

Agenda Item No. 4.3

**DERBYSHIRE COUNTY COUNCIL  
REGULATORY – PLANNING COMMITTEE**

**3 December 2018**

Report of the Strategic Director – Economy, Transport and Environment

**3 SUBMISSION OF A HABITAT MANAGEMENT PLAN UNDER AN OBLIGATION PURSUANT TO SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 RELATING TO PLANNING PERMISSION CM6/0910/94 LODGE HOUSE SURFACE MINE EXTENSION ON LAND AT AND TO THE NORTH OF THE EXISTING LODGE HOUSE SURFACE MINE, HEANOR ROAD, SMALLEY APPLICANT: HARWORTH ESTATES PROPERTY GROUP LTD SUBMISSION NUMBER: SM3040**

**6.430.12**

(1) **Purpose of Report** To enable the Committee to consider, for approval, in accordance with an agreement of November 2011, a 20 year Habitat Management Plan for the restored site of the Lodge House Surface Mine Extension under the planning permission granted by the Council (code number CM6/0910/94).

(2) **Information and Analysis** Planning permission (code no: CM6/0910/94) was granted for Lodge House Extension at Smalley on the completion of a Section 106 legal Agreement in November 2011 (following approval by the Committee on 13 October 2011, Minute No. 110/11 refers). The agreement requires, amongst other items, the submission by the Owner for the approval of the Council, of a Plan for Management of Habitat areas of the site for 20 years, following the completion of the five year aftercare as required by Condition 51 of planning permission CM6/0910/94.

The agreement also requires that a bill of costs and quantities for the carrying out of the Plan, is submitted to the Council and an agreed sum is deposited in a bank account designated by the Council's Chief Financial Officer, which should be sufficient to meet the potential costs of carrying out the Plan. The Council has the discretion to release monies from the sum back to the Owner or to draw on the sum to fund the works should the Owner fail to carry out works. All interest from the accrued by the sum is to be added to the deposit.

## **Consultations and Publicity**

There is no statutory requirement for consultations or publicity with respect to this submission, however, the following consultations have been undertaken.

## **Local Members**

Councillor Buttery (Horsley) and Councillor Stevenson (Heanor Greater) have been consulted and no comments have been received.

## **Planning Considerations**

A Habitat Management Plan has been submitted by the Owner. It is designed to continue the rehabilitation of the site and ensure continuing net gains in terms of the biodiversity value of the site by continuing the measures set out in the Restoration and Aftercare Strategy for the site. This Strategy has been very successful and the restoration of the site is considered to be of a very high standard. The measures set out in the Plan are based upon discussions between the Owner, operator and the Council's officers that have been ongoing through the lifetime of the development and are considered to be well thought out. The measures set out in the Plan are appropriate and I am also satisfied that the Plan meets the requirements of the legal agreement and that it would ensure the proper management of the site for a further 20 years. It is therefore recommended for approval.

(3) **Financial Considerations** There are no fees applicable in this instance. Other financial considerations are addressed above.

(4) **Legal Considerations** This scheme has been submitted in accordance with the requirement of an obligation pursuant to an agreement under Section 106 of the Town and Country Planning Act 1990.

It is not considered that there would be any disproportionate impacts on anyone's human rights under the European Convention on Human Rights as a result of a resolution under the Officer's Recommendation below.

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

## **Other Considerations**

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

(7) **Background Papers** File No. 6.430.12  
Files held by the Director of Legal Services and the Planning Division of the Economy, Transport and Environment Department.

(8) **OFFICER'S RECOMMENDATION** That the Committee resolves to **approve** the Habitat Management Plan submitted in respect of the obligation at Schedule 1, Part 1a, Paragraph 1 of the Deed of Agreement pursuant to Section 106 of the Town and Country Planning Act 1990, as amended on 27 October 2017 by Fisher German LLP, on behalf of Harworth Estates Property Group Ltd.

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