

TOWN AND COUNTRY PLANNING ACT 1990
NORTH YORKSHIRE COUNTY COUNCIL

**NOTICE OF DECISION OF PLANNING AUTHORITY ON APPLICATION FOR
PERMISSION TO CARRY OUT DEVELOPMENT**

TO: Plasmor Ltd
PO Box 44
Womersley Road
Knottingley
West Yorkshire
WF11 0DN

C/o: MJCA
Baddesley Colliery Offices
Main Road
Baxterley
Atherstone
Warwickshire
CV9 2LE

The above-named Council, being the Local Planning Authority for the purposes of your application accompanied by an Environmental Statement dated 12 February 2015 in respect of the extension to the existing clay quarry together with the construction of a new site access and restoration to nature conservation including water bodies, wetland habitats and the creation of public access at Hemingbrough Clay Pit, Hull Road, Hemingbrough, North Yorkshire, YO8 6QG have considered your said application

- **HAVING** first taken into consideration the environmental information (including the Environmental Statement, which includes such information as is reasonably required to assess the environmental effects of the development and which the applicant could be reasonably required to compile and duly made representations about the environmental effects of the development) pursuant to Regulation 3 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011; and
- **HAVING CONSIDERED** the development to comply with the Development Plan for the area and there being no material considerations to indicate a decision other than in accordance with the Development Plan,

have **GRANTED** planning permission for the proposed development

HAVING SECURED a Section 106 Legal Agreement providing for a Detailed Restoration Management Plan and a 15 year aftercare period and;

SUBJECT TO THE FOLLOWING CONDITIONS imposed for the reasons thereafter given:

Dated: 10 March 2016

Conditions

1. The hereby approved planning permission shall be implemented within 3 years of the date of this decision notice, the date of which shall be notified in writing to the County Planning Authority within 7 days of the commencement.
2. The permission hereby granted authorises the extraction of minerals only until 31 December 2035. The development hereby permitted shall be discontinued and all buildings, plant and machinery shall be removed from the site and the site shall be restored in accordance with the scheme approved in writing by the County Planning Authority within 2 years of the completion of mineral workings.
3. The development hereby permitted shall be carried out in accordance with the application details dated 12 February 2015, the confidential badger section dated September 2014, the Environmental Statement that accompanied the application ref. PL/HE/SPS/1621/01/ES dated February 2015, the Planning Statement ref. PL/HE/SPS/1621/01/PAS dated February 2015, Figure PS 2 (drawing reference PL/HE/02-15/18483), dated 5 February 2015, Figure PS3 (drawing reference PL/HE/02-15/18484) dated 5 February 2015, Figure PS 7 (drawing reference PL/HE/02-15/18485) dated 5 February 2015, Figure PS 8 (drawing reference 2093.13/01E) dated February 2015, Figure PS 9 (drawing reference PL/HE/02-15/18486) dated 5 February 2015 and the additional information supplied via letter on the 28th May 2015.
4. No working shall be carried out within 30 metres of the badger setts identified in Figure 5 of the submitted report by ESL Ltd. entitled 'Confidential Badger Section' dated September 2014 until such time as the setts have been stopped up and removed under appropriate licence.
5. Prior to the commencement of mineral extraction authorised by this permission, a scheme for the monitoring of groundwater levels shall be submitted to the County Planning Authority for approval. Thereafter monitoring of the groundwater levels shall be undertaken in accordance with the approved scheme.
6. Prior to the commencement of any operations in each new phase or an annual basis whichever is sooner a badger survey will be undertaken at the site. No working shall be carried out within 30 metres of any other badger setts subsequently identified in any survey until such time as the setts have been stopped up and removed under appropriate licence.
7. No materials shall be burned on the site.
8. With the exception of the importation of rock or aggregate and reject blocks for the construction and maintenance of the site access and haul roads, no other rock or aggregate, mineral waste or other waste material shall be stored within or imported to the site.
9. The phased working of the site shall take place strictly in accordance with Section 7 of the Planning Statement and the drawing Figure PS 7 (drawing reference PL/HE/02-15/18485) dated 5 February 2015 submitted within the Planning Statement that accompanied the application dated February 2015.
10. No extraction operations shall take place in any phase until materials within the immediately preceding phase have been worked out.
11. Within 12 months of date of the commencement of the development the subject of this planning permission the new site access will be constructed and HGV access to and from the

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site associated with the extraction of clay hereby approved shall be via the new site access as shown on drawing Figure PS 9 (drawing reference PL/HE/02-15/18486) dated 5 February 2015. Following the construction of the new site access no other access shall be used for HGVs associated with the extraction of clay from the site. The site access via Northfield Road may continue to be used for site staff and visitors only.

12. Once constructed but prior to the use of the new site access referred to in Condition 11 written notification of its construction shall be provided to the County Planning Authority within 7 days of completion of the access construction.

13. In accordance with the application details no more than 50 HGVs shall visit the site in any single working day as per the hours of operation detailed in Condition 15, which is equivalent to 100 vehicle movements (50 in and 50 out).

14. Following the construction of the new site access the gates to the site will be opened at 0730 to allow HGVs to enter the site in preparation for the commencement of loading at 0800.

15. The operations at the site shall take place between the following times:

Activity	Times
Soil and overburden stripping	0715 to 1700 Mondays to Fridays 0715 to 1300 Saturdays
Quarrying operations and exportation of clay from the site	0800 to 1700 Mondays to Fridays 0800 to 1300 Saturdays

No quarrying operations shall take place on Sundays or Bank or Public Holidays.

16. All plant, machinery and vehicles used on any part of the site shall be fitted with effective noise attenuating equipment which shall be regularly maintained. Where earthmoving plant is operating in proximity to residential properties, non-audible reverse warning alarm systems shall be deployed.

17. During the working hours specified in Condition 15, noise from operations on site shall not exceed the following measurements as measured at the following boundary locations:

Location	L _{Aeq,1 hour} dB(A)
Hagg Lane Farm	50
Woodhouse Farm (off Hagg Lane) (Field access south of rail line)	54
Hemwood House (on Hagg Lane)	52
Public footpath (south east of site)	55
Garth House	54
Station Lane - Public footpath (adjacent to rail line, east of Cliffe)	55
Chantry House	54

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18. Noise monitoring shall be undertaken at the locations specified in Condition 17 within two months of the clay extraction operations moving into a new phase of working (as shown on drawing Figure PS 7 (drawing reference PL/HE/02-15/18485) dated 5 February 2015 (submitted within the Planning Statement), and nonetheless at a frequency of no less than 12 months to assess the noise impact of the operations at those locations. Between noise surveys additional monitoring shall be carried out at the written request of the County Planning Authority. All results shall be made available within 10 working days of a written request to do so by the County Planning Authority and an annual summary of results shall be submitted to the County Planning Authority for consideration not later than 31 March in the following calendar year.

19. In the event that the noise levels specified in Condition Number 17 are exceeded, those operations at the site causing the excessive noise shall cease immediately and steps shall be taken to attenuate the noise level to be in compliance with the requirements of Condition Number 17 within 7 days.

20. Three metre high screening/earth bunds and acoustic fencing shall be erected on the site in accordance with the submitted application details and drawing Figure PS 7 (drawing reference PL/HE/02-15/18485) dated 5 February 2015 submitted within the Planning Statement.

21. The advance and infill planting shown on 'Figure PS 8' entitled 'Proposed Restoration and Public Access Proposals' and referred to in paragraph 4.11 of the approved Planning Statement shall be implemented in the first available planting season following the grant of planning permission.

22. Notwithstanding the noise limits imposed within Condition 17 a temporary daytime noise limit of up to 70 dB(A) LAeq,1hour free-field is permitted for up to 8 weeks in a calendar year for the construction and removal of screening bunds and acoustic fencing.

23. Operations shall at all times adhere to the findings and recommendations contained within Section 9 the Noise Impact Assessment (ref. R15.7400/05/NIA/JG) dated 9th February 2015.

24. No mineral extraction shall be carried out within 100 metres of Garth House and Chantry House.

25. There shall be no construction of the new site access until the following drawings and details have been submitted to and approved in writing by the County Planning Authority in consultation with the Highway Authority:

a. Detailed engineering drawings to a scale of not less than 1:500 and based upon an accurate survey showing:

- the proposed highway layout including the highway boundary
- dimensions of any carriageway, cycleway, footway, and verges
- visibility splays
- the proposed buildings and site layout, including levels
- accesses and driveways
- drainage and sewerage system
- lining and signing
- traffic calming measures
- all types of surfacing (including tactiles), kerbing and edging.

b. Longitudinal sections to a scale of not less than 1:500 horizontal and not less than 1:50 vertical along the centre line of each proposed road showing:

- the existing ground level
- the proposed road channel and centre line levels
- full details of surface water drainage proposals.

c. Full highway construction details including:

- typical highway cross-sections to scale of not less than 1:50 showing a specification for all the types of construction proposed for carriageways, cycleways and footways/footpaths
- when requested cross sections at regular intervals along the proposed roads showing the existing and proposed ground levels
- kerb and edging construction details
- typical drainage construction details.

d. Details of the method and means of surface water disposal.

e. Drawings for the proposed new roads and footways/footpaths giving all relevant dimensions for their setting out including reference dimensions to existing features.

f. A programme for completing the works.

26. There shall be no access or egress by any vehicles using the new site access until full details of any measures required to prevent surface water from non-highway areas discharging on to the existing highway via the new site access together with a programme for their implementation have been submitted to and approved in writing by the County Planning Authority in consultation with the Highway Authority. The works shall be implemented in accordance with the approved details and programme.

27. There shall be no movement by construction or other vehicles using the new site access (except for the purposes of constructing the new site access) until that part of the new site access extending 20 metres into the site from the carriageway of the existing highway has been made up and surfaced in accordance with the approved details and the published Specification of the Highway Authority. All works shall accord with the approved details. Any damage during use of the new site access until the completion of all the permanent works shall be repaired immediately.

28. There shall be no access or egress by any vehicles using the new site access (except for the purposes of constructing the new site access) until splays are provided giving clear visibility of 215 metres to the west & 160 metres to the east measured along both channel lines of the major road A63 Hull Road from a point measured 4.5 metres down the centre line of the access road. The eye height will be 1.05 metres and the object height shall be 0.6 metres. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

29. There shall be no access or egress by any vehicles using the new site access (except for the purposes of constructing the new site access) until vehicle wheel washing facilities have been installed on the new site access road to the site in accordance with details to be submitted to and approved in writing by the County Planning Authority. These facilities shall be kept in full working order at all times. All HGVs shall be thoroughly cleaned before leaving the site to

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minimise the risk that significant quantities of mud or debris are deposited on the public highway.

30. No HGVs shall use the new site access on Hull Road until a survey recording the condition of the existing highway, 100 metres in each direction, has been carried out in a manner approved in writing by the County Planning Authority in consultation with the Highway Authority. The survey results shall then be submitted to the County Planning Authority within 1 month of the date of the survey.

31. The operations at the site shall be undertaken in accordance with the dust controls as set out in Table ES 9 'Summary of the qualitative dust risk assessment' of the Environmental Statement, dated February 2015 which shall be adhered to at all times throughout the duration of the development.

32. All roadways, haul routes and operational areas within the site boundary shall be conditioned with water as necessary to minimise the emission of particulate matter to air.

33. The movement of soils and overburden shall be suspended if necessary during dry and windy conditions to minimise the emission of particulate matter to air.

34. All stockpiled material shall be profiled and conditioned with water as necessary to minimise the wind-entrainment of dust.

35. The excavation of minerals from the site shall be carried out by means of excavator and no other method of extraction (e.g. pecker or explosives) shall be permitted.

36. The contents of Section 11.4 of the Ecological Baseline Report and Impact Assessment dated February 2015 shall be adhered to at all times throughout the duration of the development.

37. A full restoration management plan shall be submitted to the County Planning Authority for written approval within 6 months of the date of this planning permission. Once approved the full restoration management plan shall be adhered to at all times for the duration of the development. The full restoration management plan shall, once approved, be implemented in a progressive manner.

38. The hereby approved development will be undertaken in accordance with the Written Scheme of Investigation Archaeological Excavation and Recording, written by Humber Field Archaeology dated 22 May 2015. This scheme shall be adhered to at all times throughout the duration of the development.

39. The County Planning Authority shall be notified in writing within 14 days of the completion of archaeological mitigation fieldwork.

40. Within 24 months of completing the archaeological field investigations required by Condition 38 (above), a report which shall comprise of an assessment of the archaeological remains recovered from the site and an outline of the subsequent programme of analyses, publication (including a date for publication) and archiving, shall be submitted to and approved in writing by the County Planning Authority. The programme of analyses, publication and archiving shall thereafter be carried out in accordance with the details thus approved, and in accordance with a timetable agreed in writing with the County Planning Authority.

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41. In the event of mineral extraction ceasing on the site for a period in excess of 12 months before the completion of the development hereby permitted, a revised scheme of restoration and landscaping shall be submitted to the County Planning Authority for written approval forthwith. The approved scheme shall then be implemented in accordance with a programme to be included in that scheme.

42. No operations shall take place within a lateral distance of 10 metres from the railway boundary.

43. With the exception of drainage channels excavated in the base of the extraction the basal level of the extraction shall not be lower than 4 metres Below Ordnance Datum.

44. The operations in the eastern extension area will be undertaken strictly in accordance with the specifications included in the Slope Stability Assessment dated February 2015 (Appendix E of the Environmental Statement submitted with the application).

45. No cranes or jibbed machines, used in connection to these approved works, shall be positioned or suspended within 3 metres of the nearest railway line.

46. Throughout the period of working, restoration and aftercare precautions shall be taken to minimise the risk that the operations at the site will have an adverse impact on water bodies and water resources within or that cross the site as necessary.

47. Topsoil and subsoils shall only be stripped when they are in a dry and friable condition, movements of soils shall only occur:

- (a) during the months April to September inclusive, or
- (b) when all soil is in a suitable dry and friable condition that it is not subject to smearing, and
- (c) when topsoil is sufficiently dry that it can be separated from subsoil without difficulty.

48. Prior to soil stripping no part of the site shall be excavated or traversed by heavy vehicles or machinery (except as necessary to strip that part of topsoil or subsoil) or used for a road or for the stationing of plant or buildings, or storage of subsoil or overburden or waste or mineral deposits. In respect of soil storage areas it is necessary only to strip topsoil in areas where subsoil will be stored.

49. Any oil, fuel and other potential pollutant shall be handled on the site in such a manner as to prevent pollution of any watercourse, aquifer or soil resource (both in situ and in store). For any liquid other than water, this shall include storage in suitable tanks and containers which shall be housed in an area surrounded by bund walls of sufficient height and construction so as to contain 110% of the total contents of all containers and associated pipework. The floor and walls of the bunded areas shall be impervious to both water and oil.

50. With the exception of any removal of the southern hedge which may be necessary to provide for the construction of the new site access and the northern fence line which is under the control of Network Rail from the commencement of development until completion of aftercare the perimeter hedgerows and fences shall be retained.

51. All undisturbed areas of the site and all topsoil, subsoil, soil making material and overburden mounds shall be kept free from agriculturally noxious weeds as far as is reasonably practicable. Cutting, grazing or spraying shall be undertaken, as necessary, to control plant

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growth and the build-up of a seed bank of agricultural weed or their dispersal onto adjoining land.

52. All storage mounds that will remain in situ for more than 3 months, or over winter, shall be vegetated and managed in accordance with a scheme that is to be submitted to and approved in writing by the County Planning Authority before soil stripping and storage mound construction is due to commence.

53. Following stripping all topsoils, subsoils and soil making materials shall be immediately utilised for restoration; where this is not reasonably practicable they should be stored.

54. Trees planted close to the railway should be located at a distance in excess of their mature height from railway property.

55. There shall be no storage of any materials including soil immediately adjacent to the bank top of the Oldmill Field Drain.

56. There shall be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct or via soakaway.

57. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any other Order revoking or re-enacting that Order), no plant or buildings shall be erected on the site, except as provided for in the development hereby permitted.

58. An annual meeting shall be held between the operator and the County Planning Authority to review schemes of working, restoration, landscaping and aftercare issues. This meeting shall include all interested parties and technical advisers as required.

59. A copy of the planning permission and any agreed variations, together with all the approved plans shall be kept available at the site office at all times.

Reasons

1. To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. To reserve the rights of control of the County Planning Authority to ensure restoration of the land with the minimum of delay in the interests of amenity.
3. To ensure that the development is carried out in accordance with the approved application details.
4. To ensure mineral workings do not interfere with the badger sett.
5. To protect groundwater resources in the area.
6. To ensure no interference with potential badger sett locations.
7. In the interests of amenity.
8. To reserve the rights of control of the County Planning Authority in the interests of amenity.

9. To ensure an orderly and progressive pattern of working and restoration at the site.
10. To ensure an orderly and progressive pattern of working and restoration at the site.
- 11.- 14. In the interests of highway safety.
- 15.- 23 In the interests of amenity.
- 24.- 29 In the interests of highway safety.
- 30.- 35 In the interests of amenity.
36. In the interests of protecting the ecological value of the site and amenity of the area.
37. To ensure the site is appropriately restored and in the interests of the amenity of the area.
- 38.- 40. In order to ensure the archaeological resources at the site are adequately investigated, understood, and where necessary safeguarded, in accordance with the National Planning Policy Framework.
41. To ensure restoration is undertaken as soon as practicable in the interests of amenity.
42. To protect the integrity of the rail network.
43. To minimise the risk of basal heave and protect groundwater resources.
44. To ensure the stability of operational and adjacent land.
45. To ensure no interference with the rail network.
46. To prevent damage and pollution to groundwater resources, watercourses and off-site drainage including that of agricultural land.
47. To prevent damage to soils by avoiding movement whilst soils are wet or excessively moist.
48. To prevent damage of soils by trafficking.
49. To prevent pollution of watercourses, aquifers and soil resources.
50. To protect the welfare of livestock on adjoining agricultural land.
51. To prevent the build-up of weed seeds within the permitted site and on adjoining land.
52. To protect storage mounds from erosion, prevent build-up of weed seeds in the soil and remove vegetation prior to soil replacement.
53. Direct replacement of soil without storage is usually beneficial.
54. To protect the railway line to the north.
55. To protect the Oldmill Field Drain.

- 56. To protect water resources in the area.
- 57. To reserve the rights of control of the County Planning Authority in the interests of amenity.
- 58. To secure an orderly and progressive pattern of working of the site.
- 59. To ensure that site personnel are aware of the terms of the planning permission.

Informatives

- 1. You are advised that a separate licence will be required from the Local Highway Authority in order to allow any works in the adopted highway to be carried out. The 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council, the Highway Authority, is available at the County Council's offices. The local office of the Highway Authority will also be pleased to provide the detailed constructional specification referred to in this condition.
- 2. Any discharges from the site may require an Environmental Permit under the Environmental Permitting Regulations and/or agreement of the Internal Drainage Board (IDB)
- 3. The operator should at all times be mindful of the information and guidelines contained within the Network Rail letter dated 25 March 2015 and the subsequent e-mail dated the 12th November 2015.
- 4. Adjacent public rights of way- No works are to be undertaken which will create an obstruction, either permanent or temporary, to the Public Right of Way adjacent to the proposed development. Applicants are advised to contact the County Council's Access and Public Rights of team at County Hall, Northallerton via paths@northyorks.gov.uk to obtain up-to-date information regarding the line of the route of the way. The applicant should discuss with the Highway Authority any proposals for altering the route.

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Corporate Director, Business and Environmental Services

NOTE :-

No consent, permission or approval hereby given absolves the applicant from the necessity of obtaining the approval, under the Building Regulations, of the District Council in whose area the site of the proposed development is situated; or of obtaining approval under any other byelaws, local acts, orders, regulations and statutory provisions in force; and no part of the proposed development should be commenced until such further approval has been obtained.

**Statement of Compliance with Article 35 of the Town and Country Development
Management Procedure Order 2015**

In determining this planning application, the County Planning Authority has worked with the applicant adopting a positive and proactive manner. The County Council offers the opportunity for pre-application discussion on applications and the applicant, in this case, chose to take up this service. Proposals are assessed against the National Planning Policy Framework, Replacement Local Plan policies and Supplementary Planning Documents, which have been subject to proactive publicity and consultation prior to their adoption. During the course of the determination of this application, the applicant has been informed of the existence of all consultation responses and representations made in a timely manner which provided the applicant/agent with the opportunity to respond to any matters raised. The County Planning Authority has sought solutions to problems arising by liaising with consultees, considering other representations received and liaising with the applicant as necessary. Where appropriate, changes to the proposal were sought when the statutory determination timescale allowed.

RIGHTS OF APPEAL

- (1) 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 against your local planning authority's decision then you must do so within 6 months of the date of this notice.

Appeals must be made 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

<https://acp.planninginspectorate.gov.uk>

The Secretary of State can allow a longer period for giving notice of an appeal but 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 the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

- (2) If permission to develop land is refused or granted subject to conditions, whether by the local planning authority or by the Secretary of State for Communities and Local Government, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he/she may serve on the Council of the county district in which the land is situated, a purchase notice requiring that Council to purchase his/her interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.