

North Yorkshire County Council

Business and Environmental Services

**Planning and Regulatory Functions Committee
22 FEBRUARY 2022**

**C1/21/00118/PLANYC - PLANNING APPLICATION FOR THE PURPOSES OF THE VARIATION OF CONDITIONS 1,6, 7, 10, 14, 20, 24, 26, 27, 30 OF PLANNING PERMISSION C1/14/00747/CM TO REVISE WORKING TIMES FOR PHASE 3 AND THE RESTORATION SCHEME AT MIDDLETON LODGE QUARRY, KNEETON LANE, MIDDLETON TYAS, RICHMOND, DL10 6NJ
ON BEHALF OF BREEDON NORTHERN
(RICHMONDSHIRE DISTRICT) (RICHMONDSHIRE NORTH ELECTORAL DIVISION)**

Report of the Corporate Director – Business and Environmental Services

1.0 Purpose of the report

- 1.1 To determine a planning application for the Variation of conditions 1, 6, 7, 10, 14, 20, 24, 26, 27, 30 of planning permission C1/14/00747/CM to revise working times for Phase 3 and the restoration scheme at Middleton Lodge Quarry, Kneeton Lane, Middleton Tyas, Richmond, DL10 6NJ, on behalf of Breedon Northern .
- 1.2 This application is subject to an objection having been raised in respect of this proposal on the grounds of visual amenity and is, therefore, reported to this Committee for determination.

2.0 Background

Site Description

- 2.1 Middleton Lodge Quarry is located approximately 800 metres to the east of the A1(M), and is approximately 1 kilometre north of Middleton Tyas village, 1.5 kilometres south west of Barton village and proximately 1.8 kilometres to the north east of Scotch Corner Services.
- 2.2 There are a number of properties surrounding the Middleton Lodge Quarry. The nearest residential properties to the application site are North Road Farm and Woodhouse Farm approximately 600 metres to the north and east. The original application site lies adjacent to land at Barton Quarry which has been worked intermittently for minerals since the 1850s, including via a number of planning permissions granted since the 1940s covering an area of approximately 22.6 hectares. Sherburn Stone Company Ltd reopened the site in the 1980s extracting limestone, clay and sandstone from Barton Quarry. The current Barton Quarry operation currently covers about 15 hectares.
- 2.3 Middleton Lodge itself, is a Grade II* Listed country house built around 1779, and which is set in landscaped grounds. Several other listed buildings are located within the Estate included a stable block and walled garden. The boundary to the estate is approximately 160 metres to the south west of the application site. The access to the Middleton Lodge Estate is made from the north of the site off Kneeton Lane and is approximately 380 metres to the north west of the application site.

Constraints

- 2.4 The site does not fall within, or in close proximity to any 'sensitive areas' e.g. Sites of Special Scientific Interest (SSSI), Special Protection Area (SPA), Special Area of Conservation (SAC), Site of Importance for Nature Conservation (SINC), RAMSAR, Area of Outstanding Natural Beauty (AONB) or Article 1(5) land (Conservation Area), or Scheduled Ancient Monuments. However, in November 2007, part of the Middleton Lodge Estate was included in the Register of Parks and Gardens (Grade II) and this includes Middleton Lodge itself which is Grade II* listed, the overall size of the Registered Park and Garden is approximately 41.4ha, and the boundary to the Estate is approximately 160 metres to the south west of the application site. The site, to which this application relates, is neither within or adjacent to any flood zones or flood plains as identified by the Environment Agency.
- 2.5 A plan showing the application site is attached to this report and the details relating to this application can be viewed [online](#).

Planning History

- 2.6 The planning history relating to the proposed development site relevant to the determination of this application is as follows: -
- 2.7 In December 2006 a planning application accompanied by an environmental statement (NYCC ref no. C1/33/80G/CM) was submitted for the following development:
'Mineral extraction as an extension to Barton Quarry connected by a conveyor tunnel under Kneeton Lane; the enhancement of the Estate parkland and public access to part of the grounds of Middleton Lodge Estate; the renovation and conversion of the Stable Block into a restaurant, functions rooms and an estate shop; the creation of a themed quarry garden with a 50m high fountain and water feature in a landform created by the mineral extraction area; the reconstruction and renovation of a Georgian walled garden into working kitchen gardens and the renovation and conversion of the outbuildings on the walled garden into two holiday cottages'.
- 2.8 The first part of the above application (C1/33/80G/CM) proposed the extraction of limestone from an area to the north east of Middleton Lodge as an extension to the existing Barton Quarry with the intention that the quarrying would take place in a way that would leave behind a void and landform capable of being used to create a quarry garden. Around 2.07 million tonnes of limestone would be extracted in three phases and taken by conveyor under Kneeton Lane for processing at Barton Quarry. The minerals would be worked over a 15 year period. Phase 1 (Year 1) would consist of creating a cut in the limestone to allow a conveyor to run under Kneeton Lane to Barton Quarry from the extraction area which would then be worked in a south easterly direction with Phase 2, forming the quarry garden, being worked in years 2-6 and then Phase 3 (Year 6 to completion) being worked back towards Kneeton Lane by winter working only and progressively restored.
- 2.9 The second element was a range of works to the walled garden area and stable block at Middleton Lodge, including changes of use, to provide facilities that are said would give the built features a future use and enhance the attractions at Middleton Lodge as a visitor destination so as to secure its long term future. The listed stable block would be converted into conference and function rooms, restaurant and estate shop whilst outbuildings beside the walled garden would be renovated and converted into two holiday cottages.
- 2.10 Following the refusal of the application in July 2009, the matter went to appeal (Ref: APP/P2745/A/09/2119601). In December 2010 the appeal inspector decided that the appeal should be upheld and granted planning permission subject to conditions, a number of which required prior approval before the proposed development could

commence. The approved development was also subject to a Section 106 Unilateral Undertaking (dated 13 October 2010). The Section 106 Undertaking stated that the following requirements must be adhered to:

1. Following the commencement of extraction of any stone from the land shown edged red on Plan C the number of blasts within Barton Quarry shall be limited to a maximum of ten in total for the remaining life of Barton Quarry.
2. Prior to 2031, all extraction and processing of minerals permitted by planning permission reference C1/93/165/MR will have ceased.
3. Upon the commencement of development the extraction and processing of aggregates from Barton Quarry shall cease on Saturdays.
4. Upon the commencement of development they shall use best endeavours (including but not limited to signage, instructions to hauliers and instructions to despatch staff) to ensure that no operational lorry traffic making trips to or from Barton Quarry shall use any roads within the Local Delivery Area unless they are making a delivery to or coming from, a destination within the Local Delivery Area.
5. Upon the commencement of development they shall ensure that Route 1 is dedicated as a public right of way. For the avoidance of doubt, this obligation 5 is conditional upon no financial contributions being required in respect of the dedication of Route 1 as a public right of way. In the event that any financial contributions are requested in respect of the dedication of Route 1 as a public right of way the obligation in this paragraph 5 shall cease to have effect.
6. Upon the commencement of development the extraction of all minerals below 91 metres Above Ordnance Datum (AOD) within Planning Permission Reference C1/93/165/MR shall cease.

- 2.11 Since the date of the appeal decision, the following applications have been submitted to and permitted by the County Planning Authority with the aforementioned Section 106 Undertaking amended to reflect the Decision references and to relinquish the previously approved route of the conveyor:
- C1/33/80R/CM - Application to vary condition No's 10 and 26 of Appeal Ref: APP/P2745/A/09/2119601 which relates to works to the highway and blasting on land at Middleton Lodge, Middleton Tyas, Richmond, granted on 18 April 2012.
 - C1/33/80T/CM - Revised route of the conveyor proposed in connection with minerals extraction associated with Appeal Ref: APP/P2745/A/09/2119601 and the associated management of an area of woodland on the south-eastern side of Kneeton Lane on land at Middleton Lodge, Middleton Tyas, Richmond. Granted on 18 April 2012.
- 2.12 Following the approval of these applications the development commenced in June 2012 through the construction of the conveyor route underneath Kneeton Lane. Furthermore, minerals extraction on the Middleton Lodge side of Kneeton Lane commenced on 15 May 2013.
- 2.13 In addition Richmondshire District Council granted Listed Building Consents for the works to the stable block (Decision 12/00674/LBC issued 8 January 2013) and the works to the walled garden (Decision 5/00960/LBC issued 29 September 2016).
- 2.14 Planning permission C1/12/00746/CM, dated 18 July 2013 was granted by North Yorkshire County Council for the variation of condition 2 of planning permission C1/33/80R/CM, which related to the approved plans for the conversion of the stable buildings including the provision of first floor holiday accommodation and an associated utility building. The grant of this planning consent superseded permission C1/33/80R/CM. This decision included a deed of variation pursuant to the existing Legal Agreement, pursuant to Section 106A of the Town and Country Planning Act 1990.

- 2.15 A further planning permission was granted by Richmondshire District Council on 12 November 2014 (ref.14/00716/FULL) for the revision to car parking arrangements associated with the approved development within the Middleton Lodge Estate.
- 2.16 A further planning permission (ref. C1/14/00747/CM) was granted by North Yorkshire County Council on 24 April 2015 for the variation of conditions 5 & 6 of Planning Permission C1/12/00746/CM that relates to the site access arrangements.
- 2.17 A further planning permission (ref: C1/16/00881/CM) was granted on 28 February 2017 for part retrospective planning application for the storage of soil mounds for the duration of the mineral extraction works under Planning Permission Ref No. C1/14/00747/CM for use in restoration by 15th May 2028.
- 2.18 In 2016 application (ref: C1/16/00191/CM) was submitted which proposed to change the phasing of the workings and a revised restoration scheme. Objections were received which resulted in the applicant proposing to amend the restoration plans. The applicant decided to withdraw the application and submit a new application, which is the current application under consideration.
- 2.19 The quarrying operations at Middleton Lodge are currently being undertaken under permission C1/14/00747/CM. In early November 2016 an application (NY/2016/0220/73) was submitted to vary the working phases and restoration plan which had been approved under the extant permission.
- 2.20 The application C1/16/00919/CM (NY/2016/0220/73) proposed the following changes
- i) Raising the floor levels in phase 2 – decision was taken not to construct a fountain in the Quarry Garden (Phase 2) which led to a review of how to pump the water from the base of the Quarry Garden. The floor level would be raised to allow for natural drainage. The approved restoration scheme for Phase 2 provides for the formation of a lake in the quarry floor at a level of approximately 80 metres AOD. This is at a lower level than that of the water outlet to the tributary of the Five Hills Beck from the spring fed pond to the east and consequently the lake would not drain by gravity. In order to prevent the quarry garden flooding during periods of heavy rainfall it will be necessary to pump excess water out of the Quarry Garden in perpetuity. A more sustainable way of controlling the water level in the Quarry Garden is to have it drain by gravity, the application proposed raising the final restored level to approximately 83.5 metres AOD, this would be slightly higher than the level of the pond fed by the spring to the east meaning that the water would drain from the Quarry Garden to the pond by gravity before entering the tributary to Five Hills Beck. To achieve this it was proposed to raise the restoration level of the phase 2 quarry by backfilling with clay and scalplings arising from mineral extraction in Phase 2 and clay stored in perimeter bunds.
 - 2.21 ii) Stone rib between Phases 1 and 3 and direction of working – The application provided for the installation of an additional item of fixed plant in the form of a trammel screen and a stone ridge to provide noise attenuation. The direction of working would also change. The trammel would be used to process the scalplings i.e. separate clay out of the scalplings. In order to provide noise attenuation to Middleton Lodge whilst the trammel screen was in use it was proposed to leave a block of stone unworked between Phase 1 where the screen would be located and Phase 3. In order to develop and maintain the stone rib or block the application proposed modifying the direction of working in Phase 3 from the approved north westerly direction to a south easterly direction.
 - 2.22 iii) Additional phase 3B – The application proposed an additional area of mineral extraction, known as Phase 3B, within the area underneath Mound 'C' on the north east side of Phase 1. Given that the proposal to raise the floor levels in Phase 2 envisaged using the clay stored in mound 'C', its removal would make the extraction

of the underlying stone possible. However, in order to remove Mound 'C' and extract the underlying stone it would be necessary to remove both the trees on Mound 'C' and 4 mature ash trees located adjacent to Mound 'C' on the boundary of Phase 1.

- 2.23 iv) The application proposed a number of updates to the approved restoration and aftercare plan for the quarry.
- 2.24 v) Year round working – Conditions 7 and 20 of the current planning permission provide that no quarrying and no blasting shall take place in Phase 3 between 1st April and 1st October. The application proposed that these conditions be amended to allow year round working to enable the quarrying operations to be completed by 2028 as provided for by Condition 13.
- 2.25 However, following submission of the application, a number of concerns and objections to the proposals were raised primarily relating to the removal of Mound 'C' and the trees planted on it; removal of the four mature trees adjacent to Mound 'C'; impacts on bats potentially roosting in the four trees; the extraction of the stone in additional Phase 3B; and the effects of year round working
- 2.26 Following detailed consideration of the objections to the previous 2016 application and investigation of alternative means of achieving the proposed changes to the approved scheme the decision was taken to withdraw the 2016 application and submit a new one which dispensed with: The proposed removal of Mound 'C' and the trees planted on it; the proposed removal of the four mature trees adjacent to Mound 'C'; the proposed extraction of stone underlying Mound 'C' i.e. Phase 3B; and the proposal to install a trammel screen and the associated proposals to leave a stone 'rib' between Phases 1 and 3 and change the direction of working in Phase 3. The new application sets out revised proposals to (i) raise the floor levels in Phase 2, (ii) allow for year round working in Phase 3 and (iii) amend the restoration proposals.

Conditions proposed to be amended

- 2.27 The relevant planning conditions which are the subject of this application are under permission C1/14/00747/CM:
1. The development hereby permitted shall be carried out in accordance with the application details dated 18 December 2006 and the Environmental Statement dated December 2006, the Application details dated 27 September 2012 subject to the list of 'Approved Plans and Documents' in Appendix 1 to this schedule of conditions, the Application details dated 18 September 2014 and approved documents:
- Supporting Transport Statement (ref: JN0776) dated December 2014;
 - Approved Plan titled 'Visitor Exit Junction by Walled Garden' (ref: NT03435/26/001 – Rev.D) dated June 2014.
- These plans, details and the following conditions shall at all times take precedence.

Reason: To ensure that the works are carried out in accordance with the approved particulars and plans

6. The proposed Quarry Garden as detailed on the plans titled 'The Quarry Garden (Sheet 1-4)' (ref: NT03435/18/030) dated December 2011, shall not be brought into use until such time as the Local Access Road between Scotch Corner and Barton, connecting to Kneeton Lane and constructed in accordance with the A1 (M) upgrade, has been implemented and made available for use. In the event that the Local Access Road is not constructed or made available for use, the access arrangements for the site shall be undertaken in accordance with the Chapter 5 of the Wardell Armstrong Report (ref: NT03435/18 – Report No.001) dated December 2011.

Reason: To ensure the development would not detrimentally impact the local highway network.

7. No construction works, extraction or associated operations including maintenance and transport of mineral from the site shall take place except between the following times: 07.30 - 17.30 hours Monday to Friday. No quarrying or associated operations (except for maintenance and repairs which shall be restricted to 07.30 - 12.30 hours on Saturdays) shall take place on Saturdays, Sundays or Bank or Public Holidays.

Within Phase 3 of the approved development (as shown on Figure 3.1 Indicative Phasing of Mineral Extraction NT03435/005 - dated August 2005) no quarrying shall take place between 1st April and 1st October each year.

Reason: To ensure the development would not detrimentally impact the local highway network.

10. The development hereby permitted shall be constructed in accordance with Chapter 7 titled 'Condition 14: Landscape Planting and Trees to be removed' of the Wardell Armstrong Report and the following plans:

- Drawing no. NT03435/18/018 Rev.A titled 'Tree Protection and removal Plan (Sheet 8)' dated 7 March 2012;
- Drawing no's. NT03435/18/018 Rev.A titled 'Tree Protection and removal Plan (Sheet 1-6)' dated December 2011 and (Sheet 7) dated 7 March 2012;
- Drawing no's. NT03435/18/005 titled 'Phase 1 and 3 Planting Plan (sheet 1-7)' dated December;
- Drawing no's. NT03435/18/030 titled 'The Quarry Garden (Sheet 1-4)' dated December 2011;
- Drawing no. NT03435/18/031 titled 'Landscape Planting' dated December 2011.

In the event of any plant material, shown on Drawing no. NT03435/18/031, dying or becoming seriously diseased or damaged within 5 years of planting, it shall be replaced with similar species to a specification that shall be first agreed in writing with the County Planning Authority unless the County Planning Authority give written consent to any variation.

Reason: To ensure the development would not detrimentally impact residential amenity.

14. The development hereby permitted shall be constructed in accordance with the following details:

- Document titled 'Barton Quarry Extension: Information required by conditions 19 and 21 – Detailed Method of Working and Details of the Construction of Conveyor Route';
- Appendix 1 Drawing NT03435/18/021 titled 'Detailed Site Design Phase 1 dated June 2011';
- Appendix 2 titled 'Cut and Fill Calculations for Phase 1';
- Appendix 3 titled 'Typical Box Culvert Section' dated 29 March 2011;
- Appendix 4 titled 'Arboricultural Implication Assessment Of Trees At Middleton Lodge' dated 19 April 2011 and Drawing no. TPP-B titled 'Retained Trees shown on Proposed Layout With Protective Measures Indicated' dated 20 April 2011;
- Appendix 5 titled Arboricultural Method Statement For Trees At Middleton Lodge' dated April 2011 with amendments as set out in the Sherburn Stone Co. Ltd email dated 25 August 2011;
- Appendix 6 titled 'Ecological Updating Surveys 2010: Land at Middleton Lodge' dated 20 May 2010;

- Appendix 7 titled 'A Breeding Bird Survey of Land at Middleton Lodge 2010' dated 3 June 2010;
- Appendix 8 titled 'A Great Crested Newt Survey of Middleton Lodge' dated 18 June 2010; the above being submitted with the letter from Sherburn Stone Co. Ltd dated 21 June 2011;
- The details found within document no. B1747100/AIP/01 titled 'Box AIP – Middleton Lodge – Barton Quarry Conveyor Tunnel' dated 20 December 2011 and drawing no. 1747100/ML/LOC/001 Rev 0 titled 'Middleton Lodge Development Location Plan' dated December 2011 received via Jacobs Ltd on 23 December 2011.
- Document titled 'Barton Quarry Extension: Information required for conditions 19 – Detailed method of working for Phases 2 and 3' and associated drawings NT03435/18/28 titled 'Detailed Site Design Phase 2A and 2B' dated November 2011 and NT03435/18/29 titled 'Detailed Site Design Phase 3A' dated November 2011.

Reason: To ensure the development would be constructed in accordance with the approved plans and conditions.

20. Except with the prior written approval of the County Planning Authority, no blasting shall be carried out on any part of the site unless between 11.00 and 16.00 Monday to Friday inclusive and no blasting shall be carried out at any time on Saturdays, Sundays, Bank or Public Holidays. Within Phase 3 of the approved development (as defined in the application) no blasting shall take place between 1st April and 1st October each year.

Reason: To ensure the development would not detrimentally impact residential amenity.

24. All topsoil and subsoil shall be permanently retained on the site for subsequent use in restoration.

Reason: To ensure the development would be constructed in accordance with the approved plans and conditions.

26. There shall be no removal of topsoils, subsoils or overburden storage except in accordance with the details shown on Drawings NT03435/18/28 titled 'Detailed Site Design Phase 2A and 2B' dated November 2011 and NT03435/18/29 titled 'Detailed Site Design Phase 3A' dated November 2011. The approved details shall be implemented in full as approved. Once formed, all mounds in which topsoil and subsoil are to be stored for more than 6 months, or over the winter period, shall be grass seeded in accordance with the specification that shall be submitted to an approved in writing by the County Planning Authority within one month of the date of this decision. Mounds shall be managed throughout the period of storage to maintain satisfactory vegetation cover, carry out weed control and avoid erosion and waterlogging.

Reason: To ensure the development would be constructed in accordance with the approved plans and conditions.

27. The development hereby permitted shall be carried out in accordance with the details found within Chapter 9 titled 'Condition 33: Restoration and Aftercare of the Quarry' of the Wardell Armstrong Report and the following plans:

- Drawing no. NT03435/18/018 Rev.A titled 'Tree Protection and removal Plan (Sheet 8)' dated 7 March 2012;
- Drawing no's. NT03435/18/018 Rev.A titled 'Tree Protection and removal Plan (Sheets 1-6)' dated December 2011 and (Sheet 7) dated 7 March 2012;
- Drawing no's. NT03435/18/005 titled 'Phase 1 and 3 Planting Plan (sheets 1- 7)' dated December 2011;

- Drawing no's. NT03435/18/030 titled 'The Quarry Garden (Sheet 1-4)' dated December 2011.

The restoration and aftercare of the site shall be carried out in strict accordance with the approved scheme.

Reason: To ensure the development would be constructed in accordance with the approved plans and conditions.

30. The development hereby permitted shall be carried out in accordance with the details of the proposed arrangements for cycle and pedestrian access, and cyclist parking, found within Chapter 10 titled 'Condition 36: Cycle and Pedestrian Access & Parking' of the Wardell Armstrong Report including drawing no's NT03435/18/003 and NT03435/18/004 dated December 2011. The scheme shall be implemented in full as approved and once created shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: To ensure the development would be constructed in accordance with the approved plans and conditions.

- 2.28 The Applicant expects the remainder of the conditions to remain the same unless the work has been completed to discharge the conditions, further details are contained in Section 7 of this report starting at paragraph 7.33, as they are not affected by the proposed changes. The extraction of Phase 1 is complete and extraction within Phase 2 is ongoing and expected to be completed in 2021 to be restored in the next 2 to 3 years. Full details of working and extraction methods are included in Appendix 1 of the Planning Statement, Method of Working for Phases 2 and 3.

3.0 The proposal

- 3.1 Planning permission is sought for the Variation of conditions 1, 6, 7, 10, 14, 20, 24, 26, 27, 30 of planning permission C1/14/00747/CM which relates to revising working times for Phase 3 and the restoration scheme Middleton Lodge, Kneeton Lane, Middleton Tyas, Richmond, DL10 6NJ on land at Middleton Lodge, Kneeton Lane, Middleton Tyas, DL10 6NJ on behalf of Breedon Northern. The proposal is to raise the floor of the Quarry Garden, provide a revised restoration scheme for Phases 2 and 3 and change the months of working of Phase 3 from being over winter only to all year round.
- 3.2 The application was screened in accordance with The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 to determine if an Environmental Impact Assessment was required to accompany the application. The Screening Opinion confirmed that the proposal would not give rise to any significant impact on the environment or historic assets and an Environmental Statement is not required as it is not considered to be EIA development.
- 3.3 The conditions listed have been selected to be varied as conditions 7 and 20 do not permit the operator to extract and blast in Phase 3 between the months of April and October. The applicant would like to change this to extract and blast in Phase 3 all year round. The other conditions 1, 6, 10, 14, 24, 26, 27 and 30 all contain references to plans which the applicant has provided updated versions of to reflect the proposed changes to the quarry garden floor level and restoration proposals for Phases 2 and 3. The remaining conditions are not affected by the proposed changes and would remain in place unless they have already been discharged, if the application is successful.
- 3.4 The main aim of the now withdrawn application C1/16/00919/CM was to amend the approved restoration scheme for Phase 2 known as the 'Quarry Garden', Mound 'C' was to be removed and the materials used to raise the level of the lake in the quarry garden, following concerns raised it is proposed to retain Mound 'C'. The proposed

revised restoration scheme does not now include the fountain which was included in the original permission agreed at appeal. The approved scheme provides for mineral extraction to take place down to a depth of approximately 78 metre AOD followed by restoration to a level of approximately 80 metres AOD. However, at this level water will not be able to drain via gravity and so in order to ensure the Quarry Garden does not become flooded it will be necessary to undertake pumping in perpetuity, a process which would not be sustainable. The applicant's aim is to amend the approved restoration for Phase 2 to enable drainage to take place by gravity rather than using a pump now it is proposed that the fountain proposed in the original permission (Appeal Ref: APP/P2745/A/09/2119601) will not be built. However, it is clear that the potential impact associated with the proposal to remove the clay in Mound 'C' raised considerable concern. As a result it is now proposed to raise the final level of the Quarry Garden to approximately 83.5 metres AOD as identified on Drawing Ref No NT03435/28/15: The proposed restoration of the Quarry Garden will be achieved by a combination of leaving mineral unworked in the base of Phase 2 and backfilling with scalpings and clay arising from mineral extraction in Phase 2 and 3 only.

- 3.5 Year round working – Condition numbers 7 and 20 of the current planning permission provide that no quarrying operations and no blasting shall take place in Phase 3 between 1st April and 1st October. These restrictions were proposed by the applicant when planning permission was first sought for the development of Middleton Lodge with the aim being to prevent any impact on visitors to the gardens in the summer months. However, the Applicant proposes that the development of the quarrying operations are now such that the application of these conditions would have the following implications:
- i. Condition 13 of the current planning permission provides that quarrying operations at Middleton Lodge should be completed and the site restored by May 2028. It was originally envisaged that mineral extraction would take 5 years to complete in Phases 1 and 2 and 10 years in Phase 3, so 15 years in total. However the extraction of the stone in Phases 1 and 2 has taken 8 years rather than 5 years due to a downturn in market conditions. Whilst it is proposed to increase production rates, the impact of conditions 7 and 20 would mean that the annual output would not be sufficient to enable Quarrying operations and site restoration to be completed by May 2028.
 - ii. In addition to the clay and scalpings present in Phase 2, clay and scalpings in Phase 3 will also be required to complete the restoration of Phase 2, if this proposal is granted. The impact of conditions 7 and 20 would be to interrupt the generation of supply of these materials from Phase 3 to Phase 2 thereby delaying the completion of restoration of Phase 2.
 - iii. The stone extracted from Middleton Lodge is transported by the field conveyor to Barton Quarry for processing. It is then stockpiled pending sale to customers. There is not enough space available within Barton Quarry to enable sufficient volume of stone to be extracted, processed and stockpiled during a 6 month working period to maintain supplies during the subsequent 6 month period. Accordingly, the impact of conditions 7 and 20 would be that stockpiles in Barton Quarry would expire well in advance of when working would recommence in Middleton Lodge. This would result in customers having to purchase stone from other locations further away resulting in greater HGV travelling distances. This is particularly true of the coating plant in Barton Quarry where a large volume of their aggregate needs are met from the stone extracted at Middleton Lodge and processed and stockpiled in Barton Quarry. If the aggregate would not be available from the stockpiles at Barton Quarry they would have to purchase it from elsewhere and import it to Barton to maintain the production and supply from the plant.
- 3.6 Accordingly the Applicant proposes to amend conditions 7 and 20 to allow for year round working to enable quarrying operations and restoration of the site to be completed by 2028 as required by Condition 13 of the extant planning permission and

to ensure continuity of supply to customers. Quarrying operations and blasting would continue to be undertaken in accordance with the first parts of conditions 7 and 20 throughout the year.

- 3.7 As detailed in paragraph 3.5 the extant permission restricts the extraction and blasting in Phase 3 to 6 months a year to prevent the impact on visitors to the gardens in summer months. However, a significant part of the gardens will be the Quarry Garden itself in Phase 2 and the restoration of Phase 2 is reliant upon receiving clay and scalplings generated by the working of Phase 3 and the Applicant anticipates that the Quarry Garden would be ready to open in 2025. Therefore, the Quarry Garden will not be open to visitors when quarrying in Phase 3 commences and when it is open quarrying will have advanced by 200 metres away to the north west and will be in the latter half of Phase 3 by this stage and consequently any subsequent impact arising from those operations will be mitigated by distance.
- 3.8 The owner and operator of Middleton Lodge properties and business have confirmed that they have not had any issues with quarrying in Phase 2, which is operational all year round. The Estate is not affected by noise or dust and there have been no complaints from guests regarding the operations at the quarry. Phase 3 is further away from the main house at Middleton Lodge and is therefore unlikely that year round operations in Phase 3 would cause any harm to the Estate.
- 3.9 It is proposed to revise the approved restoration and aftercare plan for the site and the details are shown on Drawings NY03435/28/007, 008, 009, 010, 011, 012, 013, 014, 015 and 016 and in Appendix 3: Restoration and Aftercare.

Proposed changes to conditions

- 3.10 Apart from current Condition 7 and Condition 20 the remaining conditions are being varied due to the provision of some updated plans. The wording for the revised conditions as varied are proposed to be:

Condition 1. The development hereby permitted shall be carried out in accordance with the application details dated 8 January 2021 and those previously approved under permission C1/14/00747/CM and the following approved documents and drawings:

- Supporting Transport Statement (ref: JN0776) dated December 2014;
- Approved Plan titled 'Visitor Exit Junction by Walled Garden' (ref: NT03435/26/001 – Rev.D) dated June 2014.
- Planning Statement
- Phase 2 Detailed Site Design – NT03435/28/002 – August 2016
- Phase 3 Detailed Site Design – NT 03435/28/004A – August 2016
- Landscape Masterplan – NT03435/28/007/B - August 2016
- Cross sections showing the restoration profile – NT03435/28/008/A - August 2016
- Indicative cross sections through restored quarry faces and slopes – NT03435/28/009 - August 2016
- Sections through Quarry from Kiln Head Spring – NT03435/28/010 - August 2016
- Section through quarry from Woodhouse Farm – NT03435/28/011/A - August 2016
- System for collecting Surface and Ground water – NT03435/28/012/A – September 2016
- Vehicle, Pedestrian and Cycle circulation – NT03435/28/013/A – September 2016
- Phases 1 and 3 planting plan – NT03435/28/014/A – September 2016
- The Quarry Garden – NT03435/28/015 - August 2016
- Quarry Garden lake edge details – NT03435/28/016 - August 2016

These plans, details and the following conditions shall at all times take precedence.

Reason: To ensure that the works are carried out in accordance with the approved particulars and plans

Condition 6. The proposed Quarry Garden as detailed on the plans titled 'The Quarry Garden' (ref: NT03435/28/015) dated August 2016, shall not be brought into use until such time as the Local Access Road between Scotch Corner and Barton, connecting to Kneeton Lane and constructed in accordance with the A1 (M) upgrade, has been implemented and made available for use. In the event that the Local Access Road is not constructed or made available for use, the access arrangements for the site shall be undertaken in accordance with the Chapter 5 of the Wardell Armstrong Report (ref: NT03435/18 – Report No.001) dated December 2011.

Reason: To ensure the development would not detrimentally impact the local highway network.

The Local Access Road has now been created and is in use so this condition can be removed as it is no longer required.

Condition 7. No construction works, extraction or associated operations including maintenance and transport of mineral from the site shall take place except between the following times: 07.30 - 17.30 hours Monday to Friday. No quarrying or associated operations (except for maintenance and repairs which shall be restricted to 07.30 - 12.30 hours on Saturdays) shall take place on Saturdays, Sundays or Bank or Public Holidays.

Reason: To ensure the development would not detrimentally impact the local highway network.

Condition 10. The development hereby permitted shall be constructed in accordance with Chapter 7 titled 'Condition 14: Landscape Planting and Trees to be removed' of the Wardell Armstrong Report December 2011 and the following plans:

- Drawing no. NT03435/18/018 Rev.A titled 'Tree Protection and removal Plan (Sheet 8)' dated 7 March 2012;
- Drawing no's. NT03435/18/018 Rev.A titled 'Tree Protection and removal Plan (Sheet 1-6)' dated December 2011 and (Sheet 7) dated 7 March 2012;
- Drawing no's. NT03435/28/014/A titled 'Phase 1 and 3 Planting Plan' dated August 2016;
- Drawing no's. NT03435/28/015 titled 'The Quarry Garden' dated August 2016;
- Drawing no. NT03435/18/031 titled 'Landscape Planting' dated December 2011.
- In the event of any plant material, shown on Drawing no. NT03435/18/031, dying or becoming seriously diseased or damaged within 5 years of planting, it shall be replaced with similar species to a specification that shall be first agreed in writing with the County Planning Authority unless the County Planning Authority give written consent to any variation.

Reason: To ensure the development would not detrimentally impact residential amenity.

Condition 14. The development hereby permitted shall be constructed in accordance with the following details:

- Document titled 'Barton Quarry Extension: Information required by conditions 19 and 21 – Detailed Method of Working and Details of the Construction of Conveyor Route';
- Appendix 1 Drawing NT03435/18/021 titled 'Detailed Site Design Phase 1 dated June 2011';
- Appendix 2 titled 'Cut and Fill Calculations for Phase 1';

- Appendix 3 titled 'Typical Box Culvert Section' dated 29 March 2011;
- Appendix 4 titled 'Arboricultural Implication Assessment Of Trees At Middleton Lodge' dated 19 April 2011 and Drawing no. TPP-B titled 'Retained Trees shown on Proposed Layout With Protective Measures Indicated' dated 20 April 2011;
- Appendix 5 titled 'Arboricultural Method Statement For Trees At Middleton Lodge' dated April 2011 with amendments as set out in the Sherburn Stone Co. Ltd email dated 25 August 2011;
- Appendix 6 titled 'Ecological Updating Surveys 2010: Land at Middleton Lodge' dated 20 May 2010;
- Appendix 7 titled 'A Breeding Bird Survey of Land at Middleton Lodge 2010' dated 3 June 2010;
- Appendix 8 titled 'A Great Crested Newt Survey of Middleton Lodge' dated 18 June 2010; the above being submitted with the letter from Sherburn Stone Co. Ltd dated 21 June 2011;
- The details found within document no. B1747100/AIP/01 titled 'Box AIP – Middleton Lodge – Barton Quarry Conveyor Tunnel' dated 20 December 2011 and drawing no. 1747100/ML/LOC/001 Rev 0 titled 'Middleton Lodge Development Location Plan' dated December 2011 received via Jacobs Ltd on 23 December 2011.
- Planning Statement (submitted 8 January 2021) – Appendix 1 titled 'Method of working Phases 2 and 3 drawings NT03435/28/002 – Phase 2 Detailed Site Design dated August 2016 and NT03435/028/004/A – Phase 3 Detailed Site Design dated August 2016.

Reason: To ensure the development would be constructed in accordance with the approved plans and conditions.

Condition 20. No blasting shall be carried out on any part of the site unless between 11.00 and 16.00 Monday to Friday inclusive and no blasting shall be carried out at any time on Saturdays, Sundays, Bank or Public Holidays.

Reason: To ensure the development would not detrimentally impact residential amenity.

Condition 24. All topsoil and subsoil shall be permanently retained on the site and the adjacent soil mounds site (see planning Permission Ref No. C1/00881/CM) for subsequent use in restoration.

Reason: To ensure the development would be constructed in accordance with the approved plans and conditions.

Condition 26. There shall be no removal of topsoils, subsoils or overburden storage except in accordance with the details shown on Drawings NT03435/028/002 titled 'Phase 2 Detailed Site Design' dated August 2016 and NT03435/28/004/A titled 'Phase 3 Detailed Site Design' dated August 2016. The approved details shall be implemented in full as approved. Once formed, all mounds in which topsoil and subsoil are to be stored for more than 6 months, or over the winter period, shall be grass seeded in accordance with the specification that shall be submitted to an approved in writing by the County Planning Authority within one month of the date of this decision. Mounds shall be managed throughout the period of storage to maintain satisfactory vegetation cover, carry out weed control and avoid erosion and waterlogging.

Reason: To ensure the development would be constructed in accordance with the approved plans and conditions.

Condition 27. The development hereby permitted shall be carried out in accordance with the details found within Planning Statement (submitted 8 January 2021) – Appendix 3 titled ‘Restoration and Aftercare’:

- Drawing no. NT03435/18/018 Rev.A titled ‘Tree Protection and removal Plan (Sheet 8)’ dated 7 March 2012;
- Drawing no’s. NT03435/18/018 Rev.A titled ‘Tree Protection and removal Plan (Sheets 1-6)’ dated December 2011 and (Sheet 7) dated 7 March 2012;
- Drawing no. NT03435/28/014/A titled ‘Phase 1 and 3 Planting Plan’ dated September 2016;
- Drawing no. NT/03435/028/030 titled ‘The Quarry Garden’ dated September 2016

The restoration and aftercare of the site shall be carried out in strict accordance with the approved scheme.

Reason: To ensure the development would be constructed in accordance with the approved plans and conditions.

Condition 30. The development hereby permitted shall be carried out in accordance with the details of the proposed arrangements for cycle and pedestrian access, and cyclist parking, found within Chapter 10 titled ‘Condition 36: Cycle and Pedestrian Access & Parking’ of the Wardell Armstrong Report including drawing no’s NT/03435/28/013/A dated August 2016 . The scheme shall be implemented in full as approved and once created shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: To ensure the development would be constructed in accordance with the approved plans and conditions

- 3.11 All of the other planning conditions are still relevant and will be carried forward unless already discharged should planning consent be forthcoming.
- 3.12 The proposed changes to the restoration scheme have resulted in changes to several of the approved plans detailed in permission C1/14/00747/CM, these are detailed below:
- Plan NT03435/28/002 ‘Phase 2 Detailed Site Design’ dated August 2016, replaces NT03435/18/28 ‘Detailed Site Design Phase 2A and 2B’ dated November 2011. The site design has been changed for Phase 2, which is the Quarry Garden, so a revised drawing has been submitted to show the fountain has been removed and floor level in the lake has been raised. The Plan shows Phase 2 at the end of the restoration process.
 - Plan NT03435/28/004A ‘Phase 3 Detailed Site Design’ dated August 2016 replaces NT03435/18/29 ‘Detailed Site Design Phase 3A’ dated November 2011 (submitted with application ref: NY/2011/0492/A30). The revised drawing shows the change in working direction and the site at the end of extraction of Phase 3.
 - Plan NT03435/28/007/B ‘Landscape Masterplan’ dated August 2016 replaces NT03435/011 ‘Landscape Masterplan’ dated November 2006. Shows the proposed revised restoration scheme, including planting, for Phase 2 and Phase 3 as well as the rest of the Middleton Lodge site.
 - Plan NT03435/28/008/A ‘Cross Sections showing the restoration profile’ dated August 2016 replaces NT03435/042 ‘Cross sections showing restoration profile’ dated November 2006. The revised drawing shows cross sections across Phase 2 and Phase 3 one the revised restoration scheme is complete.

- Plan NT03435/028/009 'Indicative cross sections through restored quarry faces and slopes' dated August 2016 replaces NT3435/016 'Restored slope configuration' dated July 2005. Shows cross section through the rock face once the revised restoration scheme is complete.
- Plan NT03435/28/010 'Sections through Quarry from Kiln Head Spring dated August 2016 replaces NT03435/031 'Sections through Quarry from Kiln Head Spring' dated 2006. Shows cross section from Kiln Head Spring, a residence located north of Phase 3 showing sight line from first floor of the property both prior to and after extraction in Phase 3.
- Plan NT03435/28/011/A 'Section through Quarry from Woodhouse Farm' dated August 2016 replaces NT03435/033 'Sections through Quarry from Woodhouse Farm' dated April 2006. Shows sight line from Wood House Farm, located north east of the quarry looking over Phase 2 once restoration is complete.
- Plan NT03435/028/012/A 'System for collecting Surface and Ground water' dated September 2016 replaces NT03435/944 'System for collecting Surface and Ground water' dated November 2006. Shows how surface and ground water will be dealt with once restoration is complete, ensuring lake levels are maintained and excess water drained away.
- Plan NT03435/028/013/A 'Vehicle, Pedestrian and Cycle Circulation' dated September 2016 replaces Chapter 10 'Conditions 36: Cycle and Pedestrian Access & Parking' in Wardell Armstrong Report NT03435/018 Report No. 1 dated December 2011. Shows pedestrian, cycle and vehicle routes around the whole Middleton Lodge site once restoration is complete.
- Plan NT03435/028/014/A 'Phases 1 and 3 planting plan' dated September 2016 replaces NT03435/18/005 dated December 2011. Shows proposed planting scheme in Phases 1 and 3 as part of progressive restoration scheme.
- Plan NT03435/28/015 'The Quarry Garden' dated August 2016 replaces NT03435/18/030 'The Quarry Garden' dated December 2011. Shows detailed restoration scheme for Phase 2, which is the Quarry Garden including the lake, planting and surfaced paths.
- Plan NT03435/028/016 'Quarry Garden lake edge details' dated August 2016, this is a new plan showing a cross section through the lake in Phase in Phase 2 Quarry Garden, details depth of lake, material's and plants to be used during restoration.

4.0 Consultations

- 4.1 The consultees responses summarised within this section of the report relate to responses to the consultation on 22 January 2021.
- 4.2 **Highway Authority** – responded on 27 January 2021 stating that the proposed changes would not have any impact on the surrounding highway network therefore they had no objections.
- 4.3 **NYCC Heritage - Principal Landscape Architect** – responded on 12 February 2021 with no objection to the proposed variations.
- 4.4 **NYCC Heritage - Ecology** – responded on 25 January 2021 and stated that it is understood that the revised scheme of quarrying removes the need to extract stone

from the additional land in Phase 3B, which would have resulted in the loss of four ash trees which are verging on the veteran tree status and provide roosting habitat for bats. Since the revision removes this conflict of interests, it is welcome.

- 4.5 **NYCC Arboricultural Officer** – responded on 24 June 2021 stating that as the removal of the four veteran trees is no longer part of the proposal they have no further objections.
- 4.6 **Richmondshire District Council (Planning)** – A response was received on the 1 September 2021 which stated that taking into consideration other consultation responses they had no comments to make regarding the proposal.
- 4.7 **The Gardens Trust** – responded on 9 February 2021 stated that the application for the purposes of the Variation of Conditions of the planning permission C1/14/00747/CM is connected with the extraction of stone and associated works, from an area of the Registered Park and Garden largely to the north of Middleton Lodge. It is understood that that the proposal should reduce the time scale for the quarrying operations and restoration, and so have no comments to make.
- 4.8 **Richmond & District Civic Society** – responded on 10 February 2021 with no objections.
- 4.9 **Historic England** – responded on 2 February 2021 and did not offer any comments but recommended seeking the views of our specialist conservation and archaeologist advisers.
- 4.10 **Richmondshire DC - Conservation Officer** – at the time of writing this report no response has been received.
- 4.11 **Barton Parish Council** – at the time of writing this report no response has been received.
- 4.12 **Middleton Tyas Parish Council** – responded on 23 March and stated that not all residents may be aware of the application due to recent roadworks closing Kneeton Lane for several weeks, therefore local residents and those most affected would not have had the opportunity to observe any site notices. The changes to the quarry operational hours from October to April to all year round blasting is more likely to affect properties further away from Middleton Lodge towards the east, rather than the hotel itself where the noise of the belt or blasting cannot be heard. Properties including those along Cow Lane, Oakfields and Murky Hill across to Halanby and Barton hear the quarry noise during the day and live music and fireworks from events at Middleton Lodge at night due to how the landscape dips away and the sound being carried across. With summer coming up and more events being held outside because of the pandemic it feels appropriate that consideration be given to consulting with these properties directly.
- 4.13 **Middleton Tyas Residents Association** - at the time of writing this report no response has been received.
- 4.14 **Barton Residents Association** - at the time of writing this report no response has been received.
- 4.15 **Environmental Health Officer (Richmondshire)** – response received on 10 February 2021 stating that they had considered the potential impact on amenity and the likelihood that the development will cause a nuisance and have no objections to the proposal providing that the existing hours of use as part of Condition 7 remain, along with the

other conditions relating to noise including Conditions 17, 18 and 19 in Decision Notice C1/14/00747/CM.

- 4.16 **NYCC Heritage – Archaeology** – responded on 21 January 2021. The appeal decision includes a planning condition relating to the agreement of a Written Scheme of Archaeological Investigation (Condition no. 5). The scheme was agreed in 2011 (NY/2011/0492/A30) and applies to the proposed car parking areas to the north of Middleton Lodge. The current consultation does not have an impact on this aspect of development. There is no objection to the proposal and no comments to make.
- 4.17 **NYCC Public Rights of Way Team** – an initial response was received on 26 January 2021 stating that there is a Public Right of Way (PROW) within or adjoining the application boundary and set out actions which would be required if the PROW would be permanently or temporarily affected by activities on the site. The information in the response was forwarded onto the applicant who responded confirming that the PROW is not within the red line boundary of the site and so will not be impacted by the operations on site and will be protected and kept clear throughout the proposed development. Following receipt of the additional information the PROW team stated that the applicant does not need to take any action in relation to the PROW and had no further comments to make.

Notifications

- 4.18 **County Cllr. Angus Thompson** – notified on 21 January 2021.

5.0 Advertisement and representations

- 5.1 This application has been advertised by means of 6 Site Notices posted on 25 January 2021 (responses to which expired on 15 February 2021). The Site Notices were posted in the following locations: where the PROW joins the highway network on Kneeton Lane north of the entrance to Middleton Lodge and west of the entrance to the Coach House, the vehicular access to Middleton Lodge, near access to Barton Service Station, near Half Moon pub on Silver Street, the Parish Council notice boards in Barton and Middleton Tyas. The site notices stayed in place longer than the required period to give people time to view them once Kneeton Road was reopened. A Press Notice appeared in the Darlington and Stockton Times on 29 January 2021 (responses to which expired on 1 March 2021).
- 5.2 Neighbour Notification letters were sent on 22 January 2021 and the period in which to make representations expired on 12 February 2021. The following properties received a neighbour notification letter:
- Mill Farm, Middleton Tyas, Richmond. DL10 6NL;
 - 1, 2, 3 and 4 Kneeton Cottages, Middleton Tyas, Richmond, DL10 6NL;
 - Woodhouse Farm, Middleton Tyas, Richmond. DL10 6SA;
 - Middleton Lodge, Kneeton Lane, Middleton Tyas, Richmond. DL10 6NJ;
 - Limekilns, Barton, Richmond. DL10 6NB;
 - North Road Farm, Barton, Richmond, DL10 6NB;
 - Overkneeton, Barton, Richmond. DL10 6NB;
 - Underkneeton, Barton, Richmond. DL10 6NB;
 - Little Kneeton, Barton, Richmond. DL10 6NB;
 - Stonecrest Hall, Barton, Richmond, North Yorkshire;
 - Kiln Head Spring, Kneeton Lane, Middleton Tyas, Richmond. DL10 6NB;
 - The Farmhouse, Middleton Lodge, Kneeton Lane, Middleton Tyas, Richmond. DL10 6NJ;
- 5.3 One letter of representation has been received raising an objection on the grounds of Phase 3B of the quarry being in the sight line of one of the nearby properties, and that
- commrep/16

some of the saplings planted on top of 'Mound C' had died lessening the screening, a request for replacement planting for the saplings on top of 'Mound C' and additional planting in the wood adjacent to Phase 3B to provide additional screening while works were being carried out in the summer months was made so as to lessen the impact of the working on Phase 3B. The applicant had a meeting with the resident where their concerns were discussed. It was agreed to replace the saplings which had died on top of 'Mound C' and increase the number which was present to provide additional screening. The Applicant is of the opinion that there is sufficient screening provided by the existing wood, and this screening would increase in the summer months as the trees would be in leaf providing additional coverage. The resident was made aware of this but still requested additional screening as when the works would take place in Phase 3B it would be within the sightline of their property and it would be impossible to shield open workings from their property so the objection stands.

- 5.4 The Phase 3B referred to in the above representation was included as an additional area in the proposal C1/16/00919/CM (NY/2016/0220/73) which referred to the land under Mound 'C', this application was withdrawn. Bund 'C' is now staying in position so the Phase 3B identified as being under Mound 'C' is not now going to be extracted. In their representation the respondent made it clear that it was the area of land to the east of bund 'C' they were concerned about, as even with bund 'C' in place they were concerned that when extraction occurred in this area of Phase 3 it would be in the sight line of their property. The area they referred to can be seen on plan NT03435/28/014/A Phases 1 and 3 Planting Plan (2016), on this plan the area would be labelled as 3a to the east of bund 'C'.

6.0 Planning policy and guidance

The Development Plan

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each planning application in accordance with the Development Plan unless material considerations indicate otherwise. In this instance, therefore, the *Development Plan* consists of policies contained within a number of planning documents. These documents include:
- any extant planning policies contained within Plan(s) adopted by the County and District (or Borough) Councils 'saved' under direction of the Secretary of State; and,
 - any planning policies contained within *Development Plan* Documents adopted under the Local Development Framework regime.
- 6.2 The *Development Plan* for the determination of this particular application comprises the following:
- The extant 'saved' policies of the North Yorkshire Minerals Local Plan (NYMLP) (1997);
 - The extant policies of the Richmondshire Local Plan Core Strategy (2014);
- 6.3 Due to the age of the North Yorkshire Mineral Local Plan saved policies, they are assessed against the more up to date National Planning Policy Framework 2021 (NPPF) to determine whether they are consistent with the NPPF and what weight should be attached to them.

North Yorkshire Minerals Local Plan 'saved' policies (NYMLP)

- 6.4 The Planning and Compensation Act 1991 placed a duty on each County Council in England and Wales to prepare a Minerals Local Plan. The NYMLP was adopted in 1997 under the 1991 Act. In the absence of an adopted MWJP and in accordance with the provisions of the Planning and Compulsory Purchase Act 2004 as of 27 September 2007, only the 'saved' policies continue to form part of the statutory '*development plan*'

and provide an important part of the current local policy framework for development control decisions for minerals-related development.

- 6.5 The 'saved' Policies North Yorkshire Minerals Local Plan (adopted 1997) relevant to the determination of this application are:
- 3/2 Preferred Areas
 - 3/3 Areas of Search
 - 4/1 Determination of Planning Applications;
 - 4/10 Water Protection;
 - 4/13 Traffic Impact;
 - 4/14 Local Environment and Amenity;
 - 4/15 Public Rights of Way;
 - 4/18 Restoration to agriculture;
 - 4/20 Aftercare.
- 6.6 'Saved' Policy 3/2 'Preferred Areas' states: *'In order to maintain landbanks of permitted reserves proposals for aggregates mineral working in Preferred Areas will be regarded as acceptable in principle. Satisfactory details will have to be submitted before planning permission can be granted.'* This Policy accords with paragraph 213 of the NPPF which states that provision for aggregates should take the form of specific sites, preferred areas or areas of search. Therefore, it is considered that full weight should be given to this policy.
- 6.7 'Saved' Policy 3/3 'Areas of Search' states: *'Planning permission may be granted for aggregate mineral working within Areas of Search where the Mineral Planning Authority is satisfied that sufficient mineral cannot be obtained from Preferred Areas.'* This Policy accords with paragraph 213 of the NPPF which states that provision for aggregates can should take the form of specific sites, preferred areas or areas of search. Therefore, it is considered that full weight should be given to this policy.
- 6.8 'Saved' Policy 4/1 'Determination of Planning Applications', states, *'In considering an application for mining operations, the Minerals 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 proposals;*
 - (f) the proposals and programme for restoration are acceptable and would allow a high standard to be achieved;*
 - (g) a high standard of aftercare and management of the land could be achieved;*
 - (h) the proposed transport links to move the mineral to market are acceptable; and*
 - (i) any cumulative impact on the local area resulting from the proposal is acceptable'.*
- 6.9 The NPPF does not mention the matters raised in points a), b), c), d).
- 6.10 Where criterion e) is concerned, Paragraph 211 of the NPPF states that when determining planning applications, local planning authorities should ensure that any unavoidable emissions or vibrations are controlled or mitigated (if it is not possible to remove them at source).
- 6.11 With regard to criteria f) and g), Paragraph 211 of the NPPF states that when determining planning applications, local planning authorities should provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards, through the application of appropriate conditions, where necessary.

- 6.12 Criterion h) of 'saved' Policy 4/1 does not conflict with the provisions of the NPPF; however, there are differences in the objectives. Criterion h) states that transport links should be acceptable whereas paragraph 104 of the NPPF states that the potential impacts of development to the transport network should be considered, therefore, the NPPF should be given more weight in this instance.
- 6.13 Criterion i) of 'saved' Policy 4/1 is consistent with paragraph 211 of the NPPF. Paragraph 211 states that in granting permission for mineral development the cumulative effects of multiple impacts from individual sites and/or from a number of sites in a locality should be taken into account.
- 6.14 'Saved' Policy 4/10 'Water Protection' states that 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. Paragraph 174 of the NPPF states planning policies and decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality; and this policy is consistent with paragraph 174 of the NPPF and full weight should be given to this policy.
- 6.15 'Saved' Policy 4/13 'Traffic Impact' states '*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.*' This policy is consistent with paragraph 110 of the NPPF which promotes sustainable transport, creation of suitable access and mitigation of any significant impacts. Therefore, it is considered that full weight should be given to this policy.
- 6.16 'Saved' Policy 4/14 'Local Environment and Amenity', states that proposals for mining operations and the associated depositing of mineral waste will be permitted only where there would not be an unacceptable impact upon the local environment or residential amenity. This Policy is considered to be consistent with paragraph 211 of the NPPF. Paragraph 211 states that when determining planning applications, local planning authorities should ensure that there are no unacceptable adverse impacts on the natural and historic environment and human health and should take into account cumulative impacts of a development in a locality. It is considered that substantial weight should be given to this policy.
- 6.17 'Saved' Policy 4/15 Public Rights of Way states proposals for mining operations will '*only be permitted where satisfactory provision has been made in the application for protecting the existing right of way or for providing alternative arrangements both during and after working*'. Paragraph 100 of the NPPF states that '*...decisions should protect and enhance public rights of way and access*', and continues that it includes '*taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails*'. Nevertheless, 'saved' Policy 4/15 maintains consistency with the NPPF and may, therefore, be afforded substantial weight in the determination of this application.
- 6.18 'Saved' Policy 4/18 – 'Restoration to Agriculture', states that '*Where agriculture is the intended primary afteruse, the proposed restoration scheme should provide for the best practicable standard of restoration. Such restoration schemes should, where possible, include landscape, conservation or amenity proposals provided that these do not result in the irreversible loss of best and most versatile land.*' It is considered that the Policy is consistent with paragraph 211e) of the NPPF which states that when determining applications planning authorities should provide for restoration and aftercare at the earliest

opportunity to high environmental standards through appropriate conditions, and therefore should be given weight.

- 6.19 'Saved' Policy 4/20 After-care states, *'planning permissions which are subject to conditions requiring restoration to agriculture, forestry or amenity (including nature conservation) will additionally be subject to an aftercare requirement seeking to bring the restored land up to an approved standard for the specified after-use. Normally this requirement will run for a period of five years following restoration. Additionally, where forestry and amenity (including nature conservation) after-uses are proposed, the Mineral Planning Authority may seek to secure longer term management agreements'*.

This Policy is considered to be consistent with paragraph 211e) of the NPPF which includes that when determining planning applications, local planning authorities should provide for restoration and aftercare at the earliest opportunity to be carried out to a high environmental standards.

Richmondshire Local Plan Core Strategy (2014-2028)

- 6.20 Core Policy CP1 '*Planning Positively*' advises that *'When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible and to secure development that improves the economic, social and environmental conditions in the plan area'*. Furthermore, stating when there are no relevant policies to the application or policies are out of date the council will grant permission unless material considerations indicate otherwise – taking into account whether:

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

This policy is considered to be consistent with paragraph 11 of the NPPF which promotes sustainable development and so full weight should be given.

- 6.21 Core Policy CP3 '*Achieving Sustainable Development*'. It states *'that support will be given for sustainable development which promotes the following –*
- a. *the efficient use of land and infrastructure including developments with a sustainable and complementary mix of uses;*
 - e. *the quality of natural resources including water, air, land and biodiversity and minimises the impacts of airborne pollution;*
 - g. *the natural drainage of surface water mitigating the effects of flash flooding of rivers, drains and drought;*
 - j. *the character and quality of local landscapes and the wider countryside;*
 - l. *the historic, environmental and cultural features of acknowledged importance;*

This policy is considered to be consistent with paragraph 11 of the NPPF which promotes sustainable development and so full weight should be given to this policy.

- 6.22 Core Policy CP10 '*Developing Tourism* states *'Tourist related activities will be encouraged where they make a sustainable contribution to the local economy, do not have a detrimental impact on and, where possible, enhance the local environment and landscape. Particular priority will be given to supporting improvements to the range and quality of facilities and to redevelopment and conversion schemes rather than new building.'* This policy is considered to accord with part c) of paragraph 84 of the NPPF which states *'Planning policies and decisions should enable: c) sustainable rural tourism and leisure developments which respect the character of the countryside;'* Therefore substantial weight should be applied to this policy.

- 6.23 Core Policy CP12 '*Conserving and Enhancing Environmental and Historic Assets*' states that *'Development or other initiatives will be supported where they conserve and enhance the significance of the plan area's natural and man-made, designated or undesignated assets. Development will not be supported which:*

- a. has a detrimental impact upon the significance of a natural or man-made asset;
- b. is inconsistent with the principles of an assets proper management.

In terms of environmental assets it states 'Where avoidance of adverse impacts is not possible, necessary mitigation must be provided to address any potential harmful implications of development. Where adequate mitigation measures are not possible, compensatory measures will be required.' The relevant specific asset this is applicable in this instance is 'b. the landscape character of the plan area will be maintained, enhanced and where appropriate, restored to ensure a sustainable future for the natural and historic environment.' This policy accords with paragraphs 174 and 197 of the NPPF. Paragraph 174 states that planning decisions should *contribute to and enhance the natural and local environment by a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils;* and paragraph 197 states that in determining applications local planning authorities should take account of '*c) the desirability of new development making a positive contribution to the local character and distinctiveness.*' Therefore, substantial weight should be applied to this policy.

- 6.24 Core Policy CP13 'Promoting High Quality Design' states that '*High quality design of both buildings and landscaping is a priority in all development proposals. Support will be given for proposals that:*
- a. *provide a visually attractive, functional, accessible and low maintenance development;*
 - b. *respect and enhance the local context and its special qualities, including its design features, landscape, social activities, historic environment and nationally and locally recognised designations;*
- This policy accords with paragraph 130 a), b) and c) of the NPPF and so full weight should be applied.

Other Material Considerations:

Emerging Plans: Minerals & Waste Joint Plan (MWJP)

- 6.25 Although not yet part of the Development Plan, weight in the determination process may also be afforded to emerging local plans depending on their progress through consultation and adoption. In this respect, there are emerging local policies in the Minerals and Waste Joint Plan (North Yorkshire County Planning Authority, the City of York Council and North York Moors National Park Authority) (MWJP). Policies may be afforded an increasing amount of weight as the Plans progress through their stages to adoption. The NPPF (paragraph 48) permits authorities to give weight to policies in emerging plans according to:
- *the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*
 - *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given);*
and
 - *the degree of consistency of the relevant policies in the emerging plan to the policies [in the NPPF] (the closer the policies in the emerging plan to the policies [in the NPPF], the greater the weight that may be given).*
- 6.26 The emerging MWJP was published in November 2016 for consultation and representations on the content of the plan. The MWJP was submitted to the Secretary of State for Communities and Local Government on 28 November 2017. While the Hearings have taken place the Plan continues to remain under 'examination'. The Main Modifications to the emerging MWJP Plan (reported to the County Council's BES Executive Members on 15th March 2019) upon which the Joint Authorities consulted. This '*Draft schedule of Main Modifications to the Publication Draft document*' dated July 2021 was consulted upon between 21 July and 15th September 2021 and responses are currently being considered by the Planning Inspector. The document is available on the NYCC website here: <https://www.northyorks.gov.uk/minerals-and-waste-joint-plan-examination-as-LPA117> in the Examination Library.

- 6.27 The degree of weight must have regard to the fact that the emerging Plan is still 'under examination' and, consequently subject to change. It must, therefore, be approached for development management purposes with an element of caution proportionate to the breadth and scope of representations made in respect of the content of the draft policies contained therein. The degree of weight should also be mindful of the fact that responses to the Main Modifications consultation are currently being considered by the Planning Inspector, therefore, the precise policy wording may well be subject to change and will not become formal policy, to which full weight will be able to be afforded, until such time as the Plan is adopted. As the Joint Plan has been, and continues to be, produced post-publication of the NPPF, there is no requirement to include herein NPPF-consistency statements in respect of the emerging MWJP policies that follow below.

Emerging Strategic policies for minerals

- M01 Broad geographical approach to supply of aggregates;
- M05 Provision of crushed rock;
- M06 Landbanks for crushed rock;
- M09 Meeting crushed rock requirements;

Emerging Development Management Policies

- D01 Presumption in favour of sustainable minerals and waste;
- D02 Local amenity and cumulative impacts;
- D03 Transport of minerals and waste and associated traffic impacts.
- D06 Landscape;
- D07 Biodiversity and geodiversity
- D08 Historic Environment;
- D09 Water environment;
- D10 Reclamation and afteruse;
- D11 Sustainable design, construction and operation of development.

- 6.28 Emerging Policy M01 in regards to Broad geographical approach to supply of aggregates states *'the Plan area outside the North York Moors National Park, the Areas of Outstanding Natural Beauty and the City of York will be the main focus for extraction of aggregate (sand and gravel and crushed rock).'*
- 6.29 Emerging Policy M05 in regards to the Provision of crushed rock states *'Total provision for crushed rock over the 15 year period 1st January 2016 to 31st December 2030 shall be 56.3 million tonnes, at an equivalent annual rate of 3.75 million tonnes, within specific provision for a total of 22.5 million tonnes at an equivalent annual rate of 1.50 million tonnes per annum shall be for Magnesian Limestone. Additional provision shall be made through a mid-term review of provision in the Plan, if necessary, in order to maintain a minimum 10 year landbank of crushed rock, including a separate minimum 10 year landbank for Magnesian Limestone, at 31 December 2030 based on annual rate of provision to be determined through the review.'*
- 6.30 Emerging Policy M06 in regards to Landbanks for crushed rock states *'A minimum overall landbank of 10 years will be maintained for crushed rock throughout the time period. A separate minimum 10 year landbank will be identified and maintained for Magnesian Limestone crushed rock. Where new reserves of crushed rock are required in order to maintain the overall landbank above the 10 year minimum period these will be sourced from outside the National; Park and Areas of Outstanding Natural Beauty.'*
- 6.31 Emerging Policy M09 Meeting Crushed Rock Requirements states that Magnesian Limestone will be met through existing permissions and the grant of permissions on allocated sites. . Following the hearings the draft policy changed to "crushed rock"
- 6.32 Emerging Policy D01 in regards Presumption in favour of sustainable minerals and waste development states *'When considering development proposals the Authorities will*

take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF.

Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighborhood plans) will be approved without delay, unless material considerations indicate otherwise.

Where there are no policies relevant to the application or relevant policies are out of date then the Authority will grant permission unless:

- *Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.'*

6.33 Emerging Policy D02 in regards to Local Amenity and Cumulative Impacts states:
'Proposals for minerals and waste development, including ancillary development and minerals and waste transport infrastructure, will be permitted where it can be demonstrated that there will be no unacceptable impacts on local amenity, local businesses and users of the public rights of way network and public open space including as a result of:

- noise,
- dust,
- vibration,
- visual intrusion, ,
- disruption to the public rights of way network,
- cumulative effects arising from one or more of the above at a single site and/or as a result of a number of sites operating in the locality.

Proposals will be expected as

a first priority to prevent adverse impacts through avoidance, with the use of robust mitigation measures where avoidance is not practicable.

2) Applicants are encouraged to conduct early and meaningful engagement with local communities in line with Statements of Community Involvement prior to submission of an application and to reflect the outcome of those discussions in the design of proposals as far as practicable'. The main modifications document amends this emerging policy to include reference to local communities and residents instead of the wording 'local amenity'.

6.34 Emerging policy D03 refers to transport of minerals and waste and associated traffic impacts, and states:

'1) Where practicable minerals and waste movements should utilize alternatives to road transport including rail, water, pipeline or conveyor.'

The rest of the emerging policy deals with the criteria for road transport, access and mitigation.

6.35 Emerging Policy D06 concerns landscape issues and the relevant points include:

'1) All landscapes will be protected from the harmful effects of development. Proposals will be permitted where it can be demonstrated that there will be no unacceptable impact on the quality and/or character of the landscape, having taken into account any proposed mitigation measures.

4) Where proposals may have an adverse impact on landscape, tranquillity or dark night skies, schemes should provide for a high standard of design and mitigation, having regard to landscape character, the wider landscape context and setting of the site and any visual impact, as well as for the delivery of landscape enhancement where practicable.'

6.36 Emerging Policy D07 refers to Biodiversity and Geodiversity. The wording of the emerging policy changed at the Main Modifications stage and the relevant sections state:

'1) Proposals will be permitted where it can be demonstrated that, having taken into account any proposed mitigation measures, there will be no unacceptable impacts on biodiversity and geodiversity. The level of protection provided to international, national and locally designated sites are outlined in parts 5) and 8) below.

5) Locally important sites and assets include:

- i. *Sites of Importance for Nature Conservation (including candidate sites);*
- ii *Local Nature reserves;*

iii Local Geological Sites; and

iv Habitats and species of principle importance to other sites of geological or geomorphological importance.

Development will not be permitted that will result in an unacceptable impact to locally important sites and assets unless it can be demonstrated that:

- the benefits of development clearly outweigh the nature conservation value or scientific interest of the site and its contribution to biodiversity objectives and connectivity; and
- the proposed mitigation or compensatory measures are equivalent to the value of the site/asset.

8) Proposals must consider the cumulative impacts as a result of a combination of individual impacts from the same development and/or through combinations of impacts in conjunction with other development. Proposals will only be permitted where it would not give rise to unacceptable cumulative impacts.

6.37 Emerging Policy D08 refers to Historic Environment and the relevant section states:

'1) Minerals or waste development proposals will be permitted where it can be demonstrated that they will conserve and, where practicable, enhance those elements which contribute to the significance of the area's heritage assets including their setting.'

3) Proposals that would result in less than substantial harm to the significance of a designated heritage asset (or an undesignated archaeological site of national importance) will be permitted only where this is outweighed by the public benefits of the proposal. Where proposals would lead to substantial harm to or total loss of the significance of a designated heritage asset (or an undesignated archaeological site of national importance), planning permission will be refused unless it can be shown that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss, or all of the following apply:

- i) The nature of the heritage asset prevents all reasonable uses of the site; and*
- ii) No viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
- iii) Conservation by grant funding or some form of charitable or public ownership is demonstrably not possible; and*
- iv) The harm or loss is outweighed by the benefit of bringing the site back into use.*

6.38 Emerging Policy D09 which refers to Water Environment, states:

'1) Proposals for minerals and waste development will be permitted where it can be demonstrated that no unacceptable impacts will arise, taking into account any proposed mitigation, on surface or groundwater quality and/or surface or groundwater supplies and flows.

4) Proposals for minerals and waste development should, where necessary or practicable taking into account the scale, nature and location of the development proposed, include measures to contribute to flood alleviation and other climate change mitigation and adaptation measures including use of sustainable urban drainage systems.'

6.39 Emerging Policy D10, in regards to Reclamation and Aftercare, states:

'Part 1) Proposals which require restoration and afteruse elements will be permitted where it can be demonstrated that they would be carried out to a high standard and, where appropriate to the scale and location of the development, have demonstrably:

- i) Been brought forward following discussion with local communities and other relevant stakeholders and, where practicable, the proposals reflect the outcome of those discussions;*
- ii) Taken into account the location and context of the site, including the implications of other significant permitted or proposed development in the area and the range of environmental and other assets and infrastructure that may be affected, including any important interactions between those assets and infrastructure;*
- iii) Reflected the potential for the proposed restoration and/or afteruse to give rise to positive and adverse impacts, including cumulative impacts, and have sought where practicable to maximise potential overall benefits and minimise overall adverse impacts;*
- iv) Taken into account potential impacts on and from climate change factors;*
- v) Made best use of onsite materials for reclamation purposes and only rely on imported waste where essential to deliver a high standard of reclamation;*
- vi) Provided for progressive, phased restoration where appropriate, providing for the restoration of the site at the earliest opportunity in accordance with an agreed timescale;*

vii) *Provided for the longer term implementation and management of the agreed form of restoration and afteruse (except in cases of agriculture or forestry afteruses where a statutory 5 year maximum aftercare period will apply)*

Part 2) *In addition to the criteria in Part 1) above, proposals will be permitted which deliver a more targeted approach to minerals site restoration and afteruse by contributing towards objectives appropriate to the nature, scale and location of the site including where relevant:*

v) *In proximity to important heritage assets, ensuring that the significance of assets and their settings is sustained and where practicable enhanced and, also where practicable, that opportunities to facilitate enjoyment of the asset are provided;*

6.40 Emerging Policy D11 in regards to Sustainable design, construction and operation of development. The emerging policy aims to allow mineral developments where it has been demonstrated that measures appropriate and proportionate to the scale and nature of the development have been incorporated into its design, construction and operation in relation to:

i) *Minimisation of greenhouse gas emissions by incorporating energy-efficient siting, design and operational practices including those relating to bulk transport of minerals;*

viii) *Implementation of landscape planting comprising native species able to successfully adapt to climate change and, where practicable, incorporating areas of new wildlife habitat that would help improve habitat connectivity;*

x) *For minerals workings and mineral working deposits, consideration of tip and quarry slope stability, the impacts of any dewatering activity and incorporating appropriate mitigation in the design of tips and slopes to minimize any hazard to people and property.*

The main modifications document amends the final paragraph of part 1 to reference hydrocarbons and add in that a climate change assessment should only be provided as 'appropriate'.

National Planning Policy

6.41 The planning policy relevant to the determination of this particular planning application provided at the national level is contained within the following documents:

- National Planning Policy Framework (NPPF) (published July 2021)

National Planning Policy Framework

6.42 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied.

6.43 The overriding theme of Government policy in the NPPF is to apply a presumption in favour of sustainable development. For decision-making this means approving development proposals that accord with the development plan without delay (if plans are up-to-date and consistent with the NPPF). The Government defines sustainable development as that which fulfils the following three roles:

a) **'an economic objective** – *to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*

b) **a social objective** – *to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and*

c) **an environmental objective** – *to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.'*

6.44 Within the NPPF, paragraph 11 of the Framework advises that when making decisions, development proposals that accord with the development plan should be approved

without delay and when the development plan is absent, silent or relevant policies are out of date, permission should be granted unless:

- i.) *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii.) *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

- 6.45 This national policy seeks to ensure that there are positive improvements in people's quality of life including improving the conditions in which people live, work, travel and take leisure.
- 6.46 Paragraph 48 within Chapter 4 (Decision-making) of the NPPF states that '*Local planning authorities may give weight to relevant policies in emerging plans according to:*
a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater weight that may be given);
b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
c) the degree of consistency of the relevant policies in the emerging plan to the policies in the Framework, the greater weight that may be given).
- 6.47 Paragraphs 55 – 57 within Chapter 4 (Decision-making) of the NPPF relate to planning conditions and obligations. Paragraph 55 states that '*Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through planning condition.*' With regard to planning obligations paragraph 57 states that '*Planning obligations must only be sought where they meet all of the following tests:*
a) necessary to make the development acceptable in planning terms;
b) directly related to the development;
c) fairly and reasonably related in scale and kind to the development.
- 6.48 Paragraph 81 within Chapter 6 (Building a strong, competitive economy) of the NPPF states '*Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.*'
- 6.49 Paragraph 84 within Chapter 6 (Building a strong, competitive economy) of the NPPF states '*Planning policies and decisions should enable: c) sustainable rural tourism and leisure developments which respect the character of the countryside.*'
- 6.50 Paragraph 100 within Chapter 8 (Promoting healthy and safe communities) of the NPPF states: '*decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.*'
- 6.51 Paragraph 110 within Chapter 9 (Promoting sustainable transport) of the NPPF promotes the use of sustainable transport modes, provision of suitable access and mitigation for any significant impacts on the highway network.
- 6.52 Paragraph 130 within Chapter 12 (Achieving well-designed places) of the NPPF state that decisions should ensure that new developments :
a) function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
b) are visually attractive as a result of good architecture layout and appropriate and effective landscaping;
c) are sympathetic to the local character and history, including the surrounding build environment and landscape setting, while not preventing or discouraging appropriate innovation or change;

e) *optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks;*

- 6.53 Paragraph 174 within Chapter 15 (Conserving and enhancing the natural environment) of the NPPF sets out a number of principles for determining planning applications which aims to conserve and enhance biodiversity. These include:
- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
 - b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*
 - d) minimizing impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.*
 - e) preventing new and existing development from contributing to, being put as unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans.'*
- 6.54 Paragraph 180 within Chapter 15 (Conserving and enhancing the natural environment) states that when determining planning applications local planning authorities should apply the following principles *'if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for then planning permission should be refused;*
- c) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.'*
- 6.55 Within Paragraph 185 within Chapter 15 (Conserving and enhancing the natural environment) of the framework it states that *...decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:*
- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;*
 - b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and*
 - c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.*
- 6.56 Paragraph 194 within Chapter 16 (Conserving and enhancing the historic environment) of the NPPF states that *'in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation'*.
- 6.57 Paragraph 195 within Chapter 16 (Conserving and enhancing the historic environment) of the NPPF states that *'Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development*

affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.'

- 6.58 Paragraph 197 within Chapter 16 (Conserving and enhancing the historic environment) states that *'In determining applications, local planning authorities should take account of:*
a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
c) the desirability of new development making a positive contribution to local character and distinctiveness.'
- 6.59 Paragraph 199 states that *'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.'*
- 6.60 Paragraph 200 states that *'Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:*
a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;
b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II listed buildings, grade I and II* registered parks*
- 6.61 Paragraph 201 within Chapter 16 (Conserving and enhancing the historic environment) of the NPPF states *'Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:*
a) the nature of the heritage asset prevents all reasonable uses of the site; and
b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
d) the harm or loss is outweighed by the benefit of bringing the site back into use.'
- 6.62 Paragraph 202 states that *'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.'*
- 6.63 Paragraph 209 within Chapter 17 (Facilitating the sustainable use of minerals) states: *'It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation'*
- 6.64 Paragraph 211 within Chapter 17 (Facilitating the sustainable use of minerals) states:
a) as far as practical, provide for the maintenance of landbanks of non-energy minerals from outside National Parks, the Broads, Areas of Outstanding Natural Beauty and World Heritage Sites, scheduled monuments and conservation areas;
b) ensure there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in the locality;
c) ensure that any unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source, and establish appropriate noise limits for extraction in proximity to noise sensitive properties;

e) provide for restoration and aftercare at the earliest opportunity, to be carried out to high environmental standards, through the application of appropriate conditions. Bonds or other financial guarantees to underpin planning conditions should only be sought in exceptional circumstances.'

- 6.65 Paragraph 213 within Chapter 17 (Facilitating the sustainable use of minerals) states: *'Minerals planning authorities should plan for a steady supply of aggregates by:*
- a) *preparing an annual Local Aggregate Assessment, either individually or jointly, to forecast future demand, based on a rolling average of 10 years' sales data and other relevant local information, and an assessment of all supply options (including marine dredged, secondary and recycled sources);*
 - b) *participating in the operation of an Aggregate Working Party and taking the advice of that party into account when preparing their Local Aggregates Assessment;*
 - c) *making provision for the land-won and other elements of their Local Aggregate Assessment in their mineral plans, taking account of the advice of the Aggregate Working Parties and National Aggregate Co-ordinating Group as appropriate, Such provision should take the form of specific sites, preferred areas and/or areas of search and locational criteria as appropriate;*
 - d) *taking account of any published National and Sub National Guidelines on future provision which should be used as a guideline when planning for the future demand for and for and supply of aggregates;*
 - e) *using landbanks of aggregate minerals reserves principally as an indicator of the security of aggregate minerals supply, and to indicate the additional provision that needs to be made for new aggregate extraction and alternative supplies in mineral plans;*
 - f) *maintaining landbanks of at least 7 years for sand and gravel and at least 10 years for crushed rock, whilst ensuring that the capacity of operations to supply a wide range of materials is not compromised;*
 - g) *ensuring that large landbanks bound up in very few sites do not stifle competition; and calculating and maintaining separate landbanks for any aggregate materials of specific type or quality which have a distinct and separate market.*

National Planning Practice Guidance (PPG) (2014)

- 6.66 On 6th March 2014 the Department for Communities and Local Government (DCLG) launched the National Planning Practice Guidance (PPG) web-based resource. This was accompanied by a *Written Ministerial Statement* which includes a list of the previous planning practice guidance documents cancelled. The NPPG supports the national policy contained within the NPPF. The guidance relevant to the determination of this application is contained within the following sections: -

- Conserving and enhancing the historic environment
- Design
- Minerals
- Natural Environment
- Noise

Conserving and enhancing the historic environment

- 6.67 This states authorities should set out their Local Plan with a positive strategy for the conservation and enjoyment of the historic environment. Heritage assets may be affected by direct physical change or by change in their setting; therefore it is important to assess the significance of a heritage asset and the contribution to its setting. Furthermore all heritage assets settings may have more significance than the extent of their curtilage. The guidance also requires authorities to consider the implications of cumulative change and whether a development materially detracts from the asset.

Design

- 6.68 This states how good design is essential to sustainable development with reference to the importance of it being functional, in that it relates well to its surrounding environment, and is designed so that it delivers its intended purpose whilst maintain a distinctive character. It though must also *'reflect an area's function, history, culture and its potential need for change'*. Ensuring a development can:

- Deliver a wide range of planning objectives;
- Enhance the quality of buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on wellbeing;
- Address the need for different uses sympathetically.

Minerals

6.69 The PPG provides supplementary guidance on mineral planning and the application process. The PPG in its guidance recognises the supply of minerals presents special characteristics not necessarily relevant to other types of development proposals. For example:

- *'minerals can only be worked (i.e. extracted) where they naturally occur, so location options for the economically viable and environmentally acceptable extraction of minerals may be limited'* by these constraints;
- *'mineral working is a temporary activity although the extraction often takes place over a long period of time;*
- *'mineral working may present both adverse and positive environmental effects, but some adverse impacts can be effectively mitigated; and*
- *'following working, land should be restored to make it suitable for beneficial after-use'.*

6.70 The (Mineral) PPG sets out guidance on the level of detail that should be provided on restoration and aftercare that should be provided with the planning application whilst recognising such detail will depend on the circumstances of the individual site and the expected duration of the works but will normally include:

- *'an overall restoration strategy, identifying the proposed after-use of the site';*
- *Information about soil resources and hydrology, and how the topsoil/subsoil/overburden/ soil making materials are to be handled whilst extraction is taking place';*
- *'where the land is agricultural land, an assessment of the agricultural land classification grade';*
- *'a landscape strategy'; and*
- *'where work is proposed on the best and most versatile agricultural land the outline strategy should show, where practicable, how the methods used in the restoration and aftercare enable the land to retain its longer term capability, though the proposed after-use need not always be for agriculture'; and*
- *'restoration may, in some cases, need to be undertaken in phases so as to minimize local disturbance impacts.'*

Natural Environment

6.71 The PPG underpins one of the NPPF core principles of protecting the character and visual integrity of the natural environment including designated landscapes and the wider countryside in general. Where appropriate the PPG promotes the undertaking of landscape assessments to accompany planning applications to provide an understanding of the character and local distinctiveness of the landscape by identifying the features that give it a sense of place.

Noise

6.72 In terms of decision taking on planning applications the NPPG states that planning Authorities should take account of the acoustic environment and in doing so consider whether or not a significant adverse effect is occurring or likely to occur; whether or not an adverse effect is occurring or likely to occur; and whether or not a good standard of amenity can be achieved. It also states that "neither the Noise Policy Statement for England nor the National Planning Policy Framework (which reflects the Noise Policy Statement) expects noise to be considered in isolation, separately from the economic, social and other environmental dimensions of proposed development.

7.0 Planning considerations

- 7.1 Section 73 of the Town and Country Planning Act 1990 provides for applications for planning permission to develop land without complying with conditions previously imposed on a planning permission. A decision can be to grant such permission unconditionally or to grant subject to different conditions if they were capable of being imposed on the original consent, or it can be to refuse the application if a decision is made that the original condition(s) should continue. In any event the original consent remains intact and capable of being relied upon until a section 73 consent is implemented. If permission is forthcoming, it is open to the Applicant to decide whether to implement the new permission.
- 7.2 With a Section 73 application the Planning Authority is required to consider only the question of the conditions subject to which planning permission should be granted. This does not prevent the Planning Authority from looking at the wider considerations and relevant planning considerations and policies in determining the conditions to be considered and planning authorities are not restricted to policies and planning considerations in force at the time the previous permission was determined.
- 7.3 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each planning application in accordance with the planning policies that comprise the *Development Plan* unless material considerations indicate otherwise. In light of the abovementioned policies the main considerations in this application are set out below.

Principle of the proposed development

- 7.4 The application seeks to amend some conditions attached to an extant planning permission C1/14/00747/CM. The principle of mineral extraction from Middleton Lodge Quarry has already been established by previous permissions commencing with the 2010 Appeal Decision APP/P2745/A/09/2119601 and the permission subject to this application C1/14/00747/CM accepted that the principle had been previously established. The current proposal would not increase the area previously approved for extraction. The extant permission is for the extraction of limestone and restoration to a quarry garden and green park which would form an extension to the grounds of Middleton Lodge which is a visitor attraction, hotel and wedding venue. The current expiry date for extraction is 2028, but at the current rate of extraction the predicted amount of limestone would not be extracted by this date. Currently work is continuing on Phase 2 of the development where year round extraction is taking place on the quarry garden. Once the development moves onto Phase 3 conditions 7 and 20 do not permit extraction or blasting between 1st April and 1st October each year. It is proposed to amend these conditions to allow all year round working and blasting with the aim of still completing extraction by 2028. Since the restoration plan details are listed in Conditions 1, 10, 14, 26, 27 and 30 these conditions would be amended to include the updated plan references, if the proposal receives approval the condition numbers will change from 10 to 8, from 14 to 12, from 26 to 24, from 27 to 25 and from 30 to 28 in the decision notice as some of the other existing conditions have been discharged and so are no longer required to be included in the Decision Notice, as detailed in paragraph 7.40 of this report.
- 7.5 While the in principle acceptability of the development is already established there is a requirement to consider any potential adverse impacts on the environment and amenity arising from the proposed condition amendments.
- 7.6 As the consideration in this proposal is to extend the months of working for Phase 3 and provide a revised restoration scheme it is considered acceptable in terms of 'saved' Policy 4/1, Determination of Planning Applications because the mineral deposit has

already been identified and assessed in previous applications and the siting and scale of the development remains the same which as was considered acceptable previously and accords with paragraph 213 of the NPPF which details how the provision of landbanks for aggregates, including limestone, should be recorded and include the sales and reserves of existing sites. The proposal is considered sustainable development as the proposal is to amend some of the conditions to an extant planning permission without altering the size of the extraction area or amount of limestone extracted and is proposing restoration which will be used for leisure and tourism making the future of the site sustainable. Therefore, it is considered that the proposal in compliance with Policies CP1, Planning positively and CP3, Achieving sustainable development, in the Richmondshire Local Plan Core Strategy and paragraph 11 of the NPPF The proposed development is to continue to form a garden for Middleton Lodge and would be a tourist attraction once complete, the proposed variation of condition application would alter the design of the lake in the quarry garden and the design of the grassland area in Phase 3. The creation of a garden is supported by Policy CP10, Developing Tourism, in the Richmondshire Local Plan Core Strategy as it would provide a *'sustainable contribution to the local economy'* and *'enhance the local environment and landscape.'* The provision of a tourist attraction is also supported by paragraph 84 of the NPPF which states that planning decisions should enable sustainable rural tourism which respect the character of the countryside. In terms of location the extraction area does not conflict with Policy M01, Broad geographic approach to aggregates, of the emerging MWJP and draft Policy D01, Presumption in favour of sustainable minerals and waste development, of the emerging MWJP.

- 7.7 The planning application is to vary some conditions on extant permission C1/14/00747/CM, the conditions affected would be 1, 6, 7, 10, 14, 20, 24, 26, 27 and 30.

Condition 1 contains a list of the Approved Documents, which would be updated if the proposed planning permission were to be granted;

Conditions 6, 10, 14, 26, 27, 30 amendments would be a change in plan reference in the condition text;

Conditions 7 and 20 amendments would result in the removal of the text which limits the working of Phase 3 to be outside the 1st April and 1st October each year. The removal of this text would enable year round working in Phase 3.

Condition 24 amendment would allow all topsoil and subsoil to permanently retained for use in restoration.

- 7.8 The principle of this proposal is to amend conditions to provide an updated restoration scheme and change the months within which Phase 3 can be worked from winter only, to all year round. The principle of the development as a whole is to extract limestone and to restore the site to a visitor attraction that would be linked with Middleton Lodge. It is considered that the principle of the development is established and is sustainable development which is supported by national and local policies.

Need

- 7.9 'Saved' Policies 3/2, Preferred Areas and 3/3, Areas of Search in the NYMLP 1997 identified areas which could be used for the extraction of aggregates, and paragraph 213 of the NPPF details the need for landbanks for aggregates, which includes limestone. Middleton Lodge Quarry is not included in either the Preferred Areas or the Areas of Search but the need for the carboniferous limestone was identified in previous applications C1/33/80G/CM and C1/14/00747/CM and therefore need is established and this application does not seek to amend the volume or term of extraction. Extraction has occurred on site since 2012 and forms part of the landbank for meeting requirements for carboniferous limestone over the Plan period in the draft MWJP. The expected amount of limestone which would be extracted remains the same so the contribution to the landbank and supply chain remains the same. The applicant is concerned that there has been less limestone extracted than forecast and this would

result in, some available limestone which would not have been extracted by 2028. The 2010 appeal decision APP/P2745/A/09/2119601 supported the extraction of limestone and restoration to a visitor attraction at Middleton Lodge Estate with conditions, including the end date of 2028.

- 7.10 Currently extracted limestone is moved by conveyor belt to nearby Barton Quarry for processing all year round in Phase 2 providing a continuous supply for the processing plant. However once the extraction moves into Phase 3 there would only be limestone provided six months of the year in accordance with conditions 7 and 20 and no room to stockpile reserves to provide supply for the remaining six months. To resolve this the applicant is proposing to amend conditions 7 and 20 to allow year round working of Phase 3. The appeal decision on APP/P2745/A/09/2119601 included a condition to limit working in Phase 3 during the winter months based on the potential impact on amenity, especially in terms of Middleton Lodge. If conditions 7 and 20 were not amended to allow year round working then the Applicant has indicated that extraction of the predicted level reserves would not occur by 2028, which would affect the landbank for Carboniferous Limestone, the change in these conditions is supported by the need for the mineral to be extracted by 2028. The continued extraction of carboniferous limestone is supported by emerging Policies M05, Provision of crushed rock, M06, Landbanks for crushed rock and M09, Meeting crushed rock requirements within the emerging MWJP and paragraphs 209 and 211 of the NPPF supply of minerals. In terms of emerging Policy M06 and paragraph 209 the reserves of limestone in Middleton Lodge Quarry is included in the calculation of the total landbank for crushed rock and carboniferous limestone within North Yorkshire County Council plan area, if these reserves were not extracted it would lower the landbank and there would be a reduced supply of carboniferous limestone. The Main Modification to emerging Policy M09, detailed in paragraph 6.32, supports the provision of carboniferous limestone from unallocated sites where the development would contribute to the maintenance of the supply of crushed rock. Middleton Lodge Quarry is an unallocated site as it was operational before the MWJP was produced but the carboniferous limestone reserves contribute to the landbank.
- 7.11 Therefore, as the amendments for conditions 7 and 20 are related to an existing active limestone extraction site where the reserves have been taken into account in the landbank, and the amended conditions 7 and 20 would allow the continuation of year round working into Phase 3 to ensure the projected amount of limestone would be extracted within the required 15 year period up to 2028 to help fulfil the requirement for provision of Carboniferous Limestone. Therefore, in terms of need the proposal is considered acceptable and in line with local and national policy.

Design, visual impact and landscape

- 7.12 Middleton Lodge Quarry is within the Registered Park and Gardens of Middleton Lodge Estate which includes Grade II and Grade II* listed buildings. The listed buildings are separated from Middleton Lodge Quarry by an established wood so the quarry cannot be seen from the location or setting of the listed buildings.
- 7.13 Part of the proposal to vary conditions is as a result of a revised restoration plan being submitted. The design of Phase 2, which is the Quarry Garden, would change as it is proposed to raise the level of the floor of the Quarry Garden from 80m AOD, in the approved scheme, to 83.5m AOD to allow drainage to occur by gravity rather than using a pump. The overall appearance of Phase 2 would change as the fountain has been removed from the scheme. The floor level of the lake would be raised but this would have no visual impact on the restoration scheme. It is considered that the removal of the fountain would reduce the visual impact of the restored quarry on the setting of the Registered Park and Garden compared to the restoration scheme agreed at the time of the Appeal (APP/P2745/A/09/2119601) The Quarry Garden has been designed to become a tourist attraction linked to Grade II Middleton Lodge and would be fully

accessible to wheelchairs and pushchairs. The Quarry Garden would contain a number of benches which spiral round the edge of the quarry to the quarry floor. The quarry floor within the garden would be formed using clay and scalplings from Phase 2 and 3 and would slope gently down towards the lake. Different types of plants would be used within the quarry garden, as detailed in Appendix 3: Restoration and aftercare, of the Planning Statement for this application with the intention of creating a number of strongly contrasting vegetation types that can be created over extensive areas of the restored quarry.

- 7.14 The design of Phase 3 would include a lake with marginal planting at the lowest point and agricultural grassland, above the quarry faces in the north of the area the grassland would be pasture. Restoration blasting would break up the quarry faces leaving some exposed rock faces and buttresses with meadow grassland slopes between them and scattered native tree and shrub planting along them. No field drainage would be required as surface water would percolate directly into the limestone and flow into the lake. This lake would be connected to the lake in the quarry garden, which will then discharge into the small pond fed by the spring to the east.
- 7.15 In terms of design and landscape no objections to the proposal were received from consultees. The Ecologist welcomed the change in design in Phase 3 as it ensured the trees near Mound C would be retained, along with the trees associated with it, and so removed the reason for previous concerns with the 2016 application which was withdrawn. One objection was received from a local resident who lives within sight of the quarry who states that some of the saplings on Mound C have died and when work takes place in Phase 3B it will be in the sight line of their property which they consider unacceptable and so requested additional planting in the wood adjacent to Phase 3B to provide additional screening. In their representation the objector made it clear that it was the area of land to the east of bund 'C' they were concerned about, as even with bund 'C' in place they were concerned that when extraction occurred in this area of Phase 3 it would be in the sight line of their property. It is worth noting here that the Phase 3B the objector is referring to relates to an area in the previous application which was withdrawn. In terms of the current application the area they are referring to is Phase 3a identified on plan NT03435/28/014/A Phases 1 and 3 Planting Plan (2016), which is the area to the east of Mound C. The area identified as Phase 3b on this plan lies in front of Mound C and therefore is not in the sightline of the resident. The objection needs to be considered in terms of whether it is a material planning concern, the failure of the saplings to grow on Mound 'C' is considered material and discussion regarding the benefit of Mound C is included in the 2010 Appeal decision APP/P2745/A/09/2119601. In the Appeal decision APP/P2745/A/09/2119601 at paragraph 45 it states that *'North Road Farm and Kiln Head Spring are both to the north of the site and could potentially have a view into phases 1 and 3b, the other phases screened by the woodland at Acre Howden Plantation.'* It also states that Mound C is being provided as mitigation to provide screening between the gaps in the trees along the north eastern edge of the site and would prevent views into the operational phase 1 and phase 3 voids. Therefore the loss of a view by the proposed extraction in Phase 3 is considered material in planning terms as reference in the 2010 Appeal decision. The Applicant has held a meeting with the objector and the Applicant has agreed to replace the dead saplings and increase the number of saplings on top of Mound C to improve the screening provided by this. In terms of screening provided by the wood adjacent to Phase 3 the Applicant considers this acceptable, since it has not been objected to in terms of working Phase 3 during the winter months when there are no leaves on the trees, and the level of screening will increase in the summer months when there are leaves on the trees. There have been no concerns raised by any of the consultees in terms of views.
- 7.16 The Objector has not withdrawn their objection. The failure of some of the saplings is considered material, however the proposed replacement and increase in number of the

saplings by the Applicant is considered a positive action and will mitigate the loss of the original saplings. The potential impact of extraction in Phase 3 on the view is also considered to be a material consideration. Phase 3 is screened by woodland and extraction is currently permitted during the winter months, when there is less foliage on the trees in the wood, the screening would be greater in the summer due to the foliage on the trees. It is considered that the screening provided by the additional planting and trees in full leaf during the summer months would be acceptable for the temporary period that extraction would take place. The Landscape Architect, Ecologist and District Council Officers are satisfied with the proposal so the mitigation proposed will satisfy the material parts of the objection and comply with relevant policies as set out below in paragraph 7.17.

- 7.17 Therefore in terms of design the proposed development accords with Policy CP13 of the Richmondshire Local Plan Core Strategy which promotes high quality design and landscaping where support would be given to proposals which are visually attractive, functional, accessible and low maintenance. The proposal accords with 'saved' Policy 4/1 d) of the NYMLP as the revised landscaping and screening has been designed to effectively mitigate the impact of the proposal. It is considered that the proposal is supported by Emerging Policy D11 1) viii) of the emerging MWJP as the planting proposed will include native trees and shrubs which will adapt to climate change. The proposal also accords with paragraph 130 of the NPPF as it would add to the quality of the local area, would be visually attractive and be sympathetic to the local environment. In terms of landscape it largely reflects the restoration proposal for the extant permission which was, and is still considered acceptable. The most visible change would be the fact that the fountain as provided in the extant consent is not included in the revised scheme, which would reduce the visual impact of the restored site. There have been no objections received from expert consultees which supports the view that the scheme is considered acceptable. The proposal accords with emerging Policy D06 in the MWJP in regards to landscape, and whilst the landscape would be impacted in the short term while extraction takes place, the restoration would provide a quarry garden with planting and a lake and grassland with trees and shrubs in the long term. The proposed restoration scheme accords with paragraph 174 of the NPPF as it aims to enhance the landscape. In planning terms the design of the restoration proposal is considered acceptable and will not have an adverse impact on the landscape or visual amenity of the site or any of the heritage assets within the Middleton Lodge Estate, which is further considered starting at paragraph 7.23 below.
- 7.18 There is a Public Right of Way (PROW) just outside the red line boundary of the site. In their initial response the PROW Team outlined action which would need to be taken if the PROW would be temporarily or permanently affected by the proposed development. Following receipt of the comment the applicant has confirmed that the PROW would not be affected either during the works or after completion. The PROW team were satisfied with this in their follow-up response and stated that the applicant would not need to take any action in relation to the PROW. Consideration has been given to the visual impact of the proposed development and it is considered there would be no material change to the appearance of the site, a soil bund has been created alongside the northern driveway which screens the quarrying activity from those using the PROW. Furthermore, the separation distance from the nearest visual receptors has not been amended since the original grant of permission, therefore it is still considered that the proposal is successfully screened from view and mitigated through the use of conditions and would not result in an unacceptable visual impact. It is considered that the proposal accords with 'saved' Policy 4/15 of the NYMLP, Policy D02 of the emerging MWJP and paragraph 100 of the NPPF as the proposal will not have any adverse effect on the PROW which is close to the site. It is considered that the development would not have an adverse impact on the visual amenity of the area and accords with paragraphs 130 of the NPPF, Policies 4/1 and 4/15 of the North Yorkshire Minerals Local Plan. The proposal would also be in compliance with the general direction of the

emerging Minerals and Waste Joint Plan Policy D02 Local Amenity and Cumulative Impacts, D06 Landscape and D11 Sustainable design, construction and operation of development.

- 7.19 Therefore it is considered the proposed development is acceptable in terms of design, landscape and visual impact and complies with local and national policy. This is secured by revised conditions 8 and 25 listed in Section 9 of this report.

Local amenity (noise)

- 7.20 The nearest property to Middleton Lodge Quarry is Middleton Lodge which includes Grade II and Grade II* listed buildings. The Quarry is also with the Registered Park and Gardens of Middleton Lodge Estate. The impact of the proposed changes in condition on local amenity have been considered. The change in condition which could affect local amenity would be the year round working of Phase 3, instead of limiting it to the winter months, which could produce a noise impact from the extraction process due to the use of machinery and some blasting. It is worth noting that the reason for the original condition of only working Phase 3 in the winter months was that it was anticipated that Phase 2 would be complete before the work on Phase 3 started and the Quarry Garden would be used by people visiting Middleton Lodge, as a tourist attraction, which is generally in the summer months, at the time of the Appeal decision APP/P2745/A/09/2119601. It was anticipated that work on Phase 3 would not start until Phase 2 was completed and the Phased 3 work would start adjacent to Phase 2 which could impact the visitors to the Quarry Garden. With the proposed changes to the restoration scheme the completion of the Quarry Garden relies on receiving some clay and scalplings from Phase 3, so the Quarry Garden will not be complete when the work on Phase 3 starts. The appeal decision APP/P2745/A/09/2119601 stated the condition to limit working in Phase 3 to be only during the winter months was based on the potential impact on amenity of visitors to the Quarry Garden and nearby residential properties. The appeal decision also stated that extraction should only take place for a period of 15 years, which gives an end date of 2028. If the six month working remains, by the end of the 15 years the projected amount of limestone will not have been extracted, which would impact on the landbank and the reserves of limestone would remain in the ground.
- 7.21 It is currently anticipated that the Quarry Garden will not be complete until 2025, by this time extraction in Phase 3 is expected to be 200 metres to the North West of the Quarry Garden with the area already worked in Phase 3 being progressively restored. Due to the fact there would be a delay in the completion of Phase 2 and Phase 3 would be partially worked moving towards the north west of the site the adverse impact on Middleton Lodge would be lessened. Having year round working in Phase 3 would be comparable to the current working in Phase 2 in terms of noise, vibration and dust impact as the same site equipment and blasting methods would be used to extract the lime stone. Consequently any impact of the working of Phase 3 on visitors to the Quarry Garden will be mitigated by distance.
- 7.22 Richmondshire District Council Environmental Health Officer did not raise any concerns as long as the existing hours of operation remain the same and current conditions 17, 18, and 19, which related to noise, remained. Current conditions 7 and 20 include the hours of operation, and also the text regarding only working Phase 3 between 1st October and 1st April, the reference to working only winter months would be removed but the hours of operation would not change. Current condition 17 ensures equipment and vehicles on site are fitted with attenuating equipment, this condition is renumbered as condition 15 in Section 9 of this report, Condition 18 ensures that the noise levels for the operations at the quarry are acceptable, this condition is renumbered as condition 16 in Section 9 of this report, and Condition 19 ensures that noise levels during soil and overburden stripping are acceptable, this condition is renumbered as condition 17 in Section 9 of this report. Due to some conditions being

discharged the current condition numbers have changed from 7, 17, 18, 19 and 20 to 5, 15, 16, 17 and 18 respectively. Middleton Tyas Parish Council responded stating that changing the working of Phase 3 to year round working makes it more likely properties further away from Middleton Lodge may hear the blasting when it occurs, concern was raised about the noise from outdoor events held at Middleton Lodge itself having an impact on local amenity. Outdoor events are not a material planning consideration for mineral extraction as this would be an issue for the Environmental Health Officer and live music licencing is outside of planning's remit. There were no representations from any residents which supported this view and the reference to outdoor events demonstrates that there is more than one noise generating activity at Middleton Lodge. The Parish Council requested further properties to be consulted as neighbours, this was not considered necessary due to the distance the properties are away from the site, the fact that no complaints have been received in relation to extraction activities at the site and site notices were placed in several locations around the site boundary and in Middleton Tyas and Barton Village. Case Officers have discretion regarding who is consulted, all statutory requirements have been completed, the Town and Country Planning (Development Management Procedure) (England) Order 2015 states that notice should be served on any adjoining owner or occupier, the properties suggested by the Parish Council are not adjoining properties.

- 7.23 Vibration and dust are also considerations in terms of amenity. The 2010 Appeal decision APP/P2745/A/09/2119601 stated that the background noise levels in the area were relatively high mainly due to traffic noise from the nearby A1. As explained above conditions in relation to noise were provided as mitigation for the working of the site. Conditions were also included to control when blasting takes place, maximum ground vibration levels and a minimum of 24 hour's notice of blasting to be given to the nearest residential properties, detailed in 7.22 below. The Inspector was satisfied that the impact of the proposal on nearby homes and the heritage assets of Middleton Lodge Estate, in terms of noise and vibration, could be adequately mitigated. As part of the Appeal decision dust was considered as an issue and the Inspector was satisfied that with suitable monitoring and enforcement, appropriate safeguards could be put in place to control and adequately mitigate dust from the site such that there would be no materially harmful impact on the local environment, on the setting of Middleton Lodge Estate or on residential amenity. A condition was included that required a Dust Action Plan for the suppression and monitoring of dust which needed to be submitted before extraction of the mineral was started. A Dust Action Plan was submitted and approved as part of Planning Application NY/2011/0492/A30. The renumbered Condition 21 in Section 9 of this report requires the Dust Action Plan to be adhered to control the level of dust generated and to ensure that it does not have an adverse impact.
- 7.24 No complaints have been received in relation to the operation of Middleton Lodge Quarry by the County Planning Authority. There is currently year round extraction occurring in Phase 2, this is the part of the site nearest to the nearest buildings which are at Middleton Lodge. A letter was provided from Middleton Lodge Estates as part of the submission documents, which states that the estate is not impacted by the current quarry operations and since the working in Phase 3 is further away from Middleton Lodge it will have less of an impact, they also support the application as it will help reduce the overall length of quarrying operations on site and significantly improve the long term restoration of the site to a garden will enhance the facilities on site. 'Saved' Policy 4/14, Local Environmental Amenity, of the NYMLP states that mining operations will only be permitted where there would not be an unacceptable impact on the local environment and local amenity. Emerging Policy D02, Local Amenity and Cumulative Impacts, in the emerging MWJP allows minerals development where there will be no unacceptable impacts on the local amenity, local businesses and users of the public rights of way network, if there is an impact then mitigation should be used. Paragraph 185 of the NPPF requires that development should take account of the likely effects of the development on living conditions and the environment paying special attention to

noise. The NPPG section on noise states consideration should be taken of whether the proposed development has or would have a significant adverse noise impact and whether a good standard of amenity can be achieved. It is acknowledged that the proposed change of operational hours for Phase 3 from winter working to all year round working would generate noise during the summer months, this already occurs in Phase 2 without any reported adverse impact in terms of noise. Conditions in the extant permission will be carried through to this s73 consent if forthcoming and are renumbered Conditions 15, 16 and 17 to mitigate the noise generated by quarry activity on site. The mitigation ensures that the noise levels remain within acceptable limits. The working of Phase 3 in relation to the opening of the Quarry Garden (Phase 2) is proposed to be changed as the completion and restoration of Phase 2 is reliant on receiving clay and scalplings from Phase 3 and it is anticipated that by the time Phase 2 is fully restored ready to be open to the public the workings in Phase 3 will be far enough away so as the extraction activities will not impact users of the Quarry Garden.

- 7.25 When the original consent was granted it was determined that the working on Phase 3 nearest to the Quarry Garden would occur when the Quarry Garden was open as a tourist attraction, and so have an unacceptable amenity impact, particularly in terms of noise. However the current proposal relies on clay and scalplings to be provided from Phase 3 for restoration and the Quarry Garden is not expected to open until 2025, by which time the extraction in Phase 3 will have moved 200 meters north west and so the noise impact will be much less and will not be considered unacceptable for visitors to the Quarry Garden. The existing conditions relating to noise would be carried forward to provide mitigation for the working of Phase 3, this includes a noise monitoring scheme for the site. Renumbered Condition 10 requires that a minimum of 24 hours' notice to be given to residential properties Kiln Head Spring, Limekiln Cottage, Middleton Lodge, Mill Farm, North Road Farm, The Farmhouse, The Gatehouse, Under Kneeton and Woodhouse Farm of the times that blasting will be taking place. There is also mitigation in the form of conditions which limit the level of noise during working. Therefore, it is considered that any impact on local amenity is acceptable with the inclusion of mitigation in the form of conditions and so the proposal accords with emerging Policy D02 of the MWJP, 'saved' policy 4/14 the NPPF and NPPG. If the proposal were approved then the relevant condition numbers would change from 17, 18 and 19 to 15, 16 and 17 respectively.

The Historic Environment

- 7.26 Middleton Lodge Quarry is within the grounds of Middleton Lodge Estate which includes Grade II and Grade II* listed buildings and is included within the Register of Parks and Gardens of Special Historic Interest. Planning permission C1/14/00747/CM includes conditions which involve the renovation of some of the Listed Buildings within the estate and these conditions will be carried forward if permission is forthcoming.
- 7.27 The safeguarding against the potential adverse impacts upon interests of cultural and/or historic importance and/or heritage value from the effects associated with proposed developments is embedded within the core principles of the NPPF. The national planning policy with particular relevance to the safeguarding of the historic landscape and interests of heritage value can be found within Paragraph 194 that ensures that applicants have regard to the historic environment by assessing both its setting and significance when putting forward proposals and wherever possible avoid or minimising a proposals impacts upon such interests. Paragraph 195 of the NPPF requires local authorities to identify and assess the particular significance of any heritage asset which may be affected by a proposed development and take this into account when considering the impact of the proposal. Additionally, Paragraph 197, 199 and 200 are also relevant in their emphasis upon ensuring that proposed developments are so planned such that their impacts do not give rise to substantial harm upon interests within the historic environment of significance being mindful that a feature of

interest may not necessarily be disregarded in any assessment solely by virtue of its non-designation, so long as a both a reasonable and proportionate approach is taken.

- 7.28 Furthermore, the provisions of Section 66 of the Planning (Listed Buildings & Conservation Areas) Act 1990 are also engaged in the determination of this particular application. While this current application for variation of conditions, *per se*, does not concern an application for Listed Building Consent nor any proposals directly affecting such designations, it does lie within the grounds of assets and, therefore, the applicable test against which the County Planning Authority is obliged to assess such proposals is that '*special regard*' must be had to the "*desirability of preserving [such] building[s] or [their] setting or any features of special architectural or historic interest which [they] possess*".
- 7.29 The specific tests for consideration are whether the proposed development would give rise to a circumstance where substantial harm to the interests of either a listed building or structure or their settings or total loss of their significance would arise as a result of the effects of the development. Special regard must also be had to the desirability of preserving any identified designated heritage asset. Where a proposed development is deemed to lead to less than substantial harm, the assessment of the development must be weighed against the attendant public benefits of a proposal.
- 7.30 It is considered that the applicant is aware of the heritage assets as required by paragraph 194, as the planning application boundary includes the listed buildings and registered park and gardens of Middleton Lodge Estate. At Middleton Lodge the Lodge, stable block and associated buildings are considered to be a significant heritage asset being Grade II* and Grade II listed, this was reflected in the 2010 Appeal decision APP/P2745/A/09/2119601. The judgement within the Appeal decision in paragraph 68 states '*While introducing a significantly different landscape feature resulting in change to part of the Registered Park and Garden, it would not in its own right harmfully detract from the totality or significance of this heritage asset. Nor by reason of its siting, design and screening would it have any material impact of the setting of the listed Lodge.*' When taking into account the potential effects of the proposed change in conditions on the proposed development upon designated assets and their settings it was concluded there is low potential for visual impact to the setting of the stable block and other heritage assets as there is an established wood between the listed buildings and the quarry. The outcome of public consultation and the seeking of expert views through consultation on the application revealed no contrary views against the conclusions of the assessment of visual impacts upon designated assets and/or their settings. There are features in the local landscape which would serve to minimise any potential significant adverse visual impact upon the nearest designated assets or their settings to a level sufficient to be considered acceptable in land use planning terms.
- 7.31 In the particular instance of this application, when assessed against the criteria for paragraph 199 of the NPPF, which states that great weight should be given to a historic asset's conservation and the more important the asset the greater the weight should be, paragraph 200 of the NPPF states that any harm to or loss of the significance of a designated heritage asset from development within its setting should require clear and convincing justification. Paragraph 201 of the NPPF states that where a development will lead to substantial harm of a designated heritage asset consent should be refused unless it can be demonstrated that the harm is necessary to achieve substantial public benefits. It is considered that paragraph 201 of the NPPF is not engaged in this proposal as the potential harm is not substantial. Paragraph 202 of the NPPF states that where development would lead to less than substantial harm to the significance of a heritage asset the harm should be weighed against the public benefit of the proposal. It is considered that the planning judgement is that there would be less than substantial harm from the proposed change in conditions on the proposed development in terms of designated assets and their setting, including the stables of Middleton Lodge and

Middleton Lodge itself, including their conservation. It is considered that there would be less than substantial harm due to the quarry site being separated from the buildings at Middleton Lodge by a wood, which would lessen the impact of the proposed development on the Listed Buildings and their setting ensuring their conservation and the significance of the heritage asset will not be affected. In accordance with para 202 of the NPPF it is necessary to weigh any less than substantial harm against the public benefits of the proposal. It is considered that the public benefit would occur once restoration was complete as the restored quarry would form a visitor attraction forming part of the Middleton Lodge Estate. Paragraph 202 is engaged as it is judged that there is potential for less than substantial harm, but once restoration is complete the site will add an additional attraction to the Middleton Lodge Estate which will be for the benefit of visitors to Middleton Lodge, hence providing a public benefit. The extraction of the carboniferous limestone is also in the public benefit as the stone can be used for the restoration and repair of the buildings which are part of Middleton Lodge and also used to produce concrete which can be used in construction projects. Taking into consideration the proposals as put forward, they are considered to be consistent with the NPPF's aims and objectives in this respect and the special regard to the desirability of preserving the setting of the listed buildings in Section 66 of the Planning (Listed Buildings & Conservation Areas) Act 1990 and therefore it is considered, been satisfied in this particular instance.

- 7.32 The restoration of Middleton Lodge Quarry has been designed to provide a visitor attraction which will link to and complement the facilities at Middleton Lodge. The proposed change to conditions involve a revised restoration scheme and a change to the months of working in Phase 3 from six months during the winter to being all year round. The main visible change to the restoration scheme would be not installing the fountain approved in the original restoration scheme, which has been done so a pump does not need to be installed to circulate the water. Another feature of the proposed restoration would be to raise the floor level of the lake in the Quarry Garden to simplify the drainage system to be based on gravity rather than relying on a pump. The change of working in Phase 3 to all year round working would not have any greater impact on the heritage asset or its setting than if it was left as six months, as until the extraction and restoration is complete the site would not be used as an added attraction for Middleton Lodge. The size of the quarry garden would not change but scheme would include the removal of the fountain.
- 7.33 Therefore, the proposal accords with Policy CP12, Conserving and Enhancing Environmental Historic Assets in the Richmondshire Local Plan Core Strategy, which states that proposals should support the conservation and enhancement of designated assets and the landscape character should be restored to ensure a sustainable future for historic environment, the proposed restoration scheme, once complete, would enhance the landscape character of the Registered Park and Garden at Middleton Lodge. The proposal also accords with emerging Policy D08, Historic Environment, of the emerging MWJP as it will '*enhance those elements which contribute to the significance of the area's heritage assets including their setting*' the proposed restoration would provide an attraction within the setting of the historic asset which would complement the buildings of Middleton Lodge as the same type of limestone is being used in the quarry garden and the adjoining grassland. The proposal also accords with paragraph 197 of the NPPF which promotes sustaining and enhancing heritage assets. Therefore, the proposal is considered acceptable in terms of the historic environment as when restored the quarry area will be used as an addition to the Middleton Lodge facilities and so accords with local and national policy.

Water Environment

- 7.34 The approved restoration scheme includes the provision of two lakes, one is part of Phase 2, within the Quarry Garden and the second at the lowest point of the quarry floor in Phase 3. No field drainage would be required as surface water would percolate

direct into the limestone and flow into the lake. This lake would be connected to the lake in the quarry garden, which would then discharge into the small pond fed by the spring to the east. In the original restoration plan the level of the floor in the lake in the Quarry Garden required the installation of a pump to move the water out into the pond. The proposed restoration scheme has raised the floor level of the lake so that the water will use gravity to move to the pond and so the need for the pump has been removed. The site is not within a flood zone or near an aquifer. The proposed change in existing conditions 7 and 20, which would change to conditions 5 and 18 if this application is approved, including changing the working in Phase 3 from winter working only to all year round working, and changing to raise the floor level of the lake in the Quarry Garden will not impact on the surface water or groundwater at the site as there is more rain during the autumn and winter months in the period when working has already been approved and the floor in the Quarry Garden Lake is now further from the water table. Plan NT03435/28/012/A 'System for collecting surface and ground water' shows how surface and ground water will be dealt with once restoration is complete, ensuring lake levels are maintained and excess water is drained away. The proposed development accords with 'saved' Policy 4/10, Water protection, of the NYMLP as the move to all year round working in Phase 3 would not have an adverse impact on surface or groundwater as there is less probability of heavy rainfall and flooding during the summer months so the surface and groundwater is less likely to be adversely affected. The proposed development also accords with Policy CP3 e), which promotes the quality of water and g), which promotes natural drainage, of the Richmondshire District Local Plan, Policy, draft Policy D09, Water environment, of the emerging MWJP and paragraph 174 of the NPPF, which includes reference to preventing unacceptable levels of water pollution and improving water quality by providing a natural drainage system, as measures have been put in place to deal with ground and surface water and natural drainage is proposed. Therefore, in terms of the water environment the proposed development is considered acceptable and in line with local and national policy.

Restoration and aftercare

- 7.35 A revised restoration and aftercare scheme has been submitted as Appendix 3 of the Planning Statement, which amends the design of the Quarry Garden and the landscaping of Phase 3 as described in Section 3 of the report. Since the restoration plan details are listed in some of the Conditions these conditions would be amended to include the updated plan references. The conditions which would include a change of plan reference are Condition 1 which lists the approved documents including:
- Plan NT03435/28/002: 'Phase 2 Detailed Site Design';
 - NT03435/28/004/A: 'Phase 3 Detailed Site Design';
 - NT03435/28/007/B: Landscape Masterplan;
 - NT03435/28/008/A: 'Cross sections showing the restoration profile';
 - NT03435/28/009: 'Indicative cross sections through restored quarry faces and slopes;
 - NT03435/28/010 'Sections through Quarry from Kiln Head Spring';
 - NT03435/28/011/A: 'Section through Quarry from Woodhouse Farm';
 - NT03435/28/012/A: 'System for collecting Surface and Ground water';
 - NT03435/28/013/A: 'Vehicle, Pedestrian and Cycle Circulation';
 - NT03435/28/014/A: 'Phases 1 and 3 planting plan';
 - NT03435/28/14/A: 'the Quarry Garden' and NT03435/28/016: 'Quarry Garden lake edge details'. The revised restoration plan raises the floor level in the lake in Phase 2 to eliminate the need for a water pump to move the water to the nearby spring, making it more sustainable. As shown by NT03435/28/002: 'Phase 2 Detailed Site Design' and

- NT03435/28/007/B: Landscape Masterplan. The restoration of Phase 3 includes a lake and grassland and areas of increased biodiversity, as shown by 'Phase 3 Detailed Site Design' and NT03435/28/007/B: Landscape Masterplan.

7.36 The restoration would have the intention of forming a visitor attraction to link in with the adjoining Middleton Lodge and add to their recreational facilities, the routes around the site are shown in NT03435/28/013/A: 'Vehicle, Pedestrian and Cycle Circulation'. The Landscape Architect and Ecologist considered the revised details acceptable and did not have any objection to the proposal. Part of the restoration is to be agricultural land and the proposal accords with 'saved' policy 4/18 of the NYMLP which states that restoration to agriculture proposals should, where possible, include landscape, conservation or amenity proposals. The proposed development does include landscape design and improvements to biodiversity which is in line with the policy. The proposal also accords with 'saved' Policy 4/20, Aftercare, of the NYMLP as a 5 year aftercare scheme is included in Appendix 3 of the Planning Statement. The restoration scheme also accords with emerging Policy D10, Reclamation and afteruse, of the emerging MWJP as it would provide a positive impact on the area by providing a visitor attraction and also increase biodiversity by having different environments within the site such as lakes, marginal plants, native meadows and tree and shrub planting. The restoration would be progressive and a maintenance scheme has been included as part of the aftercare plan. The proposal also accords with paragraph 211 e) of the NPPF as the restoration is to be progressive and restoration and aftercare to be monitored as detailed in existing Condition 11, which would be revised to be Condition 9 if this application is approved. Therefore, in terms of restoration and aftercare it is considered that the revised restoration and aftercare scheme and revised restoration plan is acceptable and accords with local and national policy.

Highways Matters and Access

7.37 The limestone from the Middleton Lodge Quarry would continue to be transported to Barton Quarry, under Kneeton Lane by conveyor belt with no impact on the highway network. The extraction from Phase 2 is a year round operation so the change in working for Phase 3 from six months to year round would not have an additional impact on the highway network as the same site operatives who would work on Phase 3 are currently working in Phase 2 which is an all year round operation, so there will be a slight increase in highway movements associated with this application. It was stated in application C1/16/0081/CM that two full time employees work at the quarry. Therefore the effect would be minimal as it will only be the current operatives who work at Middleton Lodge Quarry who create the highway movements,. This is supported by the Highway Authority who stated that the proposed changes would not have any impact on the surrounding highway network so they had no objection to the proposal. 'Saved' Policy 4/13 of the NYMLP, Policy D03 of the emerging MWJP and paragraph 110 of the NPPF support the use of alternatives to road transport as they are more sustainable. It is considered that since road transport is not used for the extracted limestone this proposal is acceptable in terms of highway impact.

Climate Change and biodiversity

7.38 It is considered that the proposed changes in conditions would not increase the risk of flooding, as the proposed development would incorporate a natural drainage system based on gravity. The site would be progressively restored to lakes and grassland planting and so provide mitigation measures for the effect of climate change. The proposal accords with draft Policy D09 4) of the emerging MWJP which states that proposals should '*include measures to contribute to flood alleviation and other climate change mitigation and adaption measures...*'. The proposal also accords with draft Policy D11 viii) which deals with implementing landscape planting to adapt to climate change and including areas of new wildlife habitat, which the proposed restoration plan would do. Paragraph 11 of the NPPF promotes mitigating climate change as part of the

presumption in favour of sustainable development, therefore it is considered that this proposal is acceptable in terms of climate change.

- 7.39 The site has no local or national designation and draft Policy D07 of the emerging MWJP states that proposals will be permitted where there will be no unacceptable impacts on biodiversity and paragraph 174 of NPPF promotes the conservation and enhancement of biodiversity. The proposed restoration scheme would provide lake and grassland habitats and increase the level of biodiversity present at the site, therefore it is considered that the proposal accords with local and national policy and is acceptable in terms of promoting biodiversity.

Planning Conditions

- 7.40 Some of the conditions of permission C1/14/00747/CM have been discharged or are no longer required:

Condition 5 states: *The existing access shall be improved in accordance with the approved plan titled 'Visitor Exit Junction by Walled Garden' (ref: NT03435/26/001 – Rev.D) dated June 2014. New kerbs shall be provided to replace existing as required and extended 20m into the site from the carriageway. Visibility at the access shall be 160m by 2.4m in both directions. The proposed white lining and signing of the junction shall be implemented as shown on the approved plan ref: NT03435/26/001 – Rev.D.* This condition was discharged in 2012 and does not need to be included should permission be forthcoming, and so will be removed from Section 9 of this report.

Condition 6 states: *The proposed Quarry Garden as detailed on the plans titled 'The Quarry Garden' (ref: NT03435/28/015) dated August 2016, shall not be brought into use until such time as the Local Access Road between Scotch Corner and Barton, connecting to Kneeton Lane and constructed in accordance with the A1 (M) upgrade, has been implemented and made available for use. In the event that the Local Access Road is not constructed or made available for use, the access arrangements for the site shall be undertaken in accordance with the Chapter 5 of the Wardell Armstrong Report (ref: NT03435/18 – Report No.001) dated December 2011.* The Local Access Road has now been constructed and is in use so this condition is no longer required should permission be forthcoming and so will be removed from Section 9 of this report.

Condition 31 states: *Prior to the non-extraction elements of the development being brought into use a Travel Plan shall be prepared for the site and submitted to and been approved in writing by the County Planning Authority.* This condition was discharged in 2012 and is no longer required should permission be forthcoming and so will be removed from Section 9 of this report, the 'Green Travel Plan' ref: NT03435/18 002 dated December 2011 has been added to the list of approved documents and drawings in Condition 1.

- 7.41 The existing conditions of permission C1/14/00747/CM which are proposed to be varied are 1, 6, 7, 10, 14, 20, 24, 26, 27 and 30. The new condition wordings are stated below in italic's, the reasons would remain the same.

Condition 1 - changing of some of the plan references so should permission be forthcoming it would read:

"Condition 1. The development hereby permitted shall be carried out in accordance with the application details dated 8 January 2021 and those previously approved under permission C1/14/00747/CM and the following approved documents and drawings:

- *Supporting Transport Statement (ref: JN0776) dated December 2014;*
- *Approved Plan titled 'Visitor Exit Junction by Walled Garden' (ref: NT03435/26/001 – Rev.D) dated June 2014.*
- *Planning Statement accompanying 8 January 2021 application*
- *Phase 2 Detailed Site Design – NT03435/28/002 – August 2016*
- *Phase 3 Detailed Site Design – NT 03435/28/004A – August 2016*

- *Landscape Masterplan – NT03435/28/007/B - August 2016*
- *Cross sections showing the restoration profile – NT03435/28/008/A - August 2016*
- *Indicative cross sections through restored quarry faces and slopes – NT03435/28/009 - August 2016*
- *Sections through Quarry from Kiln Head Spring – NT03435/28/010 - August 2016*
- *Section through quarry from Woodhouse Farm – NT03435/28/011/A - August 2016*
- *System for collecting Surface and Ground water – NT03435/28/012/A – September 2016*
- *Vehicle, Pedestrian and Cycle circulation – NT03435/28/013/A – September 2016*
- *Phases 1 and 3 planting plan – NT03435/28/014/A – September 2016*
- *The Quarry Garden – NT03435/28/015 - August 2016*
- *Quarry Garden lake edge details – NT03435/28/016 - August 2016*
- *Green Travel Plan – NT03435/18 002 – December 2011*

These plans, details and the following conditions shall at all times take precedence.”

Condition 6 – the condition relates to the construction of the Local Access Road, The Local Access Road has now been constructed and is in use so this condition is no longer required should permission be granted and so will be removed from Section 9 of this report.

Condition 7 - changed to remove reference to not working Phase 3 between 1st April and 1st October, the Condition number will also change to Condition 5 should permission be granted, the revised wording would be:

“Condition 5. No construction works, extraction or associated operations including maintenance and transport of mineral from the site shall take place except between the following times: 07.30 - 17.30 hours Monday to Friday. No quarrying or associated operations (except for maintenance and repairs which shall be restricted to 07.30 - 12.30 hours on Saturdays) shall take place on Saturdays, Sundays or Bank or Public Holidays.”

Condition 10 - changing of some of the plan references so should permission be granted it would be renumbered as Condition 8 and read:

“Condition 8. The development hereby permitted shall be constructed in accordance with Chapter 7 titled ‘Condition 14: Landscape Planting and Trees to be removed’ of the Wardell Armstrong Report December 2011 and the following plans:

- *Drawing no. NT03435/18/018 Rev.A titled ‘Tree Protection and removal Plan (Sheet 8)’ dated 7 March 2012;*
- *Drawing no’s. NT03435/18/018 Rev.A titled ‘Tree Protection and removal Plan (Sheet 1-6)’ dated December 2011 and (Sheet 7) dated 7 March 2012;*
- *Drawing no’s. NT03435/28/014/A titled ‘Phase 1 and 3 Planting Plan’ dated August 2016;*
- *Drawing no’s. NT03435/28/015 titled ‘The Quarry Garden ’ dated August 2016;*
- *Drawing no. NT03435/18/031 titled ‘Landscape Planting’ dated December 2011.*

In the event of any plant material, shown on Drawing no. NT03435/18/031, dying or becoming seriously diseased or damaged within 5 years of planting, it shall be replaced with similar species to a specification that shall be first agreed in writing with the County Planning Authority unless the County Planning Authority give written consent to any variation.”

Condition 14 - changing of some of the plan references so should permission be granted it would be renumbered as Condition 12 and read:

“Condition 12. The development hereby permitted shall be constructed in accordance with the following details:

- *Document titled ‘Barton Quarry Extension: Information required by conditions 19 and 21 – Detailed Method of Working and Details of the Construction of Conveyor Route’;*

- Appendix 1 Drawing NT03435/18/021 titled 'Detailed Site Design Phase 1 dated June 2011';
- Appendix 2 titled 'Cut and Fill Calculations for Phase 1';
- Appendix 3 titled 'Typical Box Culvert Section' dated 29 March 2011;
- Appendix 4 titled 'Arboricultural Implication Assessment Of Trees At Middleton Lodge' dated 19 April 2011 and Drawing no. TPP-B titled 'Retained Trees shown on Proposed Layout With Protective Measures Indicated' dated 20 April 2011;
- Appendix 5 titled 'Arboricultural Method Statement For Trees At Middleton Lodge' dated April 2011 with amendments as set out in the Sherburn Stone Co. Ltd email dated 25 August 2011;
- Appendix 6 titled 'Ecological Updating Surveys 2010: Land at Middleton Lodge' dated 20 May 2010;
- Appendix 7 titled 'A Breeding Bird Survey of Land at Middleton Lodge 2010' dated 3 June 2010;
- Appendix 8 titled 'A Great Crested Newt Survey of Middleton Lodge' dated 18 June 2010; the above being submitted with the letter from Sherburn Stone Co. Ltd dated 21 June 2011;
- The details found within document no. B1747100/AIP/01 titled 'Box AIP – Middleton Lodge – Barton Quarry Conveyor Tunnel' dated 20 December 2011 and drawing no. 1747100/ML/LOC/001 Rev 0 titled 'Middleton Lodge Development Location Plan' dated December 2011 received via Jacobs Ltd on 23 December 2011.
- Planning Statement (submitted 8 January 2021) – Appendix 1 titled 'Method of working Phases 2 and 3 and associated drawings NT03435/28/002 – Phase 2 Detailed Site Design dated August 2016 and NT03435/028/004/A – Phase 3 Detailed Site Design dated August 2016.'

Condition 20 – changed to remove reference to there being no blasting between 1 April and 1st October in Phase 3 to allow year round working the Condition number will also change to Condition 18 should permission be granted, the revised wording would be:

Condition 18. No blasting shall be carried out on any part of the site unless between 11.00 and 16.00 Monday to Friday inclusive and no blasting shall be carried out at any time on Saturdays, Sundays, Bank or Public Holidays.

Condition 24 – wording changed to include reference to soil stored in soil mounds on adjacent land under permission C1/16/00881/CM, the Condition number would also change to Condition 22 should permission be granted, the revised wording would be:

Condition 22. All topsoil and subsoil shall be permanently retained on the site and the adjacent soil mounds site (see planning Permission Ref No. C1/00881/CM) for subsequent use in restoration.

Condition 26 - changing of some of the plan references so should permission be granted it would be renumbered as Condition 24 and read:

“Condition 24. There shall be no removal of topsoils, subsoils or overburden storage except in accordance with the details shown on Drawings NT03435/028/002 titled 'Phase 2 Detailed Site Design' dated August 2016 and NT03435/28/004/A titled 'Phase 3 Detailed Site Design' dated August 2016. The approved details shall be implemented in full as approved. Once formed, all mounds in which topsoil and subsoil are to be stored for more than 6 months, or over the winter period, shall be grass seeded in accordance with the specification that shall be submitted to an approved in writing by the County Planning Authority within one month of the date of this decision. Mounds shall be managed throughout the period of storage to maintain satisfactory vegetation cover, carry out weed control and avoid erosion and waterlogging.”

Condition 27 - changing of some of the plan references so should permission be granted it would be renumbered as Condition 25 and read:

“Condition 25. The development hereby permitted shall be carried out in accordance with the details found within Planning Statement (submitted 8 January 2021) – Appendix 3 titled ‘Restoration and Aftercare’:

- *Drawing no. NT03435/18/018 Rev.A titled ‘Tree Protection and removal Plan (Sheet 8)’ dated 7 March 2012;*
 - *Drawing no’s. NT03435/18/018 Rev.A titled ‘Tree Protection and removal Plan (Sheets 1-6)’ dated December 2011 and (Sheet 7) dated 7 March 2012;*
 - *Drawing no. NT03435/28/014/A titled ‘Phase 1 and 3 Planting Plan’ dated September 2016;*
 - *Drawing no. NT/03435/028/030 titled ‘The Quarry Garden’ dated September 2016.*
- The restoration and aftercare of the site shall be carried out in strict accordance with the approved scheme.”*

Condition 30 - changing of some of the plan references so should permission be granted it would be renumbered as Condition 28 and read:

“Condition 28. The development hereby permitted shall be carried out in accordance with the details of the proposed arrangements for cycle and pedestrian access, and cycle parking, found within Chapter 10 titled ‘Condition 36: Cycle and Pedestrian Access & Parking’ of the Wardell Armstrong Report including drawing no’s NT/03435/28/013/A dated August 2016 and NT03435/18/004 dated December 2011. The scheme shall be implemented in full as approved and once created shall be maintained clear of any obstruction and retained for their intended purpose at all times.”

Legal Agreement

- 7.42 A Unilateral Undertaking was given on the 13 October 2010, by the landowner, Sherburn Stone Company Ltd, Middleton Lodge Estates Ltd, HSBC to North Yorkshire County Council in relation to the original grant of planning consent (ref: C1133/80G/CM) for the extraction of mineral at Middleton Lodge. A Section 106A Deed of Variation Agreement was entered into by the same parties on 13th April 2012 varying the terms of the Unilateral Undertaking. A second Deed of Variation was entered into on the 17 July 2013 as part of the grant of planning consent C/12/00746/CM. A Third s106A Deed of Variation was subsequently entered into on 24th April 2015 varying the terms of the original undertaking as part of the grant of planning consent C1/14/00747/CM. As such, should the proposal be considered acceptable, it will be subject to the completion of a further Section 106A Deed of Variation to ensure that the planning obligations in the Original Undertaking and the subsequent first, second and third s106A Deeds of Variation will apply to any forthcoming consent in respect of the s73 application made to vary Conditions 1, 6, 7, 10, 14, 20, 24, 26, 27 and 30 of permission C1/14/00747/CM to revise the restoration scheme for Phases 2 and 3 and to amend the months of working for Phase 3.

8.0 Conclusion

- 8.1 The proposal is a Section 73 application for the variation of some of the conditions of permission C1/14/00747/CM. The proposal does not seek to increase the overall footprint of the site or deviate from any other aspect of the consented operation, other than changing the months allowed for extraction and blasting in Phase 3 from being for 6 months to being all year round and having a revised restoration scheme for Phase 2 and Phase 3. The proposal does not seek to increase the output tonnage from the quarry or seek to extend the time limit for extraction from what is already consented. The proposal would ensure the continuing supply of the remaining carboniferous limestone and that it can be extracted by the expiry date of 2028 and would allow for appropriate site restoration. In terms of the objection received there are two points raised, the first is that many of the saplings planted on Mound ‘C’ have not survived and require replacing, the second point is related to the extraction in Phase 3 being in the sight line of the objectors property and the request for additional screening for the summer working. The Applicant has agreed to replace and increase the number of

saplings on top of Mound 'C' and it is considered that mitigation has been provided. The impact of the development on the sight line from a residential property is considered to be suitably screened by the existing woodland, and the screening would be greater in the summer months due to the presence of leaves on the trees and it is considered the existing screening in the form of woodland is sufficient so additional planting is not required.

8.2 There are no material planning considerations to warrant the refusal of this application for the Variation of conditions 1, 6, 7, 10, 14, 20, 24, 26, 27, 30 of planning permission C1/14/00747/CM to revise working times for Phase 3 and the restoration scheme at Middleton Lodge, Kneeton Lane, Middleton Tyas, Richmond, DL10 6NJ

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

Obligations under the Equality Act 2010

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

Obligations under the Human Rights Act

8.5 The Human Rights Act requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country. Article 1 of protocol 1 provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.

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

9.0 Recommendation

9.1 For the following reason(s):

- (i) the proposal accords with the principles of the National Planning Policy Framework (2021), Planning Practice Guidance and does not conflict with 'saved' policies 3/2, 3/3, 4/1, 4/10, 4/14, 4/15, 4/18 and 4/20 of the North

- Yorkshire Minerals Local Plan (1997), Richmondshire Local Plan Core Strategy (adopted 2014) Policies CP1, CP3, CP10, CP12 and CP13. and the emerging Minerals and Waste Joint Plan policies M01, M05, M06, M09, D01, D02, D06, D07, D08, D09, D10 and D11 and
- (ii) The proposal does not conflict with the abovementioned policies and it is considered that changing the months allowed for extraction and blasting in Phase 3 and revised restoration scheme would not result in an increased impact on the environment or local or residential amenity and can be mitigated through condition. There are no other material planning considerations indicating a refusal would be in the public interest.

9.2 Subject to the completion of a Deed of Variation under Section 106A of the Town & Country Planning Act 1990 to ensure that the terms of the Original Section 106 Undertaking and the subsequent first, second and third section 106A Deeds of Variation continue to apply upon any s73 application consent granted and subject to any comments Members may have, the following be proposed to the Chief Executive Officer for consideration under his emergency powers:-

The application be approved for the reasons stated in the report in accordance with the conditions outlined below:-

Conditions:

1. The development hereby permitted shall be carried out in accordance with the application details dated 8 January 2021 and those documents previously approved under permission C1/14/00747/CM and the following approved documents and drawings:
 - Supporting Transport Statement (ref: JN0776) dated December 2014;
 - Approved Plan titled 'Visitor Exit Junction by Walled Garden' (ref: NT03435/26/001 – Rev.D) dated June 2014,
 except as amended by the Application details dated 8 January 2021 and approved documents
 - Planning Statement accompanying 8 January 2021 application
 - Phase 2 Detailed Site Design – NT03435/28/002 – August 2016
 - Phase 3 Detailed Site Design – NT 03435/28/004A – August 2016
 - Landscape Masterplan – NT03435/28/007/B - August 2016
 - Cross sections showing the restoration profile – NT03435/28/008/A - August 2016
 - Indicative cross sections through restored quarry faces and slopes – NT03435/028/009 - August 2016
 - Sections through Quarry from Kiln Head Spring – NT03435/28/010 - August 2016
 - Section through quarry from Woodhouse Farm – NT03435/28/011/A - August 2016
 - System for collecting Surface and Ground water – NT03435/28/012/A – September 2016
 - Vehicle, Pedestrian and Cycle circulation – NT03435/028/013/A – September 2016
 - Phases 1 and 3 planting plan – NT03435/28/014/A – September 2016
 - The Quarry Garden – NT03435/28/015 - August 2016
 - Quarry Garden lake edge details – NT03435/028/016 - August 2016
 - Green Travel Plan – NT03435/18 002 – December 2011

These plans, details and the following conditions shall at all times take precedence.

Reason: To ensure that the works are carried out in accordance with the approved particulars and plans

2. The development hereby permitted shall be constructed in accordance with the details and information shown in the Wardell Armstrong Report dated December 2011: Chapter 2 titled 'Condition 3: Surface water drainage' and chapter 3 titled 'Condition 4: Foul and Drainage' and Drawing no. NT03435/18/027 titled 'Drainage Strategy Plan' dated December 2011.

Reason: To ensure that the works would protect local watercourses.

3. The development hereby permitted shall be constructed in accordance with the conclusions found within the document titled 'An Archaeological Evaluation on Land at Middleton Lodge Estate, Richmondshire, North Yorkshire' received on 29 February 2012 and associated plans; the document titled 'Written Scheme of Investigation for a Programme of Archaeological Work on land at Middleton Lodge, North Yorkshire' for an archaeological watching brief (WSI), and the plans drawing no. NT03435/18/027 titled 'Drainage Strategy Plan' dated December 2011 and NT03435/18/004 titled 'Car and Coach Parking' dated December 2011. The archaeological monitoring and observation, recording and deposition of the site archive shall be undertaken in accordance with the WSI. The post-fieldwork report shall be submitted to the County Planning Authority within 6 months of the date of this permission.

Reason: To ensure it would not have a detrimental impact on the historic character of the area.

4. The development hereby permitted shall be carried using the document titled 'Badger and Tree Check, Middleton Lodge' produced by E3 Ecology Ltd dated 6 February 2012. The recommendations and method statements of this document shall be carried out in full prior to any works.

Reason: To ensure the development would not detrimentally impact trees or protected species.

5. No construction works, extraction or associated operations including maintenance and transport of mineral from the site shall take place except between the following times: 07.30 - 17.30 hours Monday to Friday. No quarrying or associated operations (except for maintenance and repairs which shall be restricted to 07.30 - 12.30 hours on Saturdays) shall take place on Saturdays, Sundays or Bank or Public Holidays.

Reason: To ensure the development would not detrimentally impact the local amenity

6. For the hereby approved development there shall be no external lighting used apart from those attached to the letter from Sherburn Stone Co. Ltd dated 20 December 2011 being Four Head Metal Halide Lighting Tower HSS Hire Lighting Solutions. There shall be no external lighting at the site outside the operational hours specified in Condition 7 above unless details of the proposed lighting have been first submitted to and approved in writing by the County Planning Authority. Thereafter that lighting shall only be provided and operated in accordance with the approved details.

Reason: To ensure the development would not detrimentally impact residential amenity.

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

Reason: To ensure works would protect local watercourses.

8. The development hereby permitted shall be constructed in accordance with Chapter 7 titled 'Condition 14: Landscape Planting and Trees to be removed' of the Wardell Armstrong Report and the following plans:
- Drawing no. NT03435/18/018 Rev. A titled 'Tree Protection and removal Plan (Sheet 8)' dated 7 March 2012;
 - Drawing no's. NT03435/18/018 Rev. A titled 'Tree Protection and removal Plan (Sheet 1-6)' dated December 2011 and (Sheet 7) dated 7 March 2012;
 - Drawing no's. NT03435/28/014/A titled 'Phase 1 and 3 Planting Plan' dated August 2016;
 - Drawing no's. NT03435/28/015 titled 'The Quarry Garden ' dated August 2016;
 - Drawing no. NT03435/18/031 titled 'Landscape Planting' dated December 2011.

In the event of any plant material, shown on Drawing no. NT03435/18/031, dying or becoming seriously diseased or damaged within 5 years of planting, it shall be replaced with similar species to a specification that shall be first agreed in writing with the County Planning Authority unless the County Planning Authority give written consent to any variation.

Reason: To ensure the development would not detrimentally impact residential amenity.

9. Every 12 months from the date of the commencement of this development or at such other time as may be agreed in writing with the County Planning Authority a review meeting concerning the previous year's landscaping, working, restoration and aftercare shall be carried out in conjunction with a representative of the County Planning Authority. A record of the material removed from the site shall be maintained and submitted to the County Planning Authority on each anniversary of the 12 month review for the life of this permission. The review shall take account of any departure from approved schemes and revised schemes shall be submitted to the County Planning Authority for approval in writing within 2 months of the review meeting. Thereafter all such work shall be carried out in accordance with the approved schemes.

Reason: To ensure development would be constructed in accordance with the approved plans and conditions.

10. The development hereby permitted shall be constructed in accordance with the submitted plan drawing no. NT03435/18/001 Rev A titled 'Safety of Public Footpath Users' dated 28 February 2012 and the information detailed for drawing no's NT03435/18/019 titled 'Quarry Fencing' dated December 2011 and NT03435/18/002 'Wire Mesh Fence Detail' dated December 2011.

Reason: To ensure development would be constructed in accordance with the approved plans and conditions.

11. The extraction of stone from the site as identified in the application details is authorised until 15 May 2028. The extraction hereby permitted shall be discontinued and all plant and machinery associated with the development shall be removed from the site and the site restored in accordance with the scheme approved under the terms of Condition 27 below by the end of fifteen years from the date of the commencement of extraction.

Reason: To reserve the rights of control by the County Planning Authority to ensure restoration of the land used for minerals extraction with the minimum of delay in the interests of amenity.

12. The development hereby permitted shall be constructed in accordance with the following details:
- Document titled 'Barton Quarry Extension: Information required by conditions 19 and 21 – Detailed Method of Working and Details of the Construction of Conveyor Route';
 - Appendix 1 Drawing NT03435/18/021 titled 'Detailed Site Design Phase 1 dated June 2011';
 - Appendix 2 titled 'Cut and Fill Calculations for Phase 1';
 - Appendix 3 titled 'Typical Box Culvert Section' dated 29 March 2011;
 - Appendix 4 titled 'Arboricultural Implication Assessment Of Trees At Middleton Lodge' dated 19 April 2011 and Drawing no. TPP-B titled 'Retained Trees shown on Proposed Layout With Protective Measures Indicated' dated 20 April 2011;
 - Appendix 5 titled 'Arboricultural Method Statement For Trees At Middleton Lodge' dated April 2011 with amendments as set out in the Sherburn Stone Co. Ltd email dated 25 August 2011;
 - Appendix 6 titled 'Ecological Updating Surveys 2010: Land at Middleton Lodge' dated 20 May 2010;
 - Appendix 7 titled 'A Breeding Bird Survey of Land at Middleton Lodge 2010' dated 3 June 2010;
 - Appendix 8 titled 'A Great Crested Newt Survey of Middleton Lodge' dated 18 June 2010; the above being submitted with the letter from Sherburn Stone Co. Ltd dated 21 June 2011;
 - The details found within document no. B1747100/AIP/01 titled 'Box AIP – Middleton Lodge – Barton Quarry Conveyor Tunnel' dated 20 December 2011 and drawing no. 1747100/ML/LOC/001 Rev 0 titled 'Middleton Lodge Development Location Plan' dated December 2011 received via Jacobs Ltd on 23 December 2011.
 - Planning Statement (submitted 8 January 2021) – Appendix 1 titled 'Method of working Phases 2 and 3 and associated drawings NT03435/28/002 – Phase 2 Detailed Site Design dated August 2016 and NT03435/028/004/A – Phase 3 Detailed Site Design dated August 2016.

Reason: To ensure the development would be constructed in accordance with the approved plans and conditions.

13. Notwithstanding the provisions of Part 19 of the Town and Country Planning (General Permitted Development) Order 1995 (or any other Order amending, revoking or re-enacting that Order), no additional plant or buildings beyond those identified in the Environmental Statement dated December 2006 (excluding mobile plant) shall be erected on the application site.

Reason: To ensure the development would be constructed in accordance with the approved plans and conditions.

14. The terms of this planning permission and any scheme or details approved pursuant thereto shall be made known to any person(s) given responsibility for the management or control of any particular element of the development.

Reason: To ensure the development would be constructed in accordance with the approved plans and conditions.

15. All plant, machinery and vehicles used on any part of the mineral extraction site as part of this development shall be fitted with noise attenuating equipment which shall be regularly maintained in accordance with the manufacturer's instructions.

Reason: To ensure the development would be constructed in accordance with the approved plans and conditions.

16. Subject to the exception in Condition 19 below, the Equivalent Continuous Noise level for operations at the quarry shall not exceed the background noise level (L90) by more than 10dB(A) at any of the following residential premises: Kiln Head Spring, Limekiln Cottage, Middleton Lodge, Mill Farm, North Road Farm, The Farmhouse, The Gatehouse, Under Kneeton and Woodhouse Farm. Measurements shall be hourly LAeq measurements and shall be corrected for the effects of any extraneous noise. Noise monitoring shall be carried out in accordance with a Noise Monitoring Scheme (that includes specification of the proposed frequency) which has been previously submitted to within 1 month of the date of this decision and approved in writing by the County Planning Authority. All results shall be available for inspection on request by the County Planning Authority. In the event that the noise level specified in this Condition is exceeded, those operations at the site causing the excessive noise shall cease immediately and steps shall be taken to attenuate the noise level to be in compliance with the requirements of this Condition.

Reason: To ensure the development would not detrimentally impact residential amenity.

17. In relation to the operations of soil and overburden stripping and replacement, noise levels shall not exceed 70dB(A) LAeq, 1 hour at any residential property during those operations and at no other time.

Reason: To ensure the development would not detrimentally impact residential amenity.

18. No blasting shall be carried out on any part of the site unless between 11.00 and 16.00 Monday to Friday inclusive and no blasting shall be carried out at any time on Saturdays, Sundays, Bank or Public Holidays.

Reason: To ensure the development would not detrimentally impact residential amenity.

19. The occupiers of the following residential properties: Kiln Head Spring, Limekiln Cottage, Middleton Lodge, Mill Farm, North Road Farm, The Farmhouse, The Gatehouse, Under Kneeton and Woodhouse Farm, shall be given a minimum of 24 hours notice in writing of the time(s) that blasting will be taking place and such notice shall thereafter be given to the occupiers of those properties whenever blasting is proposed.

Reason: To ensure the development would not detrimentally impact residential amenity.

20. Ground vibration levels resulting from blasting shall not exceed a peak particle velocity of 6 millimetres/second at any residential premises. The Company operating the quarry shall monitor the vibration levels resulting from each blast carried out at the quarry and shall keep a full written record of the monitoring results. The air over-pressure resulting from blasting shall also be monitored if requested in writing by the County Planning Authority. All monitoring shall be undertaken at the nearest residential premises or at such other location as may be agreed in writing by the County Planning Authority. A full record of the monitoring shall be forwarded to the County Planning Authority every six months except that if the monitoring indicates that a peak particle velocity has exceeded the specified limit the County Planning Authority shall be notified in writing before the next blast is undertaken.

Reason: To ensure the development would not detrimentally impact residential amenity.

21. The development hereby permitted shall be carried out in accordance with the recommendations found within the approved document titled 'Middleton Lodge – Dust Action Plan' submitted with application (ref NY/2011/0492/A30) dated 20 December 2011. The scheme shall be implemented thereafter as approved.

Reason: To ensure the development would not detrimentally impact residential amenity.

22. All topsoil and subsoil shall be permanently retained on the site and the adjacent soil mounds site (See Planning Permission ref No. C1/16/00881/CM) for subsequent use in restoration.

Reason: To ensure the development would be constructed in accordance with the approved plans and conditions.

23. All soil movement operations shall only be carried out when the full volume of soil involved is in a dry and friable condition. No plant or vehicles shall cross any area of unstripped topsoil or subsoil except where such trafficking is essential and unavoidable for the purposes of undertaking permitted operations. No part of the site shall be excavated or traversed or used for a road or for storage of subsoil or overburden or waste or mineral deposits, until all available topsoil and subsoil has been stripped from that part. The exception is that topsoils may be stored on like topsoils and subsoils may be stored on like subsoils.

Reason: To ensure the development would be constructed in accordance with the approved plans and conditions.

24. There shall be no removal of topsoils, subsoils or overburden storage except in accordance with the details shown on Drawings NT03435/028/002 titled 'Phase 2 Detailed Site Design' dated August 2016 and NT03435/28/004/A titled 'Phase 3 Detailed Site Design' dated August 2016. The approved details shall be implemented in full as approved. Once formed, all mounds in which topsoil and subsoil are to be stored for more than 6 months, or over the winter period, shall be grass seeded in accordance with the specification that shall be submitted to an approved in writing by the County Planning Authority within one month of the date of this decision. Mounds shall be managed throughout the period of storage to maintain satisfactory vegetation cover, carry out weed control and avoid erosion and waterlogging.

Reason: To ensure the development would be constructed in accordance with the approved plans and conditions.

25 The development hereby permitted shall be carried out in accordance with the details found within Planning Statement (submitted 8 January 2021) – Appendix 3 titled ‘Restoration and Aftercare’ :

- Drawing no. NT03435/18/018 Rev.A titled ‘Tree Protection and removal Plan (Sheet 8)’ dated 7 March 2012;
- Drawing no’s. NT03435/18/018 Rev.A titled ‘Tree Protection and removal Plan (Sheets 1-6)’ dated December 2011 and (Sheet 7) dated 7 March 2012;
- Drawing no. NT03435/28/014/A titled ‘Phase 1 and 3 Planting Plan’ dated September 2016;
- Drawing no. NT/03435/028/030 titled ‘The Quarry Garden’ dated September 2016.

The restoration and aftercare of the site shall be carried out in strict accordance with the approved scheme.

Reason: To ensure the development would be constructed in accordance with the approved plans and conditions.

26. In the event of the extraction of mineral ceasing on the site for a period in excess of 12 months before the completion of the development hereby permitted, a revised scheme of restoration and landscaping shall be submitted to the County Planning Authority for written approval within 12 months of the cessation. Thereafter the approved scheme shall be implemented in accordance with a programme to be included in that scheme.

Reason: To ensure the development would be constructed in accordance with the approved plans and conditions.

27. The development hereby permitted shall be carried out in accordance with the details found within Chapter 10 titled ‘Condition 35: Boundary Fencing’ of the Wardell Armstrong Report including Drawing no’s NT03435/18/019 dated December 2011 and NT03435/18/002 dated December 2011.

The fencing shall be erected in accordance with the approved details and the approved timetable.

Reason: To ensure the development would be constructed in accordance with the approved plans and conditions.

28. The development hereby permitted shall be carried out in accordance with the details of the proposed arrangements for cycle and pedestrian access, and cyclist parking, found within Chapter 10 titled ‘Condition 36: Cycle and Pedestrian Access & Parking’ of the Wardell Armstrong Report including drawing no’s NT/03435/28/013/A dated August 2016 and NT03435/18/004 dated December 2011. The scheme shall be implemented in full as approved and once created shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: To ensure the development would be constructed in accordance with the approved plans and conditions.

29. Prior to the non-extraction elements of the development being brought into use a Travel Plan shall be prepared for the site and submitted to and been approved in writing by the County Planning Authority. This shall consider and set targets to reduce travel and consider amongst other issues: -

- (i) the appointment of a travel coordinator

- (ii) a partnership approach to influence travel behaviour of both employees and visitors
- (iii) provision of up to date details of public transport services to employees and visitors
- (iv) safe and viable alternatives to the car for access to the site
- (v) continual appraisal of travel patterns and measures provided through the travel plan
- (vi) improved safety for vulnerable road users
- (vii) a reduction in employee vehicle trips and mileage.

Thereafter the Travel Plan shall be brought into effect in full as approved.

Reason: To ensure the development would be constructed in accordance with the approved plans and conditions.

30. The two holiday cottages and stable block holiday accommodation developed as part of this permission shall be occupied for holiday purposes only and shall not be occupied as a person's sole, or main place of residence. The owners/operators shall maintain an up-to-date register of the names of all occupiers of the two cottages and stable block holiday accommodation, and of their main home addresses, and shall make this information available at all reasonable times to the County Planning Authority.

Reason: To ensure the development would be constructed in accordance with the approved plans and conditions.

31. The fencing of the quarry garden shall be constructed in accordance with the submitted details shown on drawing no's NT03435/18/032 titled 'Quarry Garden Railing Detail' dated December 2011; NT03435/18/002 titled 'Wire Mesh Fencing Detail' dated December 2011; and NT03435/18/019 titled 'Quarry Fencing' dated December 2011.

The works shall thereafter be implemented in strict accordance with the approved details. Thereafter the restoration and aftercare of the site shall be carried out in strict accordance with the approved scheme.

Reason: To protect the historical character of the area.

32. For the development hereby permitted of the renovation of the stable block all new stonework and repairs to existing stonework shall be undertaken in natural reclaimed local stone. All stonework shall be laid, coursed and flush pointed in a manner to match precisely the existing stonework of the building. All pointing of stonework shall be undertaken with a lime/cement/sharp sand mix in proportions of 1:1:6 and then brush finished.

Reason: To protect the historical character of the area.

33. The renovation of the stable block shall be undertaken in accordance with the approved plans:

- Appendix 1: External Door Details;
- Appendix 2: Window and Glazing Details;
- Appendix 3: Roof and Rainwater Details;
- Stable courtyard windows with dimensions.

The works shall be carried out in accordance with the approved details.

Reason: To protect the historical character of the area and the listed building.

34. The renovation of the stable block shall be undertaken in accordance with the 'Historic Building Survey' (ref: CP.No.10556) dated 5 June 2013. The works shall be carried out in accordance with the approved details and mitigation measures.

Reason: To protect the historical character of the area.

Informatives

Discharge of foul drainage

Condition 2 relates to the discharge of foul drainage from the site. Report no: NT03435/18/001 states that there will be two separate discharges to ground of foul drainage of following treatment. These discharges will require an Environmental Permit under EPR Regulations 2016. The applicant should contact the Environment Agency to discuss, and begin the application process.

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

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

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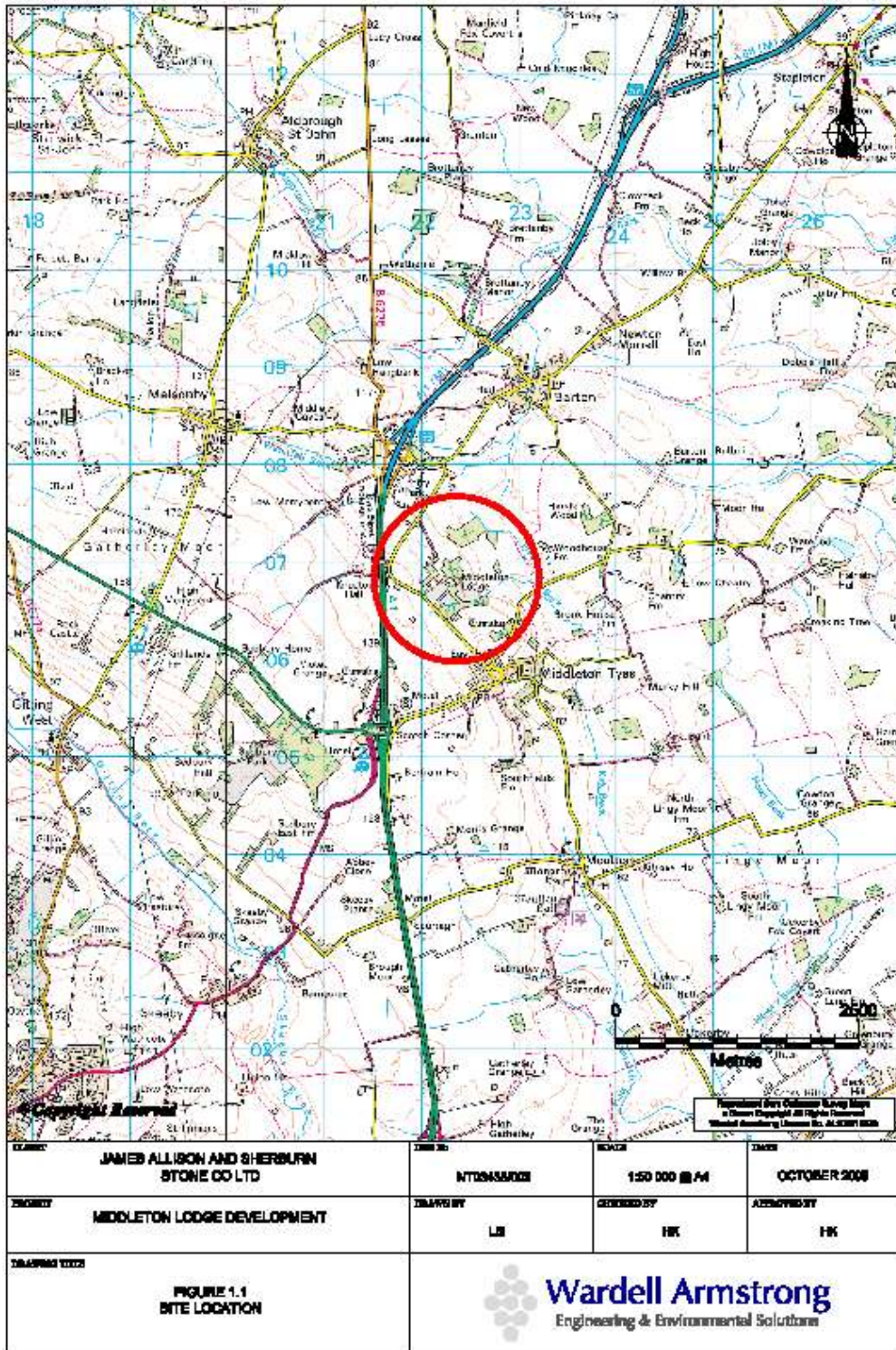
Corporate Director, Business and Environmental Services
Growth, Planning and Trading Standards

Background Documents to this Report:

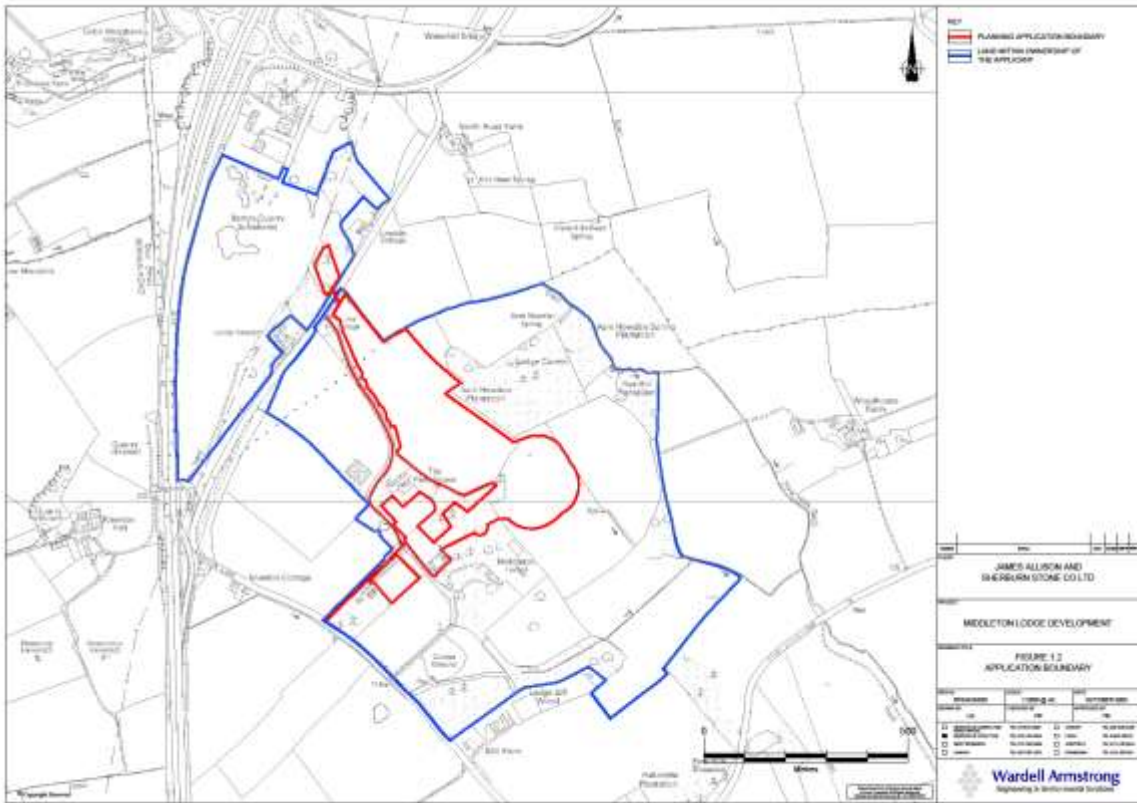
1. Planning Application Ref Number: Ref . No C1/21/00118/PLANYC (NY/2021/0012/73) registered as valid on 21 January 2021. Application documents can be found on the County Council's Online Planning Register by using the following web link:
2. Consultation responses received.
3. Representations received.

Author of report: Joan Jackson

Appendix A – Location Plan



Appendix 2 – Application Boundary



Appendix 3 – Landscape Masterplan



