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 26th August 2013 which was a response to the Scoping Opinion I issued on the 30th July 2013. Your letter proposes a different approach to the future mineral workings and therefore on this basis it does enable a review of the scoping opinion I originally provided. Your proposal now is to restrict future workings by proposing a new planning condition to prevent any future working except in Phase 1 and to limit the extent of the Environmental Impact Assessment (EIA) accordingly. If in the future an application is submitted to vary the condition to enable another phases (or phases) to be worked the application would be screened under the EIA Regulations. Further information would be required either through an EIA or through reports accompanying the planning application, as appropriate and necessary at that time. On this basis I can confirm that the approach in the EIA Scoping Report for Phase 1 is generally acceptable. However, there are still some matters which were previously raised in the earlier scoping opinion which need to be covered.

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 potential 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.

GP Planning Limited
The Stables
Long Lane
East Haddon
Northampton
NN6 8DU

Please ask for: Phil Watson
Tel: (01604) 366638
Our ref: 13/00003/SCO
Your ref: Pitsford ROMP
Date: 11 October 2013
Senior Environmental Planner (SEP). I see this being assessed in relation to the impacts of the remaining working in Phase 1, and the cumulative impacts associated with the proposed inert waste recycling and disposal operations associated with the Pitsford Pond application (reference 13/00001/WASFUL).

**Cultural Heritage**

Whilst there in 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. This can be restricted to any potential impacts related to the working of Phase 1.

**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 Pond 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 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 and is proposed to be undertaken. Related to this, reference should be made back to the previous Ecological Assessment by Robert Stebbings Consultancy (June 1997), the subsequent Great Crested Newt Mitigation report (September 2000) and Badger Survey (revised August 2001). Stebbings identified trees with potential for bat roosts in trees on the site including several on the boundary of Phase 1. The ES will be required to adequately assess the ecological and biodiversity impacts, including on Protected Species, to an acceptable, appropriate level. 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.

I have already provided you with copies of the consultation responses on the scoping request and reference should also be made to these in the Environmental Statement. Please do not hesitate to contact me if you require any further clarification in respect of the contents of this scoping opinion.

Yours sincerely

C. P. Watson

Development Control Manager
Mr. P. Watson  
Development Control  
Planning Department  
Northamptonshire County Council  
County Hall  
Northampton, NN1 1ED  

Dear Mr Watson  

Land at Boughton – Pitsford – Moulton, Continuation of Mineral Extraction  
Scoping Request for ROMP Review  

This letter is a formal request for a review of your Scoping Opinion under Regulation 13(1) of the Town & Country Planning (Environmental Impact Assessment) Regulations 2011 in respect of a Review of Old Mineral Planning Permission on land at Boughton, Pitsford and Moulton, Northamptonshire.  

Following receipt of your Scoping Opinion on 30 July 2013, we met on 7 August to discuss possible ways to reduce the amount of work to be carried out at this stage, due to the operators stated intention of only working in Phase 1 for the foreseeable future, but to comply with the EIA Regulations. The option that the operators wish to proceed with is as follows:  

Submission of the Environmental Statement as currently intended, with a new condition to prevent any further working except in Phase 1. This would limit the extent of the EIA to that which was included in the originally submitted Scoping Report. This would mean that to bring forward any other areas of working would require a S73 application. The planning permission would remain in place, but the new application would trigger a requirement for consideration under the EIA Regulations  

I look forward to receiving your response in due course. In view of the delay caused by the ongoing discussions to agree the scope of work, please will you consider extending the time limit for the submission of the ROMP Review documents until the end of the year?  

Yours sincerely  

Mrs Gill Pawson  
Director  

CC Peter Bennie Ltd, Tata Steel UK Ltd
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 6th June 2013 and received on 10th 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.
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 Schedule14). 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 in 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 to 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

[Signature]

Development Control Manager