

DERBYSHIRE COUNTY COUNCIL
REGULATORY – PLANNING COMMITTEE

19 August 2013

Report of the Acting Strategic Director – Environmental Services

- 1 PROPOSED DEVELOPMENT AT STATION YARD, STATION ROAD, RENISHAW**
(i) RECOVERY OF ASH AND BALLAST, AND THE IMPORTATION OF FILL FOR RESTORATION PURPOSES (PHASE 2); AND
(ii) PROPOSED TREATMENT OF WASTE MATERIALS BY MEANS OF SOIL REMEDIATION FOR THE PURPOSES OF MANUFACTURING FILL MATERIALS SUITABLE FOR THE CONSTRUCTION OF A GOLF COURSE LANDFORM
APPLICANT: ASH (RENISHAW) LTD
CODE NOS: CW4/0111/150 and CM4/0212/162
(4.224.8 and 9)

Introductory Summary These two applications for planning permission refer to a proposal to extract approximately 40,000 tonnes of ash and ballast for use in concrete production, the importation of up to 75,000 tonnes of contaminated soil based materials for treatment by bioremediation to restore the site back to existing ground levels, and the importation and recycling of inert/construction wastes for subsequent export and use elsewhere. They have been put forward in the context of a planning permission for the development of a golf course which was granted by North East Derbyshire District Council (NEDDC). These applications relate to the southern part of the golf course site and represent Phase 2 of the overall preparation works. Permission to extract ash and ballast from the northern part (Phase 1) was approved by this Authority in 2006 (permission ref no. CM4/0206/184). Those works have been completed.

The applicant states that the current condition of the site is not conducive for the construction of the golf course. It also states that the ash and ballast are contaminated and would not provide a suitable medium on which to base the upper levels of the course. Removal of this material is described as having the double benefits of allowing a more appropriate base for the golf course at acceptable ground contours and providing a recycled material for use in the manufacture of construction products. The import of waste material requiring

bioremediation is proposed; this is on the basis of there being an insufficient supply of other materials that could be placed directly into the void space that would be created by the extraction, so that the use of such material in the void, following remediation, would speed up the overall operation.

The use of secondary materials rather than new resources is to be supported in principle. The previous similar recovery of ash and ballast development, from Phase 1, subject to the controls imposed, was undertaken without any adverse impacts and the use of similar controls would be appropriate for this proposal. The bioremediation proposal does have the potential for other impacts but I consider that the operation is capable of being adequately controlled. I have not found the scale of materials which are proposed to be imported and treated on the site, to be entirely acceptable not having been persuaded of the need for a distinct element which I explain below, and reflect in my recommendation. In other respects, the applications are considered to accord with the development plan and, they are both recommended for approval.

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

(2) **Information and Analysis** The applications under consideration relate to a proposal to:

- Extract 40,000 tonnes of ash and ballast, and import a similar quantity of materials to use as soils and backfill for restoration purposes (the Phase 2 application).
- Import contaminated soils/wastes for treatment by bioremediation prior to their subsequent use as restoration materials on the Phase 2 site and the wider golf course site (the 'bioremediation application').
- Recycle approximately 18,750 tonnes of the imported materials as secondary aggregate for subsequent removal off site for use elsewhere. This element has not been specified in either application title but has been identified through the bioremediation application.

I am reporting on the two separate applications together, because the granting of permissions would clearly enable them to be implemented as one overall development scheme. References made to the development scheme are intended to cover both applications. The applications under consideration should also be viewed within the context of the further related development, for the construction of a nine-hole golf course and ancillary development which has already commenced. It is the applicant's view that the development scheme is necessary to facilitate the construction of the golf course.

Planning Background

In 1988, the County Council was consulted on proposals for the change of use of land, at the northern part of the site, for the storage of building materials. The Planning and Countryside Delegation sub-Committee considered the application in August 1988 and resolved to object to the proposals as it was considered to be contrary to the green belt policies of the then approved Structure Plan and the then adopted North East Derbyshire Local Plan (NEDLP). The application was subsequently refused by North East Derbyshire District Council (NEDDC) but was then subject to an appeal. The Secretary of State dismissed the appeal in October 1989.

Following another application, outline planning permission (NED/00/00784/OL) ('the golf course permission') for a nine-hole golf course and associated clubhouse, bar/restaurant, children's play area, fishing lakes and new access on land at Station Yard, Renishaw was granted by NEDDC in 2001. Permissions renewing outline consent were granted in 2005 (04/01437/OL) and in April 2011 (11/00028/OL). Reserved matters were approved in January 2009 and 2010 (08/00732/RM). The permission was implemented in November 2011. The golf course planning permission site includes both the Phase 1 and Phase 2 areas described below, as well as an additional area of land to the west.

In November 2006, Derbyshire County Council granted planning permission (CM4/0206/184) for the extraction of 15,000 tonnes of ash and ballast, for the purposes of manufacturing concrete blocks, and the importation of an equivalent quantity of soil making materials, to restore the site to existing levels on an area of land immediately to the south of Station Road (the Phase 1 area). In February 2010, permission was granted to extend the duration of that permission for a further 12 months (CM4/1109/156). The permission was implemented in December 2010 and was completed by the autumn of 2011.

Approximately 3,000 cubic metres (m³) of material has been brought in under the auspices of the NEDDC golf course permission. It is currently being stored within the Phase 1 area. It is intended that it will be used as a soil making material over the wider golf course area. I understand that this material has yet to be processed and that the applicant anticipates that the volume would reduce by approximately half prior to a final placement.

The Site

Overall, the development would occupy a combined area of 2.94 hectares (ha) (with the proposed soil bioremediation facility occupying 1.14ha and Phase 2 occupying the remaining 1.8ha) to the south of Station Road, Renishaw. The site was previously used as a railway yard and sidings where ash from locomotive boilers was tipped. This tipping has led to the creation of an artificially raised landform, particularly at its southern extent. Until recently, the Phase 2 application site was characterised by woodland and grassland, which

had re-vegetated naturally on the tipped material, although, with the exception of groups of trees and vegetation along the eastern boundary of the site and the temporary retention of a block of vegetation immediately to the north of the Phase 2 area, most of this vegetation has now been cleared by the applicant. The bioremediation facility would be situated on the former Phase 1 area, immediately to the south of Station Road which, following the completion of the infilling operations, has been restored back to previous ground levels.

The site is bounded by the Staveley – Beighton section of the Trans Pennine Trail and an infilled section of the Chesterfield Canal to the east and the flood plain of the River Rother to the south. Land to the west, also in the ownership of the applicant, currently contains a pond and overgrown vegetation. This land is bounded to the west by the River Rother. A 400kV overhead transmission line runs along the western boundary of the site with an associated pylon adjoining the site just south of Station Road. The site is located entirely within the Green Belt as identified in the NEDLP.

The nearest residential property is 40m to the north-east on Station Road and has unobstructed views of the site. After that, the nearest properties are approximately 80m to the east on Hague Lane. Renishaw Primary School is 133m to the east on Hague Lane.

There are no cultural or natural designations within the site, although there are a number close by. Renishaw Park, approximately 180m to the west, is a local wildlife site and a Grade II* Registered Park and Garden. The Eckington and Renishaw Conservation Area also lies to the west and north of the site.

Since the applications were submitted, the Government has announced the proposed route of a second national High Speed Railway Line project (HS2). According to the current proposals, the eastern leg of HS2 would cross the site in an approximate north to south direction.

The Proposals

Ash (Renishaw) Ltd has submitted two applications to Derbyshire County Council. The first application (application code no.CM4/0212/162) 'the Phase 2 application', relates to the recovery of 40,000 tonnes of ash and ballast for use in the manufacture of concrete blocks and the subsequent importation of an equivalent volume of soil making materials for restoration purposes on land immediately to the south of the former Phase 1 extraction area.

The second application (application code CW4/0111/150), 'the bioremediation application', is for the importation and treatment by bioremediation of up to 75,000 tonnes of waste materials on the Phase 1 application site and the subsequent use of the treated materials for restoration purposes on the Phase 2 site, and for the creation of the golf course landform on both the Phase 1

and Phase 2 sites and the land immediately adjacent to the western boundary of both sites which is covered in the NEDDC golf course permission.

Phase 2 Application

The proposals would see the extraction of approximately 40,000 tonnes of ash and ballast, and the progressive restoration of the site over a 28 month period. The application indicates that, were the bioremediation application to be refused and the restoration works had to rely on imported material which was already suitable for the purpose, the period would be extended to 41 months. The ash and ballast would be extracted in a single phase commencing in the south and progressing in a northerly direction before finishing adjacent to the northern site boundary. The application states that as insufficient soils and infill materials are present on site, suitable waste materials would need to be imported to the site. Such infill materials would then be used to progressively restore the land as the ash and ballast were removed. Once ground levels have been restored to pre-development levels, the final golf course landform would be constructed.

The ash would be extracted and loaded into Heavy Goods Vehicles (HGVs) using a backacter. A small stockpile of excavated material would be retained close to the extraction area prior to its removal from site, although it is anticipated that the majority of the ash and ballast would be exported immediately following extraction.

Fill materials would be brought from the soil remediation area by dump truck and tipped close to the point of use prior to being moved to its final location by the backacter. The backacter would also be used to place and blade out the fill with a dozer towed roller compacting the material. The application estimates that infill operations would take place at a rate of approximately 400 tonnes per week if inert construction and demolition waste only were used, but this would potentially increase to 750 tonnes per week if the range of wastes were broadened to also include bioremediated soils.

The final 250mm of fill would consist of clean soils, subsoils or sand and would be stone picked. During the first appropriate planting season, the surface of the golf course landform would be prepared for seeding and tree planting, and the appropriate seed mixes would then be sown and trees/shrubs planted. The specification for the golf course landscaping works was approved under NEDDC planning permission reference 11/00028/OL.

Vehicle movements would vary during different stages of the development. During the period of ash extraction, a maximum of 34 HGV movements per day (17 in/17 out) would be generated, dropping to 18 movements per day (9 in/9 out) during the restoration phase. All vehicles would use the existing site access/egress on Station Road.

Plant and vehicles used during site operations would include a backacter, dump truck, tractor and water bowser. The water bowser would be used to damp down working areas and haulage routes as and when required by weather conditions. One full time member of staff would be present during working hours.

Proposed hours of operation would be 0730 hours to 1800 hours on Mondays to Fridays, and 0800 hours to 1300 hours on Saturdays. There would be no working on Sundays, bank or other national holidays.

In support of the Phase 2 application, the applicant has stated that, due to the potential for contamination resulting from the tipped ash, it is not considered suitable as a medium on which to construct a golf course. In addition, the applicant considers that the proposed use of the extracted ash and ballast for use in the production of concrete blocks, and as secondary aggregate, would represent a sustainable use of resources by reducing the requirement for new stone to be quarried.

Bioremediation Application

The application is for the importation of approximately 75,000 tonnes of contaminated waste materials (the nature of which is detailed below) to the site and the remediation of the majority of those materials by biological treatment and stabilisation. Following importation, waste would be visually screened, then subjected to remediation, or for those materials capable of use without remediation, crushed and screened before being exported off site for use elsewhere. The materials that would be imported, crushed, screened and exported are anticipated to amount to approximately 25% of imported tonnage and would consist mainly of concrete, brick and stone. The applicant anticipates that some of this material would be 'oversize', and would regard such material as being unsuitable for use as backfill. This would see approximately 59,750 tonnes (40,000 tonnes for the Phase 2 area and a further 19,750 tonnes for the creation of the golf course landform) being retained at the site for infilling and restoration operations.

The applicant perceives that, due to the nature of the anticipated sources of this material and the sites involved, it would not be possible, by sorting prior to importation, to reduce the 75,000 figure down to the 59,700 that it would need for infilling and land forming. The applicant also describes the overall development as, effectively, one package in which all the elements are required in order to make the development financially viable. The applicant claims also that in the absence of the potential treatment and use on this site, the materials involved would otherwise be destined either for landfill, or for transport over longer distances for alternative treatment.

The application states that waste materials that would be accepted could potentially be contaminated with a range of contaminants, including diesel

range organics, mineral oils, petroleum range organics, phenols, BTEX (benzene, toluene, ethylbenzene and xylene compounds), polyaromatic hydrocarbons (PAH) and ammonia/ammonium based compounds. Whilst the applicant is not able to provide exact details regarding the donor sites, it is anticipated that the wastes would originate from brownfield sites, sites subject to insurance claims following man-made calamities which have resulted in pollution, road works and development sites. The adjacent Canal site could also be a source of infill materials if they were to become available during the carrying out of the development.

Preliminary works associated with the bioremediation operations would include the creation of base pads for four bio-piles, the reception, soil conditioning and quarantine areas, and the installation of site offices, a wheel wash and a weighbridge. The base pads would be constructed from a 100mm thick base of fine soil or sand overlain with an impermeable membrane and also a protective geo-membrane. The geo-membrane would be covered with coarse inert material. Each pad would be 0.5m thick, with the top being at ground level. Each pad would have a drainage sump from which water would either be recycled for re-use in the bio-piles or pumped for disposal from site via tanker. The base pads would also include aeration pipes within the course fill and each pair would also have its own generator and pump, contained in a small shipping container coloured dark green, for aeration purposes. Each bio-pile would measure 60m by 14m, would be 3m in height and would have a capacity of 2,000 tonnes. Stockpiles of unprocessed soils would have a maximum height of 5m.

Other ancillary facilities associated with the bioremediation operations would include two site cabins, storage containers, a weighbridge, a wheel wash and internal roadways surfaced with crushed aggregate. Some 1.5m high posts and wire fencing would be erected around the former Phase 1 site and along the eastern boundary of the Phase 1 and Phase 2 sites adjacent to the Trans Pennine Trail. In addition, temporary security fencing would be erected within the bioremediation treatment area to secure plant and machinery.

The imported waste would be transported to the reception area for inspection and sorting. Those materials capable of use without the need for remediation would be extracted prior to their subsequent export from site. Wastes suitable for bioremediation would be placed in the soil conditioning areas for crushing and screening if required, and would then be mixed with the appropriate soil conditioners (such as agricultural fertilisers, cement powder, compost and microbes) before being placed in the bio-piles and being covered with the impermeable membrane. Any wastes which would have the potential to cause significant odour problems or which would not be suitable for treatment at the site would be placed in the quarantine area to await removal from site.

In order to control the bioremediation process, the bio-piles would contain pipes which would force blown air through the mixture to allow aeration. The blowers would be fitted with filters to control odour release with frequent checks for odour releases being undertaken by site staff. The impermeable membrane would protect the bio-piles from rainfall, although any water which accumulates within the bio-pile sumps would be used to moisten the bio-piles with the excess tanked off-site for appropriate disposal.

Depending on climatic conditions, the application anticipates that dwell time in the bio-piles would be around 12 weeks. After this, the remediated materials would be removed and assessed for the need for further stabilisation. Any further stabilisation that would be required would take place in the soil conditioning area prior to the waste being deposited in the Phase 2 excavation area and the subsequent formation of the golf course mounds. Selected materials will be used for soils, with the remainder used as a general fill.

In support of the bioremediation proposals, the application states that the original proposals for the construction of the golf course were based on an assumption that construction and demolition waste would be used. However, it is stated that, as a result of the current recession in the construction industry, and the expansion of the recycling of construction and demolition waste, there is now a significant shortage of this type of material. The application further states that the advances in bioremediation techniques now offer a means of manufacturing a suitable fill material from a wider range of wastes and, as a result, would speed up the rate at which the golf course landform can be constructed. The applicant estimates that, with soil remediation, the timescale for the overall development would reduce from 41 months to 27.

Public Consultation

The application documentation states that community consultation and involvement in the project was considered to be very important. It details the programme of community consultation that was undertaken prior to the submission of the application which included the distribution of leaflets to notify those residents most likely to be affected of the public exhibition, an article in the local newspaper, a dedicated webpage and a public exhibition.

Information Submitted After the Formal Submission of the Application

Following receipt of the planning application and accompanying Environmental Statement (ES), the initial consultation responses contained requests for further information on several of the topics addressed in the ES. 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:

- detailed response to Derbyshire County Council's request for additional information;
- reclamation strategy;

- odour management plan;
- updated ecology report;
- revised transport statement; and
- revised soil remediation supporting statement.

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

The further information submitted also refers to a change to the proposed bioremediation process, in particular, that the stabilisation stage would no longer form part of the overall soil conditioning process. The effect of removal of the stabilisation process, from the bioremediation process, would be the need to check that those wastes accepted at the site were not polluted with those heavy metals that would require pre-treatment by the stabilisation process. This would effectively decrease the range of wastes that could be accepted at the site.

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, as amended, to cover such issues as:

- traffic routeing; and
- limiting the operational period of the bioremediation facility to 24 months.

Consultations

Local Member

Councillor Ridgeway has been notified.

North East Derbyshire District Council Planning

The Planning Officer had no objections to the proposals subject to the concerns of the Environmental Health Officer being addressed.

Environmental Health Officer (EHO)

The EHO provided a series of responses regarding the initial applications and also the subsequent further information provided by the applicant.

In his first response, the EHO stated that:

"I have concerns that this proposal may impact on human health and controlled waters, for the avoidance of any doubt, the aim shall be that the site

shall not be capable of being considered contaminated following the completion of works undertaken as a result of planning permission.

...the remedial works may give rise to offensive odours as the acceptance of soils contaminated with phenols, benzene, ethylbenzene, xylene, toluene, TPH (total petroleum hydrocarbon) and naphthalene may give rise to significant levels of odour beyond the site boundary, due to their extremely low odour threshold...

I have general concerns that material of unverified provenance may be accepted into the reception area without any pre-testing conducted or adequate source provenance validation. In my opinion the waste acceptance criteria agreed is the key to controlling the risks of unacceptable material being imported onto the site and should include objective odour assessment criteria and pre-importation testing and source provenance validation. Additionally it would be preferable that full testing should be completed before allowing material onto site in order to ensure that only material is imported that is suitable for bio remediation...

Additionally further discussion is required as to the need for Routine Monitoring Ambient Trigger Levels (RMATLs) that will be monitored via air quality monitoring during the remediation process.

I have siting concerns re the location of the bio piles and feel that they should be further away from sensitive receptors.

I am unclear from the details provided as to where the proposed cement/stabilisation process fits into the treatment train. Given that the bio remediation process will only degrade organics and not metals, is additional testing going to be conducted in addition to the degradation testing for organics to gauge their metal content and then the cement/stabilisation carried out to assigned material?

What if any degree of blending of soils will be carried out on site and what measures to control odours will be implemented in respect of this..."

As a result of these concerns, the EHO requested the submission of further information including an odour management plan; details of the testing regime of material in the quarantine area and material undergoing bioremediation; further details regarding the cement stabilisation treatment process and the procedures that would be followed for material which is found not to be sufficiently degraded following its initial treatment by bioremediation.

Following the submission of the further information, the EHO commented that the odour management plan was sufficient to address the concerns regarding the potential for odours to pose a significant impact to the amenity of sensitive

receptors adjacent to the site and noted that the Reclamation Strategy had been amended to include the testing and waste acceptance criteria for potentially contaminated wastes. With regard to the potential contamination of the land/any future buildings as a result of the development, the EHO was satisfied that the additional information answered most of his concerns and that it provided more detail regarding the contingency procedures included in the waste acceptance procedures and bioremediation treatment process in order to deal with uncertainty. The proposed ground gas sampling programme prior to the first use of any buildings erected was also considered acceptable from a ground gas risk perspective although the EHO noted that *“the monitoring should be of a sufficient duration to capture all temporal conditions in order to fully characterise the site in accordance with the CIRIA C665 document “Assessing risk’s posed by hazardous ground gases to buildings (2007)” and all other best practice guidance”*.

With regard to the potential impact of the development on controlled waters, the EHO commented that he would defer to the Environment Agency, in its role as the source of specialist expertise regarding the impact of this proposal on controlled waters.

The EHO considered that there was one outstanding issue that still needed to be resolved. This related to his previously voiced concerns regarding the potential impacts to human health and nuisance associated with particulate matter/dust and the gaseous pollutant releases which could potentially be generated through the import, and processing of contaminated material onto the site, as well as those impacts associated with odour. The EHO reiterated that these issues should be addressed through the Air Quality Monitoring Report and should include details of the RMATLs and justification that these levels, both long term and peak values, would be fully protective of human health. Additionally, details are required of how the RMATLs will be monitored, the type and details of monitoring equipment and the locations where it is proposed to locate the monitoring equipment, methods of information reporting, how complaints/concerns will be investigated and dealt with, and proposed mitigation methods in the event of exceedence of the RMATLs. In the eventuality that the applicant considers that there is justification to exclude a specific pollutant from inclusion as an RMATL, this will be required to be fully justified by means of the risk assessment process.

The final observation received from the EHO, following a meeting with the applicant’s air quality consultants, concluded that the concerns relating to the potential emissions to air, which may arise from the import and treatment of waste and which may be capable of impacting on health or causing significant loss of amenity include the emissions of particulate matter, fibres, aerosols, gaseous emissions, vapours, volatile organic compounds (VOCs), from the site, could be dealt with by the imposition of conditions relating to the need for

a ground gas investigation and the undertaking of an air emission risk assessment.

Eckington Parish Council

The Council objected to the proposals on the grounds that the development would be:

- “1. Detrimental to local amenities and leisure activities*
- 2. Site too near the school*
- 3. Use of chemicals near school is unsafe*
- 4. Against Local Plan and Green Belt”.*

The Council further commented that the additional information provided did not mitigate its previous objections and feelings.

Environment Agency

The Environment Agency submitted two responses regarding the proposals, the first in response to the initial consultation, the second following the submission of further information by the applicant.

The first response stated that the Agency objected to the proposals because the applications did not demonstrate that the risk of pollution to controlled waters would be acceptable and, because the assessment and mitigation of the risks to nature conservation were inadequate. In making its objection, the Agency referred to Policy P9-7 of its policy document ‘The Policy and Practice for the Protection of Groundwater’, 2008 (GP3) which encourages the use of sustainable and effective remedial measures to prevent or address groundwater pollution on sites affected by contamination. Reference was also made to Section 9.5 of the policy, which sets out those circumstances where the Agency would not object to the redeposit of soils. The Agency noted that whilst the policy is primarily designed for those situations where contaminated soils were subject to in-situ treatments, the current proposals imply that contaminated soils (with potentially a much greater pollution risk than the contamination (ash) currently present at the site) could be deposited following their importation and treatment. Under those circumstances, the Agency considered that a precautionary approach would be necessary.

The Agency stated that an acceptable reclamation strategy and materials management plan would be essential to demonstrate that there would be adequate controls on imported soils in order to prevent pollution at the site and requested further information from the applicant demonstrating that: only appropriate wastes were treated, adequate controls of materials deposited on the site would be in place, adequate verification strategy of soils were in place, and that the site would be adequately monitored.

The Agency further commented that the risk assessment indicates that dilution

would lead to contaminant concentrations in surface water increasing by up to 5% of the defined quality standard, that there would be a significant deterioration of water quality during low flows as a consequence and that the suggested reliance on dilution in the River Rother as part of the risk assessment was therefore unacceptable.

In order to overcome its objection, the Agency requested that the applicant amend the remedial target levels contained within the application so that it did not take account of dilution in the River Rother and that a reclamation strategy and a verification plan be produced.

With regard to the potential impacts to nature conservation, the Agency requested that further information was required with regard to the proposed mitigation measures relating to any potential impacts from discharge of water from the earthworks, whether any work would occur within 8m from the adjacent River bank and clarification as to the extent of the works in order to inform whether a water vole mitigation plan would be required. In making its objection, the Agency made reference to Planning Policy Statement 9 (PPS9), which required that planning decisions should prevent harm to nature conservation interests (PPS9, Key Principles paragraph 1ii), and considered that, as originally submitted, the application did not demonstrate this to be the case.

Following the submission of the further information, the Agency withdrew its objections to the proposals, stating that the revision proposed under the submission *'has made the reclamation strategy substantially more conservative and the risk assessment acceptable'*. The Agency did note that improvements to the reclamation strategy would still be required to ensure that baseline water quality was established prior to the wastes being brought to site and to make sure that contaminants not considered in the risk assessment do not come onto site, but considered that this could be dealt with by condition.

Natural England

Natural England did not respond to the first round of consultation. Following the submission of the further information, Natural England stated that, subject to the development being carried out in accordance with the details submitted, it had no objection to the proposals in the context of the nearby Moss Valley SSSI or European Protected Species. It was noted that, whilst the proposed development would be likely to affect Great Crested Newts, the proposed mitigation would maintain the population identified in the survey report.

Derbyshire Wildlife Trust

In its first consultation response, Derbyshire Wildlife Trust commented that the remaining vegetation within the application site was of negligible ecological value but raised concerns regarding the conclusions drawn in the Ecological

Assessment with regard to the presence of great crested newts at the site. In particular that, as a result of vandalism and the applicant's own tipping activities during the Phase 1 development, breaches had occurred in the newt exclusion fencing (erected as a requirement of the NEDDC golf course permission) and, as a consequence, could potentially have allowed great crested newts to recolonize the area. The Trust therefore recommended further survey work be undertaken to assess the status of great crested newts at the site and that any required mitigation measures be put in place. The Trust also noted the potential impact to water vole and their habitat, if damage to the banks of the River Rother occurred during the development, but commented that it fully supported the implementation of the suggested water vole mitigation.

Following the submission of the further information, the Trust was satisfied that amphibians had not re-entered the site and a small population was present in the receptor site. The Trust also welcomed the commitment to regular inspections of the newt exclusion fencing and the completion of any necessary fence repairs in accordance with the requirements of the licence issued. With regard water vole, the Trust noted that the development would not result in detrimental impacts to water vole or their habitat, but recommended the imposition of conditions to ensure their protection for the duration of the development.

Public Health England (PHE) (formerly the Health Protection Agency)

The PHE noted that a comprehensive odour management plan was contained within the planning application and, based on the information contained in the application and that the applicant would use Best Available Techniques (BAT) to control any emissions from the site, considered that compliance with the Environmental Permit, together with good management and regulation, should ensure that emissions present a low risk to human health.

Publicity

The applications have been advertised in the press (Derbyshire Times), and by site notice with a request for any observations by 20 March and 22 November 2012. The receipt of supplementary information was given further publicity with a request for observations by 1 November 2012. Twenty three individual letters of representation, 144 pro forma letters and 3 petitions, with a combined total of 937 signatures, all objecting to the proposals have been received as a result of the publicity. A package of correspondence, with letters supporting to have been written by pupils at the school, was also received on behalf of Renishaw Primary School. One representation was also received in support of the proposals. The main areas of concern can be summarised as follows:

Need/Benefit

- There is no need for another golf course in the Renishaw area as there are already several within a five mile radius which are already struggling to survive.
- The benefits of the golf course would not be outweighed by the potential impacts to human health that would result from bringing contaminated soils into the area.
- The golf course development is not a genuine proposition and it is being used to gain planning permission for the ash/ballast extraction, as well as a soil remediation plant.
- There is no reason to remove the ash and ballast as it would allow natural drainage for the golf course.
- The applicant is only in it for the money rather than for the benefit of the local community.

Location

- The site is too close to residential properties and the local primary school, and there is potential for the developments to impact on the health of pupils at the school.
- The site is too close to the River Rother and there is potential for the developments to pollute the water environment.
- The site is adjacent to the Trans Pennine Trail and there is potential for the developments to impact on the users of the trail and on tourism in the area.
- The site is in a flood zone, which has previously flooded, and the bio-piles would not only reduce the available flood capacity but could potentially also be washed into, and pollute, waterways.

Impacts

- The developments would result in unacceptable levels of noise, dust and odour which would adversely affect the local and residential amenity of the area.
- The odour and noise assessments incorrectly assume that most people will be at work during the day and do not take into account shift/homeworkers.
- The noise assessment does not take into account the blowers/generators associated with the bio-piles which would be operational 24 hours a day.
- The developments would represent a risk to human and animal health from airborne particles and potential pollution resulting from surface water run-off.
- There is no commitment to monitoring the odours from phenols which can be toxic if inhaled.

- A dust assessment needs to be undertaken, the proposed location of the dust monitor is not appropriate and an alternative location should be provided.
- Increased HGV movements would have an adverse impact on the local highway network in terms of safety and condition – provision for wheel washing facilities and temporary signage should be put in place.
- The increased traffic movements would represent a danger to pedestrians, including school children, on the A6135 which is already a very busy road.
- The developments would result in adverse impacts to ecology as a result of pollution from the imported materials.
- The developments would impact on great crested newts and further survey work needs to be undertaken following the damage to newt fencing.
- The ecological assessments are incomplete as other species of bird, which are not identified, are known to be present at the site.
- The landscape and visual impact assessment does not consider impacts to users of the Trans Pennine trail.
- The developments would have the potential to impact on the plans to reinstate the Chesterfield Canal.
- The proposed recovery of ash and ballast would disturb existing contaminants at the site.

General

- Concerns were raised regarding the ability to monitor the volume of material imported to the site.
- The proposed volume of material required to form the golf course are incorrect.
- The timescales for the bioremediation proposals are ambiguous.
- The terminology used in the landscape and visual impact assessment to describe the site does not present a true picture of the value of the site to local community.
- Concern that the proposal would involve the importation of hazardous waste.
- The statements made in the planning application documentation regarding community consultation are misleading with the most directly affected properties not contacted.

The Bioremediation Process

- The potential for quarantined material to pollute ground and surface water, and impact on human health prior to its removal from site.
- The monitoring regime and waste acceptance criteria are not sufficiently detailed.

- The stabilisation process formed an important part of the treatment and its removal would threaten the safety of the entire bioremediation process.
- Concerns were also raised regarding the maintenance and cleanliness of the bio-piles to ensure that there would be no pollution to surface and ground water.

Some representations received also questioned the ability of the applicant to operate and manage the development scheme in accordance with the approved plans and permits. Such comments are largely based on the issues encountered during the Phase 1 operations. Reassurances were also requested that the applicant company would cease their bioremediation activities once the golf course landform was complete.

Comment: The principle of a golf course at the site was established in 2001 by the NEDDC planning permission. That permission has now also been accepted as having been implemented by NEDDC. Whilst a facet of the development scheme under consideration here is that it would facilitate the construction of that golf course, the fact remains that it concerns self-contained applications for minerals and waste development, and therefore requires assessment on this basis. I do not consider that the applications provide an opportunity to re-examine the decision of NEDDC.

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 these applications, the relevant policies of the development plan are contained in the adopted Derby and Derbyshire Mineral Local Plan (DDMLP), the Derby and Derbyshire Waste Local Plan (DDWLP) and the North East Derbyshire Local Plan (NEDLP). The National Planning Policy Framework (NPPF), Waste Strategy for England 2007, Planning Policy Statement 10: Planning for Sustainable Waste Management (PPS10) and the National Policy Statement for Hazardous Waste (DEFRA, June 2013) are also material considerations. The Waste Management Plan for England, July 2013 has been published but, at this stage, it is as a consultation version only.

Whilst there are two separate planning applications, that they are inter-related. Both constitute aspects of an overall project which would include delivery of a golf course. For the purposes of this report, the applications are not treated separately and, instead, the sequential elements are considered sequentially and having regard to the potential cumulative impacts. In the consideration of these proposals, account also has to be taken of the implications of the planning permission for the golf course. The delivery of the landform now approved under that permission would require the use of some imported

materials for raising ground levels, as would be delivered through the development scheme. The waste management proposals are assessed accordingly in terms of their potential impacts and their contribution to helping deliver a restored site (compatible with a permitted golf course).

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 guidance on material considerations. It states that the purpose of the planning system is to help deliver 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. It contains specific advice on proposals for the recovery of secondary aggregates stating 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 advises that proposals for mineral extraction would not be considered inappropriate development in the Green Belt provided that they would preserve the openness of the Green Belt and would not conflict with the purposes of including land in the Green Belt.

The NPPF is also accompanied by a Technical Guidance Annex which provides the current national advice to mineral planning authorities on the parameters for assessing the scale of the potential impacts of mineral extraction from sources such as noise and dust. This guidance replaced many aspects of previous Government advice contained in previous reports. The relationship of the proposal to this guidance is contained in the following sections of this report.

Planning Policy Statement 10: Planning for Sustainable Waste Management (PPS10)

PPS10 sets out guidance on how planning can contribute to the delivery of sustainable waste management (including the delivery of the Waste Management Hierarchy), emphasising the need to divert as much waste as possible from landfill so that society can manage its waste in a more sustainable manner. In order to achieve this, the movement of waste up the 'Waste Hierarchy' by promoting recycling and reuse of waste and reducing landfill is essential. It states that waste planning authorities, when determining applications, should consider:

- the wider environmental and economic benefits of sustainable waste management; and
- the likely impact on the local environment and amenity, including visual intrusion, traffic and access, air emissions, odours, vermin, noise, litter and any potential land use conflict.

The document and its accompanying Guidance note also provides guidance on the selection criteria for assessing whether sites should be considered appropriate for waste management facilities or not. Where sites are located in the Green Belt, the document advises that whilst such development is likely be considered inappropriate development, it may still be appropriate to grant planning permission if the applicant is able to demonstrate that very special circumstances exist that clearly outweigh the harm caused by the proposed site being developed in the Green Belt, and any other harm.

National Policy Statement for Hazardous Waste (NPS)

The NPS sets out Government policy with regard to hazardous waste and is primarily intended to assist the Secretary of State in making decisions on nationally significant hazardous waste infrastructure. It is, however, also relevant in the consideration of the bioremediation application. The document states that the Government's intention is that new infrastructure for hazardous waste should be provided in a way that is sustainable and also reiterates the need (as identified in '*A Strategy for Hazardous Waste Management in England (2010)*') for new facilities to manage hazardous waste. A range of categories of facilities are listed including facilities for bioremediation/soil washing to treat contaminated soil diverted from landfill.

Local Development Plan

The NPPF transitional arrangements have now expired and this downplays the role of the DDMLP, DDWLP and the NEDLP as part of the statutory development plan. All three, however, continue to have weight as a material planning considerations.

Derby and Derbyshire Minerals Local Plan (DDMLP)

The 'Phase 2' application relates to the recovery of 40,000 tonnes of secondary aggregates for use in concrete block making. The main policy of the DDMLP, which relates directly to proposals for secondary aggregates, is Policy MP24: Secondary and Recycled Materials. Policy MP24 is generally 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".*

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, and MP17: Safeguarding Resources.

The Derby and Derbyshire Waste Local Plan (DDWLP)

The bioremediation application proposes the importation of up to 75,000 tonnes of contaminated soils for treatment by bioremediation. In that context, I consider the most pertinent policies against which to assess the proposals would be W1b, which addresses the need for development, W2 and W8, which are related to transport issues, W5 which aims to protect identified environmental interests, W6 which addresses potential pollution and other nuisances, W7 which concerns landscape and visual impact issues, W9 which addresses other protection issues and W4 which addresses the need to apply the precautionary principle. Policies W3a and W3c are also relevant as they relate to landfill and other waste development in the Green Belt.

North East Derbyshire Local Plan (NEDLP)

In the NEDLP, the relevant policy considerations are provided by policies GS1: Sustainable Development, GS2: Development in the Green Belt, NE1: Landscape Character, NE3: Protecting and Managing Features of Importance to Wild Flora and Fauna, NE4: Sites of National Importance for Nature Conservation, NE5: Other Sites of Importance for Nature Conservation, NE6: Development Affecting Nationally Rare Species, NE7: Protection of Trees and Hedgerows, BE2: External Lighting and Floodlighting, T2: Highway Access and the Impact of New Development, R11: Development Affecting Public

Rights of Way, CSU4: Surface and Foul Water Drainage and CSU6: Contaminated Land.

General Considerations

The main issues to be addressed in the determination of each application are:

- the need for the development;
- need for the development in the proposed location;
- impacts to the Green Belt;
- the type, scale and acceptability of any impacts that would arise from undertaking the works in the manner proposed; and
- whether the need/benefits identified by the applicant would be sufficient to outweigh any adverse impacts.

Need for the Extraction of Ash and Ballast

The proposed extraction of ash and ballast from the site would result in the production of a material from a recycled source, which could 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 principle, therefore, the proposals would be a sustainable operation which, subject to more detailed considerations regarding the potential environmental impacts, would accord in principle with the criteria set out in the NPPF.

The recovery ash and ballast for use in the production of concrete blocks from the land immediately to the north of the Phase 2 application site area was assessed, and found to be acceptable, against Policy MP24 of the DDMLP during the determination of planning permission CM4/0206/184 (the Phase 1 application). The proposal is essentially for the same type of development, albeit dealing with a larger volume of material and over a longer timescale. Due to the close similarities in the cases, in short, I am satisfied that the effects of the current recovery proposal will be equivalent. The previous application was considered against the provisions of the former Regional Spatial Strategy for the East Midlands (2005). Since 2006, the East Midlands Regional Plan has been adopted and revoked by the Secretary of State under powers confirmed by the Localism Act 2003. However, I do not find that this change to the development plan materially affects the consideration of this proposal. Another recent policy change is the introduction of the NPPF, from 2012. However, as detailed above, the NPPF provides additional support for this type of proposal, subject to the usual provisos of detail and general acceptability. In principle, therefore, I am satisfied that, subject to the environmental considerations below, the Phase 2 proposals would also accord with DDMLP Policy MP24.

Need for the Bioremediation Facility

All applications for waste development in Derbyshire should be assessed against DDWLP Policy W1b: Need for the Development, which states that:

“Waste development will be permitted if the development would help cater for the needs of the local area, in terms of quantity, variety and quality as part of an integrated approach to waste management.

Waste catering primarily for the needs of other areas will be permitted only if:

The development would satisfy a need which could not realistically be met closer to the source of the waste; and

The development would contribute to an integrated system of waste management”.

The policy is intended to deal with proposals for standalone waste management facilities rather than developments of the kind here which, whilst they do accord with the high level principles of sustainable waste management, are ultimately needed for another purpose (in this instance to enable the construction of a golf course). The facility would be temporary and would manage a specific and limited volume of material. For these reasons, whilst I am mindful of the overarching requirements of the policy, particularly the contribution that these proposals would make to an integrated system of waste management, it does not particularly address the acceptability or otherwise of a scheme of this kind. I consider that the most relevant policy against which to assess this part of the development is that contained within the NPPF and PPS10.

The NPS estimates that over 250,000 tonnes of contaminated soils/wastes were derived from sites scheduled for major redevelopment in England in 2010, of which a third was sent for disposal at landfill. Furthermore, and depending on the number and scale of construction projects being undertaken at any one time, the volume of such waste requiring treatment/removal could vary considerably from year to year. The NPS considers that while landfill may be the best option for some of this waste, some would also lend itself to treatment by bioremediation.

PPS10 and the NPS both reiterate the requirement of the revised Waste Framework Directive to manage waste in accordance with the waste hierarchy and the latter considers that the development of facilities to treat contaminated soil would move the management of this waste stream away from landfill and up the waste hierarchy. The NPS also suggests that while some soils will be able to be treated at the site of production, in some instances, soils will need to be treated off-site, concluding that there remains a need for dedicated permanent facilities.

The proposed development would provide a temporary facility that would enable contaminated soils to be treated and reused in the restoration of the site following the extraction of the ash and ballast, and the creation of the golf course landform. The proposal would, in principle, accord with the high level objectives of the Waste Strategy 2007 and PPS10. The detailed issues with regard to the need for this type of facility in the catchment area of the site and the availability of alternative facilities are addressed below, together with an assessment of the impact of the specific proposal on the site.

I am aware of two sites in the County, the former Avenue 'coking' works at Wingerworth and the former Grassmoor Works lagoons, where the bioremediation of contaminated soils is currently taking place. In both instances, however, the bioremediation forms part of a wider suite of techniques to remediate historic problems of contamination at those sites and do not allow for the importation of contaminated materials from elsewhere. Those operations were designed to secure remediation by containing the works to the site as much as possible. They were based on a policy of minimising the export of contaminated materials to other sites for treatment.

At present, there are no dedicated off site bioremediation facilities within the County. I do not have access to information about the number of such facilities that may exist elsewhere in the East Midlands or the rest of the UK. I am aware that there are a number of sites in the UK, Biffa's Westmill waste management site at Ware in Hertfordshire being one example, where dedicated ex-situ bioremediation facilities are run alongside existing landfill sites in order to produce restoration materials for the landfill. It is apparent that where bioremediation does take place, it is most commonly found as part of the in-situ works to remediate a site prior to its subsequent redevelopment. It is far less common for contaminated soils to be exported from site to a dedicated bioremediation facility. On the basis of the above, I would acknowledge that there is an absence of this type of facility within the Derbyshire area but, in the absence of further information about the scale of arisings of this waste stream, it is also not possible to conclude that there is a particular shortfall in capacity and a shortfall that justifies the use of this site. The volume of materials that is generated within the UK is relatively small and would suggest that it may be a waste that has to be considered and managed on a regional basis where the economies of scale would allow and enable the provision of a permanent facility on a dedicated site.

The applicant has not identified a specific source of waste material but, instead, has referred to the range of sites where contaminated materials are likely to originate and also the types of waste that would be able to be treated at the site. It is indicated that the contaminated soils are likely to be sourced from sites within South Yorkshire, Nottinghamshire and North East Derbyshire. Whilst I note that the former are not within Derbyshire, they are in such close proximity to this site that it could reasonably be considered to be in

its local area. It appears that the proposed facility would help cater for waste arising within reasonable proximity of the site, which being a temporary facility only, would not conflict with DDWLP Policy W1b.

As a proposal to divert contaminated soils/waste from landfill and its processing into a product suitable for restoration purposes, I consider that the proposed development would, in principle, satisfy a key requirement of sustainable waste management, namely the movement of waste further up the waste hierarchy. A full assessment of the proximity principle and whether or not the proposal forms part of an integrated waste management system, is not possible in this case. With regard to the latter point, the site specific nature of the proposal also limits the ability to read it as part of an integrated system of waste management. I consider, however, that the proposal generally complies with the principles of sustainable waste management, adding support for the development.

Whilst I note the above, I am not wholly satisfied that the applicant has adequately demonstrated that there is a particular need for a facility in the form proposed in this location. The application documents and ES make much of the fact that the development is required in order to facilitate the construction of the approved golf course concluding that, given the advantages of locating the soil remediation process on the site where the product is to be used, there is no requirement to assess any other location for the remediation process. I do not wholly accept this statement. The site may be a source of secondary/recycled aggregate and manufacturing materials, where the financial benefit could help secure the delivery of the golf course but the question of the suitability of the site for waste treatment operations is an entirely separate matter. The approved development could be delivered by the import of suitable materials processed elsewhere. There are a number of factors which need to be taken into consideration. The site is in the Green Belt and is immediately adjacent to a multi-user route, bounded by the River Rother to the west. It is also close to residential areas and a local primary school. Viewed in that context, if this Authority were to receive an application for a permanent stand-alone bioremediation facility at the site, it is unlikely that it would meet the site selection criteria for waste sites set out in PPS10. The potential impacts of a permanent facility would require careful consideration. Nevertheless, the construction of the golf course creates a specific need at this location which this proposal would fulfil. The Waste Planning Authority has to consider the current planning application on its merits against the development plan and other material considerations. At the scale proposed and taking account of the observations of consultees, I consider that the potential impacts from this proposal are capable of being managed and controlled to within acceptable limits.

Need for the Waste Recycling Element

The combined Phase 2 and golf course developments would require the importation of a total of 59,750 tonnes of fill materials but the bioremediation application proposes that up to 75,000 tonnes of material would be imported. The application states that a quarter of the imported material would consist of non-contaminated hardcore/rubble which would not need to be treated by remediation and which would be exported from site for use elsewhere. This introduces a waste management activity that is not directly related to the golf course and which therefore raises a number of issues. These relate to the need or reasons to import this material. Viewed from the context of the waste hierarchy, it would be preferable and more sustainable to sort the materials prior to their transport to the application site, only to be processed and transported off site thereafter. This would also accord with one of the stated benefits of the proposal which is the reduction in vehicle movements through the importation, treatment and subsequent placement of the treated material at the same site. There is no shortage of facilities providing this form of waste management in the area. Indeed, the application site is situated directly opposite one such facility on the former Slitting Mill site. There are also other facilities available in the Chesterfield and Staveley area.

The applicant states that the soils and the potential recycling elements would already be mixed and in the supply provided due to the nature of the source sites. It is stated that the sites are small and would not have the facilities to segregate the wastes on the respective sites. It is further suggested that the cost of sorting and segregating prior to importation would be prohibitive and the materials otherwise would probably be sent to landfill, and that the financial benefit of this element would help fund the golf course. Even if the materials cannot be segregated at source, I do not accept that the consequences and alternatives are automatically landfill. As indicated above, there are existing dedicated facilities in the area whose business it is to receive and process this form of waste and where the operations are controlled to minimise any adverse impacts. The proposal may represent a way of maximising the income generating activity on the site but it does not mean that there are no other alternatives or that it represents an appropriate use of the site, or that it is the only means of diverting the waste from landfill.

The result of the proposal is that inert waste materials, which would equate to just under half of the materials required to restore the Phase 2 site to existing ground levels and which could legitimately be used in the construction of the golf course, would be removed from site for use elsewhere. The application states that it is the availability of contaminated soils compared to the alleged lack of construction based inert wastes that would represent one of the main benefits of the proposal as it would speed up the restoration of the site. The applicant has also stated that the waste stream would include 'oversize' elements that could not be placed successfully in the backfill areas. I note, however, that the ash and ballast lies in depths of several metres in some

parts of the site and the voids at these depths would allow the incorporation of larger pieces of waste. I do not accept the argument by the applicant that the material should be processed on this site and then sent elsewhere for a more beneficial use. The golf course development involves the excavation of considerable volumes of on-site materials, the need to backfill these areas and the formation of a new and raised landform in parts. There is a need for a variety of materials for this purpose and there is no obvious reason why the crushed rubble/hardcore could not be used for the development.

It is of concern then, that the proposal contemplates the import, processing and subsequent removal of inert material off site. The applicant has not provided sufficient evidence as to why it perceives it to be necessary to import this material and I am not convinced that the benefit provided by the creation of the bioremediation facility is sufficiently compelling to justify it. It would appear that the applicant is seeking to operate at least some aspect of the development as a waste facility on a commercial basis. In considering the stated aims of the development, and bearing in mind that I do not regard this site as being suitable for a standalone waste facility, I do not consider that this is acceptable and, with that in mind, I would recommend the imposition of a condition limiting the volume of materials that can be imported to site to a maximum of 60,000 tonnes.

It is further worth noting that the applicant completed the Phase 1 development within a relatively short period of time, albeit over a longer period than was originally envisaged by planning application CW4/0206/184. This, in combination with the fact that approximately 3,000m³ (equivalent to approximately 6,000 tonnes) of inert materials are currently being stored at the site, would indicate that inert materials for use are not quite as scarce in the local area as the applicant has indicated. This would further support the justification for restricting the volume of material that can be imported on the site to close to the volume required for infilling.

The justification for the recycling element has been the subject of further discussions with the applicant who repeats the assertion that the oversize material cannot be used on the site. The applicant does not explain, however, why this material could not be used as backfill when crushed as proposed, instead of exporting it off site. Using it in this way would reduce the volume of material that has to be imported. The applicant also refers to the presence of a *'significant volume of uncontaminated waste stockpiles on Phase 1..... brought in to provide hardcore for site roadways'*. The applicant also states *'excess material above and beyond that required for golf course construction and roadways will need to be taken off-site as recycled aggregate or useable soils.'* There can be no justification for removing useable soils which are required for the golf course merely to import contaminated material and subject them to bioremediation to obtain soils for use on the site. It

demonstrates that the proposal, unless this element is excluded, involves a level of activity which is not justified by the needs of the site.

In conclusion, I am not satisfied that there is a particular need for the off-site bioremediation of contaminated soils from any site that might be considered local to this site, but I do accept the need for this facility as a temporary operation and one which is dedicated to an on-site purpose. I also acknowledge that, in principle, the proposed treatment of contaminated soils/waste and subsequent reuse of it would help move waste up the hierarchy and is compatible with sustainability principles in accordance with the NPPF, PPS10 and the Waste Strategy 2007.

In general, however, I do not see how or where the applicant has made a sufficient case for the use of this site for the proposed 'import-treat-export' element referred to above. This element involves an implicit 'commercial' aspect, and would see the additional import of nearly 19,000 tonnes of waste and recycled hardcore for sorting and/or treatment and transport off-site. The site may be previously developed land and had an industrial/business use, but I do not consider it would accord with the recommendations of all the relevant guidance in PPS10. I accept, however, that the construction of the golf course has created a specific, albeit temporary, need for infilling materials which the bioremediation facility would certainly fulfil and, viewed in those terms, would not be considered unacceptable in principle. I would not want to see the establishment of a permanent facility at the site. Viewed in the context of the need for the overall development, I do not consider this is necessary and recommend that any permission be limited to the importation of 60,000 tonnes only; this would be achieved through the condition mentioned above.

On the basis of the above, I am satisfied that the development subject to conditions would accord with Policy W1b of the DDWLP and with the NPPF, PPS10 and the NPS. Notwithstanding my conclusion on need, it is inevitable that the proposed development would have the potential to result in adverse environmental impacts. A detailed assessment of the environmental considerations of the proposals therefore follows below.

Green Belt

Both the Phase 2 and the bioremediation proposals would be located in the North East Derbyshire Green Belt. The primary purpose of the Green Belt is to prevent urban sprawl by keeping the land permanently open and there is a general presumption against inappropriate development within it. The NPPF sets out those forms of development which would be considered appropriate in the Green Belt including, as previously noted, minerals development of the kind proposed here.

With regard to the proposed extraction of ash and ballast, and the subsequent infilling operations, I do not consider that the proposals would significantly

impact on the open character of the land or conflict with the purpose of including the land within the Green Belt. The development would be short term and temporary and, other than the use of the plant during the recovery and infilling operations, would not result in the creation of any substantial structures. On that basis, I am satisfied that the development would accord with the guidance provided in the NPPF in respect of minerals development in the Green Belt, NEDLP Policy GS2 and also the requirements of Policy W3a of the DDWLP which allows for landfill in Green Belts where *“it is essential for the restoration of mineral workings to after-uses appropriate to green belts or there would be no material impact on the openness of the green belt during the life of the operations; and the development, including proposals for the after-use of the site, would not conflict with the purposes of including land in the green belt”*.

I note the advice given in PPS10 with regard to proposals for waste development in the Green Belt. Policy W3c: Other Development in Green Belts of the DDWLP reiterates this stating that *“Other forms of waste development in green belts will not be permitted unless:*

...the development would provide small-scale, essential facilities for the maintenance or improvement of waste management facilities, would preserve the openness of the green belt and would not conflict with the purposes of including land within it.”

The bioremediation proposals would be for a temporary period and would involve the construction of stockpiles, bio-piles and ancillary accommodation, including site offices, a weighbridge and wheel wash facilities. The development would also involve the use of plant and machinery. All these elements would have the potential to affect the open character of the Green Belt. In considering the need for the development (to enable the construction of the golf course), the scale and temporary nature of the proposals and the visually enclosed nature of the site, I am satisfied that the development would not materially or permanently affect the open character of the Green Belt or conflict with the purposes of including land within it.

I have to take into account that the site is subject to permission for a golf course with associated buildings and structures. In that context and considering the temporary nature of the development, the fact that the additional disturbance as a result of the proposals would be small scale and inconspicuous from the wider landscape, and the fact that the principle of built development in this location has already been found to be acceptable, I cannot recommend refusal on the basis that the development would result in detrimental impacts to the open character of the Green Belt. I am satisfied that the proposal represents very special circumstances and would accord with the requirements of the development plan in respect of the Green Belt.

Detailed Considerations

The planning applications were accompanied by an ES and, in order to assess the proposals, I have addressed the following issues in the order that they appear in the ES.

Landscape and Visual Impacts

The ES states that the proposed development would be located in the Green Belt on a former industrial site which has been disturbed by the recent Phase 1 ash and ballast recovery operations. The surrounding area is generally considered to be of medium value, at the regional and local scale, and in fair condition. The exceptions to this are the nearby Renishaw Park which is considered to have a high landscape value nationally and the adjacent Trans Pennine Trail which is considered to be of high importance at the regional and local scale. The application site is described as a linear tract of artificially raised ground with a disturbed and partly neglected quality. Despite lacking any landscape features of intrinsic interest, the site is visually well contained by a framework of trees and woodland. Due to the lack of landscape features, the recent Phase 1 works and the site clearance undertaken in respect of the golf course permission within the Phase 2 site area, the site is considered to be of low value and in poor condition.

The ES considers that the potential for significant landscape and visual impacts could arise from the size, scale and duration of the overall development; the removal of any vegetation over and above that already permitted under the NEDDC golf course permission, long term changes to the topography, land-use and vegetation cover resulting from the development; the nature, form and location of the storage mounds (anticipated to be 5m - 6m high); the cumulative and individual appearance of the site compound and lighting, vehicular operations, crushing and screening plant, 3m high bio-piles and stockpiles, and temporary security fencing; and the transport of materials to and from the site.

In noting the above, the ES sets out a range of temporary and permanent mitigation measures including: the design, layout and positioning of the structures and bio-piles associated with the bioremediation proposals towards the western site boundary; the temporary retention of a block of woodland to the north of the Phase 2 site for the duration of the Phase 2 operations and the permanent retention of groups of trees/scrub along the western boundary of the site to screen views; and the restoration of the site as part of the approved golf course development. The main objectives of the reclamation scheme are stated as being to enhance the overall quality of the environment through the creation of new and improved habitats and recreational opportunities.

The ES concludes that the application site is located within a robust, historically industrial landscape with an enclosed structure and strong

boundary elements which is capable of absorbing change of the type proposed. The ash recovery and bioremediation operations would be temporary and would not result in any indirect effects on important landscape elements or permanent loss of any distinctive features or damage to its intrinsic character. The magnitude of impact is therefore assessed as slight adverse which, combined with the low sensitivity of the landscape, would result in a low negative significance of effect on the landscape.

I consider that the overall Landscape and Visual Assessment (LVIA) has been undertaken in accordance with the approved methodology (Guidelines for Landscape and Visual Impact Assessment – Second edition-Landscape Institute and the Institute of Environmental Assessment) and, in general, I would agree with its conclusions regarding the potential landscape and visual impacts associated with the development. The main impact on the landscape would be the direct loss of existing vegetation from the west facing slopes of the tip and along the eastern site boundary. I note, however, that the majority of this clearance work has already been undertaken as part of the preparatory works associated with the golf course. The proposed retention of existing vegetation along the site boundaries and immediately to the north of the Phase 2 area, would ensure that the impacts on the wider landscape would be fairly minimal, although I acknowledge that these impacts would be more apparent when viewed at close range from properties along Hague Lane and the Trans Pennine Trail.

With regard to visual impacts, I am satisfied that the LVIA identifies the key sensitive receptors around the site and, whilst the site would be visible from some distant vantage points, I consider the proposal would have a slight to negligible impact when viewed from these locations. The most significant visual impacts would relate to the Phase 2 operations when viewed from the trail and those properties along Hague Lane and the bioremediation operations when viewed from the trail. The ES assesses the impact from these locations to be moderate adverse and I would agree with this conclusion. I note that there would be some cumulative visual impacts associated with the site and the nearby Hopkinson reclamation site but, again, the most significant effect would be short term (when the most southerly part of the Phase 2 area is worked), and I do not consider that such impacts would be so significant as to warrant refusal on landscape grounds.

The site benefits from being located within a well wooded setting, allowing the site to be seen from very few locations. Further mitigation is proposed through the detailed working of the site with the more substantial structures associated with the bioremediation proposals being located along the western edge of the site. The proposal to retain a narrow strip of trees adjacent to the Trans Pennine Trail, as well as the block to the north of the Phase 2 site, in order to maintain a visual screen until the final stages of working within Phase 2, are

welcomed and, in my opinion, would provide modest benefits that would assist in mitigating some of the identified visual and landscape impacts.

In light of the above, I am satisfied that the proposal would not result in significant landscape and visual impacts.

One issue which is of concern is the volume of material that would be imported to the site for restoration purposes. Paragraph 3.22 of the LVIA acknowledges that the Phase 2 site is located within the Riverside Meadows Landscape Character Type, as defined and described in the Derbyshire Landscape Character Assessment, and goes on to state at paragraph 3.24 that the Phase 2 area is '*artificially elevated*'. These statements provide a clear indication that this material does not form part of the natural riverside landscape and I consider that the opportunity should have been taken to recreate a more naturalistic floodplain as a setting for the proposed golf course.

Whilst I acknowledge that the ash and ballast are considered to be contaminants, and therefore need to be removed prior to the creation of the golf course, I note that no real justification has been provided by the applicant as to the need to restore the site to existing ground levels. It is also arguable that were the volume of material to be imported to be reduced in order to create a more appropriate landform, then the timescales for completing the development would also reduce. Notwithstanding the above, however, I am mindful that the NEDDC golf course permission has an approved landscaping and restoration plan which shows final ground levels to be in excess of the existing landform. That permission, which has now been officially commenced by the construction of the site access, does not include a condition restricting the volume of materials that can be imported onto site and, as a result, I see no benefit in restricting the volume of material that may be imported to the site to enable the restoration of the Phase 2 area.

A number of the representations received commented that the language used to describe the landscape of the application site and its surrounding area was unduly negative and did not convey how important this site is to the local community. I note these concerns and acknowledge the terminology used in such documents is, by its very nature, technical.

In conclusion, I am generally satisfied that the proposals would accord with the requirements of DDWLP Policy W7 in terms of landscape character and visual amenity. Whilst I note that preparation works within the Phase 2 area have led to the loss of significant self-set vegetation, much of this removal has been undertaken under the NEDDC golf course permission. Potential impacts on the wider landscape are lessened as a result of the extensive woodland in the immediate locality, as well as by the longer term landscape proposals for the golf course. Visually, the site benefits from being well screened by existing

woodland cover around the site. The most visually sensitive receptors are confined to a number of properties along Hague Lane and the Trans Pennine Trail running immediately adjacent to the eastern boundary of the site. Although there will be moderate adverse impacts from these locations, these impacts will be short term and, in the longer term, should benefit from the landscaping proposed as part of the golf course development.

It is disappointing that the proposals do not seek to create a more appropriate, naturalistic, landform, particularly where the site slopes down to the river, and I consider that this represents a lost opportunity for improving the riverside landscape in this location. However, the NEDDC golf course permission is subject to an approved landscaping and restoration plan and, as a result, there would be no benefit in landscape terms in restricting the volume of material imported for the purposes of restoration.

In considering the above, I am satisfied that the proposals would accord with the requirements of DDMLP policies MP1 and MP3, Policy W7 of the DDWLP and Policy NE1 of the NEDLP, in respect of landscape and visual impacts.

Ecology

The ES assesses the ecological and nature conservation impacts that could arise from the remediation works and includes a description of the assessment methodology, an overview of the ecological baseline, an account of impacts on specific habitat types and species groups, and a summary of the residual impacts. It identifies the relevant legislative background and the sources of information (ranging from desk based assessment to specific surveys).

With the exception of two small stands of trees located adjacent to the River Rother and the Trans Pennine Trail in the Phase 2 site, the site was found to be largely devoid of vegetation, primarily as a result of site clearance work undertaken in connection with the golf course permission. The remaining habitats were considered to be of negligible value at the district level. Two protected species, great crested newt (GCN) and water vole were identified as being present on the site or in the River Rother which forms the western site boundary. The site was therefore assessed to be of national importance in respect of GCN and district importance in respect of water vole. The study notes that, without mitigation, the potential effects of the Phase 2 development would be the potential for further loss of or damage to both GCN terrestrial habitat and the additional loss of or damage to water vole habitat along the River Rother and Doe Lea, but considers that these losses would have a negative effect on the GCN population and a neutral effect on the water vole populations present adjacent to the site.

Mitigation measures proposed as part of the wider golf course development in respect of GCN include the creation of 8 new ponds and 24 associated

amphibian hibernacula. Improvements would also be made to the existing pond to increase the areas of open water and breeding habitat available. With regard to water vole, mitigation measures include creating a 10m buffer along the banks of the River Rother and River Doe Lea, the creation of an exclusion zone during the construction period in those areas where water vole activity has been recorded, avoidance of discharges to the rivers during the construction period and ensuring that the handling of fuels only occurs in agreed areas where sufficient measures are in place to deal with spillages. Overall, and taking into account the proposed mitigation measures, the ES concludes that the development would have a positive impact on the local GCN population in the medium to long term and a positive effect of the conservation status of the species at the site. The impacts to water vole are considered to be neutral.

The addendum to the ecological assessment provided additional information relating to GCN, water vole and the prevention of pollution of the River Rother and the River Doe Lea. With regard to GCN, the addendum provided a commentary on the works required under the Natural England European Protected Species Licences dated 2010 and 2011, the translocation works undertaken as part of the golf course development including the retention of the amphibian exclusion fence until the completion of the development, a description of vandalism/damage that has occurred to the exclusion fence, details of further survey work undertaken during summer 2012 to check for GCN re-entry onto the Phase 1 site, and confirmation that no GCN were discovered during those surveys.

The addendum also confirmed that, following a reassessment of the recoverable ash and ballast at the site, recovery operations would now take place within 8m of a stretch (240m) of the eastern bank of the River Rother. Whilst this area was considered to be sub-optimal habitat for water vole and no water vole were recorded in this area, the addendum proposes that further survey work be undertaken prior to the commencement of work in this area and the creation of a mitigation plan if the species were found to be present. In addition, to the above, a working plan detailing how this area would be worked was also provided. The addendum concludes that the works would not only ensure that water vole would be protected during the recovery operations, but that the development would also create improved habitat for the species in the long term.

With regard to the concerns about the potential for pollution to the River Rother resulting from the bioremediation operations, the addendum refers to the applicant's Reclamation Strategy which sets out measures for ground water monitoring and management of perched groundwater during the development, as well as monitoring protocols and mitigation measures where elevated concentrations of contaminants are found. The addendum concludes that the working methodology proposed is designed to ensure that there would

be no unacceptable impacts to water quality in the River Rother and the River Doe Lea and that, as a result, the potential impacts to ecology would be limited.

Vegetation clearance operations prior to the commencement of the development in the Phase 1 area and also in the proposed Phase 2 application site, have resulted in the loss of a significant amount of the self-set vegetation that was present on the site and, with that in mind, I would agree with the conclusions in the ES regarding the ecological value of the site. Following the submission of the further information, I am satisfied that GCN appear to have been appropriately protected to date, and should continue to be so, under the terms of the Natural England Licence. I do not consider that the current proposals would result in any additional impact on GCN compared to those considered in relation to the other planning permission and associated Natural England Licence. With regard to water vole, I note the comments of both Natural England and Derbyshire Wildlife Trust with regard to water vole and have recommended conditions accordingly. I further note that the Environment Agency has withdrawn its objections in respect of pollution to the water environment and the potential for associated ecological impacts resulting from that pollution.

In light of the above, and subject to conditions relating to the protection of water vole, breeding birds and GCN and for the protection of the water environment, I am satisfied that the proposals would not result in unacceptable impacts to nature conservation and that the development would accord with the requirements of DDMLP policies MP1, MP3 and MP6, Policy W5 of the DDWLP and NEDLP policies NE3 and NE6.

Transport

The ES provides details of the number of proposed daily vehicular movements, the proposed haulage routes and accident record details for the immediate surrounding area, and the access to the application site from Station Road (including the recently constructed access).

The assessment considers both the Phase 2 and bioremediation phases of the development. During the initial five months of the development (when both the Phase 2 recovery operation and the bioremediation operations would be occurring concurrently), it is anticipated that up to 34 HGV (20 tonnes payload) movements a day would be generated. Following the completion of the ash and ballast recovery operations, vehicle movements would drop to an estimated 18 movements per day for the remainder of the development. These were not considered to be significant increases. Notwithstanding these conclusions, the ES contains a number of proposed mitigation measures to reduce any impact that may arise. These include the provision of temporary warning signs for users of the A6135, Station Road, the provision of wheel

washing facilities, to ensure that the highway was kept clean during the development, and a route plan for visiting HGVs.

I note the content of the transport assessment and find no reason to doubt its conclusions. The site access was subject to improvements as part of the golf course development and now meets current safety standard. Accordingly, I agree that generally the proposal would involve the generation of a relatively modest number of HGV movements and that it would not have a material impact on the surrounding highway network.

I note that, in discussing the number of daily HGV movements, the ES states that HGVs are unlikely to enter or leave the site after 1530 hours on weekdays due to the length of time need to reach their destination. This indicates a potential conflict in this assessment of the proposal. The application states that it cannot identify the sources of waste but indicates that they would be local to the area. If that is correct the need to leave the site before 1530 to travel to the final destination would suggest transport over distances beyond the local area and which limits the weight to be given to any justification for the proposal on proximity principles. Putting this issue aside, I note that this restriction is not put forward as a mitigation measure, but in consideration of the proximity of the local primary school to the development, and the potential for conflict between children walking home from school, I would recommend this be formalised by the imposition of a condition restricting HGVs movements to the period before 1530 hours.

During the Phase 1 operation, HGVs associated with that development were identified as accessing the site via an access track off Hague Lane. In order to reach the site, this track crosses the Trans Pennine Trail. The unexpected movement of HGVs on the trail had the potential to impact on the safety of the users of the trail and, as a result, I have recommended a condition restricting access to and from the site to the Station Road site entrance. Likewise, due to its proximity to the Trail, I would further recommend the imposition of a condition requiring that fencing be erected along the eastern site boundary to ensure that the application site is secure.

Overall, and viewed in the context of the above, I am satisfied that the development would accord with policies MP1 and MP5 of the DDMLP, policies W2 and W8 of the DDWLP and Policy T2 of the NEDLP.

Slope Stability

The ES provides an assessment of the slope stability of the proposed development, including an assessment of both the short term and long term site conditions and the type of materials that would be used during the infilling/land formation operations. The assessment concludes that the less steep sections would have an acceptable degree of slope stability following reconstruction irrespective of the materials used. With regard to the steeper

sections of the site, it is concluded that these would have insufficient stability following reconstruction and that measures, such as reducing the slope angle or utilising soil reinforcement, should be considered. A further survey assessing mitigation measures, where the stability analysis indicated the possibility of failure, considered both benching the slopes and moving the slope crest back by between 2m and 5m. A further alternative suggestion was the use of a system of slope reinforcement or gabion walls. The application confirms that the applicant intends to use a system of soil reinforcement.

The applicant acknowledges that this will require further investigation before a certified design can be provided. It further states that once planning permission has been obtained, a specific product will be chosen and a certified design commissioned. The design will then be put into effect. I have therefore recommended an appropriate condition to control this aspect of the development.

Impact to Controlled Waters and Human Health

This section in the ES is entitled impact to controlled waters but, in reality, deals with issues of ground contamination and the potential for that contamination to impact upon both controlled waters and human health before, during and after the proposed development. For that reason, and for purposes of clarity, I have added Human Health to the title of this sub-section of the report.

The Phase 2 and bioremediation application sites are identified as being in Flood Zone 1 by the Environment Agency and the issue of flood risk was not investigated further by the applicant (no formal Flood Risk Assessment was required). Instead, the ES focuses on assessing the potential risks to the Rivers Rother and Doe Lea, and includes site specific re-use acceptability criteria (RAC) which seeks to demonstrate that the proposed bioremediation facility would not pose a risk to controlled waters. The report also considers the impact to human health associated with the proposed after-use of the site as a golf course.

The ES identifies the site's underlying geology as well as the superficial deposits of ash fill known to be present at the site. Chemical analyses of the existing soils, soil leachates and groundwater were undertaken. Based on the RAC, the ES concludes that as the potential risks to human health would be low, if the golf course were to be constructed on the site without removing the ash, then the risks would be even lower if constructed on imported infill material which is subject to site specific RAC. With regard to controlled waters, leachate samples derived from in situ soils and groundwater samples collected from the site were assessed in comparison to Environmental Quality Standard criteria to derive the level of risk. The ES concludes that the site in its current condition would have little impact on the environmental quality of the River Rother, River Doe Lea or any underlying aquifers, and that, as the

development would be subject to a site specific RAC, the risk to controlled waters would be negligible.

It is worth noting at this point that this analysis would appear to conflict with one justification of the proposal which is that the ash and ballast are contaminated and need to be removed from the site.

The ES notes that there are two other potential risks; the potential risk to human health from naturally occurring ground gas for occupants of proposed buildings and construction workers, and the potential for sulphates in the made ground to affect the foundations of any new buildings or buried services. With regard to the former, it is recommended that ground gas monitoring is undertaken in the footprint of the proposed buildings associated with the golf course prior to their construction following the completion of infilling operations at the site. The ES suggests that the potential risk to development infrastructure could be mitigated through the assessment of soil chemical data and the use of that data to subsequently derive a sulphate design class for concrete foundations. Finally, the ES notes that where the RAC protective to human health and protective of controlled waters differ, then the lower value should be used as the overall site RAC.

The Environment Agency raised a number of issues about this aspect of the proposals and, in response, the applicant provided a detailed Reclamation Strategy for the site as part of the supplementary information. Based on the guidance contained within the DEFRA/Environment Agency document 'Model Procedures for the Management of Land Contamination' Contaminated Land Report (CLR) 11 (2004), the strategy summarises previous ground investigations, details the previously encountered ground conditions including any contamination found to be present, and assesses the geotechnical ground conditions of the site. A summary of the aims of the reclamation strategy is provided, as well as detailed descriptions of the earthworks and remediation works. Details of the sampling and testing of the contaminated materials, the RAC and visual identification of pollution during the earthworks are provided, as well as information relating to the analysis and treatment of perched ground water and incidental water. Ground gas protection measures and monitoring requirements are details as well as a materials management plan for those contaminated soils imported to site.

I have no reason to dispute the details of the Reclamation Strategy and note that, on receipt of the document, the Environment Agency withdrew its earlier objections noting that the *'... application as now submitted makes it clear that dilution in the River Rother has not been used in setting target levels. This has made the reclamation strategy substantially more conservative and the risk assessment acceptable'*. The Environment Agency did suggest that baseline water quality should be established prior to the importation of contaminants and that procedures be put in place to ensure that contaminants not included

within the risk assessment would not be brought onto site. I have recommended conditions accordingly.

I note the concerns raised by local residents with regards to the site being susceptible to flooding. However, neither the Phase 2 nor the former Phase 1 site is located within Flood zones 2 or 3 and therefore no flood risk assessment was required. It is further worth noting that the Environment Agency was satisfied that no information regarding flood risk was required and did not object on that basis. I am satisfied, therefore, that the development would accord with the requirements of the development plan in respect of flood risk.

A number of the representations received make reference to the contaminated materials as being toxic. This is misleading and it is worth stating that not all contaminated/hazardous materials are toxic in relation to human health. Whilst the contaminants in question are described as hazardous, they are also suitable for manual handling without the need for protective clothing and subject to normal hygiene precautions. In this respect, Members may also wish to note that none of the relevant consultees (EHO, Environment Agency or PHE) have referred to the materials that would be brought to site for treatment as being toxic and have not objected to the proposals on these grounds.

In light of the above, I am therefore satisfied that the proposals would accord with DDMLP Policy MP1, DDWLP Policy W6 and Policy GS1 of the NEDLP.

Archaeology

The ES assesses the impact of the development on the historic environment. The assessment was undertaken in accordance with the guidance in the former Planning Policy Statement 5: Planning for the Historic Environment (which was current at the time of writing) and also the Institute for Archaeologist's guidelines on the preparation of desktop assessments. The study confirmed that the site area did not contain any recorded significant archaeological finds, notes the proximity of Renishaw Park and Gardens, and states that the area is characterised by the former transport infrastructure of the eighteenth to twentieth centuries. The ES identifies the earthwork associated with the former Chesterfield Canal, considering it to be the most significant archaeological feature remaining within the site. The report contains a number of recommendations including the retention of a remaining cast iron crane column within the application site, the preservation in situ of any surviving substantial supports of the former railway bridge and the preservation of the surviving section of the Chesterfield Canal.

I am satisfied that the assessment has been undertaken in accordance with the appropriate methodologies and by a suitably qualified professional. I note the conclusions of the ES and, in considering the nature of the site and the

current proposals, am satisfied the recommendations are appropriate. I do not consider that further archaeological recording would be appropriate in this case and am satisfied that the proposals would accord with the requirements of DDMLP policies MP1 and MP7 and DDWLP Policy W5.

Noise

The ES predicts the level and impact of noise from the Phase 2 ash and ballast recovery operations, the bioremediation proposals and the associated traffic movements against relevant guidelines and standards, and the existing background noise climate. These aspects are described in the report. It concluded that there would be no significant noise impacts at any of the identified residential properties during the week, but that complaints would be likely on Saturday mornings. Accordingly, and in addition to the use of best available practices and techniques, and the acoustic screening provided by the topography of the site, the report suggests that limiting the use of the crusher to weekday operations only would be an appropriate mitigation measure.

Based on the activities to be undertaken, the location of the site relative to the nearest residential properties and the mitigation measures which the applicant intends to incorporate, I would, in general, accept the conclusions of the ES. The noise levels to be generated would be within acceptable levels and the works would be for a temporary two year period only.

One issue of concern is that no assessment of the impacts of noise on the users of the Trans Pennine Trail has been included within the ES. The Trail is immediately adjacent to the eastern site boundary and, were the development to go ahead, there would be little or no potential for acoustic screening. Impacts relating to noise experienced by users of the Trail would be similar to those associated with general construction works. In considering the nature and duration of the proposals, the length of the stretch of the Trans Pennine Trail, which is likely to be affected and the fact that, by its very nature, the users of the Trail are unlikely to be stationary for any extensive period of time, I am satisfied that the impacts would not be so significant as to be unacceptable. Members may further wish to note that no complaints relating to noise were received during the Phase 1 operations.

I note that the noise assessment was unable to incorporate the noise levels associated with the bio-piles generator and air blower. I acknowledge that both the blower and generator would be operational 24 hours a day for the duration of the bioremediation operations and that they would have the potential to create noise nuisance at night. However, noise levels associated with such pieces of equipment are likely to be less noisy than other bits of plant and machinery used at the site. It is further worth noting that the majority of sensitive receptors identified in the report would be separated from the site by a belt of mature woodland and which would provide a certain level of

acoustic screening. In order to ensure that noise generated by the development would be kept within acceptable limits, however, and to ensure that a clear procedure for action in case of complaint is in place, I would recommend the imposition of a condition requiring the submission of a noise management plan.

Overall, and on the basis of the above, I am satisfied that the proposals would not give rise to unacceptable noise impacts and consider that it would meet with the requirements of DDMLP Policy MP1, DDWLP Policy W6 and NEDLP Policy GS1.

Odour and Odour Management Plan

The ES acknowledges that the development would generate odours and identifies the potential sources of those odours during normal, maintenance and abnormal events. Odour is expected to be released during most stages of the development, although the assessment identifies the initial acceptance and subsequent uncovered storage of contaminated materials in the reception area as the primary route for airborne emissions. The ES includes an air dispersion modelling study undertaken for the project. The study concluded that at the residential and commercial receptors identified (where people would be present for long periods of time), the predicted pollution concentrations would be well below the detection thresholds for each pollutant and that, as a result, it would be unlikely that odour would be detectable at these locations. With regard to receptors along the eastern boundary of the site (representative of the users of the Trans Pennine Trail), the study notes that concentrations of phenol would be higher than the odour threshold criteria, and that phenol odours would therefore be detectable during adverse weather conditions. No other odour impacts were predicted at this location.

The ES lists a number of mitigation measures to reduce the potential odour impacts. These include the application of best practice management techniques during day to day operations, the containment of emissions from the bio-piles with air emitted to atmosphere via a filtration system and the imposition of site specific Acceptance Criteria, to be employed in respect of each delivery to site, which would set out the maximum allowable concentrations for each contaminant in the material brought to site. The ES concludes that odour impacts would be effectively controlled through the effective application of best practice control measures. Following the application of such measures, the impact on sensitive receptors would be reduced to an acceptable level.

At the request of the EHO, an Odour Management Plan (OMP) was also submitted as supplementary information. This document provides more detailed information regarding the control of odour during normal, abnormal and maintenance operations; provision for odour monitoring, recording and

inspection; a complaints procedure and provision for updating the OMP during the development.

The odour management plan is intended to comply with the Environment Agency's Horizontal Technical Guidance Note H4 – Odour Management, and contains information relating to the control of odour during normal operations, regimes for routine maintenance and inspection monitoring including reporting, odour control during periods of maintenance and abnormal events, and details regarding the role and responsibilities of site operations, updating documents and review of the management plan.

In considering the type and range of material that would be treated at the bioremediation facility, it appears unavoidable that the proposed works would generate some odours that could be at levels sufficient to be detectable, particularly for users of the Trans Pennine Trail. Whilst I note the proximity of the Trans Pennine Trail to the development and the potential for the users of that Trail to encounter impacts associated with odour, I am also mindful that the development would be for a temporary period and that, as far as possible, the bioremediation facility has been designed to incorporate practicable means to minimise the problem. I note the comments of the EHO and the Health Protection Agency who have both confirmed that, subject to the odour management plan and suitable site acceptance criteria being in place for the duration of the development, they have no objections in respect of odours and, in that context, have no reason to doubt the findings of the report. I do not consider, therefore, that there are sufficient grounds for refusal based on odour impacts. Subject to the above, I am satisfied that the development would accord with the requirements of DDWLP Policy W6 and NEDLP Policy GS1.

Dust

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 the ash and ballast, the handling and movement from the bioremediation area and subsequent placement of the infill materials, the tipping and handling of waste materials (including placement waste into the bio-piles and their subsequent removal) within the bioremediation area, and the movement of plant within the site and HGVs travelling to and from the site. The report states that, due to the anticipated low levels of activity, exhaust emissions arising from plant and machinery at the site, and the HGVs travelling to and from the site, would be small when compared with ambient nitrogen dioxide and particulate levels. As a result, the assessment concentrates on the issue of prevention rather than measurement of background air quality levels and comparison with quantitative predictions.

Mitigation measures proposed are based on best practice and would include damping down the excavations and internal road surfaces to control dust during dry weather conditions, the minimisation of drop heights when loading the HGVs, the cessation of excavation and loading operations during dry, windy conditions where dust is seen leaving the site boundary, and the use of sheeted HGVs. The ES also cites the fact that the bio-piles would be covered and conditioned with water as a mitigating factor in the suppression of dust emissions and states that all operations would comply with the Dust Monitoring Scheme and Action Plan, which was approved by the Mineral Planning Authority in the context of the Phase 1 development.

I am generally 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. The proximity of the Trans Pennine Trail to the site is noted, however in view of the transitory nature of users along it and the proposed mitigation measures, I am satisfied that dust emissions to air would be relatively low and would not adversely affect the area.

I do not consider, however, that, in this instance, it would be appropriate to rely on the Dust Monitoring Scheme and Action Plan which was previously approved in respect of the Phase 1 development. The proposed location of the dust monitor at the Sitwell Arms would not be appropriate in the context of the current proposals, particularly when it is considered that the Phase 2 development would take place some distance from this location. Furthermore, in considering the nature of, and potential for, cumulative impacts associated with dust that may arise from the simultaneous operation of the bioremediation and Phase 2 operations, I consider that a more robust scheme will need to be submitted. In light of the above, and subject to the recommended mitigation measures and the imposition of a condition requiring the submission of an air quality management plan, I am satisfied that the proposals would accord with the requirements of DDMLP Policy MP1, DDWLP Policy W6 and NEDLP Policy GS1.

Socio-Economics

The ES states that overall development would provide socio-economic benefits at both the regional and local levels. The report identifies such benefits as including the supply of former railway ash for concrete block manufacture in Yorkshire, the substitution of ash for newly quarried minerals, the recovery of wastes to be used in the construction of the golf course and the provision of a local waste treatment facility which would reduce the need to transport such materials to more remote locations. The ES further considers that local benefits arising from the development would include additional employment (up to five jobs), expenditure in the local economy by employees and the use of local suppliers (i.e. the repair and servicing of plant and machinery, equipment hire, etc). The ES also states that the applicant is

committed to using local labour where qualified workers are available. In assisting the construction of the golf course, it is also argued that the development would assist in the provision of long term recreational opportunities for the local community.

The applicant also provided information regarding the financial aspects of the overall proposals. It does not directly state that the golf course project would not be viable without the income from any of the separate elements of the proposals but suggests that they contribute substantially to it.

As noted above, the NPPF places an emphasis on the economic role of sustainable development considering that *‘economic growth can secure higher social and environmental standards...therefore economic, social and environmental gains should be sought jointly and simultaneously...’*

The creation of a recreation facility is welcomed in principle but I am not convinced that substantial weight should be given to such overall economic and social benefits as the overall project might deliver. Several objectors have referred to the presence of existing golf facilities in the nearby area and to these facilities as experiencing financial difficulties. I cannot consider this financial aspect, but the provision another golfing facility in the area would not in this case, provide additional benefits that would justify or offset the impacts of waste management activities that are not in short supply in the area. The applicant indicates that the proposals in these applications would maximise the financial return available from the site but has not demonstrated an acceptable case for the ‘import-treat-export’ element.

Reclamation Strategy

The document provides information relating to ground investigations undertaken at the site and the ground conditions encountered, the proposed reclamation strategy, earthworks that would be undertaken as part of the development, the remediation works, the ground gas protection measures, monitoring requirements, a materials management plan, good practice measures in respect of dust, noise, odour and working in confined spaces, and a validation strategy, and is intended to:

- provide a strategy for the earthworks and land reclamation operations in order to mitigate any potential environmental and geotechnical liabilities;
- satisfy the Mineral Planning Authority and its consultees that, having regard to human health and other environmental receptors, and following the completion of the development, the site would be suitable for its proposed end use as a golf course;
- ensure that there would be no unacceptable short term risk to construction workers during the redevelopment of the site;
- verify that the remedial works undertaken are implemented in accordance with the approved Reclamation Strategy;

- provide a detailed Material Management Plan to enable the works to be undertaken in accordance with the Contaminated Land: Applications in Real Environments (CL:AIRE) The Definition of Waste: Development Industry Code of Practice; and
- facilitate safe carrying out of the earthworks.

Other Issues

HS2

As mentioned above, the indicative eastern leg of HS2 runs through the application site. This project is still at an early stage the eastern leg being currently subject to public consultation from July 2013 to January 2014, so the details of the scheme and the timing of its delivery will remain unsettled for a considerable time. I do not consider that it can form a major factor in the determination of these applications, or justify an on-going delay in their determination.

Conclusion

The extraction of the ash and ballast would contribute to the prudent and sustainable use of mineral resources. It is present on the site in commercial quantity, it is not a particularly suitable medium on which to base a facility such as a golf course, and would provide a useful source of materials for application in manufacturing. The use of bioremediation to obtain materials for the backfilling of the site and the surfacing of the golf course can be regarded as an acceptable development subject to appropriate controls as a short term operation only. The full volume of material proposed to be imported to the site, the use of the site because the 'import-treat-export' element is not considered to be justified or acceptable, would represent the introduction of a waste management use that would be not appropriate to the site and which has not been justified on the basis of a lack of capacity in the area for this type of operation. The recommendation below therefore includes a condition that would restrict importation to effectively restrict the development scheme to one which does not include this element.

(3) **Financial Considerations** The correct fees of £1,690 and £3,060 have been received.

(4) **Legal Considerations** These are applications submitted under Part III of the Town and Country Planning Act 1990 which fall to this Authority to determine as both the Waste Planning Authority and 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 these permissions being granted subject to the conditions referred to in the Officer's Recommendation below.

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
In Respect of Planning Application CW4/0111/150

Application documents and accompanying Environmental Statement submitted by LDP Planning on behalf of Ash (Renishaw) Ltd dated 15 February 2012 as amended by the Ecology Addendum report, the Odour Management Plan, the Reclamation Strategy, the response to request for additional information, the revised Supporting Statement and the revised Traffic Impact Assessment received from LDP Planning Ltd under cover of letter dated 2 October 2012. Email from LDP Planning dated 31 July 2013.

Correspondence from the Countryside Manager dated 22 February 2012. Correspondence from the Footpaths Officer dated 23 February and 12 October 2012.

Memoranda from the Highways Area Management Division dated 1 March, 16 April and 12 December 2012.

Emails from Eckington Parish Council dated 7 March and 8 November 2012. Letters from the Environment Agency dated 16 and 27 April 2012.

Letters from Derbyshire Wildlife Trust dated 19 April and 27 November 2012.

Letters from North East Derbyshire District Council dated 1 May, 30 October, 5 and 13 November 2012.

Correspondence from the Conservation and Design Section Manager dated 11 May and 7 November 2012.

In Respect of Planning Application CM4/0212/162

Application documents and accompanying Environmental Statement submitted by LDP Planning on behalf of Ash (Renishaw) Ltd dated 15 February 2012 as amended by the Ecology Addendum report, the Odour Management Plan, the Reclamation Strategy, the response to request for additional information, and the revised Traffic Impact Assessment received from LDP Planning Ltd under cover of letter dated 2 October 2012.

Correspondence from the Countryside Manager dated 22 February 2012. Correspondence from the Footpaths Officer dated 23 February and 12 October 2012.

Memoranda from the Highways Area Management Division dated 1 March, 16 April and 12 December 2012.

Emails from Eckington Parish Council dated 7 March and 8 November 2012. Letters from the Environment Agency dated 16 and 27 April 2012.

Letters from Derbyshire Wildlife Trust dated 19 April and 27 November 2012.

Letters from North East Derbyshire District Council dated 1 May, 30 October, 5 and 13 November 2012.

Correspondence from the Conservation and Design Section Manager dated 11 May and 7 November 2012.

(7) **OFFICER'S RECOMMENDATIONS** That the Committee resolves that planning permissions for planning applications CW4/0111/150 and CM4/0212/162 be **granted**, subject to:

7.1 The applicant or operator and any other persons with an interest in the application site first 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 Acting Strategic Director – Environmental Services and the Director of Legal Services to make satisfactory provision for:-

- a Community Liaison Committee;
- securing achievement of restoration and aftercare of the site to the satisfaction of the County Council within a reasonable timescale following either completion of the developments permitted, or any premature cessation of the developments to be permitted, (to include a sufficient provision of a financial security (e.g. performance bond or cash deposit) to fund the Council for all costs it might expend in any remedial action it might take in the public interest towards the completion of restoration and aftercare of the site).

7.2 A set of conditions for each application substantially based on the following draft set of conditions:

In Respect of Planning Application CW4/0111/150:

Commencement

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

- 2) The Waste Planning Authority shall be given at least five working days' notice in advance of each of the following operations:
 - a) the commencement of preliminary operations;
 - b) the commencement of the importation of materials for treatment by bioremediation;
 - c) the cessation of bioremediation operations; and
 - d) the completion of the restoration of the site.

Reason: To enable the Waste Planning Authority to monitor the development.

Form of Development

- 3) Except as may be required by other conditions to this permission, the proposed development shall be implemented and operated in accordance with the details contained in the planning application and accompanying Environmental Statement submitted by LDP Planning on behalf of Ash (Renishaw) Ltd dated 15 February 2012, in particular drawing numbers 8754D/01A Rev A entitled 'Site Location Plan', 8754D/05 entitled 'Soil Remediation Working Scheme', 8754D/06 entitled 'Bund – Plan View', 8754D/07 entitled 'Sump – Cross Section', 8754D/08 'Biopile Bund – Cross Section', 8754D/09 entitled 'Soil reception Bund – Cross Section', Figure 1 (site cabin details). Figure 2 (weighbridge details) and Figure 3 (wheel wash details) as amended by the Ecology Addendum report, the Odour Management Plan, the Reclamation Strategy, the response to request for additional information, the revised Supporting Statement and the revised Traffic Impact Assessment received from LDP Planning Ltd under cover of letter dated 2 October 2012.

Reason: To define the scope of the planning permission and to enable the Waste Planning Authority to monitor the development.

- 4) A copy of this permission and any other documents subsequently approved in accordance with any condition of this permission shall be kept available for inspection at the site offices during the prescribed working hours.

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

- 5) No more than 60,000 tonnes of waste materials shall be imported in total to the site during the development and, with the exception of those materials identified as requiring immediate removal from the site under the Waste Acceptance Report required under Condition 7 below, and the ash and ballast extracted under planning permission CM4/0212/162, there shall be no export of materials from the site. The applicant shall keep an accurate record of the waste arriving at and leaving the site and this record shall be made available for inspection by the Waste Planning Authority immediately on request.

Reason: The import to the site of materials beyond this tonnage would raise unnecessary additional impacts which could be detrimental to the area.

Timescales and Programme

- 6) The proposed development (excluding aftercare requirements), shall be completed within 24 months of the date of commencement of the development.

Reason: For the avoidance of doubt and to ensure that the development is completed in a timely manner.

Management and Acceptance of Contaminated Soils

- 7) The development shall not be begun until a Waste Acceptance Report demonstrating how the applicant/operator will prevent unsuitable wastes from being received and treated at the site has been submitted to, and received the prior written approval of the Waste Planning Authority. The report, (which shall be based on the requirements set out in the CL:AIRE Cluster Guide, Definition of Waste: Development Industry Code of Practice, June 2012,) shall provide details how those soils containing contaminants not previously considered in the revised Reclamation Strategy, Issue 3 – Final, September 2012, Reference 47060257 will be identified and managed at the site. The Waste Acceptance Report shall then be implemented as approved for the duration of the development.

Reason: To ensure that appropriate mechanisms are in place for the identification and subsequent handling of contaminated wastes at the site.

Materials Management Plan

- 8) The development shall not be begun until a revised Materials Management Plan has been submitted to and received the prior written approval of the Waste Planning Authority. The revised plan, which shall provide details of the characterisation of the soils from the donor site, a mechanism for ensuring that the correct materials are received at the application site and a programme of implementation for the duration of the development, shall then be implemented as approved.

Reason: In the interests of prevention of pollution to the water environment and to protect the amenity of the area.

Access, Traffic and Protection of the Public Highway

- 9) The sole access to and from the site for all vehicles shall be via the existing site entrance off Station Road, as detailed on drawing numbers 1085/01/11D entitled 'Proposed Road Junction Layout (S278)' and 1085/01/04/C entitled 'Typical Highway Details', and approved under Condition 2 of North East Derbyshire District Council planning permission on 17 November 2011. No vehicles shall enter or leave the site via Hague Lane.

Reason: In the interests of highway safety.

- 10) The development shall not be begun before details of the location and wording of temporary vehicular warning signs have been submitted to and received the prior written approval of the Waste Planning Authority. The development shall then be implemented as approved.

Reason: In the interests of highway safety.

- 11) The development shall not be begun before a scheme detailing provisions for wheel washing facilities for vehicles leaving the site has been submitted to and received the written approval of the Waste Planning Authority. The scheme, which shall be based on the details of the wheel wash provided in Figure 3 of the application, 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 wheel wash and the highway, and proposals for its implementation and the timing of its implementation. No material shall be imported or exported from the site until the scheme has been implemented as approved.

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

- 12) No mud or other dirt shall be carried from the site onto the public highway.

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

- 13) The combined total number of HGV movements (where one HGV entering and then leaving the site would generate two movements) using the site access off Station Yard in connection with this permission and planning permission CM4/0212/162, shall not exceed 34 during any full working day or 22 on Saturday during extraction operations, 18 during any full working day and 10 on Saturday once extraction operations are complete. Daily records shall be kept at the site office of the number of HGV movements. Such records shall be made available to the Waste Planning Authority during normal operating hours.

Reason: In the interests of highway safety and for the avoidance of doubt.

- 14) All loaded lorries, whether involved in the import of waste material to the site or the transport of quarantined contaminated waste from the site, shall be sheeted.

Reason: In interests of local amenity, highway safety and the environment.

- 15) The development shall not commence before space has been provided within the site curtilage for site accommodation, storage of plant and materials, parking and manoeuvring of site operatives' and visitors' vehicles, together with the loading/unloading and manoeuvring of goods vehicles, designed, laid out and constructed properly and maintained free from impediment throughout the development period.

Reason: In the interests of highway safety.

Hours of Operation

- 16) The hours of operation for site preparation, creation of parking provision, the creation of the landform, the turning of the windrows and all restoration works shall be restricted to:

Monday to Friday 0730 hours to 1800 hours;
Saturday 0800 hours to 1300 hours.

Operations for the crushing and screening of inert imported waste shall be restricted to:

Monday to Friday 0800 hours to 1800 hours.

HGV movements to and from the site shall be restricted to:
Monday to Friday 0700 hours to 1530 hours;
Saturdays 0800 hours to 1300 hours.

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

For the avoidance of doubt, it should be noted that the bioremediation in windrows and biocell ventilation are continuous processes.

Reason: In the interests of local amenity.

Environmental Protection

- 17) All rubbish, debris, scrap and other waste material generated on the site shall be regularly collected and stored in a suitable container until disposed off-site and an appropriately licensed facility.

Reason: In the interests of the amenity of the area and of the environment.

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

Reason: In the interests of the amenity of the area and of the environment.

- 19) The height of any stockpiles of either processed or unprocessed materials shall not exceed 5m in height (as measured from ground level). Any stockpiles shall be restricted to the impermeable areas of the site only.

Reason: In the interests of visual amenity and to prevent pollution of the water environment.

Noise

- 20) Throughout the duration of the development, noise generating activity shall be controlled and monitored in accordance with the provisions of a Noise Management Plan (NMP). The NMP shall set out details of noise limits for the development in accordance with the details set out in Chapter 8 of the Environmental Statement and contain comprehensive provisions for the management and monitoring during the development of noise, together with methodologies and procedures for the recording and subsequent report of the reports to the Waste Planning Authority. The NMP shall also provide details relating to the procedure to be adopted in the event of complaint. This Plan shall be submitted by the applicant/operator no later than 28 days prior to the commencement of the development and shall be implemented as approved in writing by the Waste Planning Authority. 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 exceedence shall cease until appropriate mitigation measures have been introduced.

Reason: To control the impact of noise generated by the development and to provide for the monitoring of this impact in the interests of local and residential amenity.

- 21) Efficient silencers shall be fitted to, used and maintained in accordance with manufacturers' instructions, on all vehicles, plant and machinery used on the site. Except for the purposes of maintenance, no machinery shall be operated with covers open/removed.

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

- 22) The reversing warning system on all vehicles on the site, and visiting the site, shall not emit a noise that would have an adverse impact on local or residential amenity. 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 residential amenity.

Air Quality (Dust, Odour)

23) The development shall not be begun until a scheme providing an Air Quality Management Plan (AQMP) has been submitted to and received the prior written approval of the Waste Planning Authority. The AQMP shall contain comprehensive provision for a programme of ambient background air quality monitoring to be undertaken before and during the bioremediation operations, the management during the development of air quality, dust and odour, and shall provide details for the setting of trigger levels for significant components of each of these items at relevant locations, together with on-site and off-site monitoring of each of the items and components, and corresponding recording methodologies and reporting procedures which shall include the routine provision of a report to the Waste Planning Authority at three monthly intervals from the commencement of bioremediation operations.

The AQMP shall also include:

a) An assessment of the potential risks arising from all emissions to the atmosphere generated from site operations with the potential to impact on residential receptors. The assessment shall include a description and assessment of all potential emissions to atmosphere resulting from the bioremediation operations along with appropriate target values (routine monitoring ambient trigger levels), where they are considered necessary which are fully protective of health for those emissions considered potentially capable of impacting on the local community and a methodology of how these will be monitored (for the avoidance of doubt such monitoring shall be both MCERTS and UKAS compliant).

b) Procedures for dealing with any exceedences of the trigger levels provided for in the AQMP ("abnormal conditions"), and incorporate detailed measures for notification and reporting of all abnormal conditions and remedial action to be taken in the event of abnormal conditions which shall include provision for the suspension of operations in the event of significant risk to human health.

c) Specific arrangements for minimising emissions of dust during the day to day operation of the site, including daily checks and provision for the temporary suspension of any operation which gives rise to unacceptable levels of dust leaving the site, until such time as conditions improve or the operation can be effectively be controlled.

d) Specific arrangements for minimising emissions of objectionable odours with reference to the handling of potentially malodorous materials, including appropriate mitigation measures (including placement of the waste in the quarantine area and subsequent removal of the waste from site) to control odour emissions and additional monitoring and reporting procedures.

e) Provision for annual review of the monitoring undertaken and the effectiveness of any mitigation measures.

f) A complaints procedure (including provision for reactive sniff tests where complaints are received).

g) A programme of implementation.

The AQMP shall be implemented and operated as approved for the duration of the development, except for any minor variations that may be agreed in writing by the Waste Planning Authority.

Reason: To control the air quality of the area and to enable the Waste Planning Authority to monitor the development.

External Lighting

24) No external lighting shall be installed at the site except with the prior approval in writing of the Waste Planning Authority following the submission of a lighting scheme. Any lighting scheme submitted for the approval of the Waste Planning Authority shall have regard to the "Guidance Notes for the Reduction of Obtrusive Light GN01" produced by the Institute of Lighting Engineers. The lighting scheme shall then be implemented as approved.

Reason: In the interests of visual amenity.

Protection of the Water Environment

25) The development shall not be begun until such time as a baseline water quality report has been submitted to and received the prior written approval of the Waste Planning Authority. The report shall establish baseline

- groundwater quality in all monitoring wells at the application site; and
- surface water quality in the River Rother up and downstream of the application site.

The report shall be supported by adequate monitoring data to establish the seasonal variation of water quality. This shall include, as a minimum, analyses of samples collected from six monitoring visits taken

on separate months. The analytical suite shall be appropriate to identify all polluting determinants which have the potential to be present in treated soils.

Reason: To ensure that baseline water quality is established before waste treatment commences.

- 26) 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, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipework, vents, gauges and sight glasses must be located within the bund or have secondary containment. 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 damage. All filling points and tank/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund.

Reason: To prevent pollution of the water environment.

- 27) No foul or contaminated surface water or trade effluent shall be discharged from the site into either groundwater or surface water drainage systems.

Reason: To prevent pollution to controlled waters.

- 28) Prior to being discharged into any watercourse, surface water drain, sewer or soakaway system, all surface water drainage from parking areas and hardstandings, shall be passed through an oil interceptor which shall be designed and constructed to have a capacity (and details) compatible with the site being drained.

Reason: To prevent pollution of the water environment.

Ground Contamination

- 29) If, during development, contamination not previously identified is found to be present at the site, then no further development (unless otherwise agreed in writing with the Waste Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Waste Planning Authority for, a Reclamation Strategy detailing how this unsuspected contamination shall be dealt with. The Reclamation Strategy shall be implemented as approved.

Reason: To ensure that pollutants not previously identified on site do not cause an on-going pollution risk.

Ecology

- 30) There shall be no vegetation removal or soil stripping operations undertaken during the bird breeding season (March to August inclusive).

Reason: In the interests of the protection of breeding birds.

- 31) At all times, the development shall be undertaken in accordance with the mitigation measures for great crested newt as contained in the submission to North East Derbyshire District Council by the Land and Development Practice dated October 2010, including the provisions of earlier submissions to which it refers, under the terms of condition 8 of planning permission 08/00732/RM.

Reason: In the interests of the protection of Great Crested Newts.

- 32) Except for those trees identified for removal on drawing number LG2 Rev E entitled 'Site Clearance', no tree(s), shall be cut down, uprooted, damaged, destroyed or removed during the works unless the written approval of the Waste Planning Authority has been obtained beforehand. Retained trees, shrubs and hedgerow shall be protected from disturbance, damage or destruction from the approved development by the provision of 10m stand-offs for all trees to be retained and 6m from all hedgerows to be retained which shall be marked out by physical barriers on site. There shall be careful site supervision at all times to ensure that no damage occurs to the protected vegetation.

Reason: In the interests of the protection of trees and shrubs

- 33) The development shall not commence until 1.5m posts and wire fencing to the eastern boundary of the site has been erected. The fencing, which shall be retained for the duration of the development, shall be subject to weekly checks for damage and any damaged sections shall be repaired within seven days of the identification of that damage.

Reason: In the interests of the safety of the users of the Trans Pennine Trail.

Restoration and Aftercare

- 34) The applicant shall:

- notify the Mineral Planning Authority within 7 days following the completion of the proposed development (excluding restoration/aftercare requirements); and
- not later than 14 days after the above notification, submit a scheme of restoration including final levels and contours of the site (with cross sections) to be achieved and a programme of working for the written approval of the Mineral Planning Authority; and
- implement restoration of the site in accordance with the scheme so approved.

The scheme shall contain the following details:

- levels and contours of the site,
- the proposed restoration contours and levels (including cross sections),
- details of any planting or seeding proposed (including species, size, spacing, seed mix and protection measures);
- the annual maintenance regime;
- a programme of aftercare; and
- a programme of implementation

No materials other than clean soil or clean soil making materials, or the materials generated by the soil bioremediation operation approved under planning permission CW4/0111/150 shall be used as fill materials.

Reason: To ensure the satisfactory restoration and landscaping of the site and to ensure the completed site assimilates into the surrounding landscape.

- 35) All existing soils shall be retained on site for use in the restoration of the site.

Reason: To ensure the satisfactory reclamation of the site.

- 36) Following the completion of ash and ballast removal operation and prior to the commencement of infilling operations, the top 250mm of the exposed ground surface shall be ripped and any object exceeding 300mm in any dimension shall be removed.

Reason: To ensure the satisfactory reclamation of the site.

- 37) During the first available season following the completion of site restoration as set out in Conditions 24 to 27 above inclusive, the site shall be prepared and sown with an appropriate grass seed mix and maintained until either the development which received planning

permission under Code Number NED/04/01437/0L has been begun or the scheme approved under Condition 29 above is implemented.

Reason: To ensure a satisfactory restoration and landscaping of the site.

Verification Report and Subsequent Monitoring

- 38) Within 12 months of the date of the commencement of the approved development, the applicant/operator shall submit for the approval of the Waste Planning Authority details of (i) the format of a Verification Report to be provided upon completion of the final restoration works to demonstrate the completion of the works set out in the approved Reclamation Strategy and the remediation works, and of the information to provide in it (which shall include results of sampling and monitoring carried out for the approved development to demonstrate that all site remediation criteria have been met) and (ii) a long term monitoring and maintenance plan for the duration of the aftercare period of pollutant linkages, maintenance and arrangements for contingency action. Upon completion of the final restoration works, such a Verification Report shall be provided in accordance with the approved details. 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 implemented as approved.

Reason: To ensure that risks associated with pollution to groundwater and land are acceptable, that the land quality of the site is not degraded substantially and that the standards agreed in the agreed Reclamation Strategy are met.

- 39) Before the first occupation of any building hereby approved, a ground gas investigation shall be undertaken in accordance with current national guidance. The results of the investigation shall be used to form a risk assessment of potential harm from ground gases to future occupiers of all buildings and the findings of the risk assessment shall be used to inform the need for appropriate protection measures to be incorporated into the design of all buildings. The findings of the risk assessment shall be implemented in full and retained thereafter. A verification report demonstrating that the identified protection measures have been installed and, where necessary, validated shall be submitted to and agreed in writing by the Waste Planning Authority before first occupation of any building hereby approved.

Reason: To ensure that the risks associated with ground gas are acceptable.

In Respect of Planning Application CM4/0212/162

Commencement and Duration

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91 of the Town and Country Planning Act 1990.

- 2) The extraction of ash and ballast, and the infilling of the site shall cease no later than 28 months after the date of the commencement of the development.

Reason: To comply with Part 1 of Schedule 5 of the Town and Country Planning Act 1990 (which requires all planning permissions for mineral working to be subject to a time limit condition) and to secure an appropriate time limit.

Approved Plans

- 3) Except as may be required by other conditions to this permission, the development shall be carried out in accordance with the details set out in the application for planning permission and the accompanying Environmental Statement from LDP Planning dated 15 February 2012, as amended by the response to Derbyshire County Council's request for additional information, the Reclamation Strategy, the Odour Management Plan, the Ecology report, the Revised Transport Statement and the Revised Soil Remediation Strategy received from LDP Planning by cover of letter dated 2 October 2012.

Reason: To secure conformity with the details of the application that is approved and to clarify its scope.

Availability of Approved Documents

- 4) From the date of any operations under this permission are commenced, a copy of the permission, including all the documents referred to in it, and any submissions 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 permissions shall be made 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 Mineral Planning Authority shall be given at least five working days' notice in advance of each of the following operations:
- the first operation to implement the development;
 - the commencement of ash extraction, which the date for the avoidance of doubt shall be the beginning of the development;
 - the completion of ash and ballast extraction;
 - the commencement of infilling operations in each new phase as identified on the Working Scheme required under Condition 33 of this permission; and
 - when ground levels in each phase have been restored to pre-existing ground levels as identified on drawing number 8754A/02B rev B entitled 'Topographical Survey' as received on 15 February 2012.

Reason: To enable the Mineral Planning Authority to properly monitor the progress and timing of key stages of the approved operations having regard to the restrictions on the timescales for each stage of the development and to determine the aftercare period for the development.

Mineral Extraction

- 6) There shall be no prospecting for coal undertaken as part of the approved ash and ballast extraction operations. Any incidental coal discovered during the ash and ballast extraction operations shall be retained on site until such time as the Mineral Planning Authority, in consultation with the Coal Authority, has given its written approval for its removal from site. For the avoidance of doubt, no operations shall be permitted under this condition which would require planning permission in their own right.

Reason: In the interests of the protection of the coal resource.

- 7) No development shall commence until the applicant or operator has submitted a scheme providing details of the slope stability design and materials which has been submitted to and approved in writing. Thereafter, the scheme shall be implemented as approved.

Reason: To ensure the integrity of the restored land in the long-term in the interests of the safety of future users and to avoid damage to the landscapes of the site.

Buildings, Fixed Plant and Machinery

- 8) Notwithstanding the provisions of Article 3 and Part 19 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, as amended, no building, fixed plant or machinery or

structure in the nature of plant or machinery shall be erected or placed on site except as authorised or required by the terms of this permission, or has otherwise received the prior approval in writing of the Mineral Planning Authority.

Reason: In accordance with DDMLP Policy MP1: The Environmental Impact of Mineral Development, to enable the Mineral Planning Authority to consider whether any such proposed further development in the site might have an unacceptable impact on amenity and the environment.

Access, Traffic and Protection of Public Highway

- 9) The sole access to and from the site for all vehicles shall be via the existing site entrance off Station Road, as detailed on drawing numbers 1085/01/11D entitled 'Proposed Road Junction Layout (S278)' and 1085/01/04/C entitled 'Typical Highway Details', and approved under Condition 2 of North East Derbyshire District Council planning permission on 08/00732/RM. No vehicles shall enter or leave the site via Hague Lane.

Reason: In the interests of highway safety.

- 10) The development shall not be begun before details of the location and wording of temporary vehicular signs have been submitted to and received the prior written approval of the Mineral Planning Authority. The development shall then be implemented as approved.

Reason: In the interests of highway safety

- 11) The development shall not be begun before a scheme detailing provisions for wheel washing facilities for vehicles leaving the site has been submitted to and received the 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 wheel wash and the highway, and proposals for its implementation and the timing of its implementation. The scheme shall then be implemented as approved.

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

- 12) No mud or other dirt shall be carried from the site onto the public highway.

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

- 13) The combined total number of HGV movements (where one HGV entering and then leaving the site would generate two movements) using the site access off Station Yard in connection with this permission and planning permission CW4/0111/150, shall not exceed 34 during any full working day or 22 on Saturday during extraction operations, 18 during any full working day and 10 on Saturday once extraction operations are complete. Daily records shall be kept at the site office of the number of HGV movements. Such records shall be made available to the Mineral Planning Authority during normal operating hours.

Reason: In the interests of highway safety and for the avoidance of doubt.

- 14) All loaded lorries, whether involved in the transport of ash and ballast from the site or the import of waste material to the site, shall be sheeted.

Reason: In accordance with DDMLP Policy MP1: The Environmental Impact of Mineral Development in the interests of local amenity, highway safety and the environment.

- 15) The development shall not commence before space has been provided within the site curtilage for site accommodation, storage of plant and materials, parking and manoeuvring of site operatives' and visitors' vehicles, together with the loading/unloading and manoeuvring of goods vehicles, designed, laid out and constructed properly and maintained free from impediment throughout the development period.

Reason: In the interests of highway safety.

Hours of Operation

- 16) Except in cases of emergency when life, limb or property are in danger, no operations authorised or required by this permission, including the export of ash and ballast from the site and the import of infill materials to the site, shall be carried out except between the following times:

0730 hours and 1800 hours Mondays to Fridays; and
0800 hours and 1300 hours Saturdays.

No operations shall be carried out on Sundays, Bank Holidays or other Public Holidays.

In the event of an emergency, the operator shall, within five working days, report the incident to the Mineral Planning Authority stating the reasons why the situation constituted an emergency.

Reason: To limit the hours of operation in accordance with DDMLP Policy MP1: The Environmental Impact of Mineral Development, in the interests of local and residential amenity.

Environmental Protection

- 17) There shall be no screening, grading, blending or processing of the excavated ash and ballast on the site.

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

Noise

- 18) Throughout the duration of the development, noise generating activity shall be controlled and monitored in accordance with the provisions of a Noise Management Plan (NMP). The NMP shall set out details of noise limits for the development in accordance with the details set out in Chapter 8 of the Environmental Statement and contain comprehensive provisions for the management and monitoring during the development of noise, together with methodologies and procedures for the recording and subsequent report of the reports to the Mineral Planning Authority. The NMP shall also provide details relating to the procedure to be adopted in the event of complaint. This Plan shall be submitted by the applicant/operator no later than 28 days prior to the commencement of the development and shall be implemented as approved in writing by the Mineral Planning Authority. The results of the monitoring shall be made available to the Mineral Planning Authority and, in the event of any of the stipulated noise limits being exceeded, the operation(s) giving rise to that exceedence shall cease until appropriate mitigation measures have been introduced.

Reason: To control the impact of noise generated by the development and to provide for the monitoring of this impact in the interests of local and residential amenity.

- 19) Efficient silencers shall be fitted to, used and maintained in accordance with manufacturers' instructions, on all vehicles, plant and machinery used on the site. Save for the purposes of maintenance, no machinery shall be operated with covers open/removed.

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

- 20) The reversing warning system on all vehicles on the site, and visiting the site, shall not emit a noise that would have an adverse impact on local or residential amenity. 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 residential amenity.

Air Quality (Dust and Odour)

- 21) The development shall not be begun until a scheme providing an Air Quality Management Plan (AQMP) has been submitted to and received the prior written approval of the Mineral Planning Authority. The AQMP shall contain comprehensive provision for a programme of ambient background air quality monitoring to be undertaken before and during the bioremediation operations; the management during the development of air quality, dust and odour, and shall provide details for the setting of trigger levels for significant components of each of these items at relevant locations, together with on-site and off-site monitoring of each of the items and components, and corresponding recording methodologies and reporting procedures which shall include the routine provision of a report to the Mineral Planning Authority at three monthly intervals from the commencement of bioremediation operations.

The AQMP shall also include:

- a) An assessment of the potential risks arising from all emissions to the atmosphere generated from site operations with the potential to impact on residential receptors. The assessment shall include a description and assessment of all potential emissions to atmosphere resulting from the bioremediation operations along with appropriate target values (routine monitoring ambient trigger levels), where they are considered necessary which are fully protective of health for those emissions considered potentially capable of impacting on the local community and a methodology of how these will be monitored (for the avoidance of doubt such monitoring shall be both MCERTS and UKAS compliant).
- b) Procedures for dealing with any exceedences of the trigger levels provided for in the AQMP ("abnormal conditions"), and incorporate detailed measures for notification and reporting of all abnormal conditions and remedial action to be taken in the event of abnormal conditions which shall include provision for the suspension of operations in the event of significant risk to human health.
- c) Specific arrangements for minimising emissions of dust during the day to day operation of the site, including daily checks and provision for

the temporary suspension of any operation which gives rise to unacceptable levels of dust leaving the site, until such time as conditions improve or the operation can be effectively be controlled.

d) Specific arrangements for minimising emissions of objectionable odours with reference to the handling of potentially malodourous materials, including appropriate mitigation measures (including placement of the waste in the quarantine area and subsequent removal of the waste from site) to control odour emissions and additional monitoring and reporting procedures.

e) Provision for annual review of the monitoring undertaken and the effectiveness of any mitigation measures.

f) A complaints procedure (including provision for reactive sniff tests where complaints are received).

g) A programme of implementation.

The AQMP shall be implemented and operated as approved for the duration of the development, except for any minor variations that may be agreed in writing by the Mineral Planning Authority.

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

Lighting

22) No external lighting shall be installed unless details have been submitted to and approved in writing by 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 amenity of the surrounding area.

Protection of the Water Environment

- 25) 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, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipework, vents, gauges and sight glasses must be located within the bund or have separate secondary containment. 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 damage. All filling points and tank/vessels overflow pipe outlets shall be detailed to discharge downwards towards the bund.

Reason: To prevent pollution of the water environment and to protect groundwater quality in the area.

- 26) Prior to accepting waste on site for treatment, a baseline water quality report shall be submitted to, and approved in writing by, the Mineral Planning Authority. The report shall establish baseline:

- groundwater quality in all monitoring wells at the application site;
- surface water quality in the River Rother up and downstream of the application site.

The report shall be supported by adequate monitoring data to establish the seasonal variation of water quality. This shall include, as a minimum, analyses of samples collected from six monitoring visits taken on separate months. The analytical suite shall be appropriate to identify all polluting determinants which have the potential to be present in treated soils.

Reason: To ensure that baseline water quality is established prior to the commencement of waste treatment. Confidence is needed in this data so the impact of the waste treatment on water quality can be established. This will be a key line of evidence needed to demonstrate that the treated soils are not having a negative impact on water quality.

- 27) No foul or contaminated surface water or trade effluent shall be discharged from the site into either groundwater or surface water drainage systems.

Reason: To prevent pollution to controlled waters.

Verification Report and Monitoring

- 28) Within 12 months of the date of the commencement of the approved development, the applicant/operator shall submit for the approval of the Mineral Planning Authority details of (i) the format of a Verification Report to be provided upon completion of the final restoration works to demonstrate the completion of the works set out in the approved Reclamation Strategy and the remediation works, and of the information to provide in it (which shall include results of sampling and monitoring carried out for the approved development to demonstrate that all site remediation criteria have been met) and (ii) a long term monitoring and maintenance plan for the duration of the aftercare period of pollutant linkages, maintenance and arrangements for contingency action. Upon completion of the final restoration works, such a Verification Report shall be provided in accordance with the approved details. During the aftercare period, the monitoring and maintenance specified under the long term monitoring and maintenance plan, as approved by the Mineral Planning Authority, shall be implemented as approved.

Reason: To ensure that the agreed reclamation plan is carried out so that pollution risks are acceptable, that the land quality of the site is not degraded substantially, and that the standards agreed in the agreed reclamation strategy are met.

Ground Gas

- 29) If, during the development, contamination not previously identified is found to be present at the site, then there shall be no further development carried out except as agreed in writing with the Mineral Planning Authority until the developer has submitted and obtained the written approval from the Mineral Planning Authority for a Reclamation Strategy which details how the unsuspected contamination shall be dealt with. The Reclamation Strategy shall then be implemented as approved.

Reason: To ensure that pollutants not previously identified on site do not cause an on-going pollution risk.

- 30) Before the first occupation of any building hereby approved, a ground gas investigation shall be undertaken in accordance with current national guidance. The results of the investigation shall be used to form a risk assessment of potential harm from ground gases to future occupiers of all buildings, and the findings of the risk assessment shall be used to inform the need for appropriate protection measures to be incorporated into the design of all buildings. The findings of the risk assessment shall be implemented in full and retained thereafter. A

verification report demonstrating that the identified protection measures have been installed and, where necessary, validated shall be submitted to and agreed in writing by the Mineral Planning Authority before first occupation of any building hereby approved.

Reason: To ensure that the risks associated with ground gas are acceptable.

- 31) No infill material originating from the adjacent Chesterfield Canal site shall be deposited on the site of this permission without the prior written approval of the Mineral Planning Authority. The acceptability of the deposit of that material shall be determined on the basis of the submission by the developer of a full contamination assessment of the material in question, the methodology of the assessment and, if the results of assessment require it, a Remediation Strategy. The material in question shall then only be deposited in accordance with the terms of the Mineral Planning Authority's approval.

Reason: To ensure the satisfactory remediation of land impacted by contamination.

Ecology

- 32) There shall be no vegetation removal or soil stripping operations undertaken during the bird breeding season (March to August inclusive).

Reason: In the interests of protecting nesting birds.

- 33) a) A Water Vole survey of the affected section of riverbank, as detailed on Figure 8754A-06 entitled 'Restoration Scheme 4m standoff to River Bank' in Appendix 3 of the Ecology Addendum report dated July 2012, shall be carried out by a suitably competent ecologist in accordance with current good practice guidance no more than 8 weeks prior to the commencement of the works affecting this section of the riverbank. The details of the survey shall be submitted to the Mineral Planning Authority for its consideration within three weeks of its being undertaken. A further check for the presence of water vole shall also be carried immediately prior to the commencement of work on the riverbank.

b) In the event that evidence of water vole is found, a scheme detailing the protection and/or mitigation of damage to populations of water vole during the ash and ballast extraction operation, the subsequent infilling operations and following the completion of the development, shall be submitted to and received the prior written approval of the Mineral Planning Authority. The scheme shall then be implemented as

approved. Any subsequent changes to operational responsibilities at the site, including management, shall also be submitted to the Waste Planning Authority within one week of those changes having taken place.

Reason: This condition is necessary to protect the water vole and its habitat within and adjacent to the development site. Without it, avoidable damage could be caused to the nature conservation value of the site.

- 34) At all times, the development shall be undertaken in accordance with the mitigation measures for great crested newt contained within the Great Crested Newt Mitigation Plan dated June 2006 and the Great Crested Newt Licence Application Masterplan dated June 2010 which were submitted to North East Derbyshire District Council as a reserved matter under Condition 8 of planning permission 08/00732/RM and approved by that Council on 17 November 2011 or any revised scheme as otherwise may approved by North East Derbyshire District Council under the requirements of that planning permission.

Reason: In the interests of the protection of Great Crested Newts.

Working Scheme

- 35) The development shall not commence before a detailed working scheme showing direction and phasing of working has been submitted to and received the prior written approval of the Mineral Planning Authority. The scheme shall then be implemented as approved.

Reason: For the avoidance of doubt and to enable the Mineral Planning Authority to monitor and control the development in the interests of protecting the amenity of the area.

Restoration and Aftercare

- 36) The applicant shall:
- notify the Mineral Planning Authority within 7 days following the completion of the proposed development (excluding restoration/aftercare requirements); and
 - not later than 14 days after the above notification, submit a scheme of restoration including final levels and contours of the site (with cross sections) to be achieved and a programme of working for the written approval of the Mineral Planning Authority; and
 - implement restoration of the site in accordance with the scheme so approved.

The scheme shall contain the following details:

- levels and contours of the site,
- the proposed restoration contours and levels (including cross sections),
- details of any planting or seeding proposed (including species, size, spacing, seed mix and protection measures);
- the annual maintenance regime;
- a programme of aftercare; and
- a programme of implementation

No materials other than clean soil or clean soil making materials, or the materials generated by the soil bioremediation operation approved under planning permission CW4/0111/150 shall be used as fill materials.

Reason: To ensure the satisfactory restoration and landscaping of the site and to ensure the completed site assimilates into the surrounding landscape.

- 37) All existing soils shall be retained on site for use in the restoration of the site.

Reason: To ensure the satisfactory reclamation of the site.

- 38) Following the completion of ash and ballast removal operation and prior to the commencement of infilling operations, the top 250mm of the exposed ground surface shall be ripped and any object exceeding 300mm in any dimension shall be removed.

Reason: To ensure the satisfactory reclamation of the site.

- 39) During the first available season following the completion of site restoration as set out in Conditions 24 to 27 above inclusive, the site shall be prepared and sown with an appropriate grass seed mix and maintained until either the development which received planning permission under Code Number NED/04/01437/0L has been begun or the scheme approved under Condition 29 above is implemented.

Reason: To ensure a satisfactory restoration and landscaping of the site.

- 40) The development shall not commence until 1.5m posts and wire fencing to the eastern boundary of the site has been erected. The fencing, which shall be retained for the duration of the development, shall be subject to weekly checks for damage and any damaged sections shall be repaired within seven days of the identification of that damage.

Reason: In the interests of the safety of the users of the Trans Pennine Trail.

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 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.

The applicant organised a number of publicity events in respect of the proposals.

Policies

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

National Planning Policy Framework

National Policy Statement for Hazardous Waste

Waste Strategy for England 2007

Planning Policy Statement 10: Planning for Sustainable Waste Management

Derby and Derbyshire Minerals Local Plan

Policy MP1: The Environmental Impact of Mineral Development.

Policy MP2: The Need for Development.

Policy MP3: Measures to reduce Environmental Impacts.

Policy MP4: Interests of Acknowledged Environmental Importance.

Policy MP5: Transport.

Policy MP6: Nature Conservation – Mitigation Measures.

Policy MP10: Reclamation and After-Use.

Policy MP17: Safeguarding Resources.

Policy MP24: Secondary and Recycled Materials.

The Derby and Derbyshire Waste Local Plan

Policy W1b: Need for the Development.

Policy W2: Transport Principles.

Policy W3a and c: Development in Green Belts.

Policy W4: Precautionary Principle.

Policy W5: Identified Interests of Environmental Importance.
Policy W6: Pollution and Related Nuisances.
Policy W7: Landscape and Visual Impacts.
Policy W8: Impact of the Transport of Waste.
Policy W9: Protection of Other Interests.

North East Derbyshire Local Plan

Policy GS1: Sustainable Development.
Policy GS2: Development in the Green Belt.
Policy NE1: Landscape Character.
Policy NE3: Protecting and Managing Features of Importance to Wild Flora and Fauna.
Policy NE4: Sites of National Importance for Nature Conservations.
Policy NE5: Other Sites of Importance for Nature Conservation.
Policy NE6: Development Affecting Nationally Rare Species.
Policy NE7: Protection of Trees and Hedgerows.
Policy BE2: External Lighting and Floodlighting.
Policy T2: Highway Access and the Impact of New Development.
Policy R11: Development Affecting Public Rights of Way.
Policy CSU4: Surface and Foul Water Drainage.
Policy CSU6: Contaminated Land.

Footnotes

- 1) In accordance with Section 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 level of cleanliness.
- 2) The applicant shall consult the Highway Authority should any additional access point be required and shall comply with any imposed advance notice periods and programme.
- 3) **Environmental Permitting Regulations (2010) and other relevant Legislation/ Informatives**
An application has been made to the Environment Agency for a Standard Rules Permit (SRP) (SR2010No8) for the site. The SRP will need to include an acceptable Waste Recovery Plan. The Waste Recovery Plan submitted states that the benefit from the activity will be a golf course. The applicant has been notified that the Waste Recovery Plan cannot be agreed and, therefore, any SRP issued, until the necessary planning permissions are in place. The applicant has also been informed that the Waste Recovery Plan needs to be amended in a number of respects.

Any waste treatment activities will need to be done in accordance with a mobile plant permit (SR2008 No 27). A deployment form will need to be submitted to, and agreed with, the Environment Agency. Any material leaving the site will be considered waste unless it has satisfied the CL:AIRE Code of Practice. If it is waste, duty of care will need to be applied and the receiving site must have the relevant permit /exemption to accept it.

Emissions from the activities must be free from dust, mud, odour and noise levels likely to cause pollution outside the site, as perceived by an authorised officer of the Environment Agency.

Mike Ashworth
Acting Strategic Director – Environmental Services