



## Northamptonshire County Council

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Please ask for: Phil Watson  
Tel: (01604) 366638  
Our ref: 13/00003/SCO  
Your ref: Pitsford ROMP  
Date: 30<sup>th</sup> July 2013

Dear Mrs Pawson

**TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT)  
(ENGLAND AND WALES) REGULATIONS 1999: REGULATION 13 SCOPING OPINION  
FOR PROPOSED REVIEW OF MINERAL PLANNING CONDITIONS (ROMP)  
RELATING TO CONTINUATION OF MINERAL EXTRACTION. LAND AT PITSFORD,  
BOUGHTON, AND MOULTON, NORTHAMPTONSHIRE.**

I refer to your letter dated 6<sup>th</sup> June 2013 and received on 10<sup>th</sup> June 2013 and the accompanying Environmental Impact Assessment (EIA) scoping report. The scoping report has been the subject of consultation in accordance with the Environmental Impact Assessment (EIA) Regulations and copies of the responses received are attached for your information (most of these have previously been forwarded to you).

Any periodic review of the ROMP is required to relate to the '**relevant planning permission**', which is defined as '**any extant planning permission**'. Therefore, the red-line boundary of the planning application must be the same as the application DA/97/1140C. Similarly any area proposed for working must be subject to Environmental Impact Assessment.

The proposed scope of the Environmental Statement (ES) is not considered to be comprehensive enough. A number of the topics proposed to be scoped out should be part of the Environmental Assessment. Whilst the site benefits from an extant planning permission and your clients intention is to extract from Phase 1, this does not justify scoping out the full range of topics which are listed in paragraph 5.1.5 of the EIA. Schedule 4 of the EIA Regulations 2011 lists information which is required to be included in Environmental Statements pursuant to Regulation 2 (1). Part 1 list information which may be reasonably required and Part 2 of Schedule 4 lists several criteria which are 'at least' required to be assessed. Therefore the fact that the submitted proposals only deal with part of the site do not override the requirements of the EIA Regulations.

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The Department of Communities and Local Government issued the following guidance: *'Environmental Impact Assessment and Reviews of Mineral Planning Permissions, Guidance on regulations applying environmental impact assessment to stalled and other reviews of conditions attached to mineral planning permissions in England (July 2008)*. Paragraph 1.10 makes it clear that an ES must contain information specified in Part II, and such relevant information in Part I, of Schedule 4 to the EIA Regulations as is reasonably required to assess the environmental effects of the proposal, which the developer can reasonably be required to compile. There is further reference in Paragraph 2.15, which states that:

*"the information to be included in the ES should be restricted to information relating directly to the site and remaining development proposed, which is reasonably required to assess the environmental effects of the remaining development which the developer can reasonably be required to compile".*

Paragraph 2.18 states that:

*"The EIA Regulations are clear that the likely effects on the environment of a project must be fully assessed and taken into consideration before development consent is granted. For remaining permitted mineral development which is EIA development, this means that environmental information is required for the **whole** mineral site before new operating conditions can be determined following a review."*

Whilst it is proposed to initially restrict working to the Phase 1 area, the application seeks to protect the minerals in Phases 2-5 and near Whitehills. With regard to the above Guidance it isn't considered appropriate to restrict the EIA assessment to Phase 1. Your client is retaining the option of working Phases 2-5 and Whitehills and has control over this land, therefore the environmental effects of this future development is required and it is considered that this is reasonable for the developer to compile. Your proposal is to scope out these areas and to regard them as Dormant. However I do not believe this is possible in the context of the legislation (Environment Act 1995 Schedule 14). Under the 1995 Act sites are defined as either 'Active' or 'Dormant' and cannot be a mixture of these categories. Therefore, in addition to the subjects/topics listed in paragraph 5.1.4 it is considered the following topics should also be assessed in the ES:

- Air Quality (including Dust)
- Cultural Heritage and Archaeology
- Landscape and Visual Amenity
- Traffic and Transportation
- Soils
- Alternatives
- Cumulative Impacts
- Non Technical Summary

In respect of the areas which your client does not intend to work in the future, shown on Drawing GPP/PB/PR/13/02 Rev 1, whilst these are within the 'relevant planning permission' and therefore these areas should be within the scope of the ES, provided the intention is to not work these and this is made explicit in the plans and information provided when the application for Periodic Review is submitted, the amount of detail to assess these areas would be very limited.

In respect of the specific topics to be assessed comments have been made on these by the consultees. To avoid unnecessary repetition, broad guidance provided by consultees has not been duplicated in this letter. You will note the specific points which have been made in the responses and you are required to have regard to these. In particular I would draw your attention to the following:

### Air Quality

The scoping report includes an intention to include dust in the ES, and refers to a review of the Dust management Scheme. The ES should address dust as part of a wider assessment relating to air quality. The National Planning Policy Framework (NPPF) Technical Guidance document provides guidance on dust assessment and study including health effects of dust. The assessment of dust and air quality should include possible impacts on ecology and human receptors (residential and rights of way users). See Annex A to response from Natural England and comments by the County Councils Senior Environmental Planner (SEP).

### Cultural Heritage and Archaeology

Whilst there is no mineral working proposed within Boughton Park this is a designated Historic Park and Garden with a number of Listed Buildings within. Other Listed Buildings and Scheduled Ancient Monuments are located within or nearby to the site of the Mineral Permission. Any impact on these designated areas and structures, including on their setting needs to be assessed as part of the EIA. The consultation response from English Heritage states that these matters should be scoped in to the ES.

In respect of archaeology, some level of assessment will be required for the ES, and this should include a Desk Top assessment which would then inform whether further field assessment work is required. I refer to the comments received from the County Archaeology Advisor and in particular to paragraph 128 of the NPPF.

### Landscape and Visual Amenity

Advice on the consideration of landscape and visual impact is provided in the response by Natural England and the SEP. Natural England also refers to the impact on recreational users of the public rights of way. Comments were received from the Northamptonshire area Ramblers which refers to the public rights of way in the area and 'permitted' paths

along the valley to the south of Bunkers Hill Farm and between Bunkers Hill Farm and Grotto Spinney. Reference should be made to these in the assessment.

### Traffic and Transportation

Whilst it is acknowledged that the site has a purpose built access previously agreed with the Highway Authority this does not override a requirement for the environmental and safety impacts of traffic associated with the development, both on and off the site, to be assessed. Traffic is as you are aware a significant issue with the local community and this is reflected in the consultation responses from both the Pitsford and Boughton Parish Councils. The Highway Authority has asked for traffic flows and vehicle routing information to be covered in the ES. The environmental and amenity impacts of traffic on and off the site should be assessed.

### Soils

Agricultural land classification assessment undertaken in connection with the 1997 application for modern conditions (DA/97/1140C) showed that the land within Phases 1-5 and Whitehills has a high proportion of 'Best and Most Versatile Land' (Grades 2 and 3a). The ES is therefore required to assess the impact on soils, including any risks of damage or contamination, resulting from the proposed working of minerals, along with the proposals for minimising or mitigating any impacts. The consultation response from Natural England provides guidance on this in Annex A to its letter.

### Alternatives

Pursuant to Schedule 4 of the EIA Regulations 2011 the ES should include an outline of the main alternatives and an indication of the main reasons for the choice made, taking into account of the environmental effects.

### Cumulative Impacts

Pursuant to Part 1 (paragraph 4) of Schedule 4 of the Regulations the cumulative impact in respect of other development proposals should be included. In particular the current application in respect of Pitsford Ponds should be taken into account.

### Non -Technical Summary

Schedule 4 of the EIA Regulations requires a non-technical summary of the information provided in respect of Part 1 and Part 2 of the schedule.

### **Other Topics to be Covered in the Environmental Statement**

Turning now to the topics which you scoped in to the EIA, these are agreed but the scope of the assessment is required to be widened cover the other areas proposed for working, Phases 2-5 and Whitehills. Generally I would point out that there is a lack of detail in the information you have provided to understand what the assessments will cover and how they will be done, for example reference is not made to any standards or guidelines which will be followed. I would draw the following in particular to your attention:

### Ecological Assessment

The 'Guidelines for Ecological Impact Assessment in the United Kingdom 2006 (IEEM 2006) provides recommendations on information and steps to be followed in relation to EIA. The information submitted in the scoping request doesn't refer to, or cover, the details as in these recommendations. It is therefore not possible to be clear what the intended assessment will cover. Natural England's response along with that from the SEP provides comments on the scoping report with particular reference to the 2006 Guidelines. Box 2 of the 2006 Guidelines provides recommendations on what ecologists should ensure regarding scoping and advises that the scope of EIA is discussed with the key consultees. It is therefore advised that further information is provided and discussion takes place as a matter of urgency to agree more details on the scope of the assessments and to understand what work has previously been undertaken. The ES will be required to adequately assess the ecological and biodiversity impacts to an acceptable, appropriate level having regard to the EIA Regulations. Legal case law on protected species prevents assessment being deferred to planning conditions.

### Hydrology, Hydrogeology and Flood Risk

The Environment Agency consultation response provides comments on the approach to these topics, and considers this to be acceptable. Particular advice is provided in relation to flood risk. From a wider environmental perspective the local parish council have raised questions about the impact of workings on springs along the valley, and Grotto Spinney which is a Listed Building and also has a spring outfall. The assessment should cover the presence of springs and any potential impacts.

### Conclusion

Whilst I acknowledge that there is an extant planning permission for this site there is a distinct difference between the statutory requirement to review the planning conditions under the Environment Act 1995 and those relating to the Environmental Impact Regulations 2011. The DCLG Guidance relating to mineral developments and the 2011 EIA Regulations require environmental information for the **whole** of the mineral site to be provided. It is not therefore possible to pursue the approach you have advocated in the Scoping Report. Therefore the scope of the ES is required to be more comprehensive in order that the environmental effects of all areas proposed for future mineral working are assessed. Deferral of this assessment to planning conditions is not in accordance with the

EIA Regulations as the environmental assessment should dictate what mitigation and conditions are appropriate.

Please do not hesitate to contact me if you require any further clarification in respect of the contents of this scoping opinion.

Yours sincerely

A handwritten signature in black ink that reads "G. P. Watson". The signature is written in a cursive style with a long horizontal stroke at the end.

Development Control Manager