

## North York Moors National Park Authority Planning Committee

21 September 2015

### York Potash Planning Approval – Progress Update for Members

#### 1. Purpose of the Report

- 1.1 To provide an update to Members on progress towards the issuing of the decision notice following the resolution of the Authority to grant planning permission for the York Potash planning application (NYM/2014/4676/MEIA)

#### 2. Background

- 2.1 At the Special Planning Committee meeting held on 30 June 2015, Members resolved to delegate approval of the York Potash Ltd planning application to the Director of Planning, subject to a number of matters. These included the preparation of final planning conditions, involving the refining of the draft V24 conditions included as an appendix to the Committee Report, and update sheet, the completion and signing of the S106 Agreements, demonstration of no significant effects in relation to the potential for fault activation resulting from the proposed water reinjection borehole, the submission and approval of an improved design for the proposed mine buildings and plans demonstrating a BREEAM rating of “very good” for the proposed welfare building.
- 2.2 The nature and extent of the work involved in achieving the above matters is significant in the context of a continuing reduction in resources and the existing planning workload, facing the planning team. For this reason specialist planning and legal consultants (Savills and Nabarro) have been engaged to progress this work with the view to concluding the above matters by the end of September, which was the target date set out in the Authority resolution. The officer and consultants’ costs involved in this are being met by the applicants, as set out in the formal Committee resolution.

#### 3. Progress Update

- 3.1 Significant progress has been made over the last two months with a number of useful meetings being held with York Potash and its consultants and officers and consultants from both Savills and Nabarro have all worked rapidly and effectively to move towards achieving the matters set out in the Committee Resolution. Progress on each of the matters is as follows:
- **Assessment of Potential for Fault Activation:** AFW consultants have reviewed the additional work carried out by YPL and have undertaken further assessment work themselves. This has concluded that provided there is a limitation on the pressure of the re-injection within the Sherwood Sandstone (achievable by planning condition), there should not be a significant adverse effect in EIA terms. The report has been sent to the Environment Agency for comment.
  - **Improved Design for Mine Buildings:** Revised drawings for the proposed mine buildings have been received which show the previously proposed metal sheeting on the elevations replaced with vertical timber cladding. Although this represents an improvement, it doesn't fully address the Committee resolution which was for an

improved design with particular reference to the materials submitted within the previous application. 'Design' clearly is more than just the use of materials and therefore officers have requested further small scale though important design changes which reflect the actual design and access statement that was submitted with the Application, such as, ridge coping, overhanging eaves, the breaking up of the large expanse of timber using variations in alignment of the panels, inset details, vents and false openings to create differences in shadow and texture to add interest to what are large and bland elevations. Officers have also requested the use of York stone coloured fair face blockwork plinths rather than concrete, though it is not considered to be reasonable or practical to use natural stone for the plinths on such large industrial buildings.

- **Planning Conditions:** In terms of planning conditions, much progress has been made in refining the wording of the draft version, particularly in relation to ecology, surface and groundwater issues, a limit on the volume of polyhalite which the approval will permit and a restriction on the movement of polyhalite by road limited to early pre-production if required as a contingency in advance of the MTS being operational. Members will recall that the Committee report set out a number of areas of concern where the Environmental effects of some aspects of the development were still not clear (from the ES and SEI) and where there was a lack of certainty over the effectiveness of some of the mitigation proposals. This has meant that more detailed and in some cases new conditions are needed to seek to address these areas such as in relation to noise and vibration impacts. A noise management plan will be required by condition and this will need to relate to impacts on recreational receptors which hadn't been previously assessed by the application. The drafting of suitable conditions will require input by specialist noise consultants.
- **S106 Planning Obligation:** Good progress is being made with the final negotiation of the s106 Agreement and the applicant has agreed in principle to changes that improve the financial arrangements to secure the mitigation and compensation funding over the life of the development, as well as a mechanism to secure further noise mitigation. Members are advised that the scale of contributions for landscape and other related compensation being sought in the section 106 agreement is in line with officers' previous assessments for a Landscape Compensation Fund, as contained within the document titled 'Section 106 Proposed Programme, Rationale and Costings to Compensate for Residual Impacts relating to Conservation Matters', that was made available prior to the committee meeting publicly on our website and as expressed in Appendix L of the Committee report. A revised draft of the agreement is being progressed with the applicant's lawyers and is available for inspection.

3.2 In conclusion, the process of implementing the Member resolution to delegate approval of the application made on 30 June, to enable the decision notice to be issued is progressing well and, at the time of writing the report, if progress continues at the current rate, it is likely that the technical and professional aspects of the work will have been completed within the timeframe envisaged.

#### 4 **Financial and Staffing Implications**

4.1 The legal and officer costs, including consultant's costs are being met by the applicant as set out in the Member resolution. Funding for the work involved following the issuing of the decision notice, such as condition verification discharge and ongoing comprehensive monitoring of the implementation of the development is included in the s106 planning obligation.

5. **Contribution to National Park Management Plan**

- 5.1 As this is a progress update report, it has no direct implications in terms of contribution to the delivery of the National Park Management Plan.

6. **Legal Implications**

- 6.1 The York Potash proposal is of great significance for the National Park and there continues to be a high level of public and political interest in the scheme. Officers are aware of the importance of procedures being followed correctly in implementing the Authority's resolution to approve the application so that the Authority's actions are not open to successful legal challenge.

7. **Recommendation**

- 7.1 Members are asked to note the contents of the report, and seek clarification on any matters raised.

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