

Agenda Item No.3.2

DERBYSHIRE COUNTY COUNCIL
REGULATORY – PLANNING COMMITTEE

11 July 2016

Report of the Strategic Director – Economy, Transport and Communities

- 2 SECTION 73 APPLICATION TO NOT COMPLY WITH CONDITION 9 OF PLANNING PERMISSION CW4/1214/115 TO PERMANENTLY RETAIN THE TEMPORARY CAR PARK PROVIDED FOR THE CARRYING OUT OF WASTE TREATMENT OPERATIONS FOR THE REMEDIATION OF TAR SLUDGE/WASTES AND SUBSEQUENT RESTORATION TO AMENITY USES AT GRASSMOOR LAGOONS, GRASSMOOR COUNTRY PARK**
APPLICANT: DERBYSHIRE COUNTY COUNCIL
CODE NO: CW4/1215/126

4.294.46

Introductory Summary

The approved development to which this application relates is treatment of the contaminated material in and around the former Grassmoor Lagoons and to restoration of the area to beneficial public amenity uses, incorporating the land into the adjacent Grassmoor Country Park. The access to the site, used for the remediation works, required the informal car park off Mansfield Road, Corbriggs to be closed and an alternative, temporary car park, was provided nearby. The project is nearing completion and it is now proposed to retain the car park on a permanent basis to improve the facilities for users of the park. A grant of permission on this application, subject to appropriate conditions, would not give rise to any adverse impacts or delay the incorporation of the restored site into the Country Park, and would conform to the provisions of the development plan. Accordingly, it is recommended for approval.

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

(2) **Information and Analysis**

Background Information

The Grassmoor Lagoons were the remaining contaminated part of the former Grassmoor Colliery and Coking Works which were restored and from which the

Country Park was created. The County Council voluntarily elected to remediate the Lagoons site to remove the remaining sources of pollution and to include the land within the wider Country Park. RemedX Ltd, the original applicant and operator, is part of the RSK Group and was appointed by the County Council to design and implement the remediation scheme for the lagoons and surrounding area and restore it to a beneficial use. The form of the remediation works was approved by the Regulatory - Planning Committee on 14 November 2011 (Minute No. 125/11 refers) and works commenced in July 2012. Revisions to the final landform and landscaping were approved by this Authority in February 2015. Progress has been very good. The remediation works were completed by December 2014, the backfilling was completed by April 2015 and the final landform re-profiling was completed by July 2015. The final landscaping works are nearing completion.

Current Proposal

The main vehicular access to the remediation site has been via the gateway at the bend in the road on Mansfield Road to the north of the lagoons site. This area was previously used as an informal car park by visitors to the Country Park and the use had to be terminated to enable the remediation works to take place. An alternative car park was provided on a part of the park nearby and was originally intended as a temporary provision pending the completion of the development. The applicant states that the temporary car park has proved to be an important addition to the facilities at the park and is now proposing to retain it on a permanent basis.

The proposal includes the reduction of the earth bund on the eastern side of the car park by 0.6 metres to increase the visibility of the facility and to place wooden bollards on the lower part of the inner slope to prevent cars from parking in that area. The submitted plans also indicate changes to the former informal car park area, including the replacement of the existing barrier gate at the site entrance.

Consultations

Local Member

Councillor Hill was consulted.

North East Derbyshire District Council

No objection.

Environment Agency, National Grid and Western Power, Yorkshire Water, Grassmoor Parish Council and Temple Normanton Parish Council

No responses received.

Publicity

The application has been advertised in the press and by site notice with a request for any observations by 12 February 2016 and again by 22 April 2016. Two letters of objection have been received. The grounds of objection include:

- No prior consultation with local residents.
- Originally promised to be a temporary measure only, so unfair to now make it a permanent feature.
- Headlights from cars leaving cause disturbance to residential premises opposite.
- Unsocial use of the car park, particularly at night time, prevents peaceful sleep and is unacceptable.
- Car park is not required as the previous parking area would be more than adequate if resurfaced.
- The earth bunds around the car park are unsightly and aid the unsociable activities on it.
- The access is in a dangerous position on the highway, particularly for car turning right out of it.

Comments: It is acknowledged that the original planning application made provision for the use of the new car park as a temporary measure only, but the current application to retain it on a permanent basis has to be treated on its merits. Regarding the references to residents being disturbed by unsocial activities from the car park, such issues are matters for reporting to the Police to enable the Police Authority to address them. Comments relating to the location and function of the access point are noted but these matters were addressed during the assessment of the original planning application and the Highway Authority was satisfied with the technical aspects of the access, including the visibility splays in both directions.

Planning Considerations

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. In relation to the original application, the relevant policies of the development plan are contained in the Derby and Derbyshire Waste Local Plan (DDWLP) and the North East Derbyshire Local Plan (NEDLP). The National Planning Policy Framework (NPPF) and National Planning Policy Guidance (NPPG) are also relevant material considerations.

The main aspect of the approved development at the Country Park was the remediation of the former lagoons and the incorporation of the restored area into the park. These works are now nearing completion and the remaining programme, including the final landscaping, would not be affected by the proposed retention of the car park. Indeed the temporary car park is separated from both the former lagoons and the previous informal car park. The main planning considerations therefore concern the implications of retaining the car park only. It is not necessary to compare the relative merits of the former and current parking areas but in this respect, it is noted that the applicant has constructed new fencing and repositioned one of the gates to the road frontage which prevents cars from using this former parking area and restricts access to pedestrians only. It is therefore no longer available.

The area used for car parking prior to the commencement of the remediation works was not a formal car park and was not designed, laid out or constructed for that use. Nevertheless, it was well used and formed a convenient facility for visitors at the northern end of the Country Park and for walkers as a starting point for the Five Pits Trail on the basis it will have a range of benefits associated which encourage healthy lifestyles. The temporary car park was constructed to a high standard with a height restrictive access barrier with screening bunds formed around the perimeter. The surface was laid with a 'toptrec' type material which is commonly used as the surfacing for multi-user trails and incorporated drainage to prevent pooling of water (in contrast to the informal car park area). The temporary car park is therefore wholly suitable for permanent retention.

During the processing of the original remediation application, concern was expressed by a local resident about the location of the temporary car park, in particular the potential for intrusion from headlights of cars exiting the park in the evening. In order to prevent this problem, the base level of the car park was lowered to alter the angle of headlights relative to this property. In addition, the design included the provision of earth bunds to create a physical barrier between the car park and the property. Retaining the car park for permanent use would therefore not cause any direct nuisance to the occupiers of this property. The number of cars using the car park would be very small in comparison to the number of vehicles which travel along Mansfield Road past this property, such that they would not generate any noise disturbance over and above existing road traffic.

The car park frontage and the earth bunds are simply grass seeded and the absence of any landscaping features reflects the existing temporary basis for the facility. If the facility is to be retained on a permanent basis, it would be appropriate to provide some landscaping to help better assimilate the car park in

to the wider Country Park. The recommendation includes an appropriate condition.

(3) **Financial Considerations** The correct fee of £195 has been received.

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

(5) **Environmental and Health Considerations** As contained 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, social value and transport considerations.

(6) **Background Papers** File 4.294.44 and 46
Application form and documents from the Director of Property dated 16 December 2016. Letter from North East Derbyshire District Council dated 17 February 2016.

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

Form and Timing of Development

- 1) The proposed development shall be implemented and operated in accordance with: the details contained in the planning application and accompanying documents submitted by Turley Associates on behalf of Remedx Ltd, under cover of the letter dated 8 July 2010, drawing 170353 (R01-00) Figure 1 received on 2 September 2010, the Revised Interpretative Report 170348 – RO4(01) dated March 2011, the Revised Interpretative Report 170348 – RO4(01) dated March 2011, the Revised Remediation Strategy and Implementation Plan 170353 R01(01) dated March 2011, the Additional Factual Site Investigation Report 170419 CTR14 – Vr1 dated February 2011 and the further information and clarification provided in letters from Remedx Ltd dated 3 March 2011, 19 April 2011, 15 May 2011, 14 June 2011 and letters from Turley Associates dated 28 October 2010 and 9 March 2011, as amended by the details in

the application submitted by Remedx Ltd under cover of the letter from the RSK Group dated 3 December 2014,

subject to such changes as may be required by any details in the following reports and drawings which accompanied the application for planning permission number CW4/1214/15:

- Grassmoor Lagoons Section 73 Planning Application, Environmental Review Report RSK/M/P170417-03-01 December 2014,
- Grassmoor Lagoons Remediation Scheme Flood Risk Assessment and Surface Water Drainage Strategy 132048-R1(1)-FRA November 2014,
- Drawing 132048-002 Rev P5,
- Drawing 132048-003 Rev P3,
- Drawing 132048-004 Rev P4,
- Drawing 170498 Fig 2 Rev 01,

and subject to such changes as may be required by any details in the following drawings and documents which accompanied the application for this permission (number CW4/1215/126):

- 9000/B9.
- CS.7.1.8/04.
- CS.7.1.8/06.
- CS.7.1.8/07.
- Design and Access Statement dated September 2015.

This requirement includes the implementation in full of all the mitigation measures identified in the application documents.

Reason: To control the form and appearance of the development in the interests of the amenity of the area.

- 2) No development involving the felling and clearance of trees and other vegetation shall be undertaken during the bird nesting season (1 March to 31 August).

Reason: To ensure adequate protection to birds nesting on the site.

Timescales and Programme

- 3) The proposed development shall be completed by 31 July 2017 (excluding aftercare requirements) unless otherwise agreed in writing by the Waste Planning Authority.

Reason: To control the duration of the development in the interests of the amenity of the area.

- 4) No later than six months from the commencement of the development and at annual intervals thereafter, the applicant/operator shall submit a report on progress against the approved phasing programme outlined in the planning application documents. The reports shall be accompanied by details of the future works programme and any amendments to phasing which shall require the prior approval in writing of the Waste Planning Authority.

Reason: To control the duration of the development in the interests of the amenity of the area.

Contingency Measures

- 5) In the event that the monitoring results, required by Condition 12 below, indicate that the design criteria targets are not being met, the applicant or operator shall implement a series of contingency measures. These shall include the provision of a French drain as detailed in drawing numbers 170348-R05(01) Figure 1 dated 28 February 2011 and 660120-LDE1007 RevP1 dated 5 October 2011, and accompanying details in the report entitled Surface Water and Groundwater Monitoring Plan: Grassmoor Lagoons dated 5 October 2011.

Reason: To ensure the provision of adequate measures to protect the people who live and work in the area, and the integrity of the surrounding environment in the event of the identified control and mitigation measures proving to be inadequate.

Environmental Management and Communications Plan

- 6) For the duration of the development, all relevant works shall be carried out in full compliance with the details and requirements of the Environmental Management and Communications Plan, as approved by the Waste Planning Authority on 6 June 2012.

Reason: To clearly establish the role and responsibilities of the operator during the works and to provide the means of communication for local residents.

Access and Highway Requirements

- 7) The spaces provided within the site curtilage for the storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives' and visitors' vehicles,

including how those areas were laid out and constructed, shall remain in compliance with the details approved by the Waste Planning Authority on 18 May 2012. These facilities shall be maintained throughout the period of the development free from any impediment to their designated use.

Reason: In the interests of highway safety.

- 8) All temporary road signage and the routing of HGVs shall be maintained and operated in accordance with the details approved by the Waste Planning Authority on 21 November 2013.

Reason: In the interests of highway safety.

- 9) No mud or other extraneous material shall be transferred from the site out onto the public highway.

Reason: In the interests of highway safety.

Landscaping of the Car Park

- 10) Within three months of the date of this decision notice, the applicant shall submit a scheme for the approval in writing of the County Planning Authority providing details of a landscaping scheme for the 'temporary car park' which is to be retained on a permanent basis. The scheme shall be implemented in the first planting and seeding season following the approval of the scheme. Any tree or shrub which, within five years of being planted, dies, becomes diseased or is otherwise removed, shall be replaced with another of the same species and size unless otherwise approved in writing by the County Planning Authority.

Reason: To assimilate the car park into the wider landscape of the Country Park and in the interests of the visual amenity of the area.

Hours of Operation

- 11) The hours of operation for site preparation, works to the 'temporary' car park, deliveries to the site and transport of materials from it, and the creation of the landform, the turning of the windrows and all restoration works shall be restricted to:

Monday to Friday 0700 hours to 1800 hours; and
Saturday 0800 hours to 1400 hours.

There shall be no operations undertaken, other than routine maintenance, on Sundays, Bank or other national holidays.

For the avoidance of doubt the hours of operation in this condition relate only to the operations associated with the bioremediation works. The permanent retention of the car park following the completion of those works is not subject to restrictions on its hours of use.

Reason: To control the hours of operation in the interests of the amenity of the area.

Water Environment Controls

- 12) Throughout the remaining period of the approved development, the applicant/operator shall work in full compliance with the terms and requirements of the Site Water Management Plan, as approved by the Waste Planning Authority on 21 November 2013.

For the avoidance of doubt, groundwater encountered during the development and surface water shall be treated in accordance with the requirements of statutory licences and consents in respect of water treatment, including discharges, as the Environment Agency may issue in connection with the development, and the development shall not proceed in the absence of all such licences and consents.

Reason: To prevent pollution of the water environment.

- 13) If, during development, any contamination not previously identified in the ground investigation assessment is found to be present, no further development (unless otherwise agreed in writing by the Waste Planning Authority) shall be carried out until the developer or operator has submitted to and obtained in writing by the Waste Planning Authority, the approval for an amendment to the Remediation Strategy detailing how the unsuspected contamination shall be dealt with.

Reason: To prevent pollution of the water environment.

Air Quality

- 14) Throughout the remaining period of the development, the operator shall undertake the works in full compliance with the terms and requirements of the Air Quality Management Plan (AQMP) as approved by the Waste Planning Authority on 18 May 2012.

Reason: To control emissions from the site in the interests of the health and amenity of local residents.

- 15) Throughout the excavation of sludge from the lagoons and from any other potential sources of Volatile Organic Compounds (VOCs) within the site, the applicant/operator shall arrange for ongoing scientific assessment to be carried out by a suitably qualified person, of the potential for any emissions of VOCs relating to the development (whether individually or in combination with other environmental factors) to affect human health, utilising the ongoing monitoring results from the AQMP referred to in Condition 14 above. If a risk greater than negligible adverse effect on human health is specified or predicted by the assessor, the applicant/operator shall propose additional mitigation measures which shall be implemented as approved by the Waste Planning Authority, including any additional remedial steps the Waste Planning Authority may, under its approval, require to be taken, including suspension of working should it consider this to be necessary for the protection of human health.

Reason: To control emissions from the site in the interests of the health and amenity of local residents.

Noise Control

- 16) All plant and machinery shall operate only during the permitted hours set out in Condition 11 above, except in an emergency, and shall be silenced at all times in accordance with the manufacturers' recommendations.

Reason: To control noise generated by the development in the interests of local amenity.

- 17) The development shall be in full compliance with the terms and requirements of the Noise Monitoring Plan, as approved by the Waste Planning Authority on 6 June 2012. The results of the monitoring shall be made available to the Waste Planning Authority and in the event of any of the stipulated noise limits being exceeded the operation(s) giving rise to that exceedance shall cease until appropriate mitigation measures to end that exceedance have been introduced.

Reason: To control noise generated by the development in the interests of local amenity.

Landscaping and Habitat Management

- 18) The site shall be landscaped in accordance with a revised scheme based on the Landscape Masterplan (drawing ref RSK/M/P660120/05/01/D/04 in the Planning Supporting Statement) and which has been submitted to and approved in writing by the Waste Planning Authority. The scheme shall be submitted by the applicant or operator within three months of the date of

this permission, and shall be implemented in the first planting and seeding season following the completion of the construction works. Any tree or shrub which, within five years of being planted, dies, becomes diseased or is otherwise removed, shall be replaced with another of the same species and size, unless otherwise approved in writing by the Waste Planning Authority.

Reason: To help assimilate the restored site into the surrounding landscape.

- 19) The restored site, including all landscaping as provided for under Condition 18 above, shall be maintained in accordance with a revised Landscape and Habitat Management Plan which has been submitted to and approved in writing by the Waste Planning Authority. Such a scheme shall be submitted by the applicant or operator within three months of the date of this permission.

Reason: To improve and maintain the ecological interest of the restored site.

External Lighting

- 20) All external lighting at the site shall be in accordance with the details, including how it is maintained, in the scheme approved by the Waste Planning Authority on 6 June 2012. No other external lighting shall be installed without the prior approval of the Waste Planning Authority to a new scheme of lighting which shall have regard to the "Guidance Notes for the Reduction of Obtrusive Light GN01", produced by the Institute of Lighting Engineers.

Reason: To control the use of external lighting at the site in the interests of the amenity of the area.

Other Environmental Controls

- 21) There shall be no burning of waste materials on the site.

Reason: To prevent the burning of any waste on the site in the interests of the amenity of the area.

Aftercare

- 22) An revised aftercare scheme, requiring that such steps as may be necessary to bring the restored land to a standard suitable for the proposed amenity after-uses over a period of five years, shall be submitted for the approval in writing of the Waste Planning Authority within three

months of the date of this permission, and thereafter implemented as approved.

The applicant/operator shall maintain an annual aftercare record manual that shall be submitted to the Waste Planning Authority. The records shall include the following information:

- i) date of commencement of the aftercare period for the overall project or each phase or phases as appropriate;
- ii) location plan;
- iii) details of the planting requirements;
- iv) scheme of aftercare/maintenance;
- v) schedule of operations by phase of restoration (where relevant);
- vi) annual review meeting details; and
- vii) details of any further action required following each review meeting.

Reason: To comply with the requirements of Schedule 5 of the Town and Country Planning Act 1990 and to ensure that the restored land is correctly husbanded and to bring the land to the required standard for amenity use.

Ongoing Monitoring

- 23) Monitoring of the site shall be undertaken in accordance with the detail specified in the Grassmoor Lagoons Validation Report, 170363-VR01 (00) dated December 2015, as approved by the Waste Planning Authority on 5 May 2016. All maintenance specified in the report shall be carried out as detailed for the duration of the aftercare period.

Within three years of the date of commencement of the approved development, the applicant/operator shall submit, for the approval in writing of the Waste Planning Authority, details of a long-term monitoring and maintenance plan for the duration of the aftercare period of pollutant linkages, maintenance and arrangements for contingency action. The approved scheme shall be included as part of a Verification Report which shall be in the form approved by the Waste Planning Authority on 4 December 2014, and shall be submitted to the Waste Planning Authority upon completion of the final restoration works. During the aftercare period, the monitoring and maintenance specified under the long-term monitoring and maintenance plan, as approved by the Waste Planning Authority, shall be carried out.

Reason: To ensure that the remediated site does not cause any unforeseen long-term pollution problems and remains in a condition that meets the standards for the prescribed after-uses.

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

The Authority worked with the applicant in a positive and pro-active manner based on seeking solutions to problems arising in the processing of planning applications in full accordance with this Article. The applicant had engaged in pre-application discussions with the Authority prior to the submission of the application. The applicant was given clear advice as to what information would be required.

Footnotes

- 1) Attention of the applicant/operator is drawn to the information and requirements detailed in the attached letters and memorandum from Yorkshire Water dated 6 August 2010, E.on dated 6 August 2010, the Rights of Way Officer dated 9 August 2010 and the Environment Agency dated 28 October 2011.
- 2) The proposed development lies within an area which could be subject to current coal mining or hazards resulting from past coal mining. Such hazards may currently exist, be caused as a result of the proposed development, or occur at some time in the future. These hazards include:
 - Collapse of shallow coal mine workings.
 - Collapse of, or risk of entry into, mine entries (shafts and adits).
 - Gas emissions from coal mines including methane and carbon dioxide.
 - Spontaneous combustion or ignition of coal which may lead to underground heatings and production of carbon monoxide.
 - Transmission of gases into adjacent properties from underground sources through ground fractures.
 - Coal mining subsidence.
 - Water emissions from coal mine workings.

Applicants must take account of these hazards which could affect stability, health and safety, or cause adverse environmental impacts during the carrying out of their proposals and must seek specialist advice where required. Additional hazards or stability issues may arise from development

on or adjacent to restored opencast sites or quarries and former colliery spoil tips.

Potential hazards or impacts may not necessarily be confined to the development site, and applicants must take advice and introduce appropriate measures to address risks both within and beyond the development site. As an example, the stabilisation of shallow coal workings by grouting may affect, block or divert underground pathways for water or gas.

In coal mining areas, there is the potential for existing property and new development to be affected by mine gases, and this must be considered by each developer. Gas prevention measures must be adopted during construction where there is such a risk. The investigation of sites through drilling alone has the potential to displace underground gases or in certain situations may create carbon monoxide where air flush drilling is adopted.

Any intrusive activities which intersect, disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes.

Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action. In the interests of public safety the Coal Authority is concerned that risks specific to the nature of coal and coal mine workings are identified and mitigated.

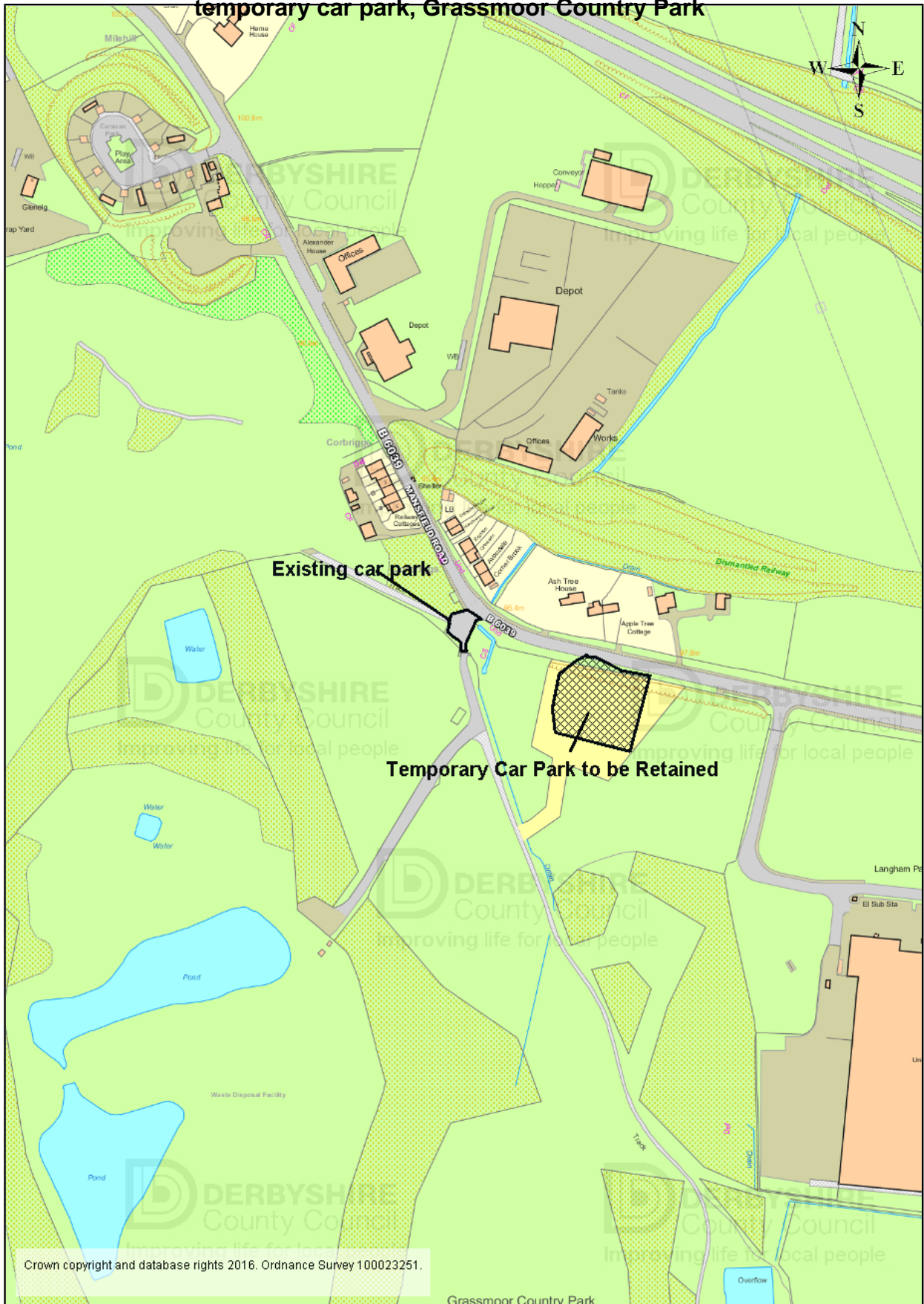
The above advice applies to the site of your proposal and the surrounding vicinity. You must obtain property specific summary information on any past, current and proposed surface and underground coal mining activity, and other ground stability information in order to make an assessment of the risks. This can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

- 3) Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Street Works Act 1991, at least six weeks prior notification should be given to the Strategic Director – Economy, Transport and Communities at County Hall, Matlock (telephone 01629 533190) before any works commence within highway limits for the vehicular access.

- 4) Pursuant to sections 149 and 151 of the Highways Act 1980, the applicant must take all 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 of cleanliness.
- 5) The Highway Authority recommends that the first 5 metres of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel, etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the landowner.
- 6) Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway, measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
- 7) The application site is affected by public Rights of Way. The routes must remain unobstructed and their legal alignments at all times and the safety of the public using them must not be prejudiced either during or after development works take place. Advice regarding the temporary (or permanent) diversion of such routes may be obtained from the Strategic Director – Economy, Transport and Communities at County Hall, Matlock (telephone 01629 533190 and ask for the Rights of Way Officer).

Mike Ashworth
Strategic Director - Economy, Transport and Communities

CW4/1215/126 - Proposed retention of temporary car park, Grassmoor Country Park



Scale 1 : 3821