Archaeological Evaluation. Ladybridge Farm, Nosterfield, North Yorkshire. (FAS)

Dickson, A., Hopkinson, G. & Timms, S. 2005. 'The Effects of Agricultural Practices on Archaeological Remains'

MAFF, 1998 Agricultural Land Classification of England and Wales

Timms, S. & Dickson, A. 2005. 'Ladybridge Farm, Nosterfield. Report on an Archaeological Investigation'

Timms, S. & Hopkinson, G. 2006. 'Further Monitoring on the Effects of Ploughing on Archaeological Remains

John Carrott, Örne Akeret, Deborah Jaques and Stewart Gardner, 2005. 'Assessment of biological remains from Ladybridge Farm, Nosterfield, North Yorkshire (site code: OSA05EV11)'

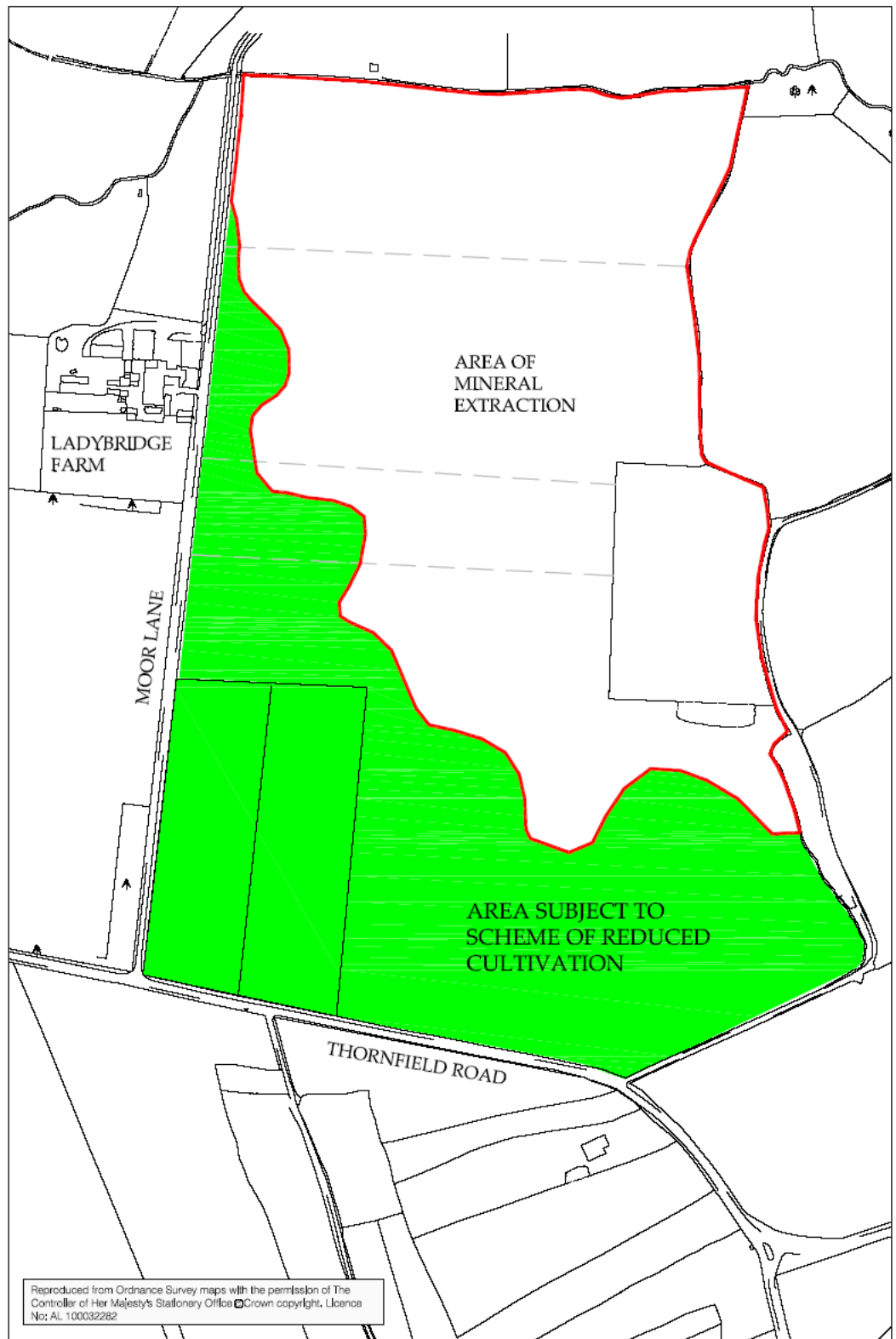


Figure 1 - Area subject to Scheme of Reduced Cultivation (Green)

Not to scale

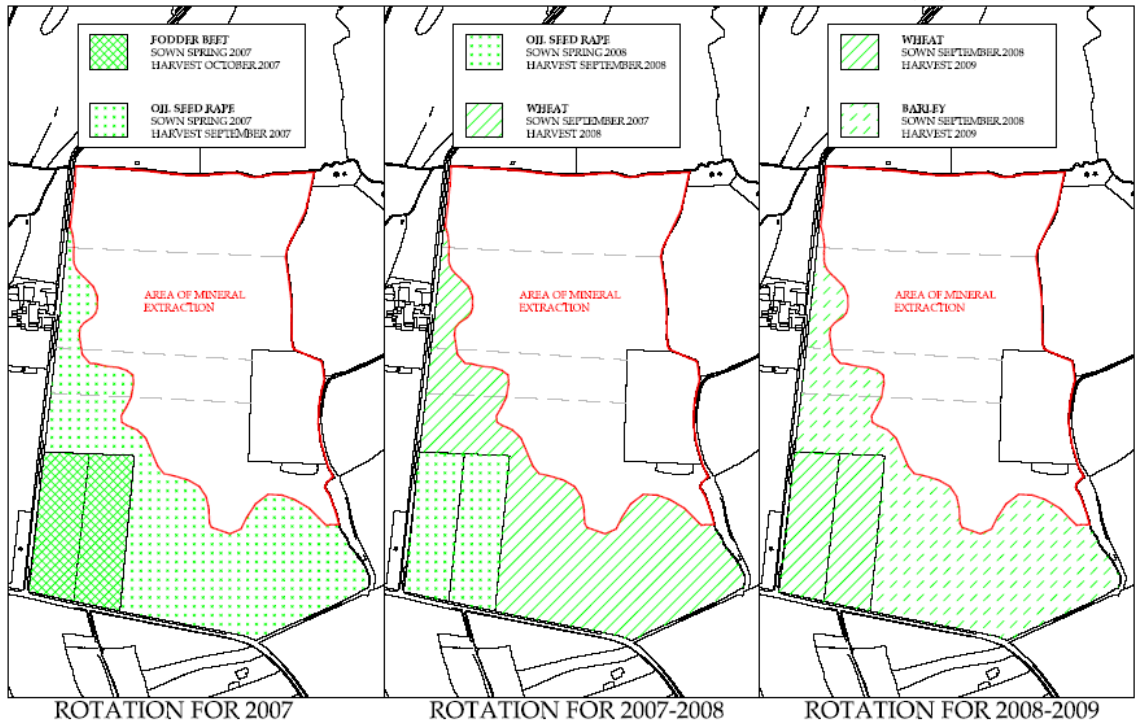


Figure 2 - Ladybridge Farm - Crop Schedule 2007 - 2009

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5 SCHEDULE 4

Scheme of Archaeological Investigation and Publication

THE COMMON SEAL of)
NORTH YORKSHIRE COUNTY COUNCIL

)
was affixed to this deed)
in the presence of:)

Authorised signatory

SIGNED AS A DEED BY)
WILLIAM AMBROSE ALMACK AS)
FIRST LANDOWNER)
in the presence of:)

Witness signature:

Name:

Address:

Occupation:

SIGNED AS A DEED BY)
JOYCE MAY ALMACK AS FIRST)
LANDOWNER)
in the presence of:)

Witness signature:

Name:

Address:

Occupation:

SIGNED AS A DEED BY
)
WILLIAM AMBROSE ALMACK AS)
TRUSTEE OF W A ALMACK LIMITED)
(SECOND LANDOWNER))
in the presence of:)

Witness signature:

Name:

Address:

Occupation:

SIGNED AS A DEED BY

)
JOYCE MAY ALMACK AS)
TRUSTEE OF W A ALMACK LIMITED)
(SECOND LANDOWNER))
in the presence of:)

Witness signature:

Name:

Address:

Occupation:

SIGNED AS A DEED BY)
WILLIAM AMBROSE ALMACK AS)
THIRD LANDOWNER)
in the presence of:)

Witness signature:

Name:

Address:

Occupation:

SIGNED AS A DEED BY)
JOYCE MAY ALMACK AS THIRD)
LANDOWNER)
in the presence of:)

Witness signature:

Name:

Address:

Occupation:

SIGNED AS A DEED BY)
IRENE JOYCE ALMACK AS THIRD)
LANDOWNER)
in the presence of:)

Witness signature:

Name:

Address:

Occupation:

SIGNED AS A DEED BY)
TARMAC LIMITED)
acting by:)

Director

Director/Secretary

