

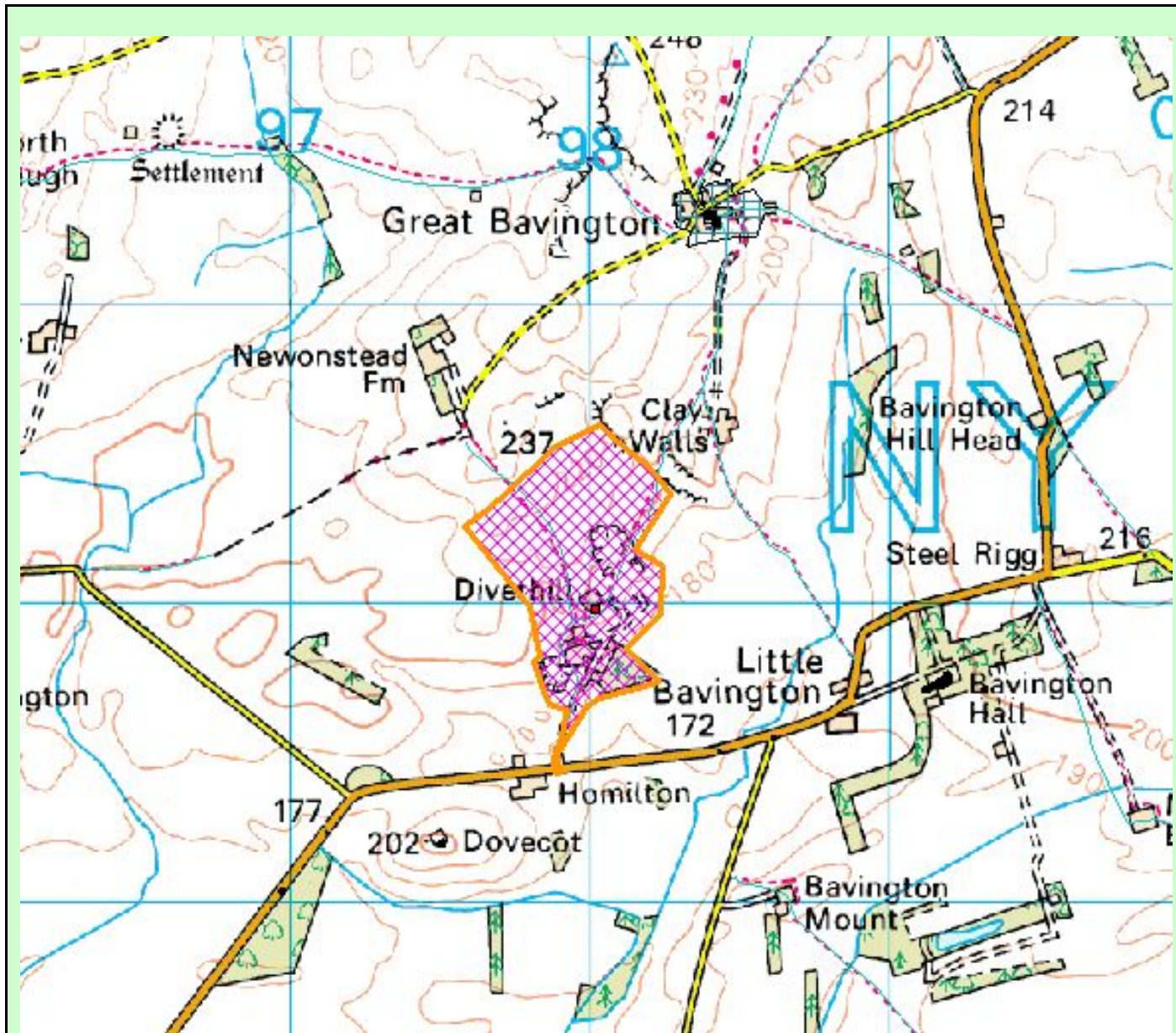


# Northumberland County Council

## STRATEGIC PLANNING COMMITTEE, 7 MAY 2019

<b>Application No:</b>	17/04633/VARCCM and 17/04637/VARCCM		
<b>Proposal:</b>	<p><u>17/04633/VARCCM</u> Variation of conditions 1 (time limit), 7 (final landform and contours), 21 (noise levels), 32 (restoration in accordance with plans), 47 (restoration details), 49 (soil restoration), 51 (scarification and surface picking), 56 (rooting and stone removal), 60 (soil re-distribution), 74 (grass seeding), 76 (restoration plan) and 91 (aftercare period) pursuant to planning permission 07/00160/CCMEIA in order to permit extraction operations to continue until 31/12/2021 and subsequent restoration of the site by 31/12/2023 and to allow a proposed amendment to the restoration scheme and timescales for its implementation.</p> <p><u>17/04637/VARCCM</u> Variation of conditions 1 (time limit), 2 (approved plans), 7 (final landform and contours), 20 (noise limits), 21 (temp noise levels), 28 (levels and boundaries), 44 (soil replacement), 46 (soil replacement), 56 (contours), 68 (short-term grass seed), 70 (Naturally Regenerating Grassland) and 85 (aftercare management) pursuant to planning permission 16/04140/VARYCO in order to extend extraction operations into new area of existing quarry, amend the restoration scheme and prolong the life of the quarry by 3 years.</p>		
<b>Site Address</b>	Divet Hill Quarry, Capheaton, Newcastle Upon Tyne, Northumberland NE19 2BG		
<b>Applicant/ Agent</b>	Mr Donald Wilkins, Cemex UK 2 Kilmartin Place, Tannochside Park, Uddingston, G71 5PH		
<b>Ward</b>	Bellingham	<b>Parish</b>	Bavington
<b>Valid Date</b>	4 January 2018	<b>Expiry Date</b>	5 April 2018
<b>Case Officer Details</b>	Name: Mrs Katherine Robbie Job Title: Senior Planning Officer Tel No: 01670 622633 Email: katherine.robbye@northumberland.gov.uk		

**Recommendation:** That applications 17/04633/VARCCM and 17/04637/VARCCM be GRANTED permission



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## 1. Introduction

- 1.1 Under the terms of the current Scheme of Delegation these planning applications are to be determined by the Strategic Planning Committee.
- 1.2 This report relates to two planning applications which have been received in respect of Divet Hill Quarry. The issues covered by the report are pertinent to both applications and the conditions which would be attached to the two permission would be the same, therefore, the applications have been presented as one report. Members will need to take separate decisions in relation to each of the applications.

## **2. Description of Proposal**

- 2.1 Two planning applications have been submitted under Section 73 of the Town and Country Planning Act 1990 (as amended). Section 73 applies to the determination of applications to develop land without the compliance with conditions previously attached. S73 states that on such an application the Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted. The Planning Authority should decide whether planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted or that it should be granted unconditionally. If the Planning Authority decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they should refuse the application.
- 2.2 The applications which are the subject of this report have been submitted to vary the conditions attached to the two planning permissions under which Divethill Quarry currently operates. The main area of the quarry currently operates under planning permission 16/04140/VARYCO and the extension to the north which was granted planning permission under 07/00160/CCMEIA. However the quarry has been in existence at the site since 1934, predating the modern planning system and the first planning permission for the site was issued in 1948.
- 2.3 The planning applications currently under consideration, in both instances, propose to extend the timescale for the operations at the site. Both permissions have planning permission to operate until 31 December 2018 (with restoration by 31 December 2020). The operator has requested that the permissions be both extended to 31 December 2021 with final restoration by 31 December 2023.
- 2.4 In addition, planning application 17/04633/VARCCM relating to the extension area granted permission under planning permission 07/00160/CCMEIA seeks permission to vary the conditions relating to the restoration of this area of the site. The application seeks to extend the time limit for working this area and amend the restoration details associated with this part of the site.
- 2.5 Planning application 17/04637/VARCCM relates to the original area of the quarry and additionally seeks permission to extend the area of operation into a new part of the site which was not originally part of the working area of the quarry and also to vary the noise limits currently set for the operations at the site. The current noise limits do not accurately reflect the background noise levels measured at the site in recent times (measured when the quarry is not operational). The purpose of amending this background level is not to increase noise generated from the site.
- 2.6 Divethill Quarry is located on the B6342 which runs broadly east-west linking the A696 to the A68. The quarry is situated 0.8km south of Great Bavington, 0.7km west of the cluster of houses which form Little Bavington, 1.8km east of Throckington and 3.8km north east of the village of Colwell. It is in an area of open countryside characterised mainly by semi-improved grassland used for

agricultural grazing interspersed with areas of tree belts and woodlands. The quarry covers an area of approximately 47ha and consists of one bench of whinstone which is used to supply aggregate for the construction industry. The site currently produces between 300,000 to 350,000 tonnes of hard rock per annum which is transported from the site by road to the local market.

- 2.7 There are public rights of way within the vicinity of the quarry. The nearest is Public Right of Way (PRoW) 504/015 (bridleway) which is diverted around the western boundary of the application site. PRoW 504/016 also runs through the site. St Oswald's Way (PRoW 504/017) runs north-south approximately 350m to the east of the site. National Cycle Route 10 runs to the south of the site.
- 2.8 The site is not located within any ecological designations however, the North Pennines Area of Outstanding Natural Beauty (AONB) is located approximately 20km to the south west of the site and the Northumberland National Park Boundary is approximately 11km away to the west. Hadrian's Wall World Heritage Site (buffer zone) is 7km to the south of the site. Great Bavington Conservation Area lies 0.7km to the north west of the site. There are Listed Buildings at Great Bavington within the Conservation Area and at Bavington Hall to the south east of the site.
- 2.9 The site has several buildings for use as office, weighbridge control and welfare facilities located towards the south of the site. The site also incorporates an asphalt plant. The site utilises mobile crushing and screening plant to process extracted mineral close to the face within the quarry. Processed mineral is sorted by grade and stockpiled to the southern side of the quarry.
- 2.10 The nearest residential dwellings are located at Claywalls (250m to the east), Newonstead Farm (460m to the north-west) and Homilton Farm (450m to the South).
- 2.11 It is not proposed to vary any other conditions at the site other than those detailed in the planning applications; however, due to the stage of the development, there are conditions which are no longer required. There are also some conditions which require deletion or alteration due to cross referencing and repetition. The applications allow the opportunity to review the conditions and amend where necessary to ensure that the permission is unambiguous and accurate. It is proposed to alter the wording of the conditions relating to the hours of operation for the site following discussions with the applicant as a result of concerns raised by nearby residents.

### **3. Planning History**

**Reference Number:** C/48/1347

**Description:** Quarrying operations (winning of whinstone)

**Status:** Application permitted

**Reference Number:** C/S/48/01

**Description:** Continuation of quarrying operations and extension

**Status:** Application permitted

**Reference Number:** C/85/E/802

**Description:** Alterations to existing access

**Status:** Application permitted

**Reference Number:** C/86/E/004

**Description:** Construction of aggregate coating plant

**Status:** Application permitted

**Reference Number:** C/86/E/568

**Description:** Construction of a workshop

**Status:** Application permitted

**Reference Number:** C/88/E/0439A

**Description:** Variation to condition nos. 4 and 8 of planning permission 86/E/4 to allow operation of coating plant and distribution of materials on Saturdays and Sundays

**Status:** Application permitted

**Reference Number:** C/89/E/0618

**Description:** Variation to condition nos. 4 and 8b of planning permission 86/E/4 to allow limited Sunday operation of coating plant

**Status:** Application permitted

**Reference Number:** C/90/E/0768

**Description:** Extension to existing quarry and restoration to agriculture on 10.6 ha

**Status:** Application permitted

**Reference Number:** C/93/CC/057

**Description:** Construction and use of haul road on 0.3 ha

**Status:** Application permitted

**Reference Number:** C/93/CC/058

**Description:** Visual improvements to plant site submitted pursuant to condition no. 12 of planning permission 90/E/768

**Status:** Application permitted

**Reference Number:** C/93/CC/104

**Description:** Disposal of inert waste by tipping with restoration to agriculture and woodland on 2.69 ha

**Status:** Application permitted

**Reference Number:** C/94/CC/014

**Description:** Variation of condition no. 14(i) of planning permission 90/E/768 to permit the operations of the coating plant from 5.00am on Mondays - Saturdays, but not on Sundays, Bank / Public Holidays (additional to quarry operations)

**Status:** Application permitted

**Reference Number:** C/94/CC/015

**Description:** Variation to condition no. 14(i) and 15(i) of planning permission 90/E/768 in respect of extended Saturday afternoon operating hours

**Status:** Application refused

**Reference Number:** C/99/CC/37

**Description:** Details of office building and weighbridge with associated landscape works at site entrance

**Status:** Application permitted

**Reference Number:** C/06/00213/MRVEIA

**Description:** Application for the determination of new planning conditions under the provisions of the Environment Act 1995

**Status:** Application permitted

**Reference Number:** C/07/00160/CCMEIA

**Description:** Extraction of Whinstone and restoration to agriculture on 7.2ha of land to the north and west

**Status:** Application permitted

**Reference Number:** C/10/00213/CCM

**Description:** Variation to condition 1 of planning permission 06/00213/MRVEIA in respect to allow the extraction, processing and stockpiling of minerals to cease no later than 31 December 2012 and site restoration to be completed by no later than 31 December 2014

**Status:** Application permitted

**Reference Number:** 12/03678/VARCCM

**Description:** Application to replace an extant planning permission in order to extend the time for implementation for application C/10/00213/CCM

**Status:** Application permitted

**Reference Number:** 13/03812/VARCCM

**Description:** Variation of condition 1 of planning permission - 12/03678/VARCCM (Application to replace an extant planning permission in order to extend the time for implementation for application C/10/00213/CCM)

**Status:** Application permitted

**Reference Number:** 13/03814/DISCON

**Description:** Discharge of condition 42 relating to planning permission 12/03678/VARCCM (Application to replace an extant planning permission in order to extend the time for implementation for application C/10/00213/CCM)

**Status:** Application permitted

**Reference Number:** 16/04140/VARYCO

**Description:** Variation of condition 1 (time limit) pursuant to planning application 13/03812/VARCCM in order to allow the extraction time to 31/12/2018 and the site restoration to be completed by no later than 31/12/2020

**Status:** Application permitted

**Reference Number:** 17/00726/SCOPE

**Description:** Scoping opinion for Divet Hill Quarry.

**Status:** Scoping opinion issued

**Reference Number:** 17/04633/VARCCM

**Description:** Variation of conditions 1 (time limit), 7 (final landform and contours), 21 (noise levels), 32 (restoration in accordance with plans), 47 (restoration details), 49 (soil restoration), 51 (scarification and surface picking), 56 (rooting and stone removal), 60 (soil re-distribution), 74 (grass seeding), 76 (restoration plan) and 91 (aftercare period) pursuant to planning permission 07/00160/CCMEIA in order to permit extraction operations to continue until 31/12/2021 and subsequent restoration of the site by 31/12/2023 and to allow a proposed amendment to the restoration scheme and timescales for its implementation.

**Status:** Pending consideration

## **Appeals**

**Reference Number:** 94/00013/REFUSE

**Description:** Variation to condition no. 14(i) and 15(i) of planning permission 90/E/768 in respect of extended Saturday afternoon operating hours

**Status:** Appeal allowed

## **4. Planning Policy**

### **4.1 Development Plan Policy**

#### **Northumberland Minerals Local Plan (2000)**

S1 Supply of Minerals  
S6 Good Working Practices  
EP3 Landscape  
EP14 Local Economy  
EP15 Tourism and Recreation

EP16 Rights of Way  
EP18 Local Communities  
EP19 Local Communities  
EP20 Cumulative Impact  
EP22 Operation of sites  
A3 Aggregate Minerals  
A6 Crushed Rock Provision  
SM1 Code of Practice  
R1 Restoration

#### Tynedale District Local Plan (2000)

NE1 Restricting Development in the Open Countryside  
NE21 Sites of Nature Conservation Interest  
NE26 Protection of habitats of Special Importance to Wildlife  
NE27 Protection of Protected Species  
NE29 Works to Watercourses and their Corridors  
NE33 Protection of Trees, Woodlands and Hedgerows  
BE18 Development affecting the Character and Setting of a Conservation Area  
BE22 the Setting of Listed Buildings  
TP26 Protection and Enhancement of Rights of Way Network  
TP27 Development affecting Public Rights of Way

#### Tynedale Local Development Framework Core Strategy (2007)

GD4 Principles for Transport and Accessibility  
GD5 Minimising Flood Risk  
NE1 Principles for the natural environment  
EDT1 Principles for Economic Development and Tourism

#### Northumberland Local Plan Pre-submission draft (January 2019)

STP3 Principles of Sustainable Development  
ENV7 Historic Environment and Heritage Assets  
ENV8 Frontiers of the Roman Empire – Hadrian's Wall World Heritage Site  
POL2 Pollution and Air, Soil and Water Quality  
MIN1 Environmental Criteria for Assessing Minerals Proposals  
MIN2 Criteria for Assessing the benefits of Minerals Proposals  
MIN3 Minerals and Landfill Site Restoration, Aftercare and After-use  
MIN6 Aggregate Minerals

#### 4.2 National Planning Policy

National Planning Policy Framework (2019)  
National Planning Practice Guidance (2014, as updated)



## 5. Consultee Responses

Bavington Parish Council	Object to the proposals pending further investigation on the current noise emissions from the quarry; the introduction of noise conditions to be placed on operations between 6am and normal working hours; appropriate background noise level monitoring; and investigations into the possibility of damage occurs to properties within the parish due to vibrations when blasting.
Highways	In terms of highways, the development will not see an increase in the permitted day to day traffic to and from the site, the existing permitted numbers per day will remain but will extended a further 3 years. The road network will be able to handle the proposed extension in terms of surfacing. Therefore, no objection to the variation of this condition.
Countryside/ Rights Of Way	No objection to the application on the condition that Public Footpath No.16 and Public Bridleway No.15 is protected throughout. No action should be taken to disturb the path surface, without prior consent of the Highway Authority, obstruct the path or in any way prevent or deter public use without the necessary temporary closure or Diversion Order having been made, confirmed and an acceptable alternative route provided.
Building Conservation	<p>The existing former farm building could be considered a 'non-designated' heritage asset, mainly in its historical association to farming in the area. However, given the existing poor condition of the former stone farm building at Divet Hill and more recent alterations that have affected the integrity of the building, combined with the fact there are many similar structures in the overall region that have retained their condition, integrity and character, the significance of this building is considered to be of little aesthetic, architectural or rarity value.</p> <p>It is also seen as a poor example of a representative type of this group of buildings.</p> <p>Notwithstanding the above, it is recommended that the following condition is attached in any grant of consent:</p>

	<p><i>A recording of the building based on a RCHME Level 2 survey be carried out on the historic stone farm building that produces an analysis of its development and use and the record, but does not need to discuss in detail the evidence on which this analysis is based. A plan and sometimes other drawings may be made but the drawn record will normally not be comprehensive.</i></p> <p>Building Conservation raise no objection to the proposed variation of previously approved plans other than the above recommendations.</p>
County Ecologist	<p>It would be very helpful if the applicant could explain why whin grassland creation proposed is not more extensive.</p> <p>Whilst I welcome some amendments to the whin grassland creation method statement it continues to state that organic material shall be imported and spread to achieve an average depth of 10- 20mm of organic material in the areas intended to be whin grassland vegetation.</p> <p>Organic material should not be added from the outset as this may entirely compromise large areas. Organic material will accrue naturally over a period of time and in this case time long timescales are available and suggest that a detailed whin grassland creation method statement can be secured by planning condition and provided at a later date, when such detailed issues can be resolved</p>
Public Protection	In principle this service is in agreement with this proposal subject to conditions.
Lead Local Flood Authority (LLFA)	<p>No objection to this application from a flood risk / drainage perspective.</p> <p>Current surface and ground water provisions will continue and restoration measures will look at post-development surface water disposal.</p>
Environment Agency	No response received.
Northumberland Wildlife Trust	No response received.

## 6. Public Responses

### Neighbour Notification

Number of Neighbours Notified	16
Number of Objections	1
Number of Support	0
Number of General Comments	0

### Notices

Site notice - Public Right of Way, 18<sup>th</sup> January 2018  
Northumberland Gazette 18th January 2018

### Summary of Responses:

One letter of objection has been received in connection with both these applications. This can be summarised as follows:

- Noise from the site has been getting worse over recent years, particularly in the early morning.
- The proposed increase in background noise levels would allow a greater level of noise from the site
- Normal working hours should follow the guidance in the PPG
- Appropriate background noise monitoring should take place before establishing the limit for the site

## 7. Appraisal

7.1 The main issues for consideration in the determination of these applications are:

- The principle of development
- Impact on residential amenity
- Landscape and visual impact
- Impact on ecology
- Highway impacts
- Public rights of way
- Cultural heritage
- Cumulative impact
- Soils

### The Principle of Development

7.2 Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) is a material consideration. The relevant policies of the Northumberland Minerals Local Plan are generally consistent with the NPPF and can therefore be given weight.

7.3 The principle of the operation of the site as has been long established through planning permissions for the site and through the allocation of the site in the

Northumberland Minerals Local Plan (NMLP). As with many minerals sites across the County adjustments to the working method and associated conditions need to be made from time to time and this is to be reasonably expected.

- 7.4 NMLP Policy S6 seeks best working practices on minerals site. Divet Hill is currently an operational whinstone quarry and is functioning without significant complaints and it is considered that the working practices on the site are generally good. There is therefore no conflict with policy S6 of the NMLP. Planning conditions relating to both the working methods and practices and the appropriate level of ecological mitigation and restoration to make the development acceptable would be transferred to the new permissions for the site.
- 7.5 The principle of the operation of the site as a quarry is not currently under consideration and is confined to the principle of amending the conditions for the site. The principle of which is acceptable subject to appropriately worded conditions to ensure that the site is operated in a manner which is in line with both guidance in the NPPF, NPPG and detailed policies contained within the NMLP, Tynedale Local Development Framework Core Strategy (TLDFCS) and Tynedale District Local Plan (TDLP).

#### Impact on Residential Amenity

- 7.6 Policy S6 of the NMLP requires that in considering proposals for mineral working, the County Council will aim to protect the quality of life for local communities by ensuring the highest standard of operational practice and will also take into account any proposed long term improvements in the environment resulting from the working and restoration proposals. Policy EP19 states that the assessment of proposals for mineral working will take into account potential disturbance to local communities as a result of site working, associated plant and vehicle movements. The principal effects of working on residential amenity would be in respect to noise, dust and blasting. The impact of the proposed development on residential amenity in terms of these were assessed as part of the original application and it was considered that the potential impacts could be controlled through conditions setting limits and requirements to mitigate any adverse effects
- 7.7 The extension of time and the amendments to the restoration plan would in themselves have no impact on residential amenity on neighbouring properties provided that conditions relating to noise, dust, vibration and vehicle movements are complied with for the duration of the development. The additional working area in the centre of the site and the proposed amendment to the noise limits set for the site have the potential to have an impact on residential amenity as operations move to a different area of the site.
- 7.8 There have been two recent complaints regarding noise from the site. These relate mainly to noise from crushing equipment early in the morning and seemingly in certain weather conditions. The current permission allows for the site to commence operations at 6.00am.

- 7.9 In general, the site operates within the noise limits set for the site, however, occasional complaints are received and these have been investigated by the MPA and the quarry operator to establish the circumstances where elevated noise levels are being experienced in certain locations. It has not been established that the site is breaching the limits set for the site at the objector's property and this will continue to be monitored in response to specific complaints.
- 7.9 In order to address the concerns relating to the early morning noise, it is proposed to amend the operating hours of the crushing machinery on site to commence at 7.00am. The condition currently requires crushing to cease at 6.00pm, this would be altered to 7.00pm in the new planning permission, which would be in line with the guidance set out in the National Planning Practice Guidance for Minerals. The operator has agreed to this amendment during the course of the determination of the application. An additional noise monitoring location at Great Bavington has been included in the condition in order to monitor levels in this location.
- 7.10 As the mineral extraction moves into the proposed location to the south of the site the noise impacts on the affected property is likely to reduce as the machinery would move into a more protected location. The noise levels will continue to be monitored and discussed with the operator as the site is progressed. The noise limits proposed have been assessed by the Council's Public Protection Officer and are considered to be acceptable. The increase in the background noise levels set for the site would not allow the site to increase noise generation to unacceptable levels at the receptors set out in the condition and the site would continue to operate within the levels considered acceptable in Planning Practice Guidance.
- 7.11 The Parish Council has raised concerns relating to damage to properties from blasting. There is no evidence that properties in the vicinity of the quarry have suffered damage in the past and the vibration and blasting limits set by the proposed condition would be such that damage should not occur.
- 7.12 The impacts of the site on residential amenity generally have been previously assessed and it is considered that they could continue to be controlled through conditions setting limits and requirements to mitigate any adverse impacts. The proposed variations would not give rise to any additional impacts from the site.
- 7.13 The Council's Public Protection Officer has considered the proposal and has concluded that the proposed variations are acceptable and have raised no objection. The existing and revised wording of conditions would ensure that mitigation measures are in place, noise levels set and regular monitoring is carried out. It is therefore considered that the proposed schemes comply with policy S6 and EP19 of the NMLP.

#### Landscape and Visual Impact

- 7.14 The site lies in open countryside. It is located within the Northumberland Landscape Character Assessment Area Type 11: Sandstone Fringe Farmland in character area b: Buteland and Colt Crag. Key components of this

character area include open expansive, marginal upland fringe farmland; occasional whin sill and sandstone outcrops and crags with associated active and disused quarries; gently undulating topography drained by minor burns, with wet pastures in shallow hollows. The proposed extension would be located in an existing part of the quarry and in that respect would not affect the overall character of the area. The proposal would however, require the partial loss of some tree cover. This loss is mitigated by the woodland established to the eastern boundary of the quarry. The loss of regenerating grassland would be offset in part by the progressive restoration measures proposed.

- 7.15 The applications have been submitted with a Landscape and Visual Impact Assessment (LVIA) and the visual impact of the proposals have been assessed. Whilst from certain viewpoints, views of the upper extraction operations would be possible as work progresses through phases 1 to 3 and the progressive removal of the central landform, views to the western quarry face and the restored western part of the site beyond would not be possible. The proposal would not lead to any significant effects on the viewpoints assessed.
- 7.16 There would be limited intervisibility with nearby quarries such as Mootlaw and Swinburne and the LVIA concludes that the proposal would not lead to any significant cumulative visual impact. The proposal would therefore comply with the requirements of policy EP3 of the NMLP.

#### Impact on Ecology

- 7.17 This site operates with two permissions one for the main operational area of the quarry (16/04140/VARYCO) and the other for the extension area where extraction is currently taking place (07/00160/CCMEIA). Both current applications relate to the overall restoration of the quarry. The proposal is to amend the restoration plan for the whole site taking into account the additional mineral extraction currently under consideration.
- 7.18 Policy A3 of the NMLP requires any adverse impacts on the ecology of the site do not outweigh the benefits of the mineral extraction. Policy R1 requires that proposals for mineral extraction take into account the proper restoration of the site as soon as practicable to an appropriate condition and after-use. The proposal to restore the site to a combination of agricultural grazing land and whin grassland is considered appropriate in this location and the impact of the removal of trees for the additional mineral extraction has been mitigated by advance planting on the eastern boundary of the site. No adverse impacts on ecology as a result of the proposals have been identified.
- 7.19 Following amendments to the scheme the County Ecologist is satisfied that the proposals are appropriate and raises no objection to the proposal. It is therefore considered that the proposal complies with policies A3 and R1 of the NMLP in this respect.

#### Highway Impacts

- 7.20 Paragraph 109 of the NPPF states that development should only be refused on transport grounds if there would be an unacceptable impact on highway safety or the cumulative residual impact on the road network would be severe. The existing access, vehicle routing and level of activity has been assessed and found to be acceptable. The proposed variations would not result in any increase in vehicle movements to and from the site. Planning conditions requiring the maintenance of the site access and entrance and the wheel washing of vehicles to prevent mud being deposited on the public highway and a restriction on vehicle movements are already in place and would continue to be imposed should planning permission be granted.
- 7.21 The original application considered access and traffic in relation to the quarry and assessed that traffic could be safely and conveniently accommodated on the highway network. The proposed extension and variation to the existing quarry would not increase vehicle movements associated with the quarry and would therefore accord with NMLP policy EP18 and TLDFCS Policy GD4 and the requirements of the NPPF in this respect.

### Public Rights of Way

- 7.22 There are several Public Rights of Way within the vicinity of Divethill Quarry. The nearest is Public Right of Way (PRoW) 504/015 (bridleway) which is diverted around the western boundary of the application site. PRoW 504/016 also runs through the site. St Oswald's Way (PRoW 504/017) runs north-south approximately 350m to the east of the site. National Cycle Route 10 runs to the south of the site. Where PRoWs are affected by the development diversions are proposed in order that public access is not restricted with the area. It is therefore concluded that the proposal would be in compliance with the requirements of policy EP16 of the NMLP and TDLP policies TP26 and TP27.

### Cultural Heritage

- 7.23 Great Bavington Conservation Area lies 0.7km to the north of the site and this contains a number of listed buildings. Bavington Hall (Grade II\*) lies 750m to the south east of the site. Divet Hill farm house and its associated buildings are located within Phase 2 of the extension area and would be required to be demolished to allow the proposed extension to proceed.
- 7.24 It is proposed that a Royal Commission of the Historical Monuments of England ("RCHME) Level 2 survey would be undertaken prior to the demolition of the buildings in order to record both the interior and exterior of the buildings. The demolition of the building would be undertaken under the supervision of an archaeologist, who would excavate and record any evidence of earlier phases of construction.
- 7.25 The farm house is unlisted and whilst the farm house and associated outbuildings could be considered a non-designated heritage asset, it is considered that to the integrity and condition of the building combined with the fact that there are numerous examples of this type of building in the region which are much more intact and restored examples, the loss of this asset is not considered to be significant.

- 7.26 The proposed variation would not alter the design of the site restoration and operation of the site, which has previously been considered acceptable in relation to cultural heritage. It is therefore considered that the change to the proposals would not conflict with TDLP Policies BE18 and BE22 or with Part 15 of the NPPF.

### Cumulative Impact

- 7.27 Paragraph 205 of the NPPF and NMLP Policy EP20 recognise that some areas may have been subject to successive mineral development over a number of years. It is recommended that when determining planning applications, local planning authorities should take into account the cumulative effects of multiple impacts from individual sites and/or a number of sites in a locality. It is stated that the cumulative impact of mineral development is capable of being a material consideration when determining individual planning applications.
- 7.28 Divethill Quarry is located approximately 3.3km from Swinburne Quarry which is currently mothballed, 4km from Mootlaw Quarry which is also currently mothballed and approximately 6km from Barrasford Quarry. There are no other mineral workings in the vicinity.
- 7.29 The cumulative impacts of quarries working in close proximity primarily relate to the landscape character and visual amenity of the area and also the combined impacts of noise, dust, ground vibrations from blasting and traffic movements.
- 7.30 Due to the distances from other minerals operations in the area the proposed extension to Divethill Quarry would not result in an unacceptable cumulative impact and therefore is considered in accordance with the NPPF and NMLP Policy EP20.

### Soils

- 7.31 Policy EP13 states that the assessment of minerals proposals will take into account their impact on agriculture including the effect on land quality and farm structure. The proposed extraction area is located entirely within the boundary of the existing quarry and has been heavily disturbed by past activities on the site. The area of the site which is currently under consideration by the proposal is not in agricultural use. The proposal is therefore considered to be in compliance with Policy EP13 of the NMLP.

### Other Matters

#### *Equality Duty*

- 7.32 The County Council has a duty to have regard to the impact of any proposal on those people with characteristics protected by the Equality Act. Officers have had due regard to Sec 149(1) (a) and (b) of the Equality Act 2010 and considered the information provided by the applicant, together with the responses from consultees and other parties, and determined that the



proposal would have no material impact on individuals or identifiable groups with protected characteristics. Accordingly, no changes to the proposal were required to make it acceptable in this regard.

#### *Crime and Disorder Act Implications*

- 7.33 These proposals have no implications in relation to crime and disorder.

#### *Human Rights Act Implications*

- 7.34 The Human Rights Act requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country. Article 1 of protocol 1 provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.
- 7.35 For an interference with these rights to be justifiable the interference (and the means employed) needs to be proportionate to the aims sought to be realised. The main body of this report identifies the extent to which there is any identifiable interference with these rights. The Planning Considerations identified are also relevant in deciding whether any interference is proportionate. Case law has been decided which indicates that certain development does interfere with an individual's rights under Human Rights legislation. This application has been considered in the light of statute and case law and the interference is not considered to be disproportionate.
- 7.36 Officers are also aware of Article 6, the focus of which (for the purpose of this decision) is the determination of an individual's civil rights and obligations. Article 6 provides that in the determination of these rights, an individual is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal. Article 6 has been subject to a great deal of case law. It has been decided that for planning matters the decision making process as a whole, which includes the right of review by the High Court, complied with Article 6.

## **8. Conclusion**

- 8.1 National and local planning policies provide a positive framework for the extraction of minerals. Divethill Quarry is an established operational whinstone quarry within the county. The principle of mineral extraction in this location has been found to be acceptable in accordance with the provisions of policies S6, SM1 and EP19 of the NMLP. The proposed variations to allow the quarry to continue operation and to allow an additional area of mineral extraction would not conflict with the provisions of the NMLP, TLDFCS and TDLP and the NPPF and would improve the overall restoration of the site.

- 8.2 Whilst there proposal may have impacts on local amenity as a result of noise, dust, visual impact and traffic movements these can be controlled through the implementation of appropriate mitigation measures and planning conditions.

## 9. Recommendation

That applications 17/04633/VARCCM and 17/04637/VARCCM be GRANTED permission subject to the following:

### Conditions/Reason

01. The extraction of minerals and associated development hereby permitted including the extraction, processing and stockpiling of minerals shall cease on or before 31 December 2021 and the site shall be restored in accordance with the plans and details hereby approved on or before 31 December 2023.

Reason: To ensure that the development is completed and the site is restored within a reasonable timescale (Policies SM1 and R1 of the Northumberland Minerals Local Plan).

02. The development hereby permitted shall be carried out in accordance with the following plans:

Figure 2-1 Location Plan – Divet Hill Quarry

Figure 2-2 Location Plan – 16/04140/VARYCO

Figure 2-3 Location Plan – 07/00160/CCMEIA

Figure 2-4 Site Survey and Extraction Boundary

Figure 2-5 Complete Excavation

Figure 2-6 Cross Sections 1 & 2

Figure 2-7 Proposed Phase Boundaries

Figure 2-8 Proposed Phasing Plan

Figure 2-9 Proposed Final Restoration Plan, Revision C

Figure 2-10 Proposed Progressive Restoration, Revision A

Figure 2-11 Tree Constraints Plan

Figure 2-12 Tree Protection Plan

and the Environmental Statement, dated December 2017

Until the completion of restoration, a copy of this notice of decision, together with copies of the documents specified in these conditions, and any subsequent amendments, shall be maintained in the site office and made available at all times.

Reason: To ensure that the development is carried out in accordance with the approved plans and to assist the operator and site personnel in being aware of the terms of the planning permission (Policy SM1 of the Northumberland Minerals Local Plan)

03. The operator shall maintain a notice board at the entrance to the site indicating the name of the quarry and the telephone number of a representative of the operators who would be able to deal promptly with any complaints

Reason: To assist people in making contact with the operators (Policies SM1 and EP19 of the Northumberland Minerals Mineral Plan).

04. Subject to the exceptions listed below in condition 5 no lorry load of quarry products shall leave the site other than during the following normal hours of operation:

Monday - Friday: 6.00am - 6.00pm

Saturdays: 6.00am - 3.00pm

And not at any time on Sundays, Bank and Public Holidays.

Reason: In the interests of amenity (Policy SM1 of the Northumberland Minerals Local Plan).

05. In addition to the permitted hours for lorry movements, prescribed in condition 4, lorry loads of coated roadstone may leave the site on a maximum of 20 Sundays per calendar year between the hours of 7.30am - 3.00pm.

Reason: In the interests of amenity and highway safety (Policy SM1 of the Northumberland Minerals Local Plan).

06. In respect of lorry loads of quarry products on Mondays - Saturdays no more than 125 lorry loads shall leave the quarry on any single working day and over each of the calendar periods January 1st - June 30th and July 1st - December 31st lorry loads leaving the quarry shall not exceed an average of 85 per day.

Reason: In the interests of amenity and highway safety (Policy SM1 of the Northumberland Minerals Local Plan).

07. With respect to lorry loads of coated roadstone, when the coating plant is operated in accordance with condition 5 not more than 40 lorry loads shall leave the site on any Sunday.

Reason: In the interests of amenity and highway safety (Policy SM1 of the Northumberland Minerals Local Plan).

08. A record shall be kept at the quarry of the total number of lorry loads leaving per day and of the six monthly average and such records shall be made available for inspection by the Mineral Planning Authority during normal working hours of the site.

Reason: To enable the Mineral Planning Authority to monitor the development (Policy SM1 of the Northumberland Minerals Local Plan).

09. No loaded vehicles shall leave the site unless it is sheeted and effectively cleaned to prevent mud and dirt leaving the site. A wheel washing facility shall be retained and maintained for the duration of site operations and shall be used where necessary by lorries leaving the site.

Reason: In the interests of highways safety (Policy SM1 and EP19 of the Northumberland Minerals Local Plan).

10. The surface of the site access shall be maintained in a good state of repair and kept clean of mud and other debris at all times until the completion of restoration and aftercare.

Reason: In the interests of highways safety (Policy SM1 and EP19 of the Northumberland Minerals Local Plan).

11. Subject to the exceptions listed in conditions 12, 13, 14 and 15 no operations shall be carried out and no plant shall be operated (except for the purposes of any continuous drainage) other than during the following normal hours of operation:

Monday - Friday: 6.00 a.m. - 7.00 p.m.

Saturdays: 6.00 a.m. - 4.00 p.m.

And not at any time on Sundays, Public Holidays or Bank Holidays.

Reason: In the interests of the amenity of the area (Policy SM1 of the Northumberland Minerals Local Plan).

12. In addition to the normal hours of operation in condition 11, the coating plant may be operated on Sundays between the hours of 7:00am - 3.00pm.

Reason: In the interests of the amenity of the area (Policy SM1 of the Northumberland Minerals Local Plan).

13. In addition to the normal hours of operation in condition 11 and 12, the maintenance of plant and vehicles may take place on Saturdays between the hours of:

4.00p.m. - 7.00 p.m.

and on Sundays between the hours of:

7.00a.m. - 3.00 p.m.

Reason: In the interests of the amenity of the area (Policy SM1 of the Northumberland Minerals Local Plan).

14. In addition to the hours of operation set out in conditions 11, 12 and 13 emergency repairs of plant and machinery may be carried out at any time except on a Public Holiday or Bank Holiday.

Reason: In the interests of the amenity of the area (Policy SM1 of the Northumberland Minerals Local Plan).

15. Notwithstanding the terms of condition 11, no crushing equipment shall be operated prior to 7.00am or after 7.00pm on any operational day, and not after 4.00pm on a Saturday.

Reason: In the interests of the amenity of the area (Policy SM1 of the Northumberland Minerals Local Plan).

16. All machinery, vehicle and plant working within the site, including that used for the purposes of any site drainage, shall be fitted with efficient silencers and acoustic enclosures.

Reason: In the interests of the amenity of the area (Policy SM1 of the Northumberland Minerals Local Plan).

17. With the exception of soil and overburden removal or replacement and the construction or removal of screen mounds and drilling, noise from the development shall not exceed the level specified for the locations set out below:

Newonstead Farm	45 dB(A)Laeq (1 hour) freefield
Little Bavington	46 dB(A)Laeq (1 hour) freefield
Homilton Farm	49 dB(A)Laeq (1 hour) freefield
Clay Walls	45 dB(A)Laeq (1 hour) freefield
Great Bavington	46 dB(A)Laeq (1 hour) freefield

Noise from the development between the hours of 22:00 and 7:00 shall not exceed a maximum noise level of 42 dB(A)Laeq (1 hour) freefield at any of the locations.

Reason: In the interests of the amenity of the area (Policy SM1 of the Northumberland Minerals Local Plan).

18. Temporary operations such as soil stripping or placement and the construction and removal of screen mounds and drilling shall not exceed a noise level of 70 dB(A)Laeq (1 hour) freefield for any longer than 8 weeks in any 12 month period.

Reason: In the interests of the amenity of the area (Policy SM1 of the Northumberland Minerals Local Plan).

19. A scheme for the implementation of noise monitoring shall be submitted to and agreed in writing by the Mineral Planning Authority within 3 month of this decision. Noise monitoring shall be carried out by a competent person and the results of such monitoring shall be made available to the Mineral Planning Authority upon request within 5 working days.

Reason: In the interests of the amenity of the area (Policy SM1 of the Northumberland Minerals Local Plan).

20. The following measures shall be undertaken to suppress dust emissions on the site arising from all operations, including vehicular movements, extraction operations, mineral, soils and overburden stockpiling and soil spreading operations.
- i) The provision of a water bowser which shall be used at all times when there is risk of dust arising from haul roads or vehicle manoeuvring areas.
  - ii) The provision and use of efficient dust collection equipment on drilling rigs.
  - iii) A speed limit of 15 mph on all internal haul roads, with exhausts of mobile plant directed away from the ground.

Reason: In the interests of the amenity of the area (Policy SM1 of the Northumberland Minerals Local Plan).

21. Blasting shall only be carried out between the hours of 9.00 a.m. - 4.30 p.m. Mondays to Fridays, except in the case of emergency. If blasting takes place outside these hours, in the case of emergency, full written details of the circumstances and the time of blasting shall be submitted to the Mineral Planning Authority within three days of the occurrence. No blasting shall take place on any Saturday, Sunday, Bank Holiday or Public Holiday.

Reason: In the interests of the amenity of the area (Policy SM1 of the Northumberland Minerals Local Plan).

22. i) The blast design, shall be such that vibration levels arising from the blasting shall not exceed 6mm/second Peak Particle Velocity in any plane when calculated with a 95% confidence limit and shall not exceed a level of 12mm/second, as measured at the nearest residential or vibration sensitive property;  
ii) Monitoring of the peak particle velocity attributable to blasting shall be undertaken and a record shall be kept at the quarry of the monitoring and such record shall be made available for inspection by the Mineral Planning Authority during normal working hours of the site.

Reason: In the interests of the amenity of the area (Policy SM1 of the Northumberland Minerals Local Plan).

23. The operator shall ensure prior to any phases of work commencing that all appropriate footpath and bridleway diversions or temporary closure orders, as may be necessary to protect footpath and bridleway users, are in place. At all times the operator shall ensure measures are taken and maintained through the period of operation to protect the safety of footpath and bridleway users.

Reason: In the interests of the amenity of the area (Policy SM1 of the Northumberland Minerals Local Plan).

24. That prior to the commencement of extraction operations within Phase 2, as illustrated within Figure 2-8, the enlarged water treatment lagoon located to the south of the extension area shall be formed and brought into use.

Reason: In the interests of the amenity of the area and environmental protection (Policy SM1 of the Northumberland Minerals Local Plan).

25. Once formed, all mounds in which soils are to be stored for more than 6 months, or over the winter period, shall be grass seeded in accordance with a specification agreed beforehand with the Mineral Planning Authority, and managed to minimise erosion and weed infestation, with excess herbage removed immediately prior to soil replacement.

Reason: In the interests of the satisfactory restoration and aftercare of the site (Policy SM1 and EP19 of the Northumberland Minerals Local Plan).

26. That within 3 month of the date of this decision, a soils management plans shall be submitted and approved in writing by the planning authority.

Reason: In the interests of the satisfactory restoration and aftercare of the site (Policy SM1 and EP19 of the Northumberland Minerals Local Plan).

27. All water from the site shall be routed through the approved ponds prior to discharge into any ditch, stream, watercourse or culvert outside the site.

Reason: In the interests of the satisfactory restoration and aftercare of the site (Policy SM1 and EP19 of the Northumberland Minerals Local Plan).

28. From the commencement of development, until the completion of restoration, the following site maintenance operations shall be carried out:
- a) The maintenance of fences in a stock proof condition between any areas used for development, and adjoining agricultural land;
  - b) The care and maintenance of trees, hedgerows within the site boundary;
  - c) The clearance of mud and silt from settlement ponds, to maintain their capacity for intercepting sediment;
  - d) All areas of the site, including all topsoil, subsoil, soil making material and overburden mounds, shall be kept free from agriculturally noxious weeds (as defined by the Injurious Weeds Act 1959). Cutting, grazing or spraying shall be undertaken, as necessary, to control plant growth and prevent the build-up of a seed bank of agricultural weeds, or their dispersal onto adjoining land;
  - e) Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to 110% of the capacity of the tank. For multiple tankage, the compound should be at least equivalent to 110% of the volume of the largest tank, or 110% of the combined capacity of interconnected tanks. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should discharge downwards into the bund.

Reason: In the interests of the satisfactory restoration and aftercare of the site (Policy SM1 and EP19 of the Northumberland Minerals Local Plan).

29. Prior to the replacement of subsoil, the surface onto which it is to be placed shall be scarified to alleviate compaction and where required within the Agricultural Grassland as defined on the approved Restoration Plan, surface picking of any stones or other materials capable of impeding normal agricultural or land drainage operations shall be undertaken.

Reason: In the interests of the satisfactory restoration and aftercare of the site (Policy SM1 and EP19 of the Northumberland Minerals Local Plan).

30. That the restoration of the site shall be undertaken in accordance with the following documents,  
Figure 2-9 - Final Restoration Plan  
Figure 2-10 - Progressive Restoration Plan  
Whin Grassland Creation Method Statement, dated August 2018 (Appendix 7-7 of EIA)  
Landscape Restoration Proposals (Appendix 6-3 of EIA)

Reason: In the interests of the satisfactory restoration and aftercare of the site (Policy SM1 and EP19 of the Northumberland Minerals Local Plan).

31. As soon as the ground is sufficiently dry following the satisfactory replacement of topsoil, where appropriate the land shall be sub soiled, using and agricultural winged tine subsoiler, operating at a depth and time spacing agreed beforehand with the Mineral Planning Authority. Any exposed stones larger than 100mm in any dimension together with other objects liable to obstruct future cultivations, shall be removed from site.

Reason: In the interests of the satisfactory restoration and aftercare of the site (Policy SM1 and EP19 of the Northumberland Minerals Local Plan).

32. Within 3 months of the restoration of the final topsoil layer, the developer shall make available to the Mineral Planning Authority a plan with contours at sufficient intervals to indicate the final restored landform of the site, together with a record of the depth and composition of the reinstated soil profiles.

Reason: In the interests of the satisfactory restoration and aftercare of the site (Policy SM1 and EP19 of the Northumberland Minerals Local Plan).

33. The Aftercare Period shall extend for the following periods from the date of the final restoration for the area, or part of the area, concerned;
  - a) Areas of Species Rich Grassland (as illustrated on Figure 2-9)- 10 years
  - b) Areas of Whin Grassland (as illustrated on Figure 2-9) - 15 years
  - c) Remaining areas of the site (Agricultural Grassland, Woodland and Wetlands) - 5 years

Reason: In the interests of the satisfactory restoration and aftercare of the site (Policy SM1 and EP19 of the Northumberland Minerals Local Plan).

34. From the date of aftercare commencement on any part of the site the following shall be undertaken as indicated on the approved plan:
  - a) The installation of water supplies for livestock, and the erection of stock proof fences and gates shall be completed within 12 months and;
  - b) Stone walls and access tracks shall be completed within 24 months (and prior to the commencement of under drainage installation) and;
  - c) Hedges and trees shall be planted within first available season (which runs between 1 November and 31 March), following restorations.

Reason: In the interests of the satisfactory restoration and aftercare of the site (Policy SM1 and EP19 of the Northumberland Minerals Local Plan).

35. Upon completion of operations, all buildings, fixed plant and machinery and site access roads shall be removed and their sites restored.

Reason: In the interests of the satisfactory restoration and aftercare of the site (Policy SM1 and EP19 of the Northumberland Minerals Local Plan).



36. Following the completion of each phase of restoration, surface drainage works (including watercourses, field boundary ditches, and surface grips) shall be installed, as soon as practicable, to intercept run-off, prevent erosion, and avoid flooding of the land.

Reason: In the interests of the satisfactory restoration and aftercare of the site (Policy SM1 and EP19 of the Northumberland Minerals Local Plan).

37. The drainage of the site shall be monitored throughout the aftercare periods and, where necessary, drainage infrastructure shall be installed.

Reason: In the interests of the satisfactory restoration and aftercare of the site (Policy SM1 and EP19 of the Northumberland Minerals Local Plan).

38. That within 3 months of this decision, an Aftercare Scheme shall be submitted to and approved in writing by the Planning Authority. The Aftercare Scheme shall include details relating to;
- a) The monitoring and reporting regime for the respective habitat types, during the respective aftercare periods;
  - b) The grazing regime within the respective grassland areas;
  - c) The maintenance regime for woodland areas;

Reason: In the interests of the satisfactory restoration and aftercare of the site (Policy SM1 and EP19 of the Northumberland Minerals Local Plan).

39. That prior to the felling of any trees located within the extension area illustrated within Figure 2-8, two barn owl boxes shall be installed within suitable locations within the quarry boundary; the mature trees shall be subject to a further pre-start check for barn owls and the felling of the trees shall be undertaken under the supervision of a suitably qualified ecologist.

Reason: In the interests of the satisfactory restoration and aftercare of the site (Policy SM1 and EP19 of the Northumberland Minerals Local Plan).

40. That prior to the enlargement of the water retention pond located to the south east of the extension area, as identified on Figure 2-8, a further badger survey shall be undertaken within 30m of the site of the enlarged pond. In the event badgers are found to be occupying a badger sett within 30m of the enlarged pond, the measures as detailed within paragraph 7.216 of the Environmental Statement shall be implemented to the satisfaction of the planning authority.

Reason: In the interests of the satisfactory restoration and aftercare of the site (Policy SM1 and EP19 of the Northumberland Minerals Local Plan).

41. That prior to the demolition of the Divethill Farm buildings, a further survey of the buildings for bats shall be undertaken. Thereafter, the demolition of the buildings shall be undertaken in accordance with the Building Demolition Method Statement, prepared by SK Environmental Solutions Ltd, dated 8th October 2018.

Reason: In the interests of the recording of the historic environment (Policies BE18 and BE22 of Tynedale District Local Plan)

42. That prior to the demolition of the Divethill Farm buildings, a RCHME Level 2 survey shall be undertaken and a report of the survey shall be submitted to the minerals planning authority.

Reason: In the interests of the recording of the historic environment (Policies BE18 and BE22 of Tynedale District Local Plan)

43. That prior to the commencement of work within the red line boundary shown drawing 1708-S217-DIV-D-403 (Figure 2-7), a Written Scheme of Investigation for Archaeological and Historic remains shall be submitted to and approved in writing by the planning authority. Thereafter, the demolition of Divethill Farm buildings shall be undertaken under the supervision of an Archaeologist and, in the event evidence of earlier phases of construction are identified, these shall be excavated and recorded, and the records shall be made available to the planning authority.

Reason: In the interests of the protection of archaeological and historic remains on the site (Policies BE18 and BE22 of Tynedale District Local Plan)

**Background Papers:** Planning application file(s) 17/04637/VARCCM, 17/04633/VARCCM