

Appendix 6

Planning Permissions secured from the NYMNP and Redcar & Cleveland

Determining Authority	Planning Permission Reference	Description of Development	Decision Date	Officer Dealing with the Application	Location Plan Reference Number
North York Moors National Park Authority	NYM/2017/0505/MEIA	Full Planning Permission for Minehead and Mineral Transport System	06-02-2018	XXXX Senior Minerals Planner XXXX	YP-P2-CX-550 rev. 1
Redcar & Cleveland Borough Council	R/2014/0627/FFM	Full Planning Permission for Minehead and Mineral Transport System	19-08-2015	XXXX Principal Planning Officer Tel: XXXX <i>*Please note XXXX has now left RCBC</i>	YP-P2-CX-550 rev. 1
Redcar & Cleveland Borough Council	R/2017/0906/OOM	Outline Planning Permission for Overhead Conveyor and Storage Facilities	30-04-2018	XXXX: Principal Planning Officer Tel: XXXX <i>*Please note XXXX has now left RCBC</i>	40-RHD-BS-83-LP-DR-0001 rev. B

Planning Inspectorate	TR030002	Development Consent Order	20-07-2016	XXXX, Head of the TWA Orders Unit, Department for Transport Zone 1/14-18, Great Minster House, 33 Horseferry Road, London SW1P 4DR XXXX	PB1586-SK90 rev.7
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Appendix 01 – List of Consultees

NYM/2017/0505/MEIA North York Moors National Park Authority (Mine/MTS)	R/2014/0627/FFM Redcar & Cleveland Borough Council (Mine/MTS)	R/2017/0906/OOM Redcar & Cleveland Borough Council (Overhead Conveyor/ Storage Facilities)
Environment Agency, Internal – Archaeology, EHO - Scarborough 1, Historic England, Internal – Ecology, Internal - Woodland Officer, North Yorkshire Moors Association, Scarborough Borough Council, Redcar and Cleveland Borough Council, Eskdaleside-cum-Ugglebarnby Parish Council, Fylingdales Parish Council, Hawsker-cum-Stainsacre Parish Council, Sneaton Parish Council, Whitby Town Council, National Planning Casework Unit (Government Office Yorkshire), Natural England - Local Government Team, Internal – Conservation, The Coal Authority, SUDs, EHO – Scarborough, NYCC, Highways – 1, NYCC - Highways – 2, Health and Safety Executive	Natural England; Asset Management - XXXX; RSPB 8 Oct 2014; Network Rail; XXXX; NEAR Ltd (Archaeological Services);XXXX; NORTHERN POWERGRID; XXXX National Park - North York Moors; Strategic Planning Team (CA & LB); Development; XXXX– Arborist; XXXX (LONGBECK); XXXX(LOCKWOOD);Public Rights of Way; Northumbrian Water Ltd; XXXX(WESTWORTH); Guisborough Town Council; Health & Safety-Food (Food Team); Environmental Protection - XXXX; XXXX(ESTON);Neighbourhood - XXXX; SKELTON AND BROTTON PARISH COUNCIL; Environmental Protection Team; LOCKWOOD PARISH COUNCIL; XXXX; Tees Valley Wildlife Trust; The Environment Agency; SALT BURN MARSKE & NEW MARSKE PARISH COUNCIL; Strategic Planning Team (Policy); Place Investment Team;XXXX; Cleveland Police ALO - XXXX; Environmental Protection Team; Strategic Planning Team (CA & LB); The Environment Agency; National Park - North York Moors; Cleveland Police ALO XXXX– Arborist; SALT BURN MARSKE & NEW MARSKE PARISH COUNCIL; Asset Management - XXXX; Public Rights of Way; LOCKWOOD PARISH COUNCIL; Strategic Planning Team (Policy) ; Place Investment Team; RSPB; NEAR Ltd (Archaeological Services); SKELTON AND BROTTON	Cleveland Police ALO - XXXX; Health & Safety-Food; Highways England; Natural Heritage Manager;The Environment Agency; NEAR Ltd (Archaeological Services); Development Engineers; South Tees Development Company; Network Rail; XXXX (DORMANSTOWN); Environmental Protection Team; Place Investment Team; XXXX(DORMANSTOWN); Health and Safety Executive; EMT; Natural England; Neighbourhood - Operations Manager; Northumbrian Water Ltd; XXXX– Arborist; National Park - North York Moors; XXXX (DORMANSTOWN);Strategic Planning Team (Policy); Business Investment Team; Engineers (Drainage LLFA); Pipeline WGEP; The Environment Agency

	<p>PARISH COUNCIL; Network Rail; Guisborough Town Council; Natural England; Tees Valley Wildlife Trust; Neighbourhood - XXXX; Health & Safety-Food (Food Team); Development Engineers; NORTHERN POWERGRID; Northumbrian Water Ltd; Environmental Protection -XXXX; Neighbourhood -XXXX; Strategic Planning Team (CA & LB); The Environment Agency; RSPB; SKELTON AND BROTTON PARISH COUNCIL; SALTburn MARSKE & NEW MARSKE PARISH COUNCIL; Place Investment Team; NEAR Ltd (Archaeological Services); Northumbrian Water Ltd; Asset Management - XXXX– Arborist; Environmental Protection Team; Strategic Planning Team (Policy); NORTHERN POWERGRID; Development Engineers; Health & Safety-Food (Food Team); LOCKWOOD PARISH COUNCIL; Public Rights of Way; Network Rail; Cleveland Police ALO - XXXX; Guisborough Town Council; Natural England; Tees Valley Wildlife Trust; National Park - North York Moors; Historic England; Engineering Team 3 Nov 2014; Forestry Commission; Health and Safety Executive (HSC); Natural Heritage Manager; Highways England; Business Investment Team; Strategic Planning Team (CA & LB); Forestry Commission; Historic England; NEAR Ltd (Archaeological Services); Development Engineers; The Environment Agency; Natural England; Engineering Team; National Planning Casework Unit; LOFTUS TOWN COUNCIL; Ministry of Defence; XXXX; Northumbrian Water Ltd; XXXX 23 Feb 2015 Neighbourhood - XXXX; NEAR Ltd (Archaeological Services); Environmental Protection - XXXX; Councillor XXXX (LONGBECK); Network Rail; Natural Heritage Manager; Tees Valley Wildlife Trust; Development Engineers; SALTburn MARSKE & NEW MARSKE PARISH COUNCIL; Natural England; Health & Safety-Food (Food Team); XXXX (ESTON); NATS; Place Investment Team; NORTHERN POWERGRID; Asset Management - XXXX;</p>	
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	LOCKWOOD PARISH COUNCIL; Forestry Commission; Ramblers Association; RSPB; Guisborough Town Council;The Environment Agency; XXXX; LOFTUS TOWN COUNCIL; Environmental Protection Team; Strategic Planning Team (Policy); Historic England; Public Rights of Way; Cleveland Police ALO – XXXX ; Highways England; Engineering Team; Strategic Planning Team (CA & LB);SKELTON AND BROTTON PARISH COUNCIL; Ministry of Defence; National Park - North York Moors; XXXX XXXX– Arborist; Strategic Transport; The Coal Authority.	
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TOWN AND COUNTRY PLANNING ACT 1990

NOTICE OF OUTLINE PLANNING PERMISSION

Agent Name and Address

LICHFIELDS
3RD FLOOR
15 ST PAUL'S STREET
LEEDS
LS1 2JG

Applicant Name and Address

SIRIUS MINERALS PLC
RESOLUTION HOUSE
LAKE VIEW
SCARBOROUGH
YO11 3ZB

Reference No: R/2017/0906/OOM

The Council as the Local Planning Authority **HEREBY GRANT OUTLINE PLANNING PERMISSION** for the development proposed by you in your application valid on: 21 December 2017

Details: OUTLINE PLANNING APPLICATION FOR AN OVERHEAD CONVEYOR AND ASSOCIATED STORAGE FACILITIES IN CONNECTION WITH THE YORK POTASH PROJECT

Location: LAND BETWEEN WILTON INTERNATIONAL AND BRAN SANDS REDCAR

Subject to the following conditions:

1. **Details of the access, appearance, landscaping, layout and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before the expiration of three years from the date of this permission.**

REASON: To reserve the rights of the Local Planning Authority with regard to these matters and required to be imposed pursuant to Sections 91 and 92 of the Planning & Compulsory Purchase Act 2004.

2. **The development hereby permitted shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last of the reserved matters to be approved, whichever is later.**

REASON: Required to be imposed pursuant to Sections 91 and 92 of the Planning & Compulsory Purchase Act 2004.

3. The development hereby permitted shall be carried out in accordance with the following approved plans: PROJECT PLANNING BOUNDARY PLA 40-RHD-BS-83-LP-DR-0001 Rev B and PARAMETERS PLAN 40-RHE-HB-4000-PA-22-00002 REV D received by the Local Planning Authority on 22 March 2018.

REASON: To accord with the terms of the planning application.

4. No development is to commence until a phasing plan detailing the number of phases of construction. Prior to the commencement of each new phase of construction, a plan setting out the proposed development and associated temporary operations during that phase, shall be submitted to and agreed in writing by the Local Planning Authority. The phasing plan shall be adhered to at all times.

REASON: For the avoidance of doubt.

5. The details submitted pursuant to condition 1 of this permission shall comply with the following parameters (as detailed in para 2.1.4 of the Environmental Statement):

Storage Building: Minimum Height 20 metres Maximum Height 40 metres; Minimum Length 500 metres Maximum Length 1333 metres and Minimum Width 60 metres Maximum Width 174 metres.

Screening Facility: Minimum Height 15 metres Maximum Height 40 metres; Minimum Length 17 metres Maximum Length 25 metres and Minimum Width 28 metres Maximum Width 30 metres.

Screening Silo: Minimum Height 10 metres Maximum Height 40 metres; Minimum Length 5 metres Maximum Length 8 metres and Minimum Width 5 metres Maximum Width 8 metres.

REASON: For the avoidance of doubt.

6. Unless otherwise agreed in writing with the Local Planning Authority no part of the A1085 crossing shall commence until the design of the external treatment of that part of the conveyor has been approved by the Local Planning Authority and that part of the conveyor crossing the A1085 must be constructed in accordance with the approved details.

REASON: In the interests of the appearance of the area at this important gateway site.

7. The details submitted pursuant to Condition 1 of the permission shall include details of both the positions and protection of the network of ground gas water monitoring boreholes at the landfill site at Bran Sands.

REASON: In the interests of environmental protection.

8. Unless otherwise agreed by the Local Planning Authority in writing, development other than that required to be carried out as part of an approved scheme of remediation must not commence until parts (a) to (c) have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition (e) has been complied with in relation to that contamination.

(a) Further Site Characterisation

Any further investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

(b) Submission of Remediation Schemes

(i) Remediation Scheme - Buildings

A detailed remediation scheme to bring the land upon which buildings are located to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. Where relevant, the scheme shall include details of any monitoring and maintenance requirements to

demonstrate and ensure the effectiveness of the scheme over a timeframe to be agreed with the Local Planning Authority. The scheme must include for the provision of reporting to the Local Planning Authority for approval in writing.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, where monitoring and maintenance is required, reports that demonstrate the effectiveness of the monitoring and maintenance carried out over the agreed time period and this must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'

The scheme must ensure that the land will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

(ii) Remediation Scheme – Conveyor Footings

A detailed remediation scheme to bring the land upon which any conveyor footings are constructed to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. Where relevant, the scheme shall include details of any monitoring and maintenance requirements to demonstrate and ensure the effectiveness of the scheme over a timeframe to be agreed with the Local Planning Authority. The scheme must include for the provision of reporting to the Local Planning Authority for approval in writing.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved where monitoring and maintenance is required, reports that demonstrate the effectiveness of the monitoring and maintenance carried out over the agreed time period and this must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'

The scheme must ensure that the affected land will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

(c) Implementation of Approved Remediation Scheme

Unless otherwise agreed in writing by the Local Planning Authority, the development shall be carried out in accordance with the approved remediation schemes. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

(d) Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of part (a) and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of part (b), which is subject to the approval in writing of the Local Planning Authority. If within 28 days of submitting the remediation scheme to the Local Planning Authority, no response has been received, the scheme will be deemed to be satisfactory. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

REASON: To ensure that risks from land contamination to the users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

9. Pursuant to condition 1 of this permission details of a lighting plan for operational phases of the project shall be submitted to the Local Planning Authority for approval and the development shall be implemented in accordance with the approved scheme.

REASON: To ensure the satisfactory implementation of the approved scheme in the interests of public safety and any birds and bats within the area.

10. Any vegetation clearance on site should avoid the bird breeding season (March to August inclusive), unless a checking survey by an appropriately qualified ecologist has confirmed that no active nests are present immediately prior to works.

REASON: In the interests of the protection of breeding birds

11. Prior to the commencement of each new phase of development written details of vegetation to be retained, established and created and the provision of bird and bat boxes to be installed shall be submitted to the Local Planning Authority for approval in writing. The approved details shall be implemented prior to the completion of the development and thereafter maintained.

REASON: In the interests of habitat protection and enhancement.

12. Prior to the commencement of each new phase of the development a Construction Traffic Management Plan ("CTMP") has been submitted to the Local Planning Authority for approval in writing by the Local Planning Authority. The provisions of the approved CTMP must be observed at all times during the construction of the authorised development.

REASON: In the interests of highway safety.

13. Prior to the commencement of each new phase of development but excluding ecological mitigation works, until a Construction Environmental Management Plan ("CEMP") for that phase of the development has been submitted to the Local Planning for approval in writing by the Local Planning Authority. The plan must include details of the following:
- (a) a stakeholder communications plan;
 - (b) details of the methods to control noise and vibration arising from construction activities (including temporary acoustic fencing);
 - (c) details of the methods to be used to control dust and other emissions from the site including a Dust Management Plan;
 - (d) details of all temporary fencing, temporary buildings, compound areas and parking areas including arrangements for their removal following completion of construction;
 - (e) details of areas to be used for the storage of plant and construction materials and waste;
 - (f) details of the facilities to be provided for the storage of fuel, oil and other chemicals, including measures to prevent pollution;
 - (g) details of any temporary lighting arrangements.
 - (h) measures to ensure that construction vehicles do not deposit mud on any highway;
 - (i) details of mitigation measures to protect biodiversity interests within the site and adjacent to it during the construction phases;
 - (j) advisory signage at public access points advising of possible hazards including the potential for sudden noise;
 - (k) asbestos management strategy (if needed);
 - (l) a materials management plan (to include a scheme for recycling/disposing of waste resulting from demolition and construction works); and
 - (m) a protocol for dealing with invasive species

All construction works must be carried out in accordance with the CEMP as approved from time to time.

REASON: In the interests of biodiversity, public health and public and highway safety.

14. Prior to the commencement of each new phase of development, a programme of archaeological work (a WSI) shall be submitted to and approved by the Local Planning Authority. The approved WSI shall thereafter be carried out in its entirety.

REASON: In the interests of heritage.

15. No phase of the approved development is to commence until written ecological management plans for any ecological mitigation or enhancement measures included in the environmental statement for that phase have been submitted to and approved by the Local Planning Authority in consultation with Natural England and the Environment Agency.

REASON: To ensure the mitigation/enhancement measure are delivered in a timely manner.

16. Prior to the commencement of each phase of development requiring surface water drainage, a surface water drainage scheme, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, shall be submitted to and approved in writing by the Local Planning Authority. The surface water drainage strategy shall demonstrate the surface water run-off rates from the impermeable areas of the site for that phase and shall demonstrate that run-off is suitable for discharge to the River Tees/Bran Sands Lagoon. The scheme shall be implemented in accordance with the approved details and thereafter be maintained.

REASON: Required to prevent the increased risk of flooding, both on and off site from the outset of the project.

17. Prior to the commencement of each phase a Surface Water Drainage Management Plan shall be submitted to the Local Planning Authority for approval in writing. The Management Plan shall include, where relevant:

- (i) The timetable and phasing for construction of the drainage system
- (ii) Details of any control structure(s)
- (iii) Details of surface water storage structures
- (iv) Measures to control silt levels entering the system and out falling into any watercourse during the construction process.

The development shall be carried out in accordance with the approved Management Plan.

REASON: To minimise the risk of increased flooding and contamination of the surface water drainage system during the construction process.

18. The buildings shall not be occupied until a Management and Maintenance Plan for the surface water drainage scheme has been submitted to and approved by the Local planning Authority. The plan shall include details of the following;

- (i) A plan clearly identifying the sections of surface water system that are to be adopted
- (ii) Arrangements for the short and long term maintenance of the SuDS elements of the surface water system

REASON: To ensure that the surface water drainage infrastructure is maintained to minimise the risk flooding in the locality.

19. **Prior to the decommissioning phase of the authorised development through the removal of the overhead conveyor system, the developer must submit a decommissioning plan in respect of those parts of the authorised development to be decommissioned to the Local Planning Authority for approval in writing. The provisions of the approved plan must be implemented during the decommissioning phase.**

REASON: In the interests of the appearance of the area.

SUGGESTED REASONS FOR GRANTING PLANNING PERMISSION

Adoption of HRA:

1. The proposed changes do not significantly alter the impacts assessed in the original application, and are therefore not anticipated to have a significant impact upon the interest features of the site, either during construction or operation.
2. Noise modelling has demonstrated that noise levels at environmental receptors will not exceed 60dB, and the additional works will be located further from Bran Sands Lagoon and Dabholme Gut, so the likelihood for impacts on designated site birds using these areas is not considered significant.
3. Survey data shows that bird numbers found closer to the proposed revision at Bran Sands are low, and so the likelihood of impacts on these species is not considered to be significant.

ES Regulations:

The application has been supported by an Environmental Statement and additional supporting/clarification documentation has been received during the lifetime of the application. The Authority on the basis of the expert advice received is confident that there is sufficient environmental information with the inclusion of the proposed mitigation measures that no significant long term adverse impacts would occur and thus the conclusion is that the requirements of the Regulations have been met.

STATEMENT OF COOPERATIVE WORKING: The Local Planning Authority considers that the application as originally submitted is a satisfactory scheme that required additional supporting information but otherwise no negotiations have been necessary.

1. **INFORMATIVE NOTE:** Marine Licensing - Activities taking place below the mean high water mark may require a marine licence in accordance with the Marine and Coastal Access Act (MCAA) 2009. Such activities include the construction, alteration or improvement of any works, dredging, or a deposit or removal of a substance or object below the mean high water springs mark or in any tidal river to the extent of the tidal influence.
2. **INFORMATIVE NOTE:** The attention of the developer is drawn to the comments of the Environment Agency submitted on both 24 January 2018 and 13 April 2018.

3. **INFORMATIVE NOTE:** The CTMP shall include suitable measures during the construction period ensuring that diversionary routes are undertaken such that they minimise adverse impact on traffic on the Strategic Road Network and should be implemented as part of the wider Construction Transport Management Plan for the York Potash Project.
4. **INFORMATIVE NOTE:** The attention of the developer is drawn to the response of Network Rail dated 24 January 2018. Where details are required to be submitted to the Local Planning Authority following the grant of outline planning permission they shall include the relevant information pursuant to the safety and operation of the railway. Notwithstanding this the developer given that the proposal includes an overhead conveyor over operational railway land must contact the Network Rail Easements and Wayleaves team (easements&wayleaves@networkrail.co.uk) to agree access arrangements for this aspect of the proposals and the Asset Protection Team: Asset Protection Project Manager Network Rail (London North Eastern) Floor 3B George Stephenson House Toft Green York YO1 6JT Email: assetprotection@networkrail.co.uk with regard to agreeing the design and construction method statements.
5. **INFORMATIVE NOTE:** The developer is advised to contact Northern Gas Networks (NGN) on 0800 040 7766 with regard to works in close proximity to their infrastructure. See letter dated 8 January 2018 Ref 301695219
6. **INFORMATIVE NOTE:** Northumbrian Water Limited advise that the proposed route of the overhead conveyor crosses multiple public sewers which may be affected by the proposed development. Northumbrian Water do not permit a building over or close to their apparatus and therefore will be contacting the developer direct to establish the exact location of NWL assets and ensure **any necessary diversion**, relocation or protection measures required prior to the commencement of the development.



Signed:


 Director of Economic Growth
Date: **30 April 2018**

YOUR ATTENTION IS DRAWN TO INFORMATIVE NOTES BELOW:

INFORMATIVE NOTES:

The conditions above should be read carefully and it is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).

Please note that in order to discharge any conditions, a fee is payable in respect to this.

DECOOG

Failure on the part of the developer to fully meet the terms of any conditions which require the submission of details prior to the commencement of development will result in the development being considered unlawful and may render you liable to formal enforcement action.

Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal action in the form of a Breach of Condition notice.

APPROVAL INFORMATIVE:

This permission refers only to that required under the Town and Country Planning Acts and does not include any consent or approval under any other enactment, byelaw, order or regulation.

Consent under the current Building Regulations may also be required for the development before work can commence.

County of Cleveland Act, 1987 – Facilities for Fire Fighting

Section 5 of this Act requires that, where building regulation plans for the erection or extension of a building are deposited with the Council, the Council must reject the plans if it is not satisfied:

- That there will be adequate means of access for the Fire Brigade
- That the building or extension will not make means of access for the Fire Brigade to any neighbouring building inadequate
- If the building could be used for commercial or industrial purposes, that there is provision for installation of fire hydrants or other provision for an adequate supply of water for fire fighting purposes

Appeals to the Secretary of State

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.

If you want to appeal, then you must do so within **six months** of the date of this notice (8 weeks in the case of any advertisement) using a form which you can get from the Secretary of State at **Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN, (Tel: 0303 444 5000)** or online at www.planningportal.gov.uk/pcs. The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances, which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have it granted without the conditions it imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order. In practice, the Planning Inspectorate does not refuse to consider appeals solely because the local planning authority based its decision on a direction given by him.

Purchase Notices

If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In the circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of part VI of the Town and Country Planning Act 1990.

Compensation

In certain circumstances compensation may be claimed from the local planning authority if permission is refused or granted subject to conditions by the Planning Inspectorate on appeal or on reference of the application to them. These circumstances are set out in Sections 114 and related provisions of the Town and Country Planning Act 1990.

The Highways Act 1980 (Sections 131, 133 and 171)

Prior to commencing work on any development which entails interference with an adopted Highway a developer/contractor is required to obtain the consent from Engineering of the Adults and Communities Directorate. Such consent will not unreasonably be withheld but will be conditional upon obtaining a "Road Opening and Reinstatement" Consent and signing an "Undertaking To Pay For Works".

The Building Act 1984 (Section 80)

Prior to commencing work on any development which entails the demolition of part, or all of a building a developer or contractor is required to obtain the consent of the Engineering Team of the Adults and Communities Directorate. Consent will be conditional on the Local Authority receiving the appropriate forms. Forms obtained from the Engineering Team of the Adults and Communities Directorate.



TOWN AND COUNTRY PLANNING ACT 1990

NOTICE OF OUTLINE PLANNING PERMISSION

Agent Name and Address

LICHFIELDS
3RD FLOOR
15 ST PAUL'S STREET
LEEDS
LS1 2JG

Applicant Name and Address

SIRIUS MINERALS PLC
RESOLUTION HOUSE
LAKE VIEW
SCARBOROUGH
YO11 3ZB

Reference No: R/2017/0906/OOM

The Council as the Local Planning Authority **HEREBY GRANT OUTLINE PLANNING PERMISSION** for the development proposed by you in your application valid on: 21 December 2017

Details: OUTLINE PLANNING APPLICATION FOR AN OVERHEAD CONVEYOR AND ASSOCIATED STORAGE FACILITIES IN CONNECTION WITH THE YORK POTASH PROJECT

Location: LAND BETWEEN WILTON INTERNATIONAL AND BRAN SANDS REDCAR

Subject to the following conditions:

1. **Details of the access, appearance, landscaping, layout and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before the expiration of three years from the date of this permission.**

REASON: To reserve the rights of the Local Planning Authority with regard to these matters and required to be imposed pursuant to Sections 91 and 92 of the Planning & Compulsory Purchase Act 2004.

2. **The development hereby permitted shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last of the reserved matters to be approved, whichever is later.**

REASON: Required to be imposed pursuant to Sections 91 and 92 of the Planning & Compulsory Purchase Act 2004.

3. The development hereby permitted shall be carried out in accordance with the following approved plans: PROJECT PLANNING BOUNDARY PLA 40-RHD-BS-83-LP-DR-0001 Rev B and PARAMETERS PLAN 40-RHE-HB-4000-PA-22-00002 REV D received by the Local Planning Authority on 22 March 2018.

REASON: To accord with the terms of the planning application.

4. No development is to commence until a phasing plan detailing the number of phases of construction. Prior to the commencement of each new phase of construction, a plan setting out the proposed development and associated temporary operations during that phase, shall be submitted to and agreed in writing by the Local Planning Authority. The phasing plan shall be adhered to at all times.

REASON: For the avoidance of doubt.

5. The details submitted pursuant to condition 1 of this permission shall comply with the following parameters (as detailed in para 2.1.4 of the Environmental Statement):

Storage Building: Minimum Height 20 metres Maximum Height 40 metres; Minimum Length 500 metres Maximum Length 1333 metres and Minimum Width 60 metres Maximum Width 174 metres.

Screening Facility: Minimum Height 15 metres Maximum Height 40 metres; Minimum Length 17 metres Maximum Length 25 metres and Minimum Width 28 metres Maximum Width 30 metres.

Screening Silo: Minimum Height 10 metres Maximum Height 40 metres; Minimum Length 5 metres Maximum Length 8 metres and Minimum Width 5 metres Maximum Width 8 metres.

REASON: For the avoidance of doubt.

6. Unless otherwise agreed in writing with the Local Planning Authority no part of the A1085 crossing shall commence until the design of the external treatment of that part of the conveyor has been approved by the Local Planning Authority and that part of the conveyor crossing the A1085 must be constructed in accordance with the approved details.

REASON: In the interests of the appearance of the area at this important gateway site.

7. The details submitted pursuant to Condition 1 of the permission shall include details of both the positions and protection of the network of ground gas water monitoring boreholes at the landfill site at Bran Sands.

REASON: In the interests of environmental protection.

8. Unless otherwise agreed by the Local Planning Authority in writing, development other than that required to be carried out as part of an approved scheme of remediation must not commence until parts (a) to (c) have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition (e) has been complied with in relation to that contamination.

(a) Further Site Characterisation

Any further investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

(b) Submission of Remediation Schemes

(i) Remediation Scheme - Buildings

A detailed remediation scheme to bring the land upon which buildings are located to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. Where relevant, the scheme shall include details of any monitoring and maintenance requirements to

demonstrate and ensure the effectiveness of the scheme over a timeframe to be agreed with the Local Planning Authority. The scheme must include for the provision of reporting to the Local Planning Authority for approval in writing.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, where monitoring and maintenance is required, reports that demonstrate the effectiveness of the monitoring and maintenance carried out over the agreed time period and this must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'

The scheme must ensure that the land will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

(ii) Remediation Scheme – Conveyor Footings

A detailed remediation scheme to bring the land upon which any conveyor footings are constructed to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. Where relevant, the scheme shall include details of any monitoring and maintenance requirements to demonstrate and ensure the effectiveness of the scheme over a timeframe to be agreed with the Local Planning Authority. The scheme must include for the provision of reporting to the Local Planning Authority for approval in writing.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved where monitoring and maintenance is required, reports that demonstrate the effectiveness of the monitoring and maintenance carried out over the agreed time period and this must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'

The scheme must ensure that the affected land will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

(c) Implementation of Approved Remediation Scheme

Unless otherwise agreed in writing by the Local Planning Authority, the development shall be carried out in accordance with the approved remediation schemes. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

(d) Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of part (a) and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of part (b), which is subject to the approval in writing of the Local Planning Authority. If within 28 days of submitting the remediation scheme to the Local Planning Authority, no response has been received, the scheme will be deemed to be satisfactory. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

REASON: To ensure that risks from land contamination to the users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

9. Pursuant to condition 1 of this permission details of a lighting plan for operational phases of the project shall be submitted to the Local Planning Authority for approval and the development shall be implemented in accordance with the approved scheme.

REASON: To ensure the satisfactory implementation of the approved scheme in the interests of public safety and any birds and bats within the area.

10. Any vegetation clearance on site should avoid the bird breeding season (March to August inclusive), unless a checking survey by an appropriately qualified ecologist has confirmed that no active nests are present immediately prior to works.

REASON: In the interests of the protection of breeding birds

11. Prior to the commencement of each new phase of development written details of vegetation to be retained, established and created and the provision of bird and bat boxes to be installed shall be submitted to the Local Planning Authority for approval in writing. The approved details shall be implemented prior to the completion of the development and thereafter maintained.

REASON: In the interests of habitat protection and enhancement.

12. Prior to the commencement of each new phase of the development a Construction Traffic Management Plan ("CTMP") has been submitted to the Local Planning Authority for approval in writing by the Local Planning Authority. The provisions of the approved CTMP must be observed at all times during the construction of the authorised development.

REASON: In the interests of highway safety.

13. Prior to the commencement of each new phase of development but excluding ecological mitigation works, until a Construction Environmental Management Plan ("CEMP") for that phase of the development has been submitted to the Local Planning for approval in writing by the Local Planning Authority. The plan must include details of the following:
- (a) a stakeholder communications plan;
 - (b) details of the methods to control noise and vibration arising from construction activities (including temporary acoustic fencing);
 - (c) details of the methods to be used to control dust and other emissions from the site including a Dust Management Plan;
 - (d) details of all temporary fencing, temporary buildings, compound areas and parking areas including arrangements for their removal following completion of construction;
 - (e) details of areas to be used for the storage of plant and construction materials and waste;
 - (f) details of the facilities to be provided for the storage of fuel, oil and other chemicals, including measures to prevent pollution;
 - (g) details of any temporary lighting arrangements.
 - (h) measures to ensure that construction vehicles do not deposit mud on any highway;
 - (i) details of mitigation measures to protect biodiversity interests within the site and adjacent to it during the construction phases;
 - (j) advisory signage at public access points advising of possible hazards including the potential for sudden noise;
 - (k) asbestos management strategy (if needed);
 - (l) a materials management plan (to include a scheme for recycling/disposing of waste resulting from demolition and construction works); and
 - (m) a protocol for dealing with invasive species

All construction works must be carried out in accordance with the CEMP as approved from time to time.

REASON: In the interests of biodiversity, public health and public and highway safety.

14. Prior to the commencement of each new phase of development, a programme of archaeological work (a WSI) shall be submitted to and approved by the Local Planning Authority. The approved WSI shall thereafter be carried out in its entirety.

REASON: In the interests of heritage.

15. No phase of the approved development is to commence until written ecological management plans for any ecological mitigation or enhancement measures included in the environmental statement for that phase have been submitted to and approved by the Local Planning Authority in consultation with Natural England and the Environment Agency.

REASON: To ensure the mitigation/enhancement measure are delivered in a timely manner.

16. Prior to the commencement of each phase of development requiring surface water drainage, a surface water drainage scheme, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, shall be submitted to and approved in writing by the Local Planning Authority. The surface water drainage strategy shall demonstrate the surface water run-off rates from the impermeable areas of the site for that phase and shall demonstrate that run-off is suitable for discharge to the River Tees/Bran Sands Lagoon. The scheme shall be implemented in accordance with the approved details and thereafter be maintained.

REASON: Required to prevent the increased risk of flooding, both on and off site from the outset of the project.

17. Prior to the commencement of each phase a Surface Water Drainage Management Plan shall be submitted to the Local Planning Authority for approval in writing. The Management Plan shall include, where relevant:

- (i) The timetable and phasing for construction of the drainage system
- (ii) Details of any control structure(s)
- (iii) Details of surface water storage structures
- (iv) Measures to control silt levels entering the system and out falling into any watercourse during the construction process.

The development shall be carried out in accordance with the approved Management Plan.

REASON: To minimise the risk of increased flooding and contamination of the surface water drainage system during the construction process.

18. The buildings shall not be occupied until a Management and Maintenance Plan for the surface water drainage scheme has been submitted to and approved by the Local planning Authority. The plan shall include details of the following;

- (i) A plan clearly identifying the sections of surface water system that are to be adopted
- (ii) Arrangements for the short and long term maintenance of the SuDS elements of the surface water system

REASON: To ensure that the surface water drainage infrastructure is maintained to minimise the risk flooding in the locality.

19. **Prior to the decommissioning phase of the authorised development through the removal of the overhead conveyor system, the developer must submit a decommissioning plan in respect of those parts of the authorised development to be decommissioned to the Local Planning Authority for approval in writing. The provisions of the approved plan must be implemented during the decommissioning phase.**

REASON: In the interests of the appearance of the area.

SUGGESTED REASONS FOR GRANTING PLANNING PERMISSION

Adoption of HRA:

1. The proposed changes do not significantly alter the impacts assessed in the original application, and are therefore not anticipated to have a significant impact upon the interest features of the site, either during construction or operation.
2. Noise modelling has demonstrated that noise levels at environmental receptors will not exceed 60dB, and the additional works will be located further from Bran Sands Lagoon and Dabholme Gut, so the likelihood for impacts on designated site birds using these areas is not considered significant.
3. Survey data shows that bird numbers found closer to the proposed revision at Bran Sands are low, and so the likelihood of impacts on these species is not considered to be significant.

ES Regulations:

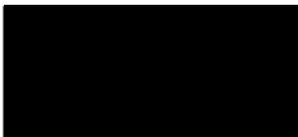
The application has been supported by an Environmental Statement and additional supporting/clarification documentation has been received during the lifetime of the application. The Authority on the basis of the expert advice received is confident that there is sufficient environmental information with the inclusion of the proposed mitigation measures that no significant long term adverse impacts would occur and thus the conclusion is that the requirements of the Regulations have been met.

STATEMENT OF COOPERATIVE WORKING: The Local Planning Authority considers that the application as originally submitted is a satisfactory scheme that required additional supporting information but otherwise no negotiations have been necessary.

1. **INFORMATIVE NOTE:** Marine Licensing - Activities taking place below the mean high water mark may require a marine licence in accordance with the Marine and Coastal Access Act (MCAA) 2009. Such activities include the construction, alteration or improvement of any works, dredging, or a deposit or removal of a substance or object below the mean high water springs mark or in any tidal river to the extent of the tidal influence.
2. **INFORMATIVE NOTE:** The attention of the developer is drawn to the comments of the Environment Agency submitted on both 24 January 2018 and 13 April 2018.

3. **INFORMATIVE NOTE:** The CTMP shall include suitable measures during the construction period ensuring that diversionary routes are undertaken such that they minimise adverse impact on traffic on the Strategic Road Network and should be implemented as part of the wider Construction Transport Management Plan for the York Potash Project.
4. **INFORMATIVE NOTE:** The attention of the developer is drawn to the response of Network Rail dated 24 January 2018. Where details are required to be submitted to the Local Planning Authority following the grant of outline planning permission they shall include the relevant information pursuant to the safety and operation of the railway. Notwithstanding this the developer given that the proposal includes an overhead conveyor over operational railway land must contact the Network Rail Easements and Wayleaves team (easements&wayleaves@networkrail.co.uk) to agree access arrangements for this aspect of the proposals and the Asset Protection Team: Asset Protection Project Manager Network Rail (London North Eastern) Floor 3B George Stephenson House Toft Green York YO1 6JT Email: assetprotection@networkrail.co.uk with regard to agreeing the design and construction method statements.
5. **INFORMATIVE NOTE:** The developer is advised to contact Northern Gas Networks (NGN) on 0800 040 7766 with regard to works in close proximity to their infrastructure. See letter dated 8 January 2018 Ref 301695219
6. **INFORMATIVE NOTE:** Northumbrian Water Limited advise that the proposed route of the overhead conveyor crosses multiple public sewers which may be affected by the proposed development. Northumbrian Water do not permit a building over or close to their apparatus and therefore will be contacting the developer direct to establish the exact location of NWL assets and ensure **any necessary diversion**, relocation or protection measures required prior to the commencement of the development.

Signed:




Director of Economic Growth

Date: **30 April 2018**

YOUR ATTENTION IS DRAWN TO INFORMATIVE NOTES BELOW:

INFORMATIVE NOTES:

The conditions above should be read carefully and it is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).

Please note that in order to discharge any conditions, a fee is payable in respect to this.

DECOOG

Failure on the part of the developer to fully meet the terms of any conditions which require the submission of details prior to the commencement of development will result in the development being considered unlawful and may render you liable to formal enforcement action.

Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal action in the form of a Breach of Condition notice.

APPROVAL INFORMATIVE:

This permission refers only to that required under the Town and Country Planning Acts and does not include any consent or approval under any other enactment, byelaw, order or regulation.

Consent under the current Building Regulations may also be required for the development before work can commence.

County of Cleveland Act, 1987 – Facilities for Fire Fighting

Section 5 of this Act requires that, where building regulation plans for the erection or extension of a building are deposited with the Council, the Council must reject the plans if it is not satisfied:

- That there will be adequate means of access for the Fire Brigade
- That the building or extension will not make means of access for the Fire Brigade to any neighbouring building inadequate
- If the building could be used for commercial or industrial purposes, that there is provision for installation of fire hydrants or other provision for an adequate supply of water for fire fighting purposes

Appeals to the Secretary of State

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.

If you want to appeal, then you must do so within **six months** of the date of this notice (8 weeks in the case of any advertisement) using a form which you can get from the Secretary of State at **Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN, (Tel: 0303 444 5000)** or online at www.planningportal.gov.uk/pcs. The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances, which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have it granted without the conditions it imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order. In practice, the Planning Inspectorate does not refuse to consider appeals solely because the local planning authority based its decision on a direction given by him.

Purchase Notices

If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In the circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of part VI of the Town and Country Planning Act 1990.

Compensation

In certain circumstances compensation may be claimed from the local planning authority if permission is refused or granted subject to conditions by the Planning Inspectorate on appeal or on reference of the application to them. These circumstances are set out in Sections 114 and related provisions of the Town and Country Planning Act 1990.

The Highways Act 1980 (Sections 131, 133 and 171)

Prior to commencing work on any development which entails interference with an adopted Highway a developer/contractor is required to obtain the consent from Engineering of the Adults and Communities Directorate. Such consent will not unreasonably be withheld but will be conditional upon obtaining a "Road Opening and Reinstatement" Consent and signing an "Undertaking To Pay For Works".

The Building Act 1984 (Section 80)

Prior to commencing work on any development which entails the demolition of part, or all of a building a developer or contractor is required to obtain the consent of the Engineering Team of the Adults and Communities Directorate. Consent will be conditional on the Local Authority receiving the appropriate forms. Forms obtained from the Engineering Team of the Adults and Communities Directorate.



Department for Transport

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Web Site: www.gov.uk/dft

Our Ref: TWA 8/1/18
Your Ref: HUTTONL212082-000007

20 July 2016

Dear Sirs,

PLANNING ACT 2008 APPLICATION FOR THE PROPOSED YORK POTASH HARBOUR FACILITIES ORDER

1. I am directed by the Secretary of State for Transport (“the Secretary of State”) to say that consideration has been given to the report of the Examining Authority, Peter Robottom MA(Oxon) DipTP MRTPI MCMI, who conducted an examination into the application made by York Potash Limited (“the applicant”) on 27 March 2015 for the York Potash Harbour Facilities Order (“the Order”) under section 37 of the Planning Act 2008 (“the 2008 Act”).
2. The examination of the application began on 21 July 2015 and was completed on 21 January 2016. The examination was conducted on the basis of written evidence submitted to the Examining Authority and by hearings held in Redcar between 24 September 2015 and 24 November 2015.
3. The Order would grant development consent for a harbour facility at Bran Sands on the south bank of the River Tees to enable the mooring of vessels for the bulk shipping of polyhalite (a natural fertiliser). The scheme includes the construction and operation of a quay structure; the dredging of the approach channel and a berth pocket; and the construction of ship loaders and surge bins on the quay. The Order would also grant development consent for associated development comprising a conveyor system to transport the polyhalite from a Materials Handling Facility (“MHF”) within the Wilton International chemicals complex to the harbour and enhancement works within the Bran Sands lagoon. The proposals in the Order form part of the wider York Potash Project (“YPP”) which includes a new polyhalite mine near Whitby and an underground conveyor system to transport the mined polyhalite to the MHF; all of these other elements of the YPP have already been granted planning permission.
4. Enclosed with this letter is a copy of the Examining Authority's report. The proposed development is described in section 2 of the report. The Examining Authority's findings are set out in sections 4 to 9 of the report, and his overall conclusions and recommendations are in section 10 of the report.

Summary of the Examining Authority's recommendations

5. The Examining Authority recommended that the Order be made in the form set out in Appendix D to his report.

Summary of Secretary of State's decision

6. **The Secretary of State has decided under section 114 of the 2008 Act to make an Order granting development consent for the proposals in this application, subject to the modifications detailed later in this letter.** This letter is the statement of reasons for the Secretary of State's decision for the purposes of section 116 of the 2008 Act and regulation 23(2)(d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 ("the 2009 Regulations").

Secretary of State's consideration

7. The Secretary of State's consideration of the Examining Authority's report is set out in the following paragraphs. Where not stated in this letter, the Secretary of State can be taken to agree with the Examining Authority's conclusions as detailed in the report. Unless otherwise stated, all paragraph references are to the Examining Authority's report ("ER") and references to requirements are to those in Schedule 2 to the Order, as set out in Appendix D to the ER.

Changes to the application

8. The Secretary of State notes that the changes made to the application by the applicant during the examination have led to a more fully detailed and designed scheme with greater safeguards in place to protect assets and secure mitigation. He agrees with the Examining Authority that in substance the scheme is materially unchanged by those changes (ER 2.2.1-9). He agrees also that, taking into account the further changes to the Order recommended by the Examining Authority and discussed later in this letter, the scheme has not changed to the point where it is a different application. He is therefore satisfied that it is within the powers of section 114 of the 2008 Act for him to make the Order in the form recommended (ER 3.12).

Legal and policy context

9. The Secretary of State notes that, under section 104 of the 2008 Act, he must decide this application in accordance with the National Policy Statement ("NPS") for Ports, which is the designated NPS for this application, subject to certain exceptions which are not relevant in this case. He must also have regard among other things to any appropriate marine policy document and any Local Impact Report submitted within the statutory timetable (ER 3.2). In other respects, he agrees with the Examining Authority's assessment of the legislation and policy at the international, national and local levels that are relevant and important matters to be taken into account in deciding this application (ER 3.3-3.11). The Secretary of State confirms that, in considering this application, he has had regard to the legislation and policy referred to by the Examining Authority.

Findings and conclusions on policy issues

10. The Secretary of State agrees with the Examining Authority that, taking into account the positive socio-economic benefits of the scheme compared with its limited and manageable environmental impacts, the proposals in the Order are in conformity with the development plan and constitute sustainable development in relation to the National Planning Policy Framework (ER4.4.1-9). He agrees also that in relation to the NPS for Ports the presumption in favour of additional port development is met and that no reasonable alternative to the proposals in the Order has been identified (ER 4.6.1-10). With regard to the Development Consent Obligation (“DCOb”) made between the applicant and Redcar and Cleveland Borough Council (“RCBC”), the Secretary of State is satisfied that all the provisions of the DCOb are related to the development and are in varying degrees necessary to make the proposed development acceptable. He has, therefore, taken into account the DCOb (revised as referred to at paragraph 55 below) and given it due weight in deciding this application (ER 4.6.16-23, 9.6.1-4).

11. The Secretary of State agrees with the Examining Authority that the requirements of the 2009 Regulations have been fully met by the environmental statement (“ES”) and additional environmental information submitted by the applicant (ER 4.7.1-3). He confirms that, in coming to his decision to make the Order, he has taken into consideration all the environmental information in accordance with regulation 3(2) of the 2009 Regulations. For the purposes of regulation 23(2)(d)(iii) of the 2009 Regulations, the Secretary of State considers that the main measures to avoid, reduce and, if possible, offset the major adverse environmental impacts of development are those specified in the requirements, the Deemed Marine Licence (“DML”) in Schedule 5 to the Order and the DCOb.

Good design

12. The Secretary of State agrees with the Examining Authority that the applicant has given careful attention both to the issue of design and the efficient use of resources in construction and that the proposed port infrastructure would fit comfortably into the riverscape of the Tees. He is therefore satisfied that the scheme meets the tests of good design in the Ports NPS (ER 5.1.1-5).

Air quality and emissions

13. The Secretary of State has considered the Examining Authority’s assessment of the effects of the scheme on air quality at ER 5.2.1-10. He is, like the Examining Authority, satisfied that any potential adverse effects can be mitigated by the Construction Environmental Management Plan (“CEMP”) and that there would be no likely significant effects on air quality and emissions after mitigation, either in relation to the scheme or cumulatively with other plans or projects (ER 5.2.11).

Biodiversity and marine and terrestrial ecology

14. The Secretary of State has considered the Examining Authority’s assessment of these issues at ER 5.3.1-17. He notes that a significant number of necessary mitigation and monitoring measures would be secured through the requirements and the DCOb. The Secretary of State agrees with the Examining Authority that, subject to securing those measures, there should be no harm to biodiversity and a modest benefit through the habitat enhancement provisions at Bran Sands Lagoon and Portrack Marsh; there should be no

harm to the conservation interests of any nationally designated sites; and there should be no threat to the favourable conservation status of any protected species.

Climate change mitigation and adaptation, coastal change and flood risk

15. The Secretary of State agrees with the Examining Authority, for the reasons given, that there should be no adverse consequences in relation to climate change, flood risk and related matters, taking into account the mitigation embodied in the design of the development or secured through the CEMP (ER 5.4).

Common law nuisance, statutory nuisance and other potential nuisance

16. The Secretary of State agrees with the Examining Authority that, taking into account the mitigation that would be secured through the CEMP, the scheme should not give rise to nuisance whether statutory or otherwise (ER 5.5).

Fisheries

17. The Secretary of State considers that the impacts of the scheme on fisheries have been satisfactorily addressed in the applicant's ES and the further information provided during the examination of this application. He agrees with the Examining Authority that fisheries should not be materially affected by the scheme provided that the proposed mitigation and monitoring are implemented (ER 5.6).

Hazardous substances and health

18. The Secretary of State agrees with the Examining Authority that, taking into account the mitigation that would be secured under the CEMP and the Environmental Permit, there should be no adverse risks to health from hazardous substances. He notes that this assessment is subject to the Examining Authority's conclusions on the risks to the underground pipelines which are considered later in this letter (ER 5.7).

Historic environment

19. The Secretary of State notes that there would be no harm as a result of the scheme to any scheduled monument or listed building or their settings, nor to the character or appearance of any designated conservation area. In relation to other non-designated heritage assets, he agrees that, after mitigation secured by requirement 10 and a condition in the DML, the residual adverse impact of the scheme would be very slight (ER 5.8).

Land use, landscape, seascape and visual impact

20. The Secretary of State agrees with the Examining Authority that the landscape and seascape would not be materially harmed since the proposed development would fit into the existing industrialised character. He agrees also that the off-site planting and public realm enhancement works secured by the DCOB would be capable of mitigating the localised visual adverse impacts of the scheme. He is satisfied therefore that the residual adverse visual effects of the development would not be such as to give rise to any significant weight against the scheme (ER 5.9.1-8). The Secretary of State agrees further with the Examining Authority that the harbour facilities would not add to the harm to the landscape of the North York Moors National Park from other components of the wider YPP (ER 5.9.9-11).

Marine dredging and disposal and navigation

21. The Secretary of State agrees with the Examining Authority that the effects of dredging and disposal and the navigational effects of the scheme have been satisfactorily assessed by the applicant. He agrees that these impacts are able to be mitigated through the conditions imposed on the DML and the protective provisions in the Order for the Tees Port Authority, with the result that no harm should arise in relation to these matters (ER 5.10).

Pollution control and other environmental regulatory regimes

22. The Secretary of State notes that there are no outstanding issues in relation to any permits or licences that would be required under pollution control or other environmental regulatory regimes (ER 5.11).

Noise and vibration

23. The Secretary of State agrees with the Examining Authority that noise and vibration issues have been adequately assessed. He is satisfied that there should be no significant harm as a result of noise and vibration taking into account the mitigation that would be secured through the CEMP (ER 5.12).

Security and safety considerations

24. The Secretary of State has considered carefully the level of risk which would be involved in constructing the proposed overhead conveyor system between the MHF and the new quay in proximity to the pipelines that pass through the application site, particularly in relation to the alternative Northern and Southern conveyor routes included in the Order as applied for. He has noted in this regard that the Southern route would run for around 2 kilometres above or close to a gas pipeline owned by CATS Management Limited (“CATS”) which carries about 8% of the UK national gas demand from the North Sea, whereas the Northern route would be overhead or close to the CATS pipeline for at most around 0.5 kilometres. The Examining Authority considered that CATS had advanced cogent arguments that the Southern route would give rise to an “intolerable” societal risk (having regard to the HSE guidance “Reducing risks, protecting people”); this was on the grounds that the protective provisions in the Order would be insufficient to guard against the risk of human error in identifying the pipeline location in relation to conveyor footings (ER 5.13.3-8).

25. The Secretary of State has noted further that, while the Quantitative Risk Assessments submitted by CATS and the applicant reached different conclusions on this matter, it was nevertheless agreed between the parties that the Northern conveyor route would give rise to lesser risks than the Southern route. Given that in the worst case an accident involving the CATS pipeline could have serious implications, he supports the Examining Authority’s judgement that the risk in developing the Southern route would not be “reasonable” and that in any case the principle in HSE guidance of securing risk that is “as low as reasonably practicable” should be followed here. The Secretary of State accordingly agrees with the Examining Authority that the greater safety risks associated with the Southern route would justify withholding development consent for that part of the scheme, taking into account that an alternative exists in the form of the Northern route. He agrees also that the application with the removal of the Southern route should be regarded

as materially unchanged since this would reduce the scope of the Order and no additional parties would be affected (ER 5.13.10-12).

Commercial, economic and socio-economic impacts

26. The Secretary of State agrees with the Examining Authority that the employment benefits of the scheme and the wider YPP would be particularly valuable given the high levels of deprivation and unemployment in the Teesside area. He agrees also that the overall YPP scheme would be beneficial to the national, regional and local economy and would represent sustainable development because of the contribution that it would make to world food production while minimising greenhouse gas emissions (ER 5.14.2-5). As regards the possible adverse effects on the operation of commercial undertakings whose assets would be over-sailed by the conveyor system or affected by dredging operations which are considered later in this letter, the Secretary of State agrees with the Examining Authority that, assuming the protective provisions in the Order would be effective, the assessment in relation to economic, socio-economic and commercial considerations is strongly positive (ER 5.14.6-8). He is also satisfied that implementing the proposals in the Order would not conflict with any obligations under the public sector equality duty, and that in relation to the examination of this application that duty has been complied with (ER 5.14.9-11).

Traffic and transport

27. The Secretary of State notes that no significant adverse impacts are assessed as likely to arise on the roads or junctions in the area that may be affected by construction of the harbour facilities, including as a result of the wider YPP and other potential projects, subject to the mitigation to be secured through the Construction Traffic Management Plan under requirement 7. As regards the operation of the scheme, he notes that any transport impacts would be of negligible significance since the polyhalite is planned to be transported to the harbour by the overhead conveyor system. The Secretary of State notes also that no issues should arise in relation to Royal Mail operations or in connection with the access concerns of the pipeline operators. He therefore agrees with the Examining Authority that subject to the proposed mitigation no adverse considerations arise from the transport assessment of the scheme (ER 5.15).

Waste management including in relation to water resources

28. The Secretary of State notes that good construction practice and monitoring, which would be governed by the CEMP, would generally provide mitigation against most risks to the hydrogeology that may exist during construction; and that the impact of the scheme on surface waters and groundwater would be of negligible significance during construction and operation, subject to the implementation of control measures. He therefore agrees with the Examining Authority that there should be no likely significant impacts in relation to these considerations (ER 5.16).

Water quality (ecological and chemical) and resources

29. The Secretary of State agrees with the Examining Authority that, taking into account the assessment in the ES of the impacts of the scheme on relevant water bodies and the mitigation measures that would be secured by the requirements and the DML, the proposals in the Order would not preclude compliance with the Water Framework Directive and other related Directives (ER 5.17).

Habitat Regulations Assessment

30. The Secretary of State has considered the Examining Authority's assessment in section 6 of the ER of the likely significant effects of the scheme, either alone or in combination with other plans and projects, on five European sites which may be affected by the proposed development. In doing so, he has taken into account the information submitted in the applicant's Habitats Regulations Assessment ("HRA") Report, the Examining Authority's Report on the Implications for European Sites ("RIES") and the responses to consultation on the RIES which was carried out during the examination of this application.

31. The Secretary of State agrees with the Examining Authority, for the reasons given, that likely significant effects can be excluded in relation to the North York Moors SAC and SPA; the Arnecliffe and Park Hole Woods SAC; and, subject to requirement 11, the Teesmouth and Cleveland Coast SPA during the decommissioning of the scheme (ER 6.5). As regards the construction and operational effects of the proposed development, he notes the conclusion of the appropriate assessment in the applicant's HRA Report that there would not be an adverse effect on the integrity of the Teesmouth and Cleveland Coast SPA and Ramsar sites, taking into account the mitigation and monitoring measures referred to at ER 6.6. He notes further Natural England's agreement with this conclusion provided that all the mitigation measures relied on by the applicant are fully delivered through the Order and the DML (ER 6.7.4-5).

32. The Secretary of State agrees with the Examining Authority that the mechanisms proposed by the applicant to secure the proposed mitigation measures and monitoring are appropriate and adequate (ER 6.7.6-16). He agrees also that on this basis adverse effects on the integrity the Teesmouth and Cleveland Coast SPA and Ramsar sites can be excluded (ER 6.8). He has therefore decided to adopt the conclusions of the applicant's HRA Report and of the Examining Authority on these matters, and considers that it is unnecessary for him to carry out a further appropriate assessment under the Conservation of Habitats and Species Regulations 2010.

Overall conclusion on the case for development consent

33. Taking into account all the above conclusions, the Secretary of State agrees with the Examining Authority that the principle of the proposed development is in conformity with the need provisions of the Ports NPS and with the development plan. He is satisfied that the assessment requirements in the NPS and the Marine Policy Statement (as appropriate) have been met. He agrees further that, subject to the consideration of compulsory acquisition matters below, the proposed development would have strong economic and socio-economic benefits and that any adverse impacts would be capable of mitigation in relation to the generality of the Order scheme. The Secretary of State therefore agrees with the Examining Authority that, having regard to section 104 of the 2008 Act, the adverse impact of the proposed development would not outweigh its benefits and that the planning case for making the Order as a whole has been made (ER 5.18, 7.1.11-14).

Compulsory acquisition and related matters

34. The Secretary of State has considered the powers sought by the applicant to acquire compulsorily rights over land in accordance with sections 120, 122, 123, 126, 127 and 135 of the 2008 Act, the Human Rights Act 1998 and relevant guidance. He notes in this context that the applicant is not seeking any powers for the outright acquisition of land and that the

purpose of the powers would be to extinguish unknown rights rather than to interfere with existing known rights (ER 8.2.3). In considering these matters, the Secretary of State has taken into account the case of the applicant in relation to the principle of the powers sought and in response to individual objections, as set out at ER 8.4.4-20 and 8.7, and the case of the affected persons, as set out at ER 8.6 and 8.7. As regards the cases of affected parties where the objections or representations have been resolved, the Secretary of State agrees with the Examining Authority that the compulsory acquisition and temporary possession powers should be granted for the reasons given at ER 8.6.3, 8.6.4, 8.6.8, 8.6.12, 8.6.15, 8.6.17, 8.6.20 and 8.6.24.

Crown land

35. The Secretary of State notes that The Crown Estate has given consent under section 135(2) of the 2008 Act for the inclusion in the Order of provisions applying in relation to Crown land, conditional on the Order requiring the applicant to seek a further, confirmatory consent from The Crown Estate before entering Crown land or acquiring compulsorily any interest in Crown land that is held other than by the Crown. He agrees with the Examining Authority that this approach is acceptable in the circumstances described by the Examining Authority at ER 8.2.8-9. He considers, further, that it is not within the powers of the 2008 Act for the Order to authorise the creation and compulsory acquisition of new rights in Crown land because any new rights so created would in effect be held from the Crown and could be acquired only by agreement with The Crown Estate. The Secretary of State has therefore decided to make clear that Crown land is excluded from the power in article 24 of the Order for the applicant to create and acquire new rights. He considers that this clarification would not adversely affect the applicant because, as noted above, the applicant would in any event need The Crown Estate's consent (under article 36 of the Order) to enter Crown land or acquire any interest in it. Since the Examining Authority reported that there were no known impediments to securing The Crown Estate's further consent, the Secretary of State is satisfied that the amendment to article 24 would not be likely to prevent the implementation of the development authorised by the Order.

Network Rail

36. The Secretary of State agrees with the Examining Authority that, subject to the following qualification, the operational needs of Network Rail have been fully safeguarded by the protective provisions in Schedule 7 to the Order. However, he does not agree with the Examining Authority that it is appropriate to delete from those protective provisions the requirement for the applicant to obtain Network Rail's consent to acquire or use rights to over-sail the Middlesbrough to Redcar railway. He does not consider that this requirement would be likely to prevent the development proceeding as Network Rail could not unreasonably withhold its consent. He considers further that the provision is not solely concerned with ensuring that Network Rail is compensated for the acquisition of a right to over-sail its railway. In the absence of confirmation from Network Rail that its operational infrastructure would be adequately safeguarded without this consent requirement he is not persuaded that it should be omitted from the Order. Having regard to section 127(5) of the 2008 Act, he is satisfied that, with this requirement re-inserted, the right in question can be purchased without serious detriment to the carrying on of the undertaking (ER 8.7.4-7).

Tata Steel UK Limited and others

37. The Secretary of State agrees with the Examining Authority that the overhead conveyor crossing of the Hot Metal Rail line serving the (now closed) Redcar Steel Works

would not be likely to involve a serious risk of interruption to the use of the line; that the height of the conveyor bridge over the "Blue Main Route" oversized roadway would be acceptable; and that the proposed dredging and construction and operation of the quay should not interfere with shipping operations serving the Redcar Bulk Terminal. He therefore agrees with the Examining Authority that, taking into account the protective provisions in Schedules 9 and 10 to the Order, the extent of the compulsory acquisition powers sought in relation to the interests of Tata, Redcar Bulk Terminal and the Liquidators of Sahaviriya Steel Industries UK Limited should be granted, subject to the removal of the Southern conveyor route (ER 8.7.24-28).

Huntsman Polyurethanes UK Limited and other pipeline operators

38. The Secretary of State has considered the concerns of the operators referred to at ER 8.7.29 about the effects of dredging and about the rights sought by the applicant to enable construction of the overhead conveyor system and access to the quay. He agrees with the Examining Authority that there should be no material harm to cross-river pipelines from dredging operations and that the Order as amended during the examination had addressed the concerns of these parties about flexibility in relation to the location of the conveyor routes and the positioning of conveyor supports. He is satisfied also that the interests of these parties would be fully protected by the protective provisions in Schedule 9 to the Order, subject to the minor amendment to the proposed definition of "pipelines" referred to at paragraph 53 below. The Secretary of State therefore agrees with the Examining Authority that a compelling case in the public interest has been made for the compulsory acquisition powers sought in relation to the interests of these parties, other than in respect of rights that would have been required for the Southern conveyor route (ER 8.7.44-57).

CATS and Amoco (UK) Exploration Company LLC

39. As noted at paragraphs 24 and 25 above, the Secretary of State agrees with the Examining Authority that development consent should not be given for the Southern conveyor route because of the greater safety risks associated with this option compared with the Northern conveyor route. He has, nevertheless, considered also the issue of whether there is a compelling case in the public interest for granting compulsory acquisition powers in respect of both alternatives for the conveyor route since, like the Examining Authority, he considers that it would in principle be acceptable to include such provision in a Development Consent Order under the 2008 Act.

40. The Secretary of State recognises that the Southern route is the applicant's preferred option and that the applicant included the Northern route in the Order as a fall-back alternative should it be established in due course that the Southern route cannot be constructed safely. However, he agrees with the Examining Authority that the judgement on this issue does not turn solely on whether the risk of private loss to the pipeline asset holders and their customers (taking into account the protective provisions in Schedule 9 to the Order) would be outweighed by the public benefit of the harbour facilities and the wider YPP referred to earlier in this letter. The Secretary of State has concluded like the Examining Authority that, although the Southern route would involve a reduced extent of compulsory acquisition and is preferred by the applicant, taking into account the availability of a lower risk alternative in the form of the Northern route over which almost all detailed concerns have been resolved, there is a compelling case in the public interest in respect of the Northern route but not the Southern route (ER 8.7.86-93).

Overall conclusions

41. The Secretary of State agrees with the Examining Authority that the requirements of the Human Rights Act 1998 have been met; that a clear indication has been given as to how the funding for the scheme would be obtained; and that funding should be available to meet compensation requirements (ER 8.9.4-15). He agrees also that the land over which compulsory acquisition of rights is sought is all required for the purposes of the proposed development and that the applicant has taken a proportionate approach (ER 8.9.16-17).

42. The Secretary of State agrees with the Examining Authority that, apart from in relation to the Southern conveyor route, a compelling case exists. In coming to this conclusion he has taken into account the strategic need for the harbour facilities to enable bulk shipping of the output of the proposed polyhalite mine, the substantial economic and socio-economic benefits of the scheme, and the provisions in the Order for compensation and for the protection of private interests (ER 8.9.19-23). He is satisfied also that there is no realistic available alternative to the location of the proposed harbour facilities or for the provision of the conveyor system (ER 8.5.6-7).

43. The Secretary of State agrees with the Examining Authority's overall conclusion that the general case for inclusion of compulsory acquisition powers in the Order has been made (ER 8.10.1).

Draft Development Consent Order and related matters

44. The Secretary of State has considered the Examining Authority's assessment of the Order in section 9 of the ER, including the changes made during the examination and those recommended by the Examining Authority. He is satisfied that, subject to the qualifications referred to in the following paragraphs, the Order set out at Appendix D to the ER is appropriate and acceptable for the purposes of the scheme. (References to article numbers in the following paragraphs are to the articles as numbered in Appendix D.)

45. In article 2(1) (interpretation) the Secretary of State is replacing the definition of "commence" with substantive provisions in article 3 (development consent, etc., granted by the Order) to make clear that certain of the works referred to in that definition may be carried out once the Order comes into force and are not subject to prior approval under the requirements or the DML. However, he does not consider that it is appropriate that this exemption should extend to site clearance or the diversion and laying of services as these operations may have impacts that should be subject to mitigation measures that would be secured through the requirements.

46. A further interpretation provision is being added to article 2 in connection with the Secretary of State's functions under articles 17 (tidal works not to be executed without approval of Secretary of State) and 18 (abatement of works abandoned or decayed). The effect of the new paragraph (7) is to make clear that, where a function of the Secretary of State has been delegated to the MMO by way of an agreement under section 14 of the Marine and Coastal Access Act 2009, a reference in the Order to the Secretary of State carrying out such a function includes the MMO. It makes clear also that the obligation to consult with the MMO does not apply where the MMO is carrying out such delegated functions.

47. In article 8(4) (consent to transfer benefit of Order), the Secretary of State is making the correction referred to at ER 9.7.3, but has added that the qualification in paragraph (4) should apply to paragraph (2) as well as to paragraph (5).

48. In article 9 (application and modification of legislative provisions), paragraphs (3) and (4) are being deleted since the Secretary of State does not consider that it would be appropriate to apply the appeal mechanisms under the Town and Country Planning Act 1990 to consents, agreements or approvals required under the DML. This is partly because there is no equivalent provision in the marine licensing regime and partly because this would have resulted in any such appeals being determined by the Department for Communities and Local Government. In addition, in article 9(6), the references to the General Permitted Development Order are being updated.

49. In article 24(1) (compulsory acquisition of rights), the words “excluding any interests owned by The Queen’s most Excellent Majesty in right of Her Crown” are being substituted by amendments to make clear that Crown land is excluded from the power to acquire new rights compulsorily but is subject instead to a power to acquire the required rights by consent of the relevant Crown authority (see paragraph 35 above). The extinguishment of any private rights over the Crown land in question has, however, been preserved.

50. In article 33(1)(b)(i) (defence to proceedings), the Secretary of State considers that the defence in relation to nuisance caused by the use of premises for the purposes of the authorised development should be qualified to the effect that the nuisance “cannot be reasonably avoided”.

51. In article 38 (certification of plans etc.) an additional provision is being inserted to allow for the circumstances where documents require amendment to reflect the Secretary of State’s decision.

52. In paragraph 4 of Schedule 7 (for the protection of Network Rail) the Secretary of State is reinstating a provision requiring the consent of Network Rail to the acquisition or use of rights over any property of Network Rail for the reasons given in paragraph 36 above.

53. In paragraph 2 of Schedule 9 (for the protection of the pipeline corridor and protected crossings), the Secretary of State is amending the definition of “pipelines” proposed by the Examining Authority at ER 8.7.47 to ensure that the protective provisions could apply to any additional pipeline constructed between the date of the pipeline survey and the commencement of the authorised development, not just those notified to the undertaker within 28 days of serving the pipeline survey on the owners and operators of the pipeline.

54. The Secretary of State is making a number of other minor textual amendments to the Order set out in Appendix D to the ER in the interests of clarity, consistency and precision. He considers that none of these changes, either individually or taken together, materially alter the effect of the Order.

Correspondence since the close of the Examination

55. The Secretary of State has noted the Examining Authority’s comments at ER 9.6.5 about the two respects in which he considered that the DCO dated 19 October 2015 did not comply with section 106(9)(aa) and (d) of the Town and Country Planning Act 1990. The Secretary of State has drawn these points to the applicant’s attention and the applicant has

submitted to the Secretary of State a revised DCOb dated 27 June 2016 which addresses those points effectively.

56. The Secretary of State has received a number of representations about the proposed development since the examination closed. He does not consider that anything in the correspondence constitutes new evidence, or raises a new issue, which needs to be referred to other interested parties before he proceeds to a decision. It does not cause him to take a different view on the matters before him than he would otherwise have taken based on the Examination Authority's report.

Secretary of State's overall conclusions and decision

57. For all the reasons given in this letter, the Secretary of State agrees with the Examining Authority that the tests in section 104 of the 2008 Act have been met, subject to the exclusion of the Southern conveyor route (ER 10.1). He has therefore decided to accept the Examining Authority's recommendation at ER 10.2.1 and is today making the Order granting development consent for the proposals in this application, but subject to the modifications referred to at paragraphs 45 to 54 above.

Challenge to decision

58. The circumstances in which the Secretary of State's decision may be challenged are set out in the note attached at the Annex to this letter.

Publicity for decision

59. The Secretary of State's decision on this application is being publicised as required by section 116 of the 2008 Act and regulation 23 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.

Yours faithfully,

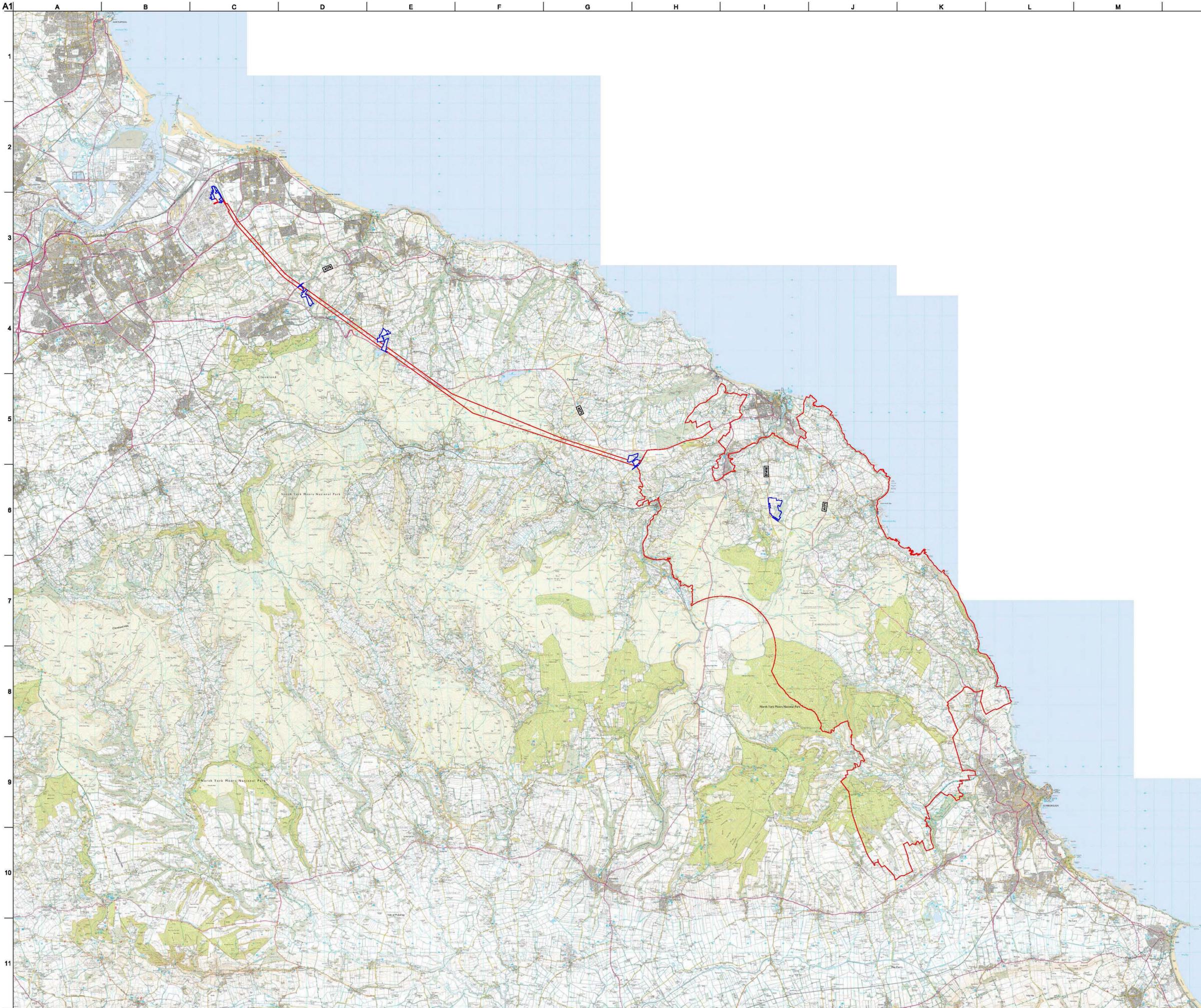


LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the High Court during the period of 6 weeks beginning with the day after the day on which the Order is published. The York Potash Harbour Facilities Order 2016 is being published on the Planning Inspectorate website at the following address:

<https://infrastructure.planninginspectorate.gov.uk/projects/north-east/york-potash-harbour-facilities-order/>.

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (020 7947 6655).



Key:
 — Extent of proposed Surface Development
 — Planning Boundary

1	13/02/15	SM	CW	AG
Issue				

0	02/10/14	KK	CW	AG
Issue				

Issue	Date	By	Chkd	Appd
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Client:
York Potash Ltd

Job Title:
York Potash

Site Location Plan

Scale at A1: 1:100000

Discipline: Highways

Job No: **234376-00** Drawing Status: **Issue**

Drawing No: **YP-P2-CX-550**

Issue: **1**