

**DERBYSHIRE COUNTY COUNCIL**  
**REGULATORY – PLANNING COMMITTEE**

**10 November 2014**

Report of the Strategic Director – Economy, Transport and Environment

**2 PROPOSED RECOVERY OF SECONDARY AGGREGATES,  
OPENCAST COAL AND ANCILLARY DEVELOPMENT AT  
HARTINGTON RECLAMATION, FARNDALE ROAD,  
STAVELEY  
APPLICANT: TAWNYWOOD LTD  
CODE NO: CM2/0911/81**

**2.608.6**

**Introductory Summary** The proposal is for the recovery of approximately 872,250 tonnes of foundry tip material as secondary aggregate and the extraction by open cast methods of approximately 87,119 tonnes of coal at the Hartington reclamation site and the subsequent reclamation of the land to development platforms suitable for use as employment land.

I have considered the potential effects of the development associated with noise, dust, landscape and visual impacts, the effects of Heavy Goods Vehicle (HGV) traffic, ecology, archaeology, water resources and issues of general amenity. In all these areas I have concluded that the effects of the development are acceptable or can be made acceptable by means of conditions and legal obligations. I have paid particular attention to the impacts on ecology and the loss of habitat as a result of the working of the former foundry tips, and am satisfied that, subject to the successful implementation of the proposed on and off-site mitigation measures, there would be no net loss of habitat as a consequence of this development, (Agenda item no.3 details the off-site mitigation measures).

I have assessed the proposals in terms of the County and local policy framework, national planning guidance and other material considerations. Having regard to all relevant considerations, I recommend that planning permission be granted subject to the conditions and obligations set out in the Officer's Recommendation.

**(1) Purpose of the Report** To enable the Committee to determine the application.

(2) **Information and Analysis** This report relates to a proposal for the recovery of approximately 872,250 tonnes of foundry tip material as secondary aggregate and the extraction by opencast methods of approximately 87,119 tonnes of coal at the Hartington reclamation site and the subsequent reclamation of the land to 17.64ha of development platforms suitable for employment use.

### **Site and Surroundings**

The Hartington reclamation site is 200m (m) to the north-east of Staveley and 700m to the east of Barrow Hill. The site, which is bisected by the River Rother in a rough north to south direction, is bounded by the Chesterfield to Rotherham railway line to the north, the Seymour junction mineral branch railway to the south and west, and the Hartington Industrial estate to the east. Agricultural land lies to the north with the more urban areas of Staveley and Barrow Hill to the south and west. To the south-west sits the former Hall Lane landfill site and, beyond that, an area of derelict land which was formerly occupied by the Staveley works complex. Foxlow Tip, which was itself recently the subject of operations to recover secondary aggregate and also extract coal and brick clay, is to the north of the site.

The site is accessible from Farndale Road with the eastern and western areas linked by a single track road bridge which crosses the River Rother.

The application site, which has a surface area of 26 hectares (ha), has contained a mix of previous uses including as a tipping area for foundry waste, a coating plant, a colliery tip, and contains vacant platforms provided for industrial and commercial developments. That part of the site which sits to the west of the River Rother contains former foundry tips (in its northern and western sections), a dismantled coatings plant, and its associated infrastructure (in its centre). In recent years, the foundry tips have been subject to intermittent, and unauthorised, working for secondary aggregates. The central area is characterised by bare ground, which has been subject to regular disturbance by plant and vehicles, whilst the foundry tips have been colonised by open mosaic habitats comprising of ephemeral/short perennial vegetation with pockets of grassland and birch scrub. The western area also has two ponds. The site to the east of the River Rother is made up from unoccupied industrial plots and the restored former Hartington Colliery Spoil tip. The area is dominated by neutral grassland. Overall, strips of naturally generated woodland are located around the site's periphery, particularly along its north-east and south-east boundaries, and along the banks of the River Rother.

The site is in the flood plain of the River Rother and is in the South Yorkshire, Nottinghamshire and Derbyshire Coalfield Riverside Meadows Landscape Character area. The site is not affected by any public rights of way. The site is

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immediately adjacent to the Green Belt as identified in the Chesterfield Borough Local Plan: Core Strategy (CBCS).

There are no nature conservation or cultural heritage designations within the site although there are a number close by, i.e. Moss Valley Site of Special Scientific Interest (SSSI), of interest for its invertebrate assemblages, reptiles and breeding birds, is 3.9 kilometres (km) to the north, Brearley Wetland Local Nature Reserve (LNR) is 2.7km to the west, whilst Norbriggs Flash LNR is approximately 0.6km to the east. Of the non-designated sites in the area, the Breck Farm Watermeadows Local Wildlife Site (LWS) is approximately 350m to the north. A potential LWS (PLWS), Staveley Sewage Works Flash, is 0.7km to the north-east.

### **Planning Background**

Historically, the area situated to the east of the River Rother formed part of the Hartington Colliery complex and included a section of the pit head, as well as former colliery tips. Planning permission (CHE/691/414) for the extraction of colliery shale and the restoration of the site, to levels suitable for industrial development at the former Hartington Colliery Tip, was granted by Derbyshire County Council in 1994.

The land to the west of the river is occupied by extensive tips consisting primarily of foundry waste from the Staveley Iron Works.

Following the submission of the current application, a corresponding application for outline planning permission for the redevelopment of the Hartington Reclamation site as employment land was submitted to Chesterfield Borough Council in 2013 (application code no: CHE/13/00675/OUT). The application was approved by the Borough Council on 26 August 2014 with a requirement, inter alia, for the development to not be commenced before the completion of the proposals set out in this application, together with a series of conditions according with and reinforcing the proposed conditions set out at the end of this report.

### **The Proposed Development**

The proposed development is to recover approximately 872,250 tonnes of secondary aggregate from the former foundry tips and to excavate the land at four separate locations in order to recover approximately 87,119 tonnes of coal from the Hartington reclamation site over an approximate six year period. The secondary aggregate would be used to supply the construction material market for use in a range of products including granular fill, drainage stone, road sub-base and concrete block making. The coal would be intended for use within the UK energy industry.

Preliminary operations would involve the construction of the ancillary facilities, the processing area and the settlement lagoons. All site accommodation,

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wheel washing facilities and weighbridge would be located at the end of the private road, immediately to the west of the River Rother. Site accommodation would include a site office, canteen, welfare facilities, workshop and fuel and oil storage and would be temporary in nature. The applicant intends to retain the existing septic tank foul water disposal system for the duration of the development. External lighting would be required for the site support area during the winter months. The lights would be wall mounted at a low level and directed away from the river bank and adjacent woodland. The processing area would initially be located close to the southern end of the site, although it is the applicant's intention to move the processing plant around the site as the development proceeds. The settlement lagoons, which would be retained for the duration of the development, would be located towards the north of the western half of the site.

The site would be progressively worked and restored in four main phases and would be worked in a clockwise direction. Coal extraction operations and the excavation of the foundry tip material would commence in the south-eastern corner of the site before progressing northwards. At the end of each phase of extraction, the relevant part would be subject to landscape reforming using overburden from the development, thus enabling the site to be restored on a progressive basis.

Other operations associated with the development would include the diversion of the River Rother and the construction of a new bridge within the previously worked Phase 1 area (during Phase 2) and the construction of a new access road from Farndale Road (during Phase 3). It is not anticipated that the new road would be taken into use until Phase 4.

The removal of the tip material and the coal extraction operations would be undertaken using a backhoe excavator. Extracted material would be transported to the processing area by a rear tipping articulated dump truck. Once at the processing area, the tip material would be crushed and screened for export from site to market. Material unsuitable for use as secondary aggregate would be tested to determine whether it could be combined with overburden for use in site restoration or whether it would require removal from the site. The applicant estimates that secondary aggregates would be removed from site at an average rate of 3,500 tonnes per week, which would equate to an average of 56 daily vehicle movements (28 in/28 out - 25 tonnes capacity).

Due to the intermittent nature of the proposed coal extraction operations and the working ratio of the different coal seams, the applicant estimates that coal from the Top Hard seam in Coal Areas 1 and 2 would be produced at a rate of 2,000 tonnes per week, whilst coal from the other seams would be produced at a rate of 500 tonnes per week. This would equate to a daily average of 40

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vehicle movements (20 in/20 out) during phases 1 and 2, followed by a daily average of 10 movements (5 in/5 out) during phases 3 and 4.

### **Proposed Restoration**

The application proposes that the majority of the site (19.72ha) would be restored to enable its future redevelopment as industrial/employment land. Three separate development platforms, located to the north and south of the new access road to the east of the River Rother and to the west of the river, would be created and would have surface areas of 2.62ha, 1.03ha and 16.07ha respectively. In addition, the restoration scheme would also make provision for the enhancement of the river corridor and the creation of new riverine habitat, the planting of peripheral woodland, the creation of two off-site habitat translocation and creation areas, the retention of two areas of existing broadleaved woodland along the northern and south-eastern site boundaries, and the retention of species rich grassland.

The applicant states that the proposals are intended to enhance the landscape structure of the site and the surrounding countryside through the planting of woodland and tree belts, to enhance the wildlife value of the site and surrounding countryside by the provision of new wildlife corridors and habitats, and to develop the River Rother corridor as an important environmental resource.

The site would be restored progressively throughout the development with the development platforms to the east of the River Rother in place by the end of Phase 1; the diverted river channel and woodland planting adjacent to the western development area completed by the end of Phase 2; the majority of the western development platform, further woodland planting undertaken and the completion of the eastern area restoration during Phase 3 and the final restoration of the site during Phase 4. In addition to the above, the applicant proposes to retain a 0.58ha area of species rich grassland at the site for the duration of the development.

The development platforms would be created using an engineered fill made up of coal measures strata, clays and other materials remaining on site. Upon completion of restoration, each development platform would be seeded with a grass-clover mix.

The settlement lagoons would be removed and replaced by a temporary drainage system designed to minimise surface erosion. This would discharge into the River Rother as simple land drainage.

The application, as originally submitted, also referred to a then proposed creation of two off-site habitat creation and translocation areas with a combined area of 4.66ha. These works formed the subject of a separate

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planning application (subsequently withdrawn) and would have been located at the adjacent Foxlow Tip and the nearby former Hall Lane Landfill site.

### **Site Access**

During phases 1 and 2 and the early stages of Phase 3, access to the site would be from Farndale Road via the existing private road and bridge which cross the River Rother. However, as the works progress working in Coal Area 3, this would require the construction of a new bridge crossing to the River Rother and the construction of a new access road onto Farndale Road. The application indicates that the new access would be used during the latter part of Phase 3 and for Phase 4.

For traffic carrying coal from the site to Ratcliffe-on-Soar power station, the vehicles would turn right from Farndale Road onto Eckington Road (B6053) and from there to the new 'Staveley Loop' link road to Junction 29a of the M1 motorway. Vehicles transporting coal to Cottam power station in Nottinghamshire would turn right from Farndale Road onto the B6053 and join the A619 in Staveley heading eastbound, before joining the A57 and travelling to Cottam.

Due to its relatively low market value, the applicant anticipates that the market for secondary aggregate would be restricted to the north-east of Derbyshire and Chesterfield area and further afield towards Sheffield. As a result, no specific traffic routing details for the export of aggregate from the site have been provided. Whilst it is anticipated that sales would be to a variety of construction uses and sites, at this stage, the applicant is not able to be precise about their location. Where possible, however, and with the exception of local deliveries, no vehicles would be routed through Staveley town centre.

### **Hours of Operation**

The proposed hours of operation for mineral extraction and processing operations would be 0700 hours to 1900 hours Monday to Friday and 0700 hours to 1300 hours on Saturday. There would be no working on Sundays or public holidays, save for pumping and routine maintenance. The transport of minerals from the site would take place between 0700 hours and 1630 hours Monday to Friday.

### **Supplementary Environmental Information and Revisions to the Proposal Submitted After the Formal Submission of the Application**

The initial consultation responses contained requests for further information on several of the topics addressed in the ES as originally submitted. Subsequently, a formal request was made by the Authority to the applicant under the provisions of the Environmental Impact Assessment Regulations.

The supplementary information provided related to the following topics:

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- supplementary information regarding the channel design of the proposed diverted river and the proposed river diversion works;
- supplementary information regarding landscape mitigation measures;
- Geotechnical Site Report Addendum;
- Ecology Chapter Addendum;
- revised Ecological Method Statement;
- revised information regarding the site access road layout;
- revised restoration proposals;
- revised locations for the off-site ecological enhancement and creation (see Agenda item no. 3 for further information); and
- supplementary information regarding the proposed new bridge across the River Rother.

The supplementary submissions providing additional information are described below under the respective headings in the review of the Environmental Statement (ES) below.

At the same time as providing this information, the applicant has proposed amendments to the restoration proposals, which would see the enhancement/creation of an additional 3.38ha (and the consequential reduction in the surface area of the development platforms from 19.72ha to 17ha), including the following elements:

- species rich grassland creation along the western bank of the River Rother;
- enhancement/creation of riverine habitat;
- the creation of two ponds close to the western boundary of the River Rother; and
- a mosaic of woodland structure planting/grassland habitat.

The main change under these amendments is the retention and conservation of the lower portion of the existing vegetated boundary spoil mounds which abut the railway. A 5m width of bund, with a varying height of between 2.1m and 2.7m, would be retained throughout the development, and would be reinforced with additional tree planting. During restoration, two further areas of 5m and 12m width respectively would also be created. The former would comprise a mosaic of grassland/herbaceous and light and open canopied woodland whilst the latter would comprise relatively open structured woodland, with Birch, Oak and Ash as co-dominant species, and would be managed to encourage the development of a mosaic of rich grassland/herbaceous ground cover. However, if permission is granted subject to a set of conditions as proposed in this report, Ash would be substituted by other species.

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The proposed off-site ecological enhancement sites at Foxlow Tip and the former Hall Lane Landfill site were also replaced with two new sites, the former Campbell Landfill site at Barrow Hill and the former Troughbrook Road Coal site. These works form the subject of a second planning application (code number CM2/0213/144), a detailed description and consideration of which are provided in Agenda item no.3. A commitment to the long term management and enhancement of a third site, Breck Farm Watermeadows LWS, is also proposed.

In its final submission, the applicant set out further amendments to the proposed restoration scheme and to the nature of the off-site ecological enhancement works proposed at the Troughbrook Road site. The proposed boundary treatment at Hartington Tip would be further amended to comprise the following:

- a 5m wide bund (as previously proposed);
- the creation of a 'transitional' 5m wide zone made up of predominantly open habitats and grassland with a small number of occasional trees; and
- the inner 12m would be made up of open habitat for invertebrates including a butterfly bank.

With regard to Troughbrook Road, it is now proposed to remove that element of the scheme which saw the creation of scrape features and to replace it with a locally appropriate species rich grassland mix. The proposed translocation of 0.2ha of *Holcus lanatus* - *Agrostis stolonifera* grassland from the Hartington site would still remain.

The implications of these changes are addressed in the 'Planning Considerations' Section below.

The applicant has also indicated a willingness to enter into a legal Agreement, under Section 106 of the Town and Country Planning Act 1990, to cover such measures as:

- the establishment and coordination of a Local Liaison Group for the site;
- the scheduling and undertaking of the off-site habitat creation works at Campbell Tip and Troughbrook Road;
- the long term management of the Breck Farm Watermeadows LWS;
- the provision of community benefits by means of the creation of a community fund of £15,000; and a £15,000 fund payable to the Council towards improving the Staveley length of the nearby Chesterfield Canal; and
- traffic routeing for the transport of secondary aggregates and coal to market, and the transport of material from the Hartington Tip site to the



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Campbell Tip and Troughbrook Road sites in order to carry out the ecological enhancement works.

### Environmental Statement

The application is accompanied by an ES prepared in order to comply with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. The ES includes background information, descriptions of the site and surrounding area, and details of the proposed development, together with a summary of what the applicant considers to be the relevant legislation, Government guidance, and local and national policies relating to the proposal.

Following the initial round of consultations, the Mineral Planning Authority (MPA) made a request to Tawnywood Ltd under the EIA Regulations for the submission of further and other information to accompany an ES. Tawnywood Ltd made a further submission of supplementary information in 2013 in response to this request, followed by a further submission of amended details of the development in 2014.

The conclusions made by or on behalf of the applicant in relation to the potential environmental effects of the development can be summarised as follows (this summary takes into account the information included in the further submission):

### Noise

The applicant carried out a survey measuring background noise levels at potentially noise sensitive locations in the surrounding area. The assessment concluded that the predicted noise levels, calculated in accordance with criteria set out in Mineral Policy Statement 2 (MPS2), would be comfortably below the acceptable thresholds as set out in the guidance document.

**Note** Whilst MPS2 has been superseded by the NPPF, the guidance relating to the noise impacts of minerals development in the NPPF and National Planning Policy Guidance (NPPG) is, in essence, the same as that within MPS2.

### Air Quality

An Air Quality Assessment provides an analysis of potential dust emissions from the site. It includes the results of surveys at the site and an assessment of the results in the context of background meteorological information. The assessment concludes that it is unlikely that a significant decrease in local air quality would occur as a result of the continuation of mineral extraction at the site. It sets out a series of dust control measures that the developer would implement, should a short term high level dust event occur, together with a Dust Action Plan and a Dust Monitoring Scheme.

### **Highways and Transport**

The Transport Assessment analyses traffic flow data for the local highway network and considers the effects of the proposed development on traffic generation and highways safety. It states that both capacity and safety elements are acceptable and concludes that traffic from the site can be readily accommodated by the local road network. The applicant proposes to provide for additional traffic safety measures on the section of B5063 Eckington Road at and around the junction with Farndale Road (site access).

### **Ground Condition and Potential Contamination**

An assessment carried out by the applicant concluded that, although the site has been the location of a series of industrial uses, primarily the tipping of blast furnace slag, there is no apparent significant contamination of the site. It notes that the site would be controlled by an Environmental Permit which would provide for the proper disposal of any contaminant that might emerge.

### **Ecology**

An ecological section identifies the presence of several protected and notable species of flora and fauna, and acknowledges the loss of habitat that would result from the development. It takes into account that some areas of the site would be retained undisturbed and that some areas of habitat along the river corridor would be enhanced during the restoration phase to provide mitigation for the loss of habitat. It concludes that, taking into account the mitigation, compensation and enhancement measures, including the off-site proposals associated with the application which would take place Troughbrook Road, Campbell Landfill and Break Farm Watermeadows, there would be no net loss of biodiversity.

### **Landscape and Visual Impact**

The Landscape and Visual Impact Assessment identifies regional and local landscape character areas. It recognises that there would be both landscape and visual impacts as a result of the proposal, and sets out a series of mitigation measures aimed at reducing these impacts, including the retention of existing woodland belts and planting new woodland belts on the site boundary, and along the river corridor, to screen views into the site. It acknowledges that localised impacts in the vicinity of the site would be greater, but concludes that these would be sufficiently mitigated by the phased approach to working the site, limiting the visible quarrying area, and by the early restoration of completed phases. It considers that the impacts during operational phases would be moderate to slight adverse, but concludes that these would become moderately beneficial upon restoration of the completed development.

### **Pollution Control/Groundwater Protection/Flood Risk**

The applicant has carried out an assessment to consider the impact of the proposals on surface and groundwater. It states that surface and ground water

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would be abstracted from the excavations and that limited drawdown will be created. It does not consider this would be so significant as to adversely affect the flows of the River Rother or on surrounding groundwater levels. The Flood Risk Assessment concludes that the development would not result in an increased risk of fluvial flooding of the site or would increase the risk of flooding downstream of the site.

## Consultations

### Local Member

Councillor Collins has been notified, as have Councillor Ridgeway and Councillor Williams, who are Members for adjacent Divisions.

### Chesterfield Borough Council Planning

In its initial response, the Borough Council raised '*significant concerns that the proposed restoration of the site does not appear to strike a reasonable balance between achieving economic and social objectives and the likely significant adverse impact on biodiversity at a local and 'County' scale*'. The Council also suggested that consideration be given to the retention of part of the site as an '*environmental area and to avoid translocation of flora and fauna off site*' and that consideration should also be given to provision of a wider margin of tree cover around the site. The Council also requested the inclusion of a clause within any legal agreement supporting the use of local employment.

Following the submission of the further information, the Council provided further comment endorsed by its Planning Committee. The Committee resolved that the Borough Council should bring the attention of the County Council to the content of the Planning Committee report and also to the Borough Council's opinion that if Natural England and Derbyshire Wildlife Trust are satisfied that the impact of the development on biodiversity in the locality would be neutral in the short term and positive in the long term, then an appropriate balance between achieving national and local economic and social objectives, and the impact of the development on biodiversity, would be achieved.

The Committee also considered that the applicant should consider retaining a part of the site undisturbed as an environmental area and further minimise the translocation of flora and fauna off-site. It also considered that if Derbyshire County Council was minded to approve the proposal, then it should consider adding a clause (within any Section 106 agreement/obligation) supporting Chesterfield Borough Council's drive to promote the use of local employment, in all stages of the development process (excepting the planning permission phase), through to site restoration.

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### Staveley Town Council

The Town Council made no objection to the proposals and requested that conditions relating to traffic routeing, a community fund and the creation of a Local Liaison Group be imposed on any permission.

### Natural England

Natural England (NE) provided responses to the initial and revised proposals. In its first response, NE objected to the proposals stating that it had two fundamental issues with the mitigation and compensation scheme proposed, namely that:

- *‘the level of in-situ habitat recreation/retention is disproportionately small compared to the total area of habitat that would be lost as a result of the proposals; and*
- *the ex-situ compensatory proposals for translocation are too small and involve sites which are subject to detailed restoration requirements in their own right with their own biodiversity value developing, or to be developed. On the basis of the above, NE does not support the ex-situ biodiversity compensation element of the proposal’.*

NE further commented that, in general, it was not supportive of ‘vast *‘development platforms’ with little regard to the opportunities for wildlife habitat as an integral part of future development*’ and that whilst it noted the employment land allocation, *‘such an allocation does not provide an overriding reason to proceed without properly mitigating for biodiversity interest’*. Rather, it would expect to see *‘a development proposal that presents solutions that enable the realisation of the allocation whilst ensuring no net loss in biodiversity value’*.

In addition to the above, NE also made detailed comments regarding specific habitats and species affected by the development:

#### River Diversion

NE stated that the need for the river diversion should be fully justified before such works are accepted as part of the scheme. With regard to the details of the diversion works, NE commented that whilst the creation of riverine habitat is supported, a more comprehensive scheme of habitat retention and recreation, which provides a more significant buffer between the river and the development, should be designed. NE further advised that the new corridor would need to be planted and holding established vegetation before the old section is lost.

NE also noted the loss of two ponds from the site and that this loss would be compensated for through the creation of a single pond at another site. NE commented that it would expect at least two ponds be created, one of which should be in-situ.

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### Breeding Birds

NE noted the findings of the survey but recommended that the scheme be amended to minimise disturbance to the river corridor, to expand the corridor habitats and to incorporate habitat enhancements for the species noted to be present at the site.

NE noted the proposals, including screening, to minimise disturbance to breeding birds during the river channel diversion works but considered that, whilst this may reduce impacts, it would not eliminate the significant levels of disturbance. NE therefore advised that this work be programmed to take place outside the bird nesting season. NE did not support the proposal for ecologist checks if the work needs to be undertaken during the nesting season, considering that the level of disturbance is too significant, and the risks to breeding birds therefore too high.

NE acknowledged that the temporary habitat creation proposed would ensure that there would be no net loss for little ringed plover considering that this would provide potentially good habitat for this species. However, in light of its comments regarding the off-site habitat retention and recreation, and the need to re-visit the current proposals, NE hoped that consideration could also be given to additional opportunities for little ringed plover.

### Badger

NE acknowledged that there is notable badger activity on site, and advised that there is a need to seek practicable mitigation measures that would minimise impacts to badger, as well as providing longer term habitat gains. Whilst NE accepted that there is a need for further survey work to be undertaken prior to the commencement of the development, it also considered that general principles of the mitigation measures proposed, including a commitment to artificial sett creation with potential general locations provided, should be established. NE therefore advised that further survey work should be conducted to check that use has not changed, and to inform detailed badger mitigation and that this should be a requirement of a planning condition.

### Otter

NE noted the presence of otter, commenting that as a European Protected species, they are afforded the highest level of protection under the provisions of the Habitats Regulations 2011. NE advised that with the presence of otter at this location, it would expect the County Council to be convinced by a robust justification for these works. NE further recommended that, in addition to the need for a river crossing, the rest of the river within the site be enhanced for this species, suggesting that it should include a widening of the river corridor habitats to buffer the development taking place at either side and to mitigate for habitat loss. NE supported the incorporation of 'laying-up' sites

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for otter and suggested that opportunities for otter holt creation in the final scheme after coal extraction should also be considered.

### Bats

NE welcomed the survey work for bats, noting that the relatively low levels of bat activity are limited to the river corridor and scrub/woodland habitats but commented that the site has potential for habitat enhancement for bats, and for the inclusion of bat roosting features in the longer term. NE commended the recommendations made for bat roosting opportunities to be incorporated into the new bridge crossing the river and requested that requirements for both be covered by planning condition.

### Invertebrates

NE strongly supported the assessment and analysis of invertebrates within the ecological surveys undertaken noting that, due to the noted presence of a number of rare beetles and the dingy skipper butterfly (a UK Biodiversity Action Plan (BAP) priority species), the site is of County level importance for its invertebrates. It acknowledged that the scheme aimed to retain as much of the invertebrate value as it can, NE also noted that in making the necessary improvements to the grassland and open mosaic habitats, as suggested above, the proposals for invertebrates would also be expected to improve as a result.

NE further commented that the significance of the invertebrate assemblage on site is such that it gives further weight to the need to reconsider and significantly improve the proposals for habitat retention and recreation, maximising opportunities for retaining and enhancing the County level importance of the site for invertebrates, and seeking off-site compensatory areas with clear net gains for invertebrates to make up the on-site shortfall.

NE was further generally satisfied with the applicant's conclusions regarding those species including amphibians, reptiles, water vole, brown hare and white-clawed crayfish, which had been excluded from the assessment, but requested that on-site mitigation measures during the site preparation operations include measures to protect amphibians, reptiles and to control American mink as part of the longer term biodiversity management of the site. NE also recommended that any potential for improving habitat for brown hare within the final restoration scheme would be beneficial. Finally, whilst the justification for not undertaking white-clawed crayfish surveys would be accepted if the river itself was not being directly affected, NE stated that despite the sub-optimal habitat, if the proposal for diversion is to be taken forward, it is advised that surveys should be undertaken as the destruction of a 140m section of river in the absence of surveys is considered to be a potentially significant risk to this rare and highly protected species.

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In response to the further information, NE withdrew its initial objection commenting that whilst the proposed development would affect bat and otter (either through disturbance of the species themselves or through the damage/destruction of their breeding site/resting place), it had concluded that the proposed mitigation would maintain the population identified in the survey report.

### **Derbyshire Wildlife Trust**

The Trust made two responses to the proposals, one on the basis of its Service Level Agreement with Derbyshire County Council, the second response received was a representation received from the Trust in its position as an independent organisation. For clarity, the content of each response has been detailed separately.

#### Service Level Agreement Response

The initial response from the Trust acknowledged that an extensive data search had been undertaken and that the subsequent survey work had been undertaken using the appropriate methodologies and by suitably experienced and qualified personnel. The Trust noted that the surveys identified that the site has developed significant nature conservation interest, of either district or County level importance, including:

- 2.31ha of the UK BAP priority habitat “Open Mosaic Habitat on Previously Developed Land”;
- 3.50ha of species-rich *Festuca rubra* grassland which supports sufficient species to meet the selection criteria as a LWS;
- the presence of the Derbyshire Red Data Book species Prickly Sedge which would enable appropriate areas of the site to qualify as a LWS;
- the presence of dingy skipper, a UK BAP priority species, and the overall invertebrate assemblage, particularly in the western area, would enable the site to meet the selection criteria as a Local Wildlife Site;
- the presence of two Schedule 1 bird species, little ringed plover and Kingfisher, both considered to be probable breeders within the site; and
- the presence of five active badger sett entrances within the development footprint.

In light of the above, the Trust advised that the proposal would result in the loss of 14.51 ha of habitat of sufficient quality to meet the selection guidelines as a Local Wildlife Site, and that an area of equivalent quality would be required to compensate for this loss. The Trust further considered that the then proposed receptor sites for habitat translocation and creation at Foxlow Tip and Hall Lane were unacceptable as both were already subject to approved restoration schemes which seek to mitigate and compensate for impact upon nature conservation experienced as a result of previous clay and coal extractions carried out at the sites.

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The Trust acknowledged that the site is allocated for development in the Replacement Chesterfield Borough Local Plan 2006, but makes reference to Section 13 of PPS9 which required that local planning authorities, together with developers, should aim to retain significant biodiversity interest or incorporate it into any development. The Trust therefore advised that in addition to the consideration of off-site mitigation through habitat translocation and creation, greater consideration should be given to the in-situ retention and creation of key habitats as part of the landscaping proposals and that a Habitat Management and Monitoring Plan should be produced.

### **Representation**

The Trust objected to the proposals on the grounds that the development would result in the net loss of 14.51 ha of habitat of sufficient quality to meet the selection guidelines as a LWS which includes an estimated 2.31ha of the UK BAP priority habitat "Open Mosaic Habitat on Previously Developed Land" and which also supports a notable invertebrate assemblage, including the UK BAP priority butterfly Dingy Skipper. The Trust further considered that the mitigation measures proposed would not provide adequate or appropriate mitigation and compensation for this loss.

The Trust stated that it would be willing to withdraw its objection if appropriate mitigation measures could be secured which should include the provision of an area of at least 14.51ha of equivalent quality to compensate for the loss of habitat of significant nature conservation interest. The Trust considered this could be achieved through a combination of habitat translocation and creation using off-site receptor sites and greater consideration of on-site in situ retention and habitat translocation and creation, as part of the landscaping associated with the completed development.

Following the 2013 submission of revisions to the restoration and off-site mitigation, the Trust stated that it no longer held an outright objection but wished to see a greater emphasis on post-development on site open mosaic habitat creation. The Trust considered that the further revisions secured in 2014 would provide a satisfactory outcome.

### **Environment Agency**

The Environment Agency initially stated that it objected to the proposals on the grounds that insufficient information had been submitted to demonstrate that the risks posed to groundwater were capable of being managed. The Agency's grounds for objection were based on the following issues:

- the lack of information and the use of inappropriate methodologies in respect of dewatering abstractions in the hydrological impact assessment;



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- insufficient information in respect of the proposed river diversion, including the methods of restoration and mitigation; and
- insufficient information regarding the mitigation proposed in respect of otter, bats and fish.

Following the submission of the further information, the Agency withdrew its initial objection stating that the '*...proposed development will only meet the National Planning Policy Framework (NPPF) policy to not increase flood risk elsewhere*' if conditions relating to a working method statement for the river diversion works and a scheme for the provision and implementation of a surface water regulation system were imposed. The Agency also made comments regarding the design of the river channel to improve ecological benefit.

### Network Rail

Network Rail voiced concerns regarding the removal of the foundry material from the site as it currently acts as a flood defence to the railway and its loss could potentially expose the railway to the risk of flooding and scour. Network Rail therefore requested that any drainage scheme must ensure that there would be no increase in flood risk to the railway. Concerns were also raised in respect of the potential impact on the safe operation of the railway during the development.

In its response to the further information, Network Rail had no comments to make, although noted that under the revised plans, the existing spoil heap material would remain undisturbed within the 5m standoff to Network Rail property.

### Coal Authority

The Coal Authority stated that it encouraged and supported the planning application for the working of coal in an environmentally and socially acceptable way to meet market requirements. It was considered that the proposal would contribute to the Government policy of achieving a diverse and secure energy supply. The Authority also made reference to the standards set out in Mineral Planning Guidance 3.

**Comment:** The observations of the Coal Authority were submitted before the publication of the NPPF and contain references to national guidance which has since been rescinded.

### Health and Safety Executive, Severn Trent Water and Eckington Parish Council

Were requested to respond by 7 November 2011 and 20 March 2013; no responses have been received to date.

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### **Publicity**

The application has been advertised by press notice (Derbyshire Times) and by site notice with a request for observations by 18 November 2011 and 14 March 2013. Two representations were received as a result of the publicity. One representation stated its support for the application. The other was from an adjacent business and raised a number of queries regarding the following issues:

- the potential for the release of any trapped land gas as a result of the proposals, how this would be monitored and what impact it would have on adjacent land uses including an upper tier Control of Major Accident Hazards (COMAH) site;
- the effects on ground stability during open cast operations and the potential impact on the integrity of neighbouring plant and equipment;
- potential noise impacts on surrounding area, staff working in external areas;
- potential dust impacts on the surrounding area and its potential to impact on adjacent businesses;
- concerns regarding the restoration of the site and the potential for a future landfill operation;
- transport, vehicle movements travelling to and from the site, the hours in which HGVs would travel to and from the site; the route proposed and the potential for conflict with existing HGV movements to and from the adjacent business; the size of the HGVs; the need for an enforceable speed limit on the access road; the potential for the condition of the roads to deteriorate further once the development commences; potential for dust resulting from HGVs exiting the site.

Where relevant, these issues will be taken into account in the 'Panning Considerations' Section below.

### **Planning Considerations**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning applications are determined in accordance with the development plan unless there are any material considerations which indicate otherwise. In respect of this application, the relevant development plan policies are contained in the Derby and Derbyshire Minerals Local Plan (DDMLP) and the adopted Chesterfield Borough Local Plan: Core Strategy (CBCS). The NPPF is also material consideration in the determination of this proposal.

### **National Planning Policy Framework**

The NPPF reiterates the established legal requirement for planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF provides

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guidance on material considerations. It states that the purpose of the planning system is to help achieve sustainable development and adds that there should be a presumption in favour of sustainable development. The term 'sustainable development' is not defined as such but the NPPF states that, in essence, it means that ensuring better lives for ourselves now does not mean worsening the lives of future generations. It states that sustainability has economic, social and environmental aspects.

The economic aspect for the planning system is stated as contributing to the economy by providing sufficient land of the right type, in the right place and at the right time. The social role is to support strong and vibrant communities by providing for the needs of the community whilst fulfilling the environmental role of protecting and enhancing the natural, built and historic environment.

When determining applications for mineral development, the NPPF states that mineral planning authorities should give considerable weight to the benefits of mineral extraction but that they should also ensure that the development does not give rise to unacceptable adverse impacts.

With regard to secondary aggregates, the NPPF states that mineral planning authorities should *"so far as practicable, take account of the contribution that substitute or secondary and recycled materials and minerals waste would make to the supply of materials, before considering extraction of primary materials, whilst aiming to source minerals supplies indigenously"*.

The document also provides specific advice on proposals for coal: *"Permission should not be given for the extraction of coal unless the proposal is environmentally acceptable, or can be made so by planning conditions or obligations; or if not, it provides national, local or community benefits which clearly outweigh the likely impacts to justify the granting of planning permission"*. The NPPF provides advice on the types of benefits, including 'national benefits', which can be weighed in to justify proposals which raise unacceptable adverse environmental impacts. This aspect is addressed further in the assessment of need.

The NPPF generally downplays the significance of saved policies, such as those from the DDMLP as are referred to below, due to their age and having been adopted under provisions which have subsequently been replaced by new legislation enacted in 2004. These saved policies nevertheless continue to require consideration in accordance with Section 38 of the Town and Country Planning Act 1990, and continue to have weight as material planning considerations.

## Local Development Plan

### Derby and Derbyshire Minerals Local Plan

The proposals under consideration here relate to the recovery of 872,250 tonnes of secondary aggregates and the extraction of 87,119 tonnes of coal from the Hartington reclamation site. The DDMLP contains policies which relate directly to proposals for secondary aggregates and the extraction of coal. These are policies MP24: Secondary and Recycled Materials and MP27: Coal Extraction and Colliery Spoil Disposal respectively.

Other policies of the DDMLP which are relevant to the consideration of this application are:

- MP1: The Environmental Impact of Mineral Development.
- MP2: The Need for Mineral Development.
- MP3: Measures to Reduce Environmental Impact.
- MP4: Interests of Acknowledged Environmental Importance.
- MP5: Transport
- MP6: Nature Conservation – Mitigation Measures.
- MP10: Reclamation and After-use.
- MP17: Safeguarding Resources.
- MP24: Secondary and Recycled Materials.
- MP27: Coal Extraction and Colliery Spoil Disposal.

### Chesterfield Borough Local Plan: Core Strategy (CBCS)

The most relevant policies in the CBCS are:

- CS1: Spatial Strategy.
- CS2: Principles for Location of Development.
- CS3: Presumption in Favour of Sustainable Development.
- CS7: Management of the Water Cycle.
- CS8: Environmental Quality.
- CS9: Green Infrastructure and Biodiversity.
- CS13: Economic Growth.
- CS19: Historic Environment.
- PS5: Staveley and Rother Valley Corridor.

### General Considerations

The reworking of former spoil tips and the extraction of minerals by surface mining techniques, such as those under consideration here, have the potential to result in impacts including noise, dust, traffic, landscape and visual impact and impacts to ecology and hydrology. Such environmental and amenity impacts are common to most developments for mineral development and the acceptability or otherwise of those impacts must therefore be assessed against the sensitivities of each particular application site and its surrounding area, and the proximity of the site to people.

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Taking into account the above, I consider that the main issues to be addressed in the determination of this application are:

- the need for the development in respect of secondary and recycled aggregate and coal;
- the proposed location of the development and the need for employment land;
- the type, scale and acceptability of any impacts that would arise from undertaking the works in the manner proposed; and
- whether the benefits identified by the applicant would be sufficient to outweigh any adverse impacts.

### **The Need for Secondary and Recycled Minerals**

DDMLP Policy MP24 is supportive of proposals for the use of secondary and recycled materials where they can be carried out in an environmentally acceptable manner. It states that *“proposals for the production of secondary aggregates from mineral wastes and other low-grade resources, where the materials to be produced will be used as substitutes for primary aggregates, will be permitted provided:*

- 1) they can be carried out without unacceptable damage to the environment and*
- 2) they do not involve the re-working of tips where the land has been satisfactorily reclaimed, or has naturally regenerated, to an acceptable after-use”.*

The proposed recovery of foundry tip material from the site would result in the production of a material from a recycled source, which could subsequently be used for manufacturing purposes (in this instance the production of concrete blocks), or as a secondary aggregate, and which would, as a consequence, reduce the pressure to use newly quarried stone. In considering the large quantity of foundry tip material that is estimated to be present at the site, this development has the potential to make a considerable contribution towards a reduction of that pressure. In principle, therefore, the proposals would be a sustainable operation which, subject to more detailed considerations regarding the potential environmental impacts, would appear to accord in principle with the criteria set out in the NPPF and DDMLP Policy MP24.

### **The Need for Coal**

The main policy considerations for surface mining developments are provided by Policy MP27 of the DDMLP which is based on a presumption against such development unless the proposal satisfies certain requirements. Policy MP27 states that coal extraction will not be permitted unless the impact on the environment:

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- 1) is acceptable, or capable of being made acceptable by planning conditions or obligations; or
- 2) if not, the impact is clearly outweighed by local or community benefits that the development would provide.

The policy provides detailed criteria against which environmental acceptability should be assessed. These include the extent to which the proposal would adversely affect efforts to attract or retain investment in an area. The Policy also provides guidance for the consideration of the degree to which any benefits of a development may outweigh identified unacceptable adverse environmental impacts. Emphasis is given to those benefits that would be unlikely to be achieved by any means other than the proposed development. I consider this issue to be of particular relevance to this proposal which seeks to restore the site to a landform which would be suitable for future redevelopment as employment land.

The proposed extraction of 87,119 tonnes of coal would help to provide a continued supply of indigenous coal and I understand that the applicant intends that the coal would be sent to either Ratcliffe-on-Soar or Cottam power station, both of which are located within the Trent valley. The development would therefore help contribute, albeit in a relatively small way, towards the national supply of energy. This would accord with the Government's national energy strategy (contained in the overarching National Policy Statement for Energy (2011) and the Energy Act 2011), which seeks to respond to the changing circumstances of domestic and global energy markets. Whilst greater emphasis is placed on the development of renewable energy supplies, the Government recognises that coal will have to play a continuing role in meeting national energy requirements during the transition to a low-carbon economy. In light of the above, I accept that there is a general need for coal use in the generation of electricity at the national level and acknowledge that the coal from this site would therefore help fulfil this need, albeit on a relatively small scale.

The Government envisages that future development of coal should be based on collaboration between stakeholders in the coal and power industries, and the Government to secure the long term future of coal fired power generation, to optimise the use of national coal reserves where recovery is economic. The Government states that it does not propose to set targets for the share of energy or electricity supply to be met by different fuels. Nevertheless, it is clear that the Government continues to attribute importance to the maintaining of a supply of indigenous coal as a national resource. Whilst the volume of coal to be extracted is relatively small, I consider that the proposal could contribute towards the supply for meeting the acknowledged national demand for the mineral. The applicant has also indicated that the coal would be supplied to power stations in the Trent valley for use in generating electricity

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and I am further satisfied that the proposal would, as a consequence, also help meet the regional demand for coal.

### **Employment Considerations**

One of the tests detailed in MP27 is the extent to which the proposal would adversely affect efforts to attract or retain investment in an area.

The application makes the case that there is a need for the proposed restoration scheme (which would see the creation of three development platforms of varying sizes and a new road bridge across the River Rother), as it would enable the site to be brought into use for employment development and would therefore meet the requirements of policies EMP5: Proposed Employment Development Sites and EMP7: Development in Existing Business and Industrial Areas of the then extant Chesterfield Borough Local Plan (CBLP). The application site to the west of the River Rother was designated in the former CBLP as an 'existing business and industrial area' under policy EMP7, whilst the land to the east of the river was allocated for new employment development under Policy EMP5. Both policies envisaged development of 'employment uses' in the form of land uses falling within the use classes B1, B2 or B8. The CBLP was superseded in July 2013 by the adoption of the CBCS.

### **The CBCS**

The restoration proposals are essentially for the creation of a landform suitable for future use as employment land and provide no detailed information. However, the subsequent granting of permission reference CHE/13/00675/OUT in 2014, for employment land uses, provides for an after-use endorsed in planning terms by the local planning authority. The Chesterfield Borough Council report to its Planning Committee concluded that the proposal would have the potential to have a positive impact on the local economy and would assist in meeting the aims of the Spatial Strategy and Sustainable Community Strategy and the economic aims of the NPPF. Also, that it would not conflict with the sequential approach to the location of main town centre uses in accordance with CBCS policies CS2 and CS13 and the NPPF.

Overall, I am satisfied that there is a demonstrable need for secondary aggregate and coal extraction, and for the development after-use. Therefore, I consider the proposal meets the requirements of policies MP24 and MP27, subject to the environmental effects of the development being acceptable.

## **Environmental Effects of the Development**

### **Ecology**

Whilst the principle of aggregate reclamation at this site was not objected to in principle by ecological consultees, concerns were raised by Derbyshire

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Wildlife Trust, Natural England and my own specialist Officer about the nature and significance of the ecological value of the Hartington Tip site, and the extent of compensation and mitigation offered in return for the loss of some of the ecological resources of the site. Further significant concerns were raised about the suitability of the off-site compensation areas, and about the principle of restoring a large proportion of the Hartington site to a development platform, necessitating the export material to effect ecological compensation measures.

In its initial consultation response, Derbyshire Wildlife Trust concluded that an area of 19.59ha of habitats within the existing Hartington site (as set out in the applicant's Phase 2 Botanical Survey) would meet the habitat mosaic selection criteria Mh2 for selection as a LWS. It was also considered that the site might also qualify as a LWS on account of its invertebrate interest, under site selection criteria Inv1 and Inv2. Although the site had not been designated as a LWS, the fact that the site (or 19.59ha of it) would qualify as such, means that that area should be considered to be of County level ecological value.

Assessment of the initial application suggested that an area of 19.59ha of habitats within the existing Hartington site would meet the habitat mosaic selection criteria Mh2 for selection as a LWS. At that time, a total of 4.15ha of on-site habitat provision was proposed and, so excluding the river, the proposals resulted in a net loss of around 14.51ha of LWS quality habitat.

The revised off-site habitat measures proposed include an additional 3.38ha of habitat creation to be delivered on site, together with a further 10.30ha at Campbell Landfill site, and 1.94ha at Troughbrook Road. This would result in an additional 15.62ha of habitat delivery, slightly more than the numerical shortfall in habitat area provision previously identified.

The proposals have been further revised in response to concerns regarding the acceptability in landscape terms of the Troughbrook site as a location for causing significant disturbance to create bare ground habitats, or a butterfly bank. These final revisions involve basing the habitat provisions at Troughbrook on the creation of a locally appropriate species rich grassland, and reconfiguring the balance of habitats to be created at the Hartington Tip site to incorporate the open mosaic habitats and butterfly banks originally planned for Troughbrook. This revision is at the expense of losing some birch and willow woodland areas at Hartington, however, this is considered acceptable as these areas would be of limited botanical interest compared to the enhanced provision for invertebrates that this would enable. I am broadly satisfied that the suite of habitats proposed across these sites are largely comparable (both in area and type) to the habitats to be lost from the site. Assuming that all of the newly created/trans-located habitat achieves significant ecological value, this might be considered as no net loss/marginal gain, but given the innate lack of certainty associated with habitat creation and



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translocation, this effectively leaves no 'margin for error', and could easily result in a net loss of ecological value if any part of the habitat creation were to fail.

The additional habitat enhancement at Breck Farm Watermeadows LWS must also be taken into account. The value of this is very difficult to judge, as it is quite challenging to assign a 'value' to the enhancement of an area of habitat. But if the enhancement of this site is done properly and the site is managed thereafter, the value of this could be significant.

Chesterfield Borough Council has also secured the creation of 1.76ha of open mosaic habitat as a condition of the development platform permission.

The habitat translocation and creation (on site, at Campbell Landfill site and at Troughbrook Road) offer the opportunity to deliver approximately no net loss (with some risk associated with possible failure). Therefore, I consider that the proposals for Breck Farm Watermeadows LWS would be likely to complete a suite of sufficient ecological compensation.

This balancing of loss and mitigation is tipped into being a net gain of biodiversity by Chesterfield Borough Council, securing further provision of open mosaic habitats within the development platform areas at Hartington.

Given that the Borough Council has granted permission for subsequent development of the site, I consider that this provides justification for the need to create compensatory habitats elsewhere. Provided all of the mitigation, compensation and enhancement measures are secured by appropriate conditions and legal obligations, the development is considered to be acceptable in terms of its ecological impacts and to be in accordance with policies MP3 and MP6 of the DDMLP.

### **Landscape and Visual Impacts**

I consider the landscape and visual impacts of the development would be of low to medium significance. The retention and enhancement of areas of woodland along the site boundary and in key locations to the southern end of the site, would serve to screen views into the site from Staveley and from vantage points around the site such as Hall Lane. Following the revisions to the off and on site ecological mitigation works, I consider that the final restored development would be acceptable in terms of its visual impacts and would be appropriate in terms of local landscape character in accordance with Policy MP3 of the DDMLP.

### **Noise**

The NPPF states that when determining planning applications, local planning authorities should ensure that any unavoidable noise emissions are

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controlled, mitigated or removed at source, and should establish appropriate noise limits for extraction in proximity to noise sensitive properties.

The NPPG sets out the current guidance to mineral planning authorities on the assessment of noise of mineral developments. It states that authorities should aim to establish a noise limit to avoid an increase in background noise levels at noise sensitive properties by more than 10dB(A) [subject to an upper limit of 55dB(A)]. It also contains clarification on potential exceptions to such an established limit so as to not place unreasonable burdens on a developer. It advises that exceptional limits of more than 10dB(A) above background may be possible but that they should still not allow noise levels exceeding 55dB(A) for normal operations during standard working hours (0700 hours – 1900 hours).

Policy MP1 of the DDMLP permits proposals for mineral development where the effect on local communities and neighbouring land uses as a result of noise is acceptable.

Policy CS2 of the CBCS requires all new development to have an acceptable impact on the amenity of users or adjoining occupiers in respect of environmental impacts such as noise.

The ES predicts the level and impact of noise from the mineral recovery and coal extraction operations, and the associated plant and traffic movements against relevant guidelines and standards, and the existing background noise climate. These aspects are described in the report. The assessment proposed a number of good practice measures to minimise the noise generated at the site including the fitting of silencers to plant and vehicles, the use of acoustically screened pumps outside working hours, and limiting mineral extraction operation to day time hours. The assessment concluded that there would be no significant noise impacts associated with the development.

Based on the activities to be undertaken, the location of the site relative to the nearest residential properties and other sensitive receptors, and the mitigation measures which the applicant intends to incorporate, I would accept the conclusions of the ES and consider that the noise levels that would be generated would be within acceptable levels.

Overall, on the basis of the above and subject to appropriate monitoring conditions, I am satisfied that the proposals would not give rise to unacceptable noise impacts and consider that it would meet with the requirements of the NPPF, the NPPG, DDMLP Policies MP1 and CS2 of the CBCS.

### **Air Quality**

The ES provides an assessment of the potential dust emissions arising from the development. The primary sources of dust resulting from the development are anticipated to be the excavation and handling of aggregates and coal, the movement of plant within the site and HGVs travelling to and from the site.

Mitigation measures proposed the provision of a Dust Action Plan and a Dust Monitoring Scheme, as well as best practice operations measures including on site speed limits, damping down all surfaces including the excavations during dry weather conditions, keeping handling operations and drop heights to a minimum, the sheeting of vehicles involved in the transport of material from site, the use of a wheelwash, the use of water sprays on mobile plant, and the suspension of dust generating activity when necessary.

I am satisfied that the ES has sufficiently identified all likely sources of dust emissions and acknowledge that the proposed mitigation measures are considered best practice, and that they would be able to control impacts associated with dust satisfactorily. In considering the proximity of residential properties to the site, I am satisfied that dust emissions to air would be relatively low and would not adversely affect the area. Similarly, I do not consider the risk to the adjacent FlowGas compound, or other businesses based off Farndale Road, to be significant.

In light of the above, and subject to the recommended mitigation measures being secured by the imposition of appropriate conditions, I am satisfied that the proposals would accord with the requirements of DDMLP Policy MP1, and policies CS2 and CS8 of the CBCS.

### **Highways and Transport**

There are no Highways objections to the proposals. The applicant set out a range of appropriate traffic management measures that would adequately manage and compensate for the effects of traffic from the development on the highway network. Further negotiation has taken place in conjunction with the Highways Authority and additional measures to provide an extension to the footway on Farndale Road are now also to be provided by the applicant. All these measures are to be carried out under the terms of legally binding agreements (Planning - Section 106 and Highways - Section 278) with the County Council. I am satisfied that the proposals would accord with the requirements of Policy MP5 of the DDMLP.

### **Flood Risk and Hydrology**

The site is within Flood Zones 2 and 3. Policy CS7: Managing the Water Cycle of the CBCS states that flood risk should be considered for all development and that development proposals will be directed to locations with the least impact on flooding or water resources, and be assessed for their contribution to overall flood risk within the Borough. Within areas of functional floodplain, development is expected to preserve or enhance the contribution of the area

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to water management/reducing flood risk. Within Flood Zones 2 and 3, the redevelopment of previously developed land will be permitted where (i) the development will deliver the economic, social and environmental regeneration of the Borough that outweighs the risk of flooding and reduces flood risk overall, (ii) the safety of the development and users from flooding can be achieved and, as a minimum, there will be no increase in, on or off-site flood risk demonstrated through a site-specific flood risk assessment, (iii) the proposed uses are compatible with the level of flood risk and; (iv) a sequential approach to the location of uses has been taken within the site itself, including matching the vulnerability of uses to the risk of flooding.

Most of these criteria are more applicable to the development approved under the Chesterfield Borough Council permission. However, I consider the proposal would meet the criteria of clause (i) above, subject to the submission and approval of a method statement for the river diversion works and a scheme for the provision and implementation of a surface water regulation system as required by the Environment Agency. Therefore, I consider that the proposal accords with Policy MP3 of the DDMLP and Policy CS7 of the CBCS.

### **Ground Condition and Potential Contamination**

Policy CS8: Environmental Quality (Water Contamination) of the CBCS requires that where any such risk exists, developments must include measures to reduce or avoid water contamination and safeguard groundwater supply. I am satisfied that the proposals include appropriate measures that would properly deal with any ground contamination that may come to light.

### **Conclusions**

I consider that the ES, together with subsequent further information, provide sufficient information to enable a full assessment of the likely environmental effects of the development proposed in this application.

Having analysed this information and taking into account the comments of the relevant consultees, I conclude that the effects of the proposal would not be such that the environmental impacts of the development would be unacceptable, subject to the imposition of appropriate conditions and obligations, which will include requirements to implement on and off-site mitigation measures.

I consider that the development would not have unacceptable individual or cumulative impacts on the environment or local communities. I therefore conclude that the proposed development meets the test of environmental acceptability in the first part of Policy MP27 of the DDMLP. Having reached that conclusion, it is not necessary to consider the local community benefits of the proposed development as suggested by the applicant company, and the

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weight they should be given, as would otherwise be required under the further provisions of Policy MP27.

There are no conflicts with other relevant policies of the development plan, and no material considerations indicating other than the grant of planning permission, subject to conditions and planning obligations, as recommended below.

(3) **Financial Considerations** The correct fee of £36,315 has been received.

(4) **Legal Considerations** This is an application submitted under Part III of the Town and Country Planning Act 1990 which falls to this Authority to determine as the Mineral Planning Authority.

I do not consider that there would be any disproportionate impacts on anyone's human rights under the European Convention on Human Rights as a result of this permission being granted subject to the conditions referred to in the Officer's Recommendations.

(5) **Environmental and Health Considerations** As indicated in the report.

In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, equality and diversity, human resources, property and transport considerations.

(6) **Background Papers** File No. 2.608.6

Application documents received from Tawnywood Ltd dated September 2011, as amended by the addendum to the Environmental Statement dated January 2013, as further amended by the letter from Tawnywood Ltd dated 14 April 2014. Letters from Chesterfield Borough Council dated 20 October 2011, 31 January 2012 and 3 June 2013. Letters from the Coal Authority dated 31 October 2011 and 12 March 2013. Letter from English Heritage dated 1 November 2011. Memoranda from the Highways Area Management Division dated 4 November 2011 and 7 March 2013. Letter from Staveley Town Council dated 23 February 2012. Letters from Derbyshire Wildlife Trust dated 5 December 2011 and 23 May 2013, and email dated 23 September 2014. Letters from Natural England dated 1 December 2011 and 22 March 2013. Letters from Network Rail dated 9 November and 15 November 2011 and 2 April 2013. Letters from the Environment Agency dated 10 November 2011 and 20 March 2013. Letter from Western Power dated 26 February 2013. Emails from the County Council's Ecologist dated 20 December 2013 and 21 October 2014. Emails from the County Council's Landscape Architect dated 27 January 2012, 24 April 2013, and 23 October 2014. Email from the County Council's Archaeologist dated 14 October 2011.

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(7) **OFFICER'S RECOMMENDATIONS** That the Committee resolves that planning permission be **granted** subject to:

**7.1** The applicant or operator and any other persons with an interest in the application site entering into an Agreement with the County Council under Section 106 of the Town and Country Planning Act 1990 to secure planning obligations considered by the Strategic Director – Economy, Transport and Environment and the Director of Legal Services to make satisfactory provision for:

- The convening of a Local Liaison Group representing the communities local to the site.
- The provision of a Community Fund of £30,000 to be administered by the Local Liaison Group.
- The provision of highway safety improvements at Eckington Road and Farndale Road.
- Provision for inspection of the highway at Farndale Road during the operational period of the development.
- Provision of ecological compensation works at the Campbell Brickworks site and the Troughbrook Road site.
- Management of compensatory habitat enhancement at Breck Farm Watermeadows

**7.2** A set of conditions substantially based on the following:

### **Commencement and Duration**

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission. A minimum of 14 days prior to commencement, written notification of the date of commencement shall be sent to the Local Planning Authority.

**Reason:** The Condition is imposed in accordance with Section 91 of the Town and Country Planning Act 1990.

- 2) Except for aftercare of the restored land, the winning and working of minerals and the restoration of the site shall be completed six years from the date that the winning and working is begun.

**Reason:** To comply with Part 1 of Schedule 5 to the Town and County Planning Act 1990 that requires that all planning permissions for minerals working be subject to a time limit condition.

### **Approved Plans**

- 3) Except as may be required by the other conditions to this permission, the development shall take place in accordance with the details set out in the application for planning permission and the accompanying

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Environmental Statement from Tawnywood Ltd dated 16 September 2011, in particular, drawing numbers HR200 entitled 'Location Plan', HR202 entitled 'Site Plan', HR204 entitled 'Coal Areas', HR206 Rev A entitled 'Planning Application Cross Sections A-A1 B-B1 C-C1', HR207 entitled 'Operational Phase 1', HR208 entitled 'Operational Phase 2', HR209 entitled 'Operational Phase 3', HR210 entitled 'Operational Phase 4', HR212 entitled 'Site Support Area' and D136851/STR/GA/001 Rev A entitled 'River Rother Bridge General Arrangement' as amended by the further information submitted on 16 February 2012 and the following drawings HR211 Rev G entitled 'Restoration', HR215 rev B entitled 'River Diversion', HR217 entitled 'Sections A-A1 B-B1 C-C1 D-D1 E-E1', HR218 entitled 'Section Locations', HR219 entitled 'Proposed River Channel' and D136851/SK/03 Rev B entitled 'Site Access Road General Arrangement' or as otherwise required by the terms of the conditions below.

**Reason:** To define the scope of the development in order to enable the Mineral Planning Authority to monitor its operation in the interests of the amenity of the area.

### Availability of Approved Documents

- 4) From the date any operations under this permission are commenced, a copy of the permission, including all the documents referred to within it, and any further submissions to, and approved by the Mineral Planning Authority under the approved conditions, shall be displayed at the site office during working hours, and the terms and conditions of the permission shall be known to any person(s) given responsibility for the management and control of operations.

**Reason:** To ensure that the site operators are fully aware of the requirements of these conditions throughout the period of the development.

### Notifications

- 5) The following dates shall be notified in writing to the Mineral Planning Authority no later than seven days before each date:
  - i) the commencement of operations to win and work coal as set out on drawing number HR207 entitled 'Operational Phase 1', and subsequently for each Phase, i.e. for HR208 entitled 'Operational Phase 2', HR209 entitled 'Operational Phase 3', and HR210 entitled 'Operational Phase 4';
  - ii) the commencement of river diversion works;
  - iii) the completion of site restoration operations in each of the Operational Phase areas; and

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- iv) the completion of the works to construct the new access onto Farndale Road and that new access being taken into use.

**Reason:** To enable the Mineral Planning Authority to effectively monitor the progress and timing of key stages of the approved operations and to set the aftercare periods for the site.

### **Buildings, Fixed Plant and Machinery**

- 6) Notwithstanding the provisions of Article 3 and part 19, Paragraph A of Schedule 2 of the Town and Country (General Permitted Development Order) 1995, as amended, no plant or machinery, buildings or structures, shall be placed or erected on the site except as expressly authorised or required by this permission, or otherwise in accordance with the prior written approval of the Mineral Planning Authority.

**Reason:** In the interests of the amenity of the area, to prevent the introduction of additional impacts through the introduction of additional items that were not included within the application.

- 7) At such time as they are no longer required for the approved development, all plant, structures, other installations, tanks, machinery and temporary buildings shall be removed from the site.

**Reason:** In the interests of the visual amenity of the area and to enable the satisfactory restoration of the site.

### **Access, Traffic and Protection of the Public Highway**

- 8) The development shall not be begun before a scheme of temporary traffic management measures has been submitted in writing to and received the prior written approval of the Mineral Planning Authority. The scheme shall then be implemented as approved and maintained throughout the duration of the development.

**Reason:** In the interests of highway safety.

- 9) The development shall not be begun before a scheme detailing provisions for wheel washing facilities for vehicles leaving the site has been submitted in writing to and received the prior written approval of the Mineral Planning Authority. The scheme shall include details of any on site drainage measures necessary for the recycling and/or discharge of water used in the cleaning process, provision for and the details of the surfacing treatment between the wheelwash and the highway, and proposals for its implementation and the timing of its implementation. The development shall then be implemented as approved and maintained throughout the duration of the development.



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**Reason:** In the interests of highway safety and to ensure that the highway is kept free of mud and debris at all times.

- 10) The total number of Heavy Goods Vehicle (HGV) movements (where one HGV entering and then leaving the site would generate two movements), to and from the site in connection with this permission, shall not exceed 100 per day when both secondary aggregates and coal extraction from Coal Areas 1 and 2 are taking place, reducing to 80 per day for the remainder of the life of the development. Daily records shall be kept at the site office of the number of HGV movements. These records shall be made available to the Mineral Planning Authority on request.

**Reason:** In the interests of highway safety and safeguarding the amenity of the residents of the local area.

- 11) All laden vehicles, whether involved in the transport of excavated material from the site or the import of materials for use in restoration of the site shall be sheeted.

**Reason:** In the interests of highway safety and safeguarding the amenity of the residents of the local area.

### Hours of Operation

- 12) No operations associated with the development (other than pumping operations for the removal of water from the extraction area) authorised or required by the terms of this permission shall be carried out except between the following hours:

- (i) for mineral extraction and processing operations

0700 hours to 1900 hours Mondays to Fridays;  
0700 hours to 1300 hours Saturdays.

- (ii) for the transport of minerals from the site

0700 hours to 1630 hours Mondays to Fridays;

- (iii) for the maintenance of plant and machinery

1300 hours to 1600 hours Saturdays.

No operations shall be carried out at any other time or on Sundays, Bank or other public holidays.

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**Reason:** To clarify the hours of operation in the interests of local amenity.

### Mineral Sales

- 13) Coal shall only be dispatched in bulk vehicles under the control of the operator.

**Reason:** For the avoidance of doubt and in the interests of highway safety.

- 14) Stockpile heights shall not exceed 5m.

**Reason:** In the interests of landscape and visual amenity.

### Noise

- 15) a) The noise limit measured at any of the potentially noise sensitive properties as identified in column 1 of the table below and in report reference R11.6712/2/N/PC entitled 'Assessment of Environmental Noise' by Vibrock Limited dated 6 April 2011, shall not exceed the corresponding noise levels expressed in dB(A) LAeq, 1hr (free field) set out in column 2 of the table as a result of implementation of the development to which this schedule of conditions relates.

b) During noisy short term activities at the site, the noise limits set out in column 2 of the table below, as required at a) above, may be exceeded during the daytime for periods not exceeding a total of 8 weeks in any period of 12 months throughout the duration of the development, as measured at the identified noise sensitive receptors. During these periods, the received noise levels shall not exceed 70dB(A) LAeq, 1 hour, free field. For the purposes of this condition, noisy short term activities are such activities as are referred to in Paragraph 21 of the Planning Practice Guidance.

| Noise Sensitive Receptor | Daytime<br>(0700 hours – 1900 hours)<br>Maximum Noise Limit<br>(dB LAeq, 1H) | Temporary Works<br>Maximum Noise<br>Limit<br>(dB LAeq, 1H) |
|--------------------------|--|--|
| Adjacent to Breck Farm   | 42   | 70   |
| Hawthorn Hill Farm House | 41   |  |
| Hartington House         | 48   |  |
| Staveley Library         | 47   |  |

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- 16) The development shall not be begun before a scheme for the monitoring of noise levels has been submitted in writing and received the prior written approval of the Mineral Planning Authority. The scheme, which shall be implemented as approved, shall include details of the following:

- i) noise monitoring locations;
- ii) monitoring equipment to be used;
- iii) monitoring periods;
- iv) frequency of monitoring;
- v) the recording of the monitoring results, including provision for the results to be made available to the Mineral Planning Authority;
- vi) provision for the renewing and updating of the scheme; and
- vii) a programme of implementation.

**Reason:** To control the impact of noise associated with the development and to enable the Mineral Planning Authority to effectively monitor this impact in the interests of local and residential amenity.

- 17) Efficient silencers shall be fitted, used and maintained in accordance with manufacturers' instructions on all vehicles, plant and machinery used on the site. Machinery shall not normally be operated with the covers open or removed.

**Reason:** To control the impact of noise generated by the development in the interests of local and visual amenity.

- 18) Reversing warning devices shall be non-audible, ambient related or low tone devices.

**Reason:** To control the impact of noise generated by the development in the interests of local and visual amenity.

## Dust

- 19) At all times, all operations hereby approved at this site shall be carried out in accordance with the Dust Action Plan contained at Section 6 of report number R11.6712/A/PC entitled 'Air Quality Assessment' by Vibrock Limited dated 30 June 2011. If, despite the Dust Action Plan, at any time during the operations the operator becomes aware or is informed by the Mineral Planning Authority that it believes that dust is leaving the site, then all relevant operations shall be suspended immediately and shall not be resumed until the Mineral Planning Authority has confirmed in writing that it is satisfied that appropriate measures are in place to ensure that operations may be resumed.

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**Reason:** To control the impact of dust generated by the development on the surrounding area.

- 20) Dust monitoring shall be carried in accordance with the Dust Monitoring Scheme set out in Section 6 of report of report number R11.6712/A/PC entitled 'Air Quality Assessment' by Vibrock Limited dated 30 June 2011 for the duration of the development unless otherwise approved in writing by the Mineral Planning Authority. Dust monitoring results shall be made available to the Mineral Planning Authority on a quarterly basis.

**Reason:** To control the impact of dust generated by the development on the surrounding area and to provide for the monitoring of this impact in the interests of local and residential amenity.

### **Blasting**

- 21) No explosives shall be used at the site.

**Reason:** to control the impact of noise and vibration generated by the development in the interests of local and visual amenity.

### **Lighting**

- 22) No external lighting shall be installed unless details have been submitted in writing to and have received the prior written approval of the Mineral planning Authority. The scheme shall then be implemented as approved.

**Reason:** To ensure that the development does not have an adverse impact on local amenity.

### **Environmental Protection**

- 23) There shall be no burning of waste at the site.

**Reason:** To ensure that the development does not have an adverse impact on local amenity.

### **Rubbish, Scrap and other Wastes**

- 24) All rubbish, scrap and waste material, either found or generated on the site, shall be stored in clearly marked areas or containers until such time as it can be removed to a facility which holds an appropriate Environmental Permit.

**Reason:** In the interests of protecting the environment and the amenity of the surrounding area.

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### Protection of Network Rail Property

- 25) With the exception of the tree planting allowed under this permission, no operations associated with the development shall take place within 5m from the railway boundary.

**Reason:** In the interests of protecting the adjacent railway.

- 26) The exposed face of the working, adjacent to the railway boundary, shall be maintained in a stable condition until backfilling takes place.

**Reason:** To ensure the stability of railway infrastructure.

- 27) The length of open sidewall adjacent to the railway shall be kept to the minimum necessary and backfilling operations against it must be undertaken as soon as practicable.

**Reason:** To ensure the stability of railway infrastructure.

- 28) There shall be no reduction in the effectiveness of any drain or watercourse belonging to Network Rail or works which will generate an increase in the existing flow rates into any culvert that passes beneath the railway without the prior written approval of the Mineral Planning Authority.

**Reason:** To maintain the integrity of the existing drainage systems and prevent flooding of railway infrastructure or land.

- 29) Soakaways or lagoons constructed as a means of storm/surface water disposal or storage must not be constructed within 10m of the railway boundary or at any point which could adversely affect the stability of Network Rail infrastructure.

**Reason:** To prevent the pollution of the water environment and prevent flooding of railway infrastructure or land.

- 30) All cranes, machinery and constructional plant shall be positioned so as to ensure that no part of them would be located within 3m of the railway boundary.

**Reason:** In order to maintain the safety of railway operations.

- 31) No new tree shall be planted closer to the railway than a distance equivalent to its mature height from the railway property.

**Reason:** To diminish the risk of derailment of trains by trees from the development site being blown down across the adjacent railway tracks.

**Protection of the Water Environment**

32) The diversion of the channel of the River Rother shall not take place until a working method statement to cover the river channel diversion works has been submitted to and received the prior written approval of the Mineral Planning Authority. The scheme, which shall then be implemented as approved, shall include the following:

- i) the formation of the new channel;
- ii) the diversion of the flow; and
- iii) a programme of implementation.

**Reason:** To ensure that the river diversion works will not increase flood risk or cause detriment to the water environment.

33) The development shall not be begun until a scheme for the provision of a surface water regulation system has been submitted to and approved by the Mineral Planning Authority.

**Reason:** To ensure that the development will not increase flood risk or cause detriment to the water environment.

34) Storm or surface water shall not be discharged onto or towards Network Rail property.

**Reason:** To prevent the increased risk of flooding and to maintain the integrity of nearby railway infrastructure.

35) No foul or contaminated drainage from the site shall be discharged, whether directly or via soakaways, into ground water or any surface waters. All foul drainage shall be contained within a sealed and watertight cesspool, fitted with a level warning device to indicate when the tank needs emptying.

**Reason:** To prevent pollution of the water environment.

36) Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses shall be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental

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damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund.

**Reason:** To prevent pollution of the water environment.

### **Working Scheme**

- 37) The development shall be progressively worked and restored in accordance with the details provided in drawing numbers HR207 entitled 'Operational Phase 1', HR208 entitled 'Operational Phase 2', HR209 entitled 'Operational Phase 3', HR210 entitled 'Operational Phase 4' unless otherwise approved in writing by the Mineral Planning Authority.

**Reason:** To minimise the impacts of the development on the local environment and to protect the amenity of the area.

### **Importation of Materials**

- 38) No material shall be brought onto or deposited\* on the site except for such soils, soil forming materials and soil ameliorants as have received the prior written approval of the Mineral Planning Authority.

\*For the avoidance of doubt in respect of this condition, "deposited" means placed in the final resting place, or temporarily deposited for six months or more.

**Reason:** To contain the impacts of the development within the site and to protect the amenity of the local area.

### **Protection of Soil Resources**

- 39) No plant or vehicles shall cross any area of soils or other materials intended for translocation or other use in the ecological compensation schemes prior to the removal of that material except where such trafficking is essential and unavoidable for purposes of undertaking permitted operations. No part of the site shall be excavated, traversed, used for a haul road, for the stationing of plant or temporary buildings, storage of subsoil or overburden, waste or mineral deposit, until all available material suitable for use in the ecological compensation schemes has been stripped from that part.

**Reason:** To prevent loss of or damage to soil and other suitable materials to be used in the mitigation of the impacts of the development.

### **Protection of Existing Trees**

- 40) No trees outside of the areas to be excavated shall be cut down, uprooted, damaged, destroyed or removed during the works without the prior written approval of the Mineral Planning Authority.

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**Reason:** To ensure the integrity of the trees and shrubs to be used in the restoration of the site.

- 41) Retained trees and shrubs shall be protected from disturbance, damage or destruction from the approved development where necessary by the provision of adequate stand-offs, machinery and materials storage exclusion areas, fencing, marker posts and buntings, or other suitable method. For the purpose of this condition, the Mineral Planning Authority shall consider fencing or other means of demarcation to be necessary where approved operations (other than planting) are to take place within 10m of a retained tree. Nothing shall be stored or placed in any area fenced or otherwise demarcated under this condition and the ground levels in those areas shall not be altered, nor any excavations made without the written approval of the Mineral Planning Authority. There shall be careful site supervision at all times to ensure that no damage occurs to the protected trees, shrubs, hedges and boundary features during the reclamation works.

All trees and shrubs protected under this condition shall be incorporated into an approved scheme of post restoration landscaping of the site, except where the removal of the vegetation is otherwise provided for in the approved scheme.

**Reason:** To ensure the integrity of the trees and shrubs to be used in the restoration of the site.

## Ecology

- 42) The development shall not be begun until the role and responsibilities and operations to be overseen by an appropriately qualified and competent person (e.g. an ecological clerk of works or on-site ecologist) have been submitted to and approved in writing by the Mineral Planning Authority. The appointed person shall supervise all activities, and works that shall be carried out, in accordance with the details approved under conditions 43 - 48 below.

**Reason:** To ensure that the ecological enhancement works are undertaken to the highest standards.

- 43) The development shall not be begun before a protocol for the management of non-native invasive species has been submitted in writing to and approved by the Mineral Planning Authority. The protocol, which shall be implemented as approved and maintained thereafter for the duration of the development, shall include details:

- i) for the containment, control and removal of Japanese Knotweed (*Fallopia Japonica*), Himalayan Balsam (*Impatiens Glandulifera*),



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Bullate Contoneaster (Contoneaster Bullatus), and Japanese Rose (Rosa Rugosa) from the site;

- ii) an annual check thereafter for the presence of those species for the duration of the aftercare period, with remedial measures implemented to address their presence where identified; and
- iii) a programme of implementation.

**Reason:** To ensure that the ecological enhancement works are undertaken to the highest standards.

- 44) No removal of hedgerows, trees or shrubs shall take place between 1 March and 31 August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared, and provided written confirmation that no birds will be harmed, and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Mineral Planning Authority within one week of the operations taking place.

**Reason:** In accordance with Section 1 of the Wildlife and Countryside Act 1981, as amended, and to ensure that the ecological enhancement works are undertaken to the highest standards.

- 45) No works for the construction of the bridge shall commence until a scheme providing details of the provision of bat roosts in, on, or near the bridge structure has been submitted to, and received the written approval of the Mineral Planning Authority. The scheme shall include details of the following:
- i) the proposed location of bat roosts;
  - ii) the specification of the roosts to be used;
  - iii) details of long term maintenance of the roosts;
  - iv) the replacement of the roosts in the event that they were to become lost/removed/damaged; and
  - v) a programme of implementation.

The scheme shall then be implemented as approved.

**Reason:** To ensure that protected species affected by the operations are afforded the appropriate protection.

- 46) No works for the construction of the river diversion channel shall commence until a survey has been carried out for of the presence of otter by a suitably qualified ecologist to establish the currency of use or otherwise of the part of the river affected by the development. Reports of such otter surveys shall be submitted to the Mineral Planning

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Authority within one month of the survey and prior to the commencement of working within that area. Should otter activity be identified within the area surveyed, no work shall take place before appropriate measures for the mitigation of impacts, including the provision of otter ledges in the construction of the bridge, and a programme of implementation have been submitted to and received the written approval of the Mineral Planning Authority. The mitigation measures shall then be implemented as approved.

**Reason:** To ensure that protected species affected by the operations are afforded the appropriate protection.

- 47) No works for the construction of the river diversion channel shall commence until a survey has been carried out for of the presence of white-clawed crayfish by a suitably qualified ecologist to establish the currency of use or otherwise of the part of the river affected by the development. Reports of such white-clawed crayfish surveys shall be submitted to the Mineral Planning Authority within one month of the survey and prior to the commencement of working within that area. Should white-clawed crayfish activity be identified within the area surveyed, no work shall take place before appropriate measures for the mitigation of impacts and a programme of implementation have been submitted to and received the written approval of the Mineral Planning Authority. The mitigation measures shall then be implemented as approved.

**Reason:** To ensure that protected species affected by the operations are afforded the appropriate protection.

- 48) No work shall be undertaken on land within 30m of the outlier badger setts identified in the Ecological Impact Assessment unless a survey has been carried out by a suitably qualified ecologist to establish the currency of use or otherwise of the setts. Reports of such badger surveys shall be submitted to the Mineral Planning Authority within one month of the survey and prior to commencement of working within that area. Should active badger setts be identified within the area surveyed, no work shall take place before appropriate measures for the mitigation of impacts and a programme of implementation have been submitted to and received the written approval of the Mineral Planning Authority. The mitigation measures shall then be implemented as approved.

**Reason:** To ensure that protected species affected by the operations are afforded the appropriate protection.

- 49) The development shall not be begun until such time as a scheme of additional measures to secure the habitat creation and management

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works has been submitted to and approved in writing by the Mineral Planning Authority. The additional measures to be specified in the scheme shall cover:

- i) retention of a 5m wide bund along the boundary with the railway line;
- ii) creation of a 5m transitional zone into the site from the bund/boundary zone consisting of open habitats and grassland with a small number of occasional trees (Oak and Birch);
- iii) creation of a further 12m inner zone consisting of open habitats for invertebrates, including the creation of butterfly banks;
- iv) details of any preparatory groundworks required in respect of the above;
- v) details of the proposed management and maintenance regimes (including the proposed timing and frequency of such operations) to be used at the site;
- vi) provision for monitoring of the translocated/new habitats; and
- vii) a programme of implementation.

The scheme shall be implemented as approved.

**Reason:** To ensure that the ecological enhancement works are undertaken to the highest standards.

## Restoration

50) Within six months of the commencement of the development, the applicant or operator shall submit a scheme for the approval in writing of the Mineral Planning Authority providing details of the restoration proposals. The scheme shall be based upon the indicative proposals shown on drawing number HR211 Rev G entitled 'Restoration' submitted as part of the further information on 16 February 2013, and shall incorporate and provide greater detail of the revisions set out in the letter from the applicant dated 14 April 2014. The scheme shall include details of:

- i) the areas to be restored to woodland and woodland edge, riverine habitat, water areas and meadow sown with conservation seed mix;
- ii) any new or replacement fencing;
- iii) final restoration contours; and
- iv) a detailed programme of implementation.

The scheme shall then be implemented as approved.

**Reason:** To ensure that the restored areas assimilate into the surrounding countryside in the interests of the landscape and visual amenity of the area.

### **Planting and Landscape Establishment**

- 51) Within six months of the commencement of the development, a detailed scheme of landscaping and habitat creation and management for the development site shall be submitted by the applicant or operator for the approval in writing of the Mineral Planning Authority.

The schemes shall include details of:

- (i) phasing;
- (ii) soil placement and ground preparation;
- (iii) tree planting including species, size of plants and density of planting;
- (iv) protection of newly planted stock and provision of the removal of tree guards/shelters when no longer required;
- (v) seed mixes (including woodland flora) and rates of application; and
- (vi) maintenance and aftercare provisions including: formative pruning, grass cutting, watering, firming in, weed control (spring and autumn), replacement planting (annually), keeping of records and annual review meetings with representatives of the Mineral Planning Authority) for a period of five years following restoration.

The schemes shall be implemented in accordance with the scheme as approved in writing by the Mineral Planning Authority.

For the first five years following implementation of each phase or phases, the planting shall be maintained in accordance with the principles of good forestry and land husbandry. Any plants, trees or shrubs which die or become seriously damaged, diseased or removed shall be replaced with plants of the same species or such alternatives as may be approved by the Mineral Planning Authority. For the avoidance of doubt, 100% replacement is required and any sward which has not established shall be remediated and reseeded.

**Reason:** To ensure that the footprint of the restored areas assimilates into the surrounding area in the interests of the landscape and visual amenity of the areas.

### **Landscape and Ecological Management Plan (LEMP)**

- 52) Within six months of the commencement of the development, a Landscape and Ecological Management Plan (LEMP) for the development site shall be submitted by the applicant or operator for the approval in writing of the Mineral Planning Authority.

The content of the LEMP shall include the following:

- i) description and evaluation of features to be managed;

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- ii) ecological trends and constraints on site that might influence management;
- iii) aims and objectives of management;
- iv) appropriate management options for achieving aims and objectives;
- v) prescriptions for management actions;
- vi) preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- vii) details of the body or organisation responsible for implementation of the plan; and
- viii) ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The Plan shall also set out how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the original scheme. The LEMP will be implemented as approved.

**Reason:** To ensure that the landscaping and ecological enhancement works are undertaken to the highest standards.

### Aftercare

- 53) Within six months of the date of this permission, the applicant or operator shall submit an aftercare scheme for the approval in writing of the Mineral Planning Authority. The scheme shall provide details of such steps as necessary to bring each phase of the restored land to an acceptable standard for the proposed after-use of woodland and nature conservation. The scheme shall provide for a five year programme of the details of the measures to be undertaken and the maintenance of appropriate records for the following information:
- i) date of commencement of the aftercare period for each phase or separate area of the development;
  - ii) location plans;
  - iii) details of planting requirements;
  - iv) details of the aftercare and maintenance, including cutting, trimming, watering, protection from pest damage, weed control and replacement planting;
  - v) maintenance of the site (including the repositioned River Rother) free from invasive non-native species including Himalayan Balsam.
  - vi) annual review meeting details; and
  - vii) details of further action required following each review meeting.

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**Reason:** To comply with the requirements of Schedule 5 of the Town and Country Planning Act 1990 and to ensure that the restored to amenity delivered primarily through nature conservation.

### **Premature Cessation**

54) If:

- a) the permission subject to these conditions expires or otherwise ceases to have effect; or
- b) the Mineral Planning Authority and all the persons with an interest in the site agree that mining operations have ceased before the site restoration in accordance with Condition 53 above has been achieved, the site shall be restored in accordance with a scheme which has the approval of the Mineral Planning Authority.

**Reason:** To ensure that the site is reclaimed and landscaped in accordance with detailed schemes approved by the Mineral Planning Authority and in the interests of local amenity and the environment.

### **Reasons for Approval**

The planning application has been determined in accordance with the development plan as is required by Section 38(6) of the Planning and Compulsory Purchase Act 2004 and the National Planning Policy Framework (NPPF) published by the Department of Communities and Local Government on 27 March 2012.

There are no other material considerations which indicate that the application should be determined otherwise than in accordance with the development plan.

The development under the planning permission with the conditions above is in accordance with the relevant policies of the development plan, which are listed below:

### **Statement of Compliance with Article 31 of the Town and Country Development Management Procedure Order 2012**

The Authority worked with the applicant in a positive and pro-active manner on seeking solutions to problems arising the processing of the planning application in full accordance with this Article.

### **Policies**

The principal planning policies relevant to this grant of planning permission are:

### **National Planning Policy Framework**

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### **Derby and Derbyshire Minerals Local plan (DDMLP)**

The most relevant policies in the DDMLP are:

MP1: The Environmental Impact of Mineral Development.  
MP2: The Need for Mineral Development.  
MP3: Measures to Reduce Environmental Impact.  
MP4: Interests of Acknowledged Environmental Importance.  
MP5: Transport.  
MP6: Nature Conservation – Mitigation Measures.  
MP10: Reclamation and After-use.  
MP17: Safeguarding Resources.  
MP24: Secondary and Recycled Materials.  
MP27: Coal Extraction and Colliery Spoil Disposal.

### **Chesterfield Borough Local Plan: Core Strategy (CBCS)**

The most relevant policies in the CBCS are:

CS1: Spatial Strategy.  
CS2: Principles for Location of Development.  
CS3: Presumption in Favour of Sustainable Development.  
CS7: Management of the Water Cycle.  
CS8: Environmental Quality.  
CS9: Green Infrastructure and Biodiversity.  
CS13: Economic Growth.  
PS5: Staveley and Rother Valley Corridor.

## **Footnotes**

- 1) Pursuant to Section 278 of the Highways Act 1980, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from the Strategic Director – Economy, Transport and Environment at County Hall, Matlock (telephone 01629 533190). The applicant is advised to allow at least 12 weeks in any programme of works to obtain a Section 278 Agreement.
- 2) Pursuant to Section 50 (Schedule 3) of the New Roads and Streetworks Act 1991, before any excavation works are commenced within the limits of the public highway, at least six weeks prior notification should be given to the Strategic Director – Economy, Transport and Environment at County Hall, Matlock (tel: 01629 533190 and ask for the New Roads and Streetworks Section).

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- 3) Pursuant to sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

### Network Rail Advisory Notes

- 4) If old workings are present in the coal seams to be extracted, Network Rail require any such workings in the sidewall alongside railway property to be sealed with clay (in accordance with the former British Coal Corporation specifications, copies of which are held in the Mining Engineer's Office, Room 55, Wyvern House) to prevent the ingress of water into any old workings beneath railway property. Where any such workings are encountered, Network Rail requires to be notified, prior to the construction of clay seals and backfilling, to enable an inspection to be made.
- 5) Where blasting techniques are to be employed within 200m of the railway boundary, the following conditions apply:
  - (i) Vibration monitoring shall be carried out by the developer, or their contractors, to determine the effect of blasting on the railway, and Network Rail shall be supplied with a copy of the results of the monitoring.
  - ii) Agreement must be reached between Network Rail and Tawnywood Ltd on the design and operation of a "Safe System of Work" to ensure the protection of rail traffic whilst blasting is being undertaken.
  - (iii) Where possible, the free face of workings shall be orientated away from the railway to reduce the risk of material being projected onto railway property as a result of blasting operations.
  - (iv) The developer shall (a) meet the costs of all reasonable protective works carried out by Network Rail, which are directly attributable to the proposed use of explosives pursuant to the foregoing conditions, and (b) indemnify Network Rail against all third party claims arising by reason or in consequence of the said use of explosives except insofar as the same are caused by the negligence of Network Rail, their servants, agents or licensees.
- 6) Dewatering operations must not compromise railway operations or damage railway infrastructure. Prior to the commencement of any dewatering operations, Network Rail requires the installation of piezometers to monitor the effect of the operations on water pressures



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in the ground adjacent to or on railway property. It may also be necessary to monitor track levels during such operations. All costs for such works must be met by the developer.

- 7) Where alterations to existing ground levels are proposed within 10m of the boundary of railway land (including the construction of storage mounds) detailed plans of the development, including cross-sections, should be forwarded to Network Rail for assessment and comment before development commences.
- 8) Lighting schemes for illuminating new roads, parking and garage areas, etc, shall be submitted to Network Rail for prior approval.
- 9) The site operator should ensure that the lighting scheme at the site does not present a dazzle hazard to train crew and also that any coloured lighting does not conflict with the railway signalling system. The lighting scheme for the site must be submitted to Network Rail for prior approval. Network Rail requires the operator to undertake any necessary work to mask, or re-direct, onsite lighting. All the costs of such works are to be met by the operator.
- 10) Only inert spoil shall be used as the backfill material. In the event that biodegradable waste is imported to the site, Network Rail will hold the operator responsible for the escape of hazardous landfill gas or leachate which may affect railway operations or the safety of the public.
- 11) It would be preferable for deciduous trees and pines not to be planted close to the operational railway.
- 12) Network Rail shall be notified of any significant alteration to the characteristics of the work or site, for example, changes in the depth of working, limits of extraction, and nature of any waste materials.

Signed.....Date.....

**Mike Ashworth**  
**Strategic Director – Economy, Transport and Environment**

Title

# CM2/0911/81 Hartington Tip



