



## Proof of Evidence – Planning

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Appellant: Mr. Andrew Calvert

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# Minerals Waste Environment

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## 1.0. Introduction

1.1. I, Christopher Heffernan, have been instructed by the Appellant, Mr. Andrew Calvert of A.D Calvert Architectural Stone Supplies Ltd (Calverts), to prepare a proof of evidence regarding planning matters, for the benefit of The Planning Inspectorate, pertaining to the refusal of planning application: 23/00829/MCF.

1.2. I am a Chartered Town Planner, Member of the Institute of Quarrying, Fellow of The Geological Society and Managing Director of The Mineral Planning Group Ltd (MPG) – a specialist minerals and waste planning consultancy.

I am a specialist on minerals and waste planning matters and their ancillary developments, with a particular specialism in building stone sites in the north of England. I also prepared the course content for the Institute of Quarrying's course 'Mineral Planning for Mineral Planners' and attend as a guest lecturer accordingly. The course teaches the principles of mineral planning to both Mineral Planning Authority Officers and Private Sector Specialists.

1.3. I act for a diverse range of developers, planning authorities and private landowners across the United Kingdom on projects ranging from small scale dimensional stone extraction sites, through to city-centre industrial development schemes. I have provided evidence as an expert witness on minerals / waste and their ancillary planning matters for both the private and public sectors.

1.4. This report is based on my professional judgement and constitutes my true and complete professional opinion. The evidence which I have prepared and provide for this appeal is true and has been prepared, and is given in accordance with, the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

## 2.0. Scope of Evidence

- 2.1. My evidence addresses the planning policy framework (as set out in the Development Plan and national policy) against which the appeal scheme is to be assessed. It should be read together with the proofs of evidence of Mr. Radek Chanas (Landscape) [ID16] and Mrs. Erica Kemp (Biodiversity) [ID18] on whose conclusions I rely with regard to matters within their expertise.
- 2.2. My evidence will ultimately draw a conclusion on the overall planning balance and need for the proposed development, with particular regard to the absence of such an assessment in the delegated report [03-03] issued by Bradford Metropolitan District Council (BMDC).

## 3.0. Background

- 3.1. Calverts are a family owned and operated architectural stone company headquartered in Leyburn, North Yorkshire. They operate building stone quarries and a stoneyard that produces high-grade building stone products for heritage and new-build construction schemes requiring natural stone finishes.
- 3.2. The Appellant identified Horn Crag Quarry as a potentially viable building stone deposit to complement their existing supplies in 2018 after reviewing English Heritage Stone Survey records which noted it as being such. Thereafter, Calverts undertook a suite of environmental assessments, public consultation and received (positive) pre-application advice from BMDC with regards to reopening the quarry for the release of natural building stone products.
- 3.3. A planning application which was essentially the same as the appeal scheme was submitted in 2022 but withdrawn after officers advised the applicant that they would move to refuse the application without the benefit of winter ecology surveys and could not postpone determination until their receipt.

- 3.4. A subsequent planning application was submitted in March 2023 (23/00829/MCF) [01-06], with the benefit of the winter ecological surveys, and refused by planning officers under their delegated powers in May 2023 [03-04].

#### 4.0. The Appeal Site

- 4.1. The Site is located approximately 2km to the northeast of the centre of Silsden and approximately 3km to the southwest of the centre of Addingham, as shown in drawing ref: 232/5 - 1 – Location [00-01].
- 4.2. The Site occupies an area of approximately 5.9ha, which includes a short access track to Fishbeck Lane, though the proposed area to be extracted would be some 3.92ha. The Site is currently characterised as a disused quarry comprising the former quarry area, rough pasture, areas of naturally regenerated heathland, and wooded areas on the western boundary. It is common ground between the Council and Appellant that some 3Ha of the Appeal Site has been worked.
- 4.3. The bedrock beneath the Site is the Middleton Grit Unit of the Silsden Formation (Millstone Grit Group). The Middleton Grit Unit is described by the British Geological Survey (BGS) as a “*coarse-grained sandstone (grit)*” and in some areas has a thickness of “circa 70m”. The Middleton Grit Unit was deposited in the Carboniferous period, between 324 and 328 million years ago.
- 4.4. The Site is surrounded on all sides by agricultural fields, with a small equestrian field abutting its western boundary.

#### 5.0. History of The Appeal Site

- 5.1. The Site has been worked, intermittently, since the 19<sup>th</sup> century but has never had the benefit of a planning permission.
- 5.2. The planning history is set out in the Statement of Common Ground [ID-04].

- 5.3. The current planning application differs from historic mineral planning applications at The Site as it contains a proposed stand-off from groundwater / drinking water resources informed by modern hydrogeological investigation and exploratory drilling works, a modern restoration scheme driven by biodiversity enhancement, HGV routing strategy avoiding Silsden and has been designed using modern quarry design principles such as rolling restoration and phased extraction which I have seen no evidence that the historic schemes included.
- 5.4. This scheme is for a building / dimension stone quarry and would involve only a very limited amount of screening of historic mineral waste initially to make the Site operational. All processing of dimension stone would take place off-site at the applicant's processing yard. Additionally, a routing agreement is proposed such that HGVs would not pass through the centre of Silsden which is understood to have occurred when the Site was run (without the benefit of planning permission) in the mid-late 1980s.

## 6.0. Relevant NPPF Policies [05-01]

6.1. 215 – *“It is essential that there is a **sufficient supply** of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and **can only be worked where they are found**, best use needs to be made of them to secure their long-term conservation.”* [my bolding]

6.2. 216 - *“Planning policies should:*

*“provide for the extraction of mineral resources of **local and national importance...**”*[my bolding]

6.3. 217- *“When determining planning applications, **great weight should be given to the benefits of mineral extraction, including to the economy.** In considering proposals for mineral extraction, minerals planning authorities should:*

*[...]*

*f) consider how to meet any demand for the extraction of building stone needed for the repair of heritage assets, taking account of the need to protect designated sites; and*

*g) recognise the small-scale nature and impact of building and roofing stone quarries, and the need for a flexible approach to the duration of planning **permissions** reflecting the intermittent or low rate of working at many sites.”*[my bolding]

6.4. NPPG 27-016-20140306 - *“What are the environmental impacts of mineral extraction from building stone quarries?*

*Mineral planning authorities should recognise that, compared to other types of mineral extraction, most building stone quarries are small-scale and have a far lower rate of extraction when compared to other quarries. This means that their*



*local environmental impacts may be significantly less. Such quarries often continue in operation for a very long period, and may be worked intermittently but intensively (“campaign working”), involving stockpiling of stone.”*

## 7.0. Relevant Development Plan mineral policies [06-02]

7.1. Policy EN9 – *“A. Proposals to open up a new minerals extraction site on previously undeveloped land will be supported in principle provided that all of the following criteria are met:*

*1. For the protection of the South Pennine Moors SPA, avoid and/or mitigate loss or deterioration of important foraging land within the SPA’s zone of influence.*

*2. The proposal accords with the policy for the specific mineral proposed to be extracted, as set out in policies EN10 and EN11, and;*

*3. The development would not result in unacceptable adverse impacts on people or the environment in terms of pollution, flooding or land stability risks, or harm to amenity, heritage assets or their settings, or harm the character of the landscape, taking into account the cumulative effects associated with all existing or approved developments affecting the area and the environmental criteria set out in other Local Development Plan Policies, and;*

*4. The development would not lead to a long-term net loss of biodiversity, to the loss or significant deterioration of any irreplaceable habitats, or to the permanent disruption of a significant ecological network, and;*

*5. One of the following circumstances applies: i. It is not reasonably practical for physical, economic, or environmental reasons to reopen or extend any existing workings under the applicant’s control, or; ii. The specific qualities of the mineral reserve proposed to be extracted will meet an identified need that could not be met through the extension or re-opening of existing workings under the applicant’s control, or; iii. The mineral resource proposed to be extracted would otherwise be sterilised by another form of development.*



*B. Proposals to open up a new minerals extraction site on previously developed land, re-open a disused minerals extraction site, or extend an existing minerals extraction site, will be supported in principle provided that all of the following criteria are met:*

*1. For the protection of the South Pennine Moors SPA, avoid and/or mitigate loss or deterioration of important foraging land within the SPA's zone of influence.*

*2. The proposal accords with the policy for the specific mineral proposed to be extracted, as set out in policies EN10 and EN11, and;*

*3. The development would not result in unacceptable adverse impacts on people or the environment in terms of pollution, flooding or land stability risks, or harm to amenity, heritage assets or their setting, or harm the character of the landscape, taking into account the cumulative effects associated with all existing or approved developments affecting the area and the environmental criteria set out in other Local Development Plan Policies, and;*

*4. The development would not lead to a long-term net loss of biodiversity, to the loss or significant deterioration of any irreplaceable habitats, or to the permanent disruption of a significant ecological network, and;*

*5. If the proposal is to extend an existing minerals extraction site: existing permitted reserves are close to exhaustion and those parts of the existing site which it is practicable to restore, without unreasonably constraining future minerals extraction activity, have been restored."*

7.2. Policy EN10 – *"A. Within the area of search identified in the Allocations DPD proposals for the extraction of sandstone where the proposed reserves will primarily be used for the production of high-quality building, roofing or paving stones will be supported in principle.*

*B. When considering the merits of proposals for new or extended building, roofing and paving stone quarries, any evidence that the proposal would result in an*

*increased supply of particularly scarce building, roofing or paving stones, such as stone slates, riven flags, or matching stones needed for the repair of historic buildings or monuments, will be accorded significant weight.*

*[...]*

*E. The following criteria shall be used to identify areas of search for building, roofing and paving stone quarries:*

- 1. Locations within the potential resource area identified by the British Geological Survey;*
- 2. Locations outside of areas where the natural environment is protected under national and international statutory designations;*
- 3. Locations outside of areas where further minerals extraction activities would be likely to lead to the loss or significant deterioration of any irreplaceable habitats, or to the permanent disruption of a significant ecological network;*
- 4. Locations outside of urban areas, except for open land adjacent to existing urban quarries.*

7.3. There is an overarching principle, throughout Section 5 (Minerals) of the BMDC Core Strategy, delivering upon the requirements of NPPF paragraph 216 (formerly 210), that new building stone deposits will be supported by the Council subject to them being sustainable and giving rise to no unacceptable impacts upon the Environment or Amenity.

7.4. This overarching principle of support for the delivery of new building stone reserves, whilst not prescribed a direct weighting, is defined as a ‘responsibility’ of the Council at:

*“Supporting new investment in minerals extraction is both **a responsibility**, in terms of Bradford playing its part in supplying the raw materials necessary for*

*economic growth, but also an opportunity, in terms of enhancing Bradford's reputation as a supplier of high-quality building materials and increasing skilled employment particularly in rural areas..."*

- 7.5. The Core Strategy recognises that delivering the aims of policy EN9 and, as such, the Council's 'responsibility' to secure sufficient building stone reserves, can only be met if a diverse range of mineral resources are brought forward by industry during the plan period:

*"Successful implementation is reliant on a sufficient range of potential minerals extraction sites and existing voids remaining available to allow sites to be selected which are capable of meeting the specified environmental criteria..."*

## Policy Analysis

8.0. In this section, I consider the issues raised in national and development plan policy thematically. I start with the question of need for minerals generally, before addressing the need for Middleton Grit in particular. I consider the relevance of the national policy on the location of minerals, before turning to the more specific locational criteria found in the policies of the development plan. Having drawn my own conclusions about compliance with the development plan and national policy, I then comment on the approach taken by the BMDC, as expressed in the officer's report.

### Need

- 8.1. Starting with need, the NPPF recognises the Importance of ensuring a sufficient supply of minerals, and requires planning policies to provide for the extraction of mineral resources of local and national Importance. BMDC are not simply encouraged to maintain a sufficient supply of minerals in this regard, the NPPF states that it is essential that they do so.
- 8.2. This advice is directly relevant to this appeal, which is for the extraction of Middleton Grit (or *Horn Crag Stone*, as it is sometimes referenced by the British Geological Survey). Middleton Grit is recognised in the BGS Building Stone Atlas as being used for kerb, flag and building stone end uses. Both flag stone and building stone (from the north of the District) are identified by the Council as being scarce resources.

8.3. Figure 1.0 is an excerpt from the monitoring table applicable to Core Strategy Policy EN10.

OUTCOMES	INDICATORS	TARGETS
The level of output of building, paving and roofing stones from the District is maintained at least at current levels.	Output levels of building and paving stones from quarries with District assessed through an annual local building stone survey. IND18(EV)	Trend in total quantity of building and paving stone output, as plotted over 3 year periods, to be positive or neutral. IND18(EV)
The quantity of permitted reserves of sandstone within the District of suitable quality to produce building, paving or roofing stones is maintained at least at current levels.	Reserve levels for quarries with District assessed through an annual Local Aggregates Assessment. IND19(EV)	Trend in permitted reserves of sandstone within District, as plotted over 3 year periods, to be positive or neutral. IND19(EV)

*Figure 1.0 – Output, Indicator and Target Table EN10*

BMDC are unable to provide a copy of the latest (or any recent) building stone survey, most recently (19/01/2024) stating to the Appellant via email - *“The Annual Local Building Survey is not available as this data is not collected as part of the Local Plan monitoring process...”*. However, the stated intended outcome of policy EN10 is that permitted reserves of building stone are maintained at ‘current’ (2017) levels throughout the plan period and ‘sandstone’ reserve trends be ‘positive or neutral’. It is therefore telling that the number of sites producing building stone has significantly reduced since the Core Strategy was adopted.

8.4. In this regard, BMDC consider it had 8 active sites at the point of adoption but do not provide any further detail in the Core Strategy. Since 2017, however, several of the District’s building stone quarries have closed, become dormant, or, sought allocation / planning permission for non-minerals development. In particular:

- **Bolton Woods Quarry** – Allocated for residential development, outline planning permission granted for 700 homes, currently hand ‘delving’ nominal tonnages of flag stone in the interim.

- **Deep Lane Quarry** – Extraction ceased, only restoration activities permitted.
- **Apperley Lane Quarry** – Extraction ceased.
- **Fagley Quarry** – Closed, residential development built out (some 600 units).
- **Hainworth Shaw Quarry** – Dormant and ‘mothballed’, nominal potential reserves remaining, no visible extraction since, at least, 2009.

8.5. As a result, there are now only two other active quarries in the District supplying ‘significant’ tonnages of building stone for walling and architectural purposes, namely Naylor Hill Quarry and Bank Top Quarry. Of these two, I am aware that a significant extension has been granted to Naylor Hill Quarry in Haworth, and that it currently works a ‘multi-tone’ or ‘hartstone’ deposit (see Figure 2.0).



*Figure 2.0 – Naylor Hill ‘multi-tone’ building stone*

8.6. Whilst this is locally important in its own right (and is regularly specified by architects for its striking patina) this is not within the Middleton Grit and is not a consistently buff gritstone such as that encountered at Horn Crag, from which the surrounding towns and villages are built. This can be seen from Figure 3.0, which shows Horn Crag’s position relative to Bank Top Quarry and Naylor Hill Quarry. Horn Crag is situated in the Middleton Grit in the north of the District with Bank Top and Naylor Hill located in the Midgley and Rough Rock Deposits in the West of

the District.

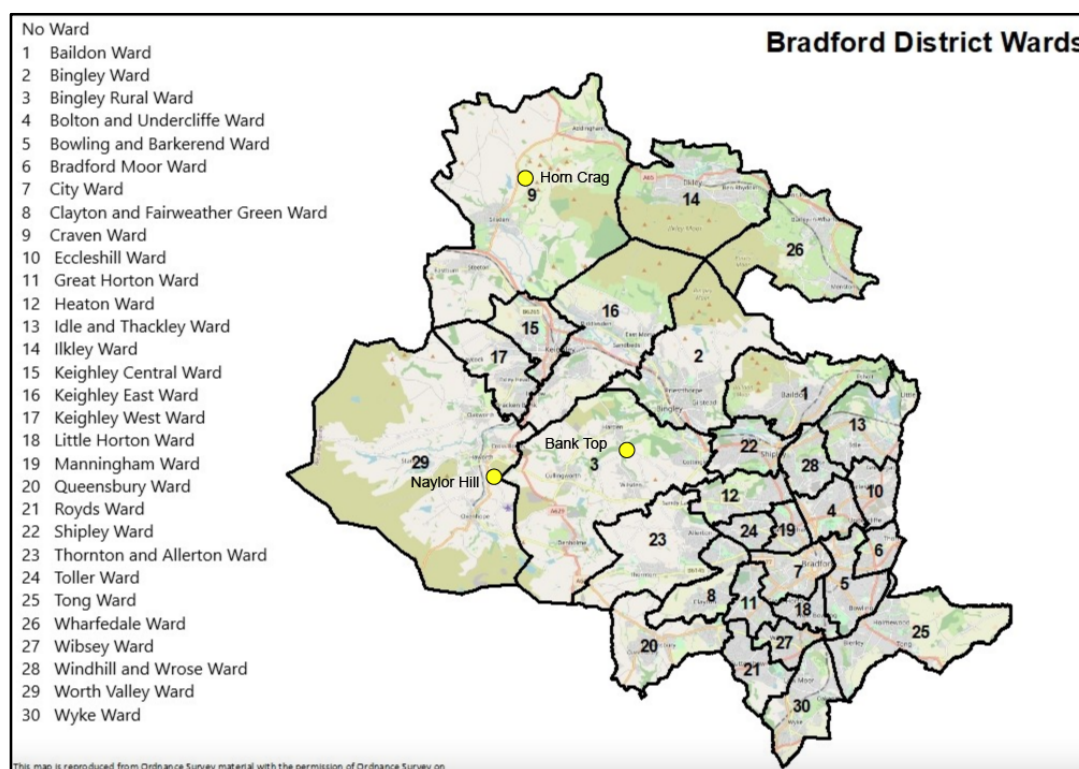


Figure 3.0 – Horn Crag Relative Position

- 8.7. It follows that there are no active mineral sites capable of supplying the, scarce, building stone materials Horn Crag would provide. The highly localised variance in Millstone Grit Units is recognised in the Core Strategy’s direction to enable a ‘range’ of deposits to be selected during the plan period.
- 8.8. Significantly, both Naylor Hill (including the 2019 extension) and Bank Top Quarry were operational when the latest BMDC Minerals Background Paper and Evidence Report was prepared in 2021 [06-04], but the report still concluded that there was a lack of coarse grained ‘gritstone’ walling, suitable for use in settlements to the north of the District. Dealing generally with the Importance of local stone, the report observed that:

*“The need for natural stone building materials within the district is integrally linked to housing, built heritage and design policy objectives set out elsewhere in the Local Plan. The most significant element of building, roofing and paving stone*



*demand is from new build projects, including new housing developments and public realm projects.”*

*[...]*

*“It is difficult to quantify this need for stone to deliver other policies within the Local Plan. However, **it is evident that the sustainable delivery of housing, design and public realm policies is linked to the maintenance of sufficient supplies of local natural stone building materials over the plan period.**”*

In terms of need, paragraph 3.4.11 stated [our bolding]:

*“To inform the development of minerals policies in the Core Strategy, the Council’s Design and Conservation Team produced a report discussing the relationship between the built heritage of the district and the availability of minerals resources. The report notes that the character of the settlements within Bradford and the ‘sense of place’ of the inhabitants is primarily derived from the use of local building stone materials and that the use of artificial stone, brick or contrasting materials can dilute local character and result in the loss of a sense of place.*

*The report goes on to note that there are only a limited number of operational quarries supplying building stone with appropriate aesthetic characteristics for use within the District. **The scarcity of supply of coarse grained ‘gritstone’ walling, suitable for use in settlements to the north of the district, and stone slate roofing are particularly highlighted.** Concerns are raised that the natural stone materials currently imported from outside the district can have subtly different aesthetic characteristics to local stone, in terms of colour, texture and course thickness. **The report concludes that there is a clear need for greater availability of local stone for local use, and that particular emphasis should be placed on increasing supplies of roofing stone.**”*

- 8.9. A striking example of how the Core Strategy is not delivering on providing both a sufficient supply and diversity of building stone materials within the District is that

residential schemes, including new development in Silsden itself<sup>1</sup>, are currently being constructed with imported sandstones originating from the Yorkshire Dales National Park as a proxy for the absent local mineral deposits.

- 8.10. In summary, without the provision of any data to the contrary (such as an up-to-date building stone survey) but with clear evidence that several of the District's building stone sites have closed or can no longer make a significant contribution to building stone supplies, it is apparent that the District is not currently maintaining reserves of building stone as intended, and cannot demonstrate the level of indigenous building stone supply that it could upon adoption of the Strategy. It follows that there are insufficient reserves, and that new reserves will need to be consented, in order to comply with para 215 (formerly 209) of the NPPF.
- 8.11. The appeal site would contribute some 500,000 tonnes of locally distinctive building stone in this regard. The economic benefits of this are those ordinarily associated with mineral sites, including direct 'on-site' employment and safeguarding of 'supply chain' jobs (HGV drivers, stone masons, plant / machinery operatives). It is accepted that the small-scale nature of the site means on-site employment will be limited to 3-5 members of staff, nevertheless, this will be in a rural location where the benefit derived from the provision of new roles is amplified. However, the economic benefits extend beyond this, to the builders and construction companies that require local stone for local construction projects.
- 8.12. In the light of para 217 (formerly 211) of the NPPF, great weight should be given to the benefits of this. In addition, the extraction of local stone has heritage and landscape benefits through the maintenance and reinforcement of local architectural styles.
- 8.13. These conclusions are also highly relevant when it comes to Policy EN9. In

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<sup>1</sup>Including a No.44 home scheme on Hainsworth Road, Silsden – BMDC ref: 22/04827/MAR

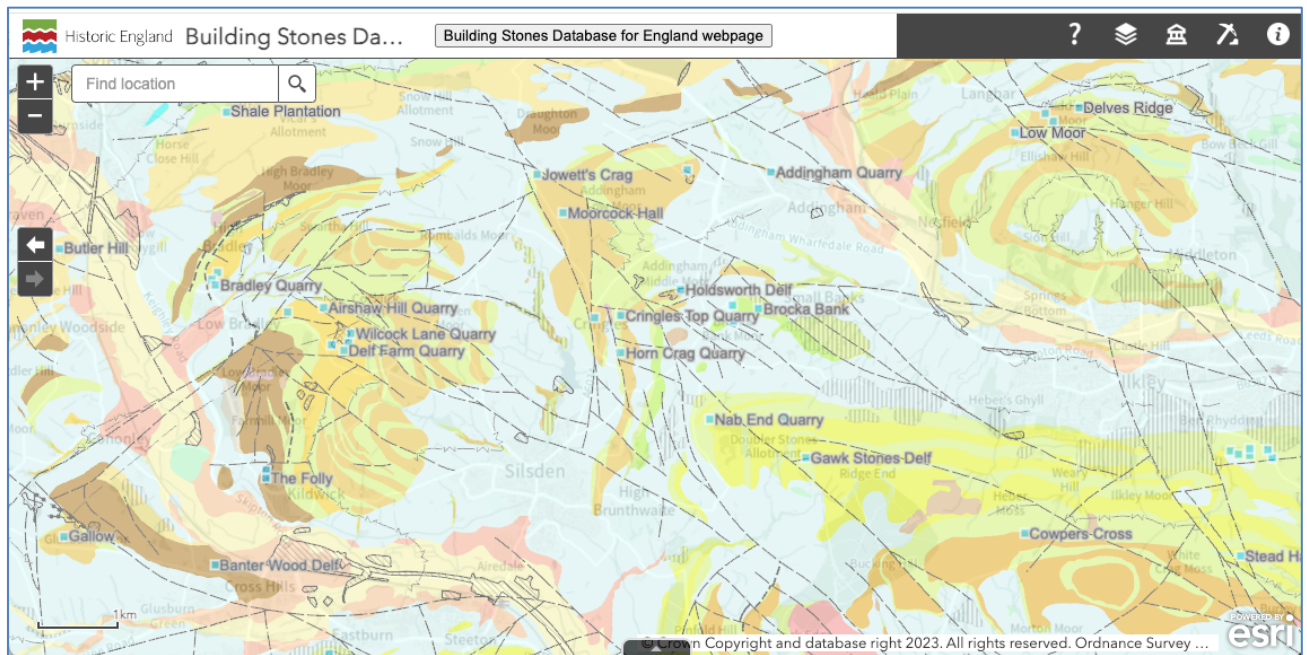
particular paragraph 5.5.2 of the Core Strategy notes that:

*“The primary purpose of policy EN9 is to support new investment in minerals extraction within the District...”*

- 8.14. Therefore, it is reasonable to conclude that the aspects of EN9 to which the greatest weight should be applied are those which seek to deliver new investment in minerals extraction.

Locations Guidance: Working Minerals Where they are Found

- 8.15. As the NPPF observes, minerals can only be worked where they are found. That advice has a particular resonance in the present case, where we are concerned with the need for Millstone / Middleton Grit, which is found in upland areas due to its comparative resistance to erosion. It will therefore, almost always, be worked upon and from an elevated topographic feature.
- 8.16. In the present case, the outcrop at Horn Crag quarry constitutes one site amongst many former quarries along a linear outcrop stretching several miles from Silsden / Addingham to Guiseley (Figure 4.0).



*Figure 4.0 - Historic England Building Stone Database Excerpt*

- 8.17. The appendix to the Appellant's supporting statement entitled 'Heritage Stone Survey' [01-16] demonstrates the inextricable link between this local outcrop of the Millstone / Middleton Grit Group and the built vernacular of the surrounding towns and villages.
- 8.18. What the spread of historic building stone sites along this zone of outcrops demonstrates is that local building stone resources are tightly constrained to the upland outcrops of the Millstone Grit Group. This is where the mineral is found, and it is therefore the only place where it can be worked.
- 8.19. This is relevant, not only to the explanation for the choice of Horn Crag, but also for any assessment of the likely Impacts of extraction on landscape. As noted above, the Millstone Grit is typically found in upland areas and elevated topographical features. It is therefore not realistic to expect that this particular mineral can be supplied without some impact on a landscape of this kind.

#### Detailed Locational Criteria

- 8.20. The Core Strategy directs applicants to only submit planning applications when

they have reviewed the Development Plan as a whole:

*“All prospective minerals developers are advised to fully review the Local Development Plan during the preparation of development proposals and consider whether sufficient information is being provided to demonstrate that all relevant environmental criteria are satisfied...”*

8.21. In the present case, the Appellant received an EIA Screening Direction [01-04] and detailed Pre-Application response [01-02] from BMDC to inform the planning application and ensure that the supporting statement was prepared in the context of the entire Development Plan and relevant Legislation. The EIA Screening Direction Concluded:

*“Having completed the screening exercise, for the reasons given above and in the attached appendix, the Planning Authority considers that the proposed development is unlikely to have significant effects on the environment.”*

8.22. Relevant (direct) excerpts from the Screening Direction with regards to the site’s ability to give rise to potentially unacceptable environmental / amenity impacts (in the context of EN9 and EN10) are:

- *The site is not within a ‘sensitive area’...*
- *Noise, vibration and dust expected from the extraction activities, however it is not considered to be significant or long term. Mitigation of any noise, dust, vibration can be achieved through the planning application/conditions.*
- *It is considered that there are not likely to be any significant effects to human health.*
- *The site is a ‘greened over’ former quarry. The potential for impact in terms of the location of the development is not significant.*
- *The proposal is not within any sensitive location and the impacts on natural*

*resources, bar the extraction itself are limited. The proposal is not within or adjacent to any national environmental designation, but the site is part of the Bradford wide Ecological habitat network and is within 2.5km of the South Pennine Moors SPA, where use of the land by foraging birds from the SPA needs to be considered; there may be some impact, but it is not considered significant and it is considered that it [can]can't be mitigated and/or controlled via planning conditions and/or obligations*

- *The magnitude and extent of the proposal on human health, population, biodiversity, land, soil, water, air, climate, material assets, cultural heritage and the landscape are likely, however these impacts with appropriate mitigation measures are unlikely to give rise to any significant environmental effects*
- *It is not considered any operational impacts are likely to carry significantly beyond the proposal site.*
- *The magnitude and complexity of any impacts are not considered to be substantial due to the size of the development and volume per annum to be extracted.*
- *Most of the operational impacts are likely to be relatively localised and could be controlled by planning conditions*
- *The majority of the impacts on human health, population, biodiversity, land, soil, water, air, climate, material assets, cultural heritage and the landscape are temporary and of duration in line with a small scale dimension stone quarry. The majority of impacts associated with the quarrying can be controlled via planning conditions are not considered permanent.*
- *The majority of potential impacts are primarily localised and as such can be controlled via planning conditions*

8.23. The conclusion of BMDC pre-application advice was:

*"Your proposal appears, in principle, to form the basis of an acceptable application..."*

8.24. Therefore, it is readily demonstrable that the Appellant, prior to the submission of the application, had received a clear indication from BMDC officers that the foreseeable impacts of the development were small, localised and not unacceptable and furthermore that the proposals were in accordance with the Development Plan as a whole.

8.25. In my view, that advice was correct. Starting with Policy EN9, Section A of the policy considers only mineral extraction on undeveloped land, Section B of EN9 considers building stone extraction on PDL, disused mineral sites or extensions. Although (for the reasons I explain below) I consider the Appeal Scheme accords with Policy EN9 irrespective of whether it falls to be considered under Section A or Section B, there is disagreement between the parties as to whether the appeal site constitutes Previously Developed Land (PDL), and therefore as to which section is applicable.

8.26. In my view, the Appeal Site is not "undeveloped land" to which section A applies. Annex 2 of the NPPF defines PDL as:

*"Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures;"*

8.27. There was no provision made for the restoration of Horn Crag Quarry, therefore, by the definition above, the worked areas constitute PDL. Further, the Site is clearly a 'disused mineral extraction site', and therefore within the remit of Section B, rather than Section A.



- 8.28. In practice, however, I consider this argument academic, since Section A and B are duplicates of one another, save for the final section (paragraph 5) of each, and in my view the Appeal scheme complies with both.
- 8.29. Considering paragraph 1 of both sections: Whilst matters relating to Biodiversity are considered by other witnesses, it has been demonstrated through the provision of suitable ecological assessments and quarry design that the proposal does not conflict with this aspect of Policy EN9, this has been agreed by BMDC Biodiversity Officers (para 117 of the Officer's Delegated Report).
- 8.30. Considering paragraph 2: Policy EN10 is considered elsewhere in this proof of evidence, the conclusion being that the proposal is in accordance with the elements regarding the supply of building stone.
- 8.31. Considering paragraph 3 of both Section A and B; none of the reasons for refusal relate to:
- Flooding
  - Land Stability
  - Harm to Amenity (other than landscape impact)
  - Heritage Assets
  - Cumulative Impact
- 8.32. Matters relating to pollution (groundwater) are considered by other witnesses, nevertheless, they conclude, through the provision of Hydrogeological Risk Assessment and quarry design, that there is a suitable stand-off from drinking water supplies to demonstrate that there is no unacceptable adverse impact from pollution on groundwater. The Council has now accepted that these matters can be addressed by condition.
- 8.33. Matters relating to Landscape are considered by other witnesses, nevertheless, Mr

Chanas concludes that the proposals would not have an unacceptable impact on the landscape and that the scheme would assimilate into its surrounds upon restoration whilst retaining appropriate 'crag' features.

- 8.34. Considering paragraph 4 of both Section A and B; there is a requirement that there is no 'long-term net loss' in biodiversity resulting from a proposal to extract minerals, the appeal scheme does not conflict with this principle as it has been demonstrated that the site delivers a long-term net gain in biodiversity (i.e. upon completion of restoration as is ordinarily anticipated at a minerals site, especially a small-scale building stone operation).
- 8.35. Furthermore, there is a direction at paragraph 217 of the NPPF (paragraph g) that MPAs must take in to account the small-scale nature and low-rate of working at building stone quarries when determining planning applications and allow for a flexible approach to the duration of the planning permissions granted. Therefore, it is recognised in National Policy that the duration of building stone permissions is, relatively, long-term but that MPAs must be accommodating in this regard.
- 8.36. There is no definition of what long-term loss constitutes in the context of Policy EN9, but there is a recognition that building stone sites are, relatively, long-term operations at both paragraph 217 of the NPPF and paragraph 5.5.21 of the BMDC Core Strategy. It cannot be the intention of paragraph 4 of Policy EN9 to penalise building stone sites for being, relatively, long-term operations as the plan recognises that they are, by their very nature, and is ultimately supportive of new sites being brought forward during the plan period.
- 8.37. A recent example of BMDC providing a reasonable degree of flexibility, is in the granting of planning permission 18/03635/MAF, an extension to Naylor Hill Building Stone quarry in Haworth, for the same tonnage as is proposed to be extracted at Horn Crag Quarry, albeit over a marginally longer timescale (23 years as opposed to 20) and for a stone from a different geological horizon with strikingly different visual characteristics. As per Horn Crag's scheme, whilst habitats are implemented at the earliest opportunity, they may not reach target condition or be implemented in full, until late on in the scheme's lifecycle, as they

rely on mineral being exhausted before emplacement. Therefore, the Council is demonstrably familiar with the principles of restoration timescales at local building stone quarries.

8.38. In any event, in the context of building stone permissions, the appeal scheme is not long-term. Many building stone sites are worked intermittently, on a campaign basis<sup>2</sup>, and incur long-term end-dates to take account of this variability. This is not the case with the appeal proposal which would be worked consistently, utilising the extant demand for local natural stone products and the Appellant's established position in the market. Ultimately, the proposal delivers a net-gain in biodiversity through a sympathetic restoration scheme, not a net loss in biodiversity in the long-term which is what paragraph EN9 seeks to avoid.

8.39. Considering paragraph 5 of Section A:

- It is not reasonably practical for physical, economic, or environmental reasons to reopen or extend any existing workings under the applicant's control. None of the applicant's quarries are within BMDC or working the same geological horizons in any event.
- The specific qualities of the mineral reserve proposed to be extracted will meet an identified need that could not be met through the extension or re-opening of existing workings under the applicant's control. There is an identified need for the building stone encountered at Horn Crag that cannot be released from any of the Appellant's existing sites, all of which are outside the BMDC plan area in any event.

8.40. Considering paragraph 5 of Section B; this aspect does not apply to the appeal scheme as it is not an extant mineral reserve with permitted deposits.

8.41. Policy EN10 considers the supply of sandstone for both building stone and aggregate products in the District. The appeal scheme is a source of coarse grained 'gritstone' suitable for use in walling and architectural end uses, from the north of the District and is, therefore, afforded 'Significant Weight' by Policy EN10.

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<sup>2</sup> For example, hand delving for roofing and flagstone in small tonnages.

Paragraph 5.5.21 (a supporting paragraph to Policy EN10) of the BMDC Core Strategy provides further direction on the requirement for scarce building stone supplies but uses the term ‘support’ as opposed to outright ‘weight’:

*“Particularly strong support is offered to minerals development which would result in an increased supply of scarce building [stone]...”*

- 8.42. In terms of the detailed criteria in Section A, there is no extant Development Plan DPD, it is listed as a ‘Superseded’ document on BMDC’s Development Plan Webpage that has been overtaken by preparation of the new Draft Local Plan, currently at the preferred options stage (since February 2021). Where an Allocations DPD document does not exist, paragraph 5.5.20 of the Core Strategy directs that the location criteria under EN10(e) should be used to establish whether or not a scheme would likely fall within the area of Search. In this regard, the BGS Mineral Resource Information Document [11-33] that is referenced at Sentence No.1 of EN10(e) states [our bolding]:

*“Mineral resources defined on the map delineate areas within which potentially workable mineral may occur. These areas are not of uniform potential and also take no account of planning constraints that may limit their working. The economic potential of individual sites can only be proved by a detailed evaluation programme. Such an investigation is also an essential precursor to submitting a planning application for mineral working. Extensive areas are shown as having no mineral resource potential, but some isolated mineral workings may occur in these areas. The presence of these operations generally reflects local or specific situations.”*

*The maps are intended for general consideration of mineral issues and not as a source of detailed information on specific sites. The maps should not be used to determine individual planning applications or in taking other decisions on the acquisition or use of a particular piece of land.”*

- 8.43. It is clear that the intention of the Resource Map is high-level and indicative only and that, for the determination of planning applications, site specific evidence of

a building stone deposit should supersede the Map.

- 8.44. Considering Sentence No.2 of EN10(e); the appeal site is situated outside of any National or International Environmental Designation.
- 8.45. Considering Sentence No.3 of EN10(e); biodiversity matters are considered by other witnesses but they conclude that there would be no loss or significant deterioration of any irreplaceable habitats, or permanent disruption of a significant ecological network.
- 8.46. Considering Sentence No.4 of EN10(e); the site is situated outside of an urban area.
- 8.47. It is demonstrable that the appeal scheme would deliver a scarce building stone reserve from a location (where relevant) that receives support, from policy EN10 and has both 'Great' weight and 'Particularly Strong Support' afforded to its principles accordingly.

#### Conclusions on compliance with development plan and national policy

- 8.48. The appeal site complies with the locational criteria of the development plan, insofar that they are relevant.
- 8.49. Working the site would constitute the winning of building stone from a disused quarry which receives clear support from Core Strategy Policy EN9 and the scheme would deliver mineral recognised as being scarce across the District at Policy EN10 without causing unacceptable impacts upon the environment or amenity.
- 8.50. The appeal site complies with paragraph 215 of the NPPF by making 'best use' of a known, locally distinctive, mineral deposit and would deliver a significant tonnage of said minerals towards the District's obligation to maintain a 'sufficient supply'.
- 8.51. Whilst paragraph 216 of the NPPF pertains to the provision of appropriate development plan policies, the appeal scheme would provide locally important

mineral without conflicting with any of the criteria-based tests at 'a' through 'h' of paragraph 216.

- 8.52. The appeal scheme has great weight afforded to its benefits by paragraph 217 as it complies with the criteria based tests at 'a' through 'g'.
- 8.53. Therefore, I conclude that the appeal scheme complies with both the development plan and relevant National Planning Policies.

#### Comments on the Officer's Report

- 8.54. Across the Officer's delegated report [03-03], informing the refusal of planning application 23/00829/MCF [03-04], only two references are made to para 217 of the NPPF and neither of these instances goes beyond stating that such a direction exists. In my view, this does not apply due weight to any of the planning policies at a National or Local level pertaining to the benefits of mineral extraction or the supply of building stone, other than noting that they exist and are not sufficient to overcome the reasons for refusal.
- 8.55. The principal benefits of the appeal scheme are the provision of a locally distinctive natural building stone which is needed by the construction industry as well as the direct and indirect economic benefits which flow from the extraction. Both of these benefits should have had Great Weight applied to them in the determination process.
- 8.56. In this application of weight, direct regard should have also been given to the appeal site's 'small-scale nature and impact' – i.e. not only are the benefits important but they are delivered on a much smaller scale than would ordinarily be expected from mineral extraction. Again, other than referencing the policy's existence, the delegated report does not consider the benefits of the appeal site's small scale and modest rate of operations. The proposed extraction area at Horn Crag Quarry is just 3.92ha (<10 acres) and necessitates only 20HGVs per-week (4-5 a day) but delivers some 500,000 tonnes of building stone within 20 years.

8.57. Furthermore, the officer states that there is no need for the development as there are other sites within the district that can meet current building stone supply demands:

*"Although it is accepted there is a need for high quality dimension stone and walling stone, and that it is preferable that it is locally sourced, it should be noted that the stone is not a scarce mineral, it can be sourced from other quarries within the Bradford District/West Yorkshire and it is arguable there are areas within the Bradford District that are more suitable/sustainable to provide such stone."*

8.58. In my view, this conclusion is at odds with Development Plan Policies EN9 and EN10 and its Background Dataset, including the BMDC Minerals Background Paper and Evidence Report (2021) which states [our bolding]:

*"...there are only a limited number of operational quarries supplying building stone with appropriate aesthetic characteristics for use within the District. **The scarcity of supply of coarse grained 'gritstone' walling, suitable for use in settlements to the north of the district, and stone slate roofing are particularly highlighted...**"*

8.59. As I have explained, there are no sites in the north of the district, working the locally constrained Middleton Grit or otherwise, that can provide a consistently 'buff' coloured coarse grained sandstone / gritstone representative of the local built environment, hence the current local reliance on imports from incongruous geological deposits in north Yorkshire. I therefore consider the officer's conclusions on this were manifestly incorrect.

8.60. BMDC's position that there are "arguably" more suitable / sustainable locations from which to extract building stone of the same type as is found at Horn Crag within the District and West Yorkshire more broadly, is not supported by any evidence or examples.

8.61. Furthermore, the principle of relying on neighbouring mineral planning authorities to provide minerals, in spite of them existing within a MPA's Plan Area, could be



interpreted as the organised ‘managed retreat’ of mineral extraction, which has been found to be unsound during examination by the Secretary of State, for example during the Examination in Public of the Joint South Downs National Park and West Sussex County Council Mineral Local Plan (2017).

- 8.62. Based on surface area, land outside of urban areas in the north of the District, is dominated by the areas of land known as Ilkley and Baildon Moor and their associated South Pennine Moor SSSI designations. Other than the Middleton Grit outcrops exposed in, and underlying, the rural landscapes abutting Silsden and Addingham, it is not apparent where such “sustainable / suitable” mineral can be won from in the north of the District.
- 8.63. Horn Crag quarry is located outside of an urban area, any National or International Designation and upon an outcrop of locally scarce building stone. I am not aware in my capacity as a Witness to this Inquiry, my role as Director of a local Mineral Planning consultancy or as an expert in Regional building stone sites of any more sustainable / suitable location for the extraction of locally distinctive building stone that has been explored or permitted by BMDC in the exercise of their delegated powers.
- 8.64. I consider BMDC’s conclusion on need to be demonstrably incorrect.

## The Planning Balance

- 9.0. It has been established through common ground that the Council's reasons for refusal on matters relating to Hydrogeology can be overcome through the use of planning conditions.
- 9.1. Therefore, of the remaining reasons for refusal, as cited on the decision notice, the Council consider that the scheme conflicts with Policies:

### Landscape

- EN4, DS2, DS5, EN1 EC4 (F) and EN9 (3) of the Bradford Core Strategy
- The Landscape Character Assessment SPD for Rombalds Ridge
- SWES5 and SWES6 of The Steeton with Eastburn and Silsden Neighbourhood Development Plan

### Biodiversity

- EN2, EN9 and EN10 (3e) of the Bradford Core Strategy
- Paragraph 174 of the National Planning Policy Framework
- the Environment Act 2021

- 9.2. The Council summarise the appeal scheme's conflict with policies EN4, DS2, DS5 and EN9, and policies SWES5 and SWES6 of The Steeton with Eastburn and Silsden Neighbourhood Development Plan to:

*"...it is apparent that the proposal does not make a positive contribution towards the conservation, management and enhancement of the diversity of landscapes within the District of Rombalds Ridge. It is considered that the landscape impacts cannot be managed and the degree of change made acceptable; that the*

*proposal does not takes advantage of existing features, nor integrates into the wider landscape, nor retains existing landscape and ecological features; and that it will result in unacceptable adverse impacts and harm to the landscape and unacceptable harm to amenity, visual amenity and residential visual amenity"*

- 9.3. However, the conclusions of the Appellant's witness on Landscape are that the appeal site and the local landscape are of medium value and medium susceptibility to the appeal scheme. And that that the sensitivity of the host landscape to the appeal scheme would be medium and that the appeal scheme can be accommodated in the receiving landscape without any undue harm to its character, landscape attributes and landscape criteria.
- 9.4. Importantly, the site is not within a statutory designated landscape and does not constitute a 'valued landscape' in the context of paragraph 180 (formerly 174) to the NPPF. Therefore, I do not attach any more than moderate weight to the planning policies cited in the decision notice relating to landscape impact. Furthermore, there is no statutory direction to apply an increased weighting to these policies.
- 9.5. The Appellant's witness on landscape's findings also apply to EC4 (f) and EN1 insofar that they are relevant to landscape impact. I attach no more than moderate weight to the landscape aspects of these policies, in the absence of any indication to do so.
- 9.6. The Appellant's witness on landscape's findings are relevant to the Council's position that the Appeal scheme conflicts with the Landscape Character Assessment SPD for Rombald's Ridge, of which I am required to "*take account of*" but not apply any bespoke weighting to.
- 9.7. It is the Appellant's position that the scheme does not conflict with Development Plan, National Policies or other material considerations with regards to Landscape Impact. Nevertheless, should the Planning Inspectorate be minded to disagree with the Appellant's findings in this regard, I do not consider there to be any

justification to apply increased weight to the relevant planning policies concerning landscape impact.

- 9.8. Considering Biodiversity, the Council cite conflict with the Environment Act 2021 but do not state why other than:

*"...we consider the scale and timeframes for habitat loss and restoration to be unacceptable. The opening of the quarry, which has not been worked legally or extensively since the 1800s and has naturally regenerated to priority heathland and Bradford BAP grassland habitats would result in unacceptable habitat loss to the area for an extended period with risks to restoration that may result in delays to restoration. The application does not therefore comply with Policy EN2 of Bradford's Core Strategy, the NPPF or the Environment Act, 2021" [04-02]*

- 9.9. I can only conclude that this is in reference to the application of the DEFRA Metric Calculator which is the UK Government's adopted mechanism for establishing the extent of Biodiversity gain or loss resulting from a scheme. However, as this scheme was submitted prior to the requirement for mandatory Net Gains in biodiversity becoming law and there being a direction from DEFRA that the requirement cannot be retrospectively applied to schemes submitted before February 2024, reiterated in the recent *NRS vs Secretary of State for Levelling Up, Housing and Communities* High Court Decision<sup>5</sup> [10-01], I cannot apply any weight to that aspect (Mandatory BNG) of the Act against this appeal scheme.

- 9.10. The site is not subject to any national or international ecological designation, has not been designated as Local Wildlife Site and the Council accept that there are no losses of irreplaceable habitat. As such, I do not apply any increased weight to Paragraph EN2, EN9 or EN10 of the Core Strategy (insofar that they apply to Biodiversity).

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<sup>5</sup> *NRS Saredon Aggregates Ltd v Secretary of State for Levelling Up, Housing and Communities & Anor* [2023] EWHC 2795

- 9.11. I am of the same opinion regarding Paragraph 180 (formerly 174) to the NPPF and apply no increased weight.
- 9.12. As has been set out in in Sections 7 and 8 of this proof of evidence, there is a demonstrable current shortfall between the provision of building stone within the Development Plan Area and the demand.
- 9.13. The Council are not meeting the target of Core Strategy policy EN10, which is to maintain building stone output and reserves at, or above, 2017 levels. Furthermore, the Council are unable to provide monitoring data indicating that they are aware of what building stone reserves remain in the District.
- 9.14. There are currently no sites in the north of the District supplying stone that matches the built vernacular of the area, and construction in the District is relying on imports from neighbouring Mineral Planning Authorities.
- 9.15. The overriding implication of not permitting this scheme is that there would remain no indigenous source of building stone, distinctive to the north of the district, and the Council would continue to not meet its minimum target of maintaining building stone reserves at 2017 levels.
- 9.16. Therefore, I frame my weighting of policies relating to minerals development with this current background in mind.
- 9.17. Paragraph 215 of the NPPF directs that MPAs maintain a sufficient supply of minerals and, by their own metric, the Council are not meeting this direction with regards to building stone generally and have no supply of building stone from the north of the District whatsoever. I therefore, apply greater than moderate weight to this policy with regards to the appeal scheme as it would make a 500,000 tonne contribution towards the Council's requirement to maintain a sufficient supply.
- 9.18. Paragraph 217 of the NPPF explicitly requires Great Weight to be applied to the benefits of mineral extraction including those to the economy.

- 9.19. Policy EN9, being general to all types of mineral, does not directly consider building stone extraction. Nevertheless, as the appeal scheme is for minerals development, I attach moderate weight to it and give due regard to its criteria.
- 9.20. Policy EN10 directs that 'Significant Weight' be applied to schemes that facilitate the supply of scarce building stone products, such as those proposed to be won from Horn Crag Quarry.

### Planning Balance Conclusion

- 9.21. Considering that the Council and Appellant agree that matters relating hydrogeology can be suitably controlled by planning condition, the reasons for refusal on hydrogeological grounds no longer weigh against the proposed scheme.
- 9.22. The Appeal site is not within a statutory designated landscape and does not constitute a 'valued landscape', the Appellant's witness on this issue also concludes that any impacts upon the landscape are acceptable or can be made acceptable through mitigation measures.
- 9.23. The site is not subject to any national or international ecological designation, has not been designated as Local Wildlife Site and the Council accept that there are no losses of irreplaceable habitat. A net gain in biodiversity is also delivered in the long-term.
- 9.24. There is a clear and worsening issue with regards to the provision of indigenous building stone in the District and I am directed by National and Local planning policies to apply both great and significant (with regards to the supply of a scarce mineral) weight to the benefits of this scheme.
- 9.25. Therefore, I consider the planning balance to weigh significantly in favour of the Appeal Scheme.

## Conclusions

- 10.0. Minerals can only be worked where they are found and in the north of the BMDC District the building stone deposits are situated in elevated locations, such as the Appeal Site.
- 10.1. The mineral encountered at Horn Crag quarry is scarce and the provision of building stone from the scheme should be afforded Significant Weight accordingly.
- 10.2. There are no other quarries in the District working the mineral encountered at Horn Crag quarry - a 'buff', coarse grained, sandstone / gritstone.
- 10.3. Local construction projects are relying on imports of building stone from National Parks as a proxy for local reserves in their absence.
- 10.4. The District has fewer active building stone sites than it had upon the adoption of the Core Strategy and, as such, cannot demonstrate that there are sufficient reserves available for the maintenance of local distinctiveness.
- 10.5. The benefits of mineral extraction are afforded Great Weight by the NPPF and BMDC did not duly apply this weight against apparent policy conflicts regarding Amenity and the Environment.
- 10.6. BMDC's conclusion that there is no need for the development due to a prevalence of existing quarries and existing reserves is, manifestly, incorrect.
- 10.7. BMDC has an outright absence of mineral reserves that are suitable for use in the north of the District as is recognised by their Minerals Background Paper and Evidence Report (2021) [06-04] with no alternatives to a scheme such as Horn Crag in place.



10.8. Evidence from other witnesses demonstrates that there are no unacceptable impacts to amenity and the environment, nevertheless and in any event, on balance, a combination of:

- Great Weight afforded to the scheme's benefits (NPPF)
- Significant and Great Weight afforded to the scheme's benefits (BMDC EN10)
- The Scarcity of the mineral reserve (a building stone in the north of the District)
- An overall declining stock of building stone reserves in the District
- No comparable deposits within the District
- Importation of proxy building stone from National Parks
- The sustainability and suitability of the scheme's location

Outweighs any residual impacts upon amenity and the environment, applicable to most mineral extraction schemes, which are not considered to be material in nature and can be readily controlled or mitigated by planning condition.