

**Agenda Item No. 4.2**

**DERBYSHIRE COUNTY COUNCIL**

**REGULATORY – PLANNING COMMITTEE**

**6 March 2017**

Report of the Strategic Director – Economy, Transport and Communities

- 2 APPLICATION UNDER SECTION 73 OF THE TOWN AND COUNTRY PLANNING ACT 1990 FOR PERMISSION TO NOT COMPLY WITH CONDITIONS 12, 18 AND 20 OF PLANNING PERMISSION CM4/1112/103, ECKINGTON DRIFT MINE, ROTHERSIDE ROAD, ECKINGTON**  
**APPLICANT: EUROPEAN COAL PRODUCTS LTD**  
**CODE NO: CM4/0315/161**

**4.478.20**

**Introductory Summary** This is an application, now partially retrospective, to not comply with the terms of three conditions of an existing planning permission which currently regulates the operation of Eckington Coal Mine. The applicant is proposing changes that would enable the creation of external bays for the storage of processed coal prior to transport from the site, an increase in the number of HGV movements to and from the site, and a revision to the layout of the site to accommodate a revised traffic management scheme. The operator claims the changes are required to maintain the viability of the business and, subject to the continuation of the controls set out by the terms of the other conditions of the current planning permission, I am satisfied that they would not result in any new or increased adverse impact on the amenity of the surrounding area.

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

(2) **Information and Analysis**

**Planning History**

Eckington Drift Mine has been operative since 1992 following the grant of planning permission (CM4/392/11) by this Authority. The decision allowed for the extraction of 0.74 million tonnes of coal from a seam extending to approximately 67 hectares (ha).

Following the commencement of working at the site, a number of planning permissions have been granted for continuing the development without

compliance with certain conditions which the previous planning permission were subject. These can be summarised as follows:

- CM4/795/29, granted 12 March 1996, which allowed for the extension of the pit head area, revisions to layout of the pit head area, the erection of a new workshop/office/amenity building, the siting and operation of a rotary screening plant and also the variation of conditions 4 (definition of site to include the extended pit head), 18 (to allow on site screening of coal), 24 (to regularise vegetation removed), 25 (approval not to replace vegetation), 31 (regularisation of removal of hedgerow), 33 (removal of requirement for vegetation protection measures), 39 (extending timescale for traffic facilities), and 48 (for a different scheme for the pit head enclosure).
- Planning permission CM4/897/36, approved 10 November 1997, which allowed amendments to the approved pit head layout by removing fencing adjacent to the weighbridge, the re-siting of the rope haulage house, compressor house and associated shelter, and to extend and re-site the rotary screen, housing and associated structures.
- Planning permission CM4/1297/93, dated 5 March 1998, to allow for the retention and continued use of the rotary screening plant.

Further permissions were also granted for the erection of an explosives store (CM4/399/145) on 17 May 1999 and for a small northern extension to the site (CM4/0903/100). The latter was for an additional 15,000 tonnes of coal over an approximate area of 1.5ha.

The current permission under which the mine operates is planning permission CM4/1112/103, granted in March 2013, which extended the authorised duration of the mine from January 2013 to January 2023.

The drift mine is also underlain by further historic deep workings at depths of 65 metres (m) and 80m below the base of the Deep Soft Coal seam in the Parkgate and Thorncliffe seams respectively.

### **Site and Surroundings**

The pit head and coal stocking area is on Rotherside Road, Eckington, adjacent to a small business park/industrial estate. Buildings at the site include a two-storey workshop/office/amenity building, temporary modular office buildings and shipping containers.

No retailing of coal takes place at the site, although processing of coal does take place. The applicant Company's preferred method of working is by machine drivage, although the development can also involve blasting

underground at a depth of some 100m. The coal is excavated using the pillar and stall system.

The mine employs up to 30 staff at any one time, working on a double shift programme. The output of the mine averages at 20,000 tonnes per annum. HGV movements associated with the development are 12 (6 in/6 out) per day.

The surface of the drift mine, which is 100 metres to the east of the pit head, is characterised by agricultural land bounded by hedgerows and falls entirely within the Green Belt, as identified in the North East Derbyshire Local Plan. Two overhead transmission lines run across the central part of the site. One residential property, Boiley Farm, sits within the surface area. A number of public footpaths and bridleways, including the Trans Pennine Trail, cross the site. A freight railway line runs north to south across the entrance to the underground workings. A small watercourse, the Park Brook, runs across the eastern part of the site in an east to west direction.

The Moss Valley Site of Special Scientific Interest (SSSI) is 0.9km to the west of the pit head. Two local wildlife sites (LWS), Chapelwheel Dam and Park Brook Marsh, are located within the surface area. The former is notified due to its secondary broadleaved wet woodland, the latter is marshland adjacent to the Park Brook. Further wildlife sites are located close to, but outside the mine's surface area. The remaining reserves of coal are all located at the western end of the drift mine extraction area.

The proposed route of the High Speed rail link (HS2) between London and Leeds would cross the western part of the surface area of the drift mine in a roughly north to south direction.

### **Current Proposal**

The operator is seeking a new planning permission under Section 73 of the Town and Country Planning Act 1990, which would enable the current drift mine to be carried on subject to changes to the terms of three conditions of the existing permission for the development. The proposed changes, which are now partly retrospective, are as follows:

#### **Condition 12**

The condition requires all plant, machinery and materials (coal, etc) to be stored inside a building or buildings when not required underground. The operator wishes to be allowed to create three small bays in which to store different grades of coal (doubles, trebles and large coals) to build up sufficient stocks for efficient transfer into a lorry for transport off site. Such bays have, in fact, already been constructed in the north-east corner of the site next to the site entrance used by HGVs. The bays consist of concrete sleepers approximately 2m in height positioned against the site boundary which is formed by a combination of 2m high brick wall, a 2m high close boarded fence

and 2.2m high concrete retaining wall. The application states that a maximum of 30 tonnes of coal would be stored within these bays to a maximum height of 3m.

The construction of the bays dictates a minor rearrangement of the existing storage areas within the site. The materials stored outside in these areas mainly consist of older mining equipment which is no longer usable and awaits transport from the site for disposal or recycling, and other equipment obtained from recently closed coal mines which is being refurbished prior to use underground. These materials would be stored in an area between the main office building and the electricity sub-station.

#### **Condition 18**

Condition 18 of the current permission restricts the number of vehicle movements allowed at the site. The operator seeks to increase the current 12 lorry movements per day (6 in and 6 out) to 20 movements per day (10 in and 10 out). The application states that this increase is necessary to enable the business to remain viable.

#### **Condition 20**

Condition 20 of the current permission required the submission of a traffic management scheme for the site to be submitted within three months of the date of the planning permission. The scheme had to require the provision of an up-to-date site survey of staff and visitor parking provision, loading and unloading areas, as well as turning and manoeuvring space for all vehicles using the site, proposals to amend the existing layout to improve these facilities and functions, and a programme of implementation. The operator did not submit such a scheme within the specified period but has now provided these details as part of this application. The submission includes a revised site layout in which all redundant structures have been removed to allow additional space. The submission includes a programme of implementation although some of the proposals have already been carried out.

The supporting statement submitted with the application states that all the proposals are considered to be minor changes only but are necessary to enable the mine to remain as a viable business. It adds that all the changes could be implemented without any adverse impacts on the environment or other businesses in the area.

### **Consultations**

#### **Local Member**

Councillors Ridgeway and Charles (Eckington and Killamarsh) were both consulted. Adjacent ward member, Councillor Collins (Staveley North and Whittington) was consulted but no response has been received.

### **North East Derbyshire District Council**

No planning objections. The Environmental Health Officer (EHO) had no objections in principle but drew attention to the drag out of coal dust from the site onto the adjacent highway and requested that measures be introduced to prevent such occurrences.

### **Environment Agency, Coal Authority, Severn Trent Water Ltd, Network Rail and Derbyshire Wildlife Trust**

No objections.

### **Publicity**

The application was advertised by press and site notices in May 2015 and June 2016. One letter of objection has been received stating that the operator has not complied with the terms of the previous planning permissions resulting in nuisance from dust and traffic, and should not be allowed any derestriction of the controls on vehicle numbers and movements.

### **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 this application, the relevant policies of the development plan are contained in the saved policies of the adopted Derby and Derbyshire Minerals Local Plan (MLP) and the adopted North East Derbyshire Local Plan (NEDLP). The National Planning Policy Framework (NPPF) (March 2012) and the National Planning Practice Guidance (NPPG) (March 2014) are also material considerations.

### **Derby and Derbyshire Minerals Local Plan**

The main policies of the MLP which are relevant to the determination of this proposal are MP1: The Environmental Impact of Mineral Development, MP3: Measures to Reduce Environmental Impact, MP4: Interests of Acknowledged Environmental Importance, MP5: Transport, MP6: Nature Conservation – Mitigation Measures, MP7: Archaeology – Mitigation Measures and MP27: Coal Extraction and Colliery Spoil Disposal. Other MLP policies of relevance are MP8: Planning Conditions, MP9: Planning Obligations, MP10: Reclamation and After-Use and MP14: Disposal of Non-Mineral Waste in Association.

With regard to this proposal the main objectives of these policies are to ensure that the important mineral resources of the Plan area will be worked in a sustainable manner without unacceptable impacts on the environment and local communities, and those mineral sites are restored in an appropriate manner to beneficial after-uses after extraction has been completed.

### **North East Derbyshire Local Plan**

The NEDLP policies which would be of relevance in the context of this application are: GS1: Sustainable Development, GS2: Development in the Green Belt, NE1: Landscape Character, NE3: Protecting and Managing Features of Importance to Wild Flora and Fauna, NE5: Other Sites of Importance for Nature Conservation, NE7: Protection of Trees and Hedgerows, and NE8: Tree Planting.

### **National Planning Policy Framework**

The NPPF reiterates the established provisions of planning law that applications must 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 achieve sustainable development and adds that there should be a presumption in favour of sustainable development. The term sustainable development is not defined as such, but the NPPF states that ensuring better lives for society without worsening lives for future generations is at the core of sustainability. It states that sustainable development has economic, social and environmental aspects.

The economic aspect for planning 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.

The NPPF states that, when determining applications for mineral development, 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. The document also contains specific advice on proposals for coal, stating that: *“Permission should not be given for the extraction of coal unless the proposal is environmentally acceptable, or can be made so by planning conditions or obligations; or if not, it provides national, local or community benefits which clearly outweigh the likely impacts to justify the granting of planning permission”*. The NPPF also provides a list of those forms of development, including mineral extraction, which would not be considered inappropriate in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.

### **National Planning Practice Guidance**

The NPPG reiterates much of the policy guidance of the NPPF in terms of the need for and how to plan for mineral extraction. It recognises the contribution of minerals to our economy and overall quality of life but also acknowledges that they are a finite resource and need to be used prudently to ensure their continued availability for future generations. It recognises that mineral can

only be worked where they naturally occur but that the means of obtaining them can have economic, social and environmental impacts which need to be balanced.

### **Identification of Issues**

The principle of a drift mine in this location was assessed and found to be acceptable, against the provisions of the development plan and any emerging plans, during the consideration and determination of the original application (CM4/392/11) in 1992. A similar assessment and conclusion was reached for the recent proposal to extend the duration of that planning permission for a further 10 years. That assessment took account of all changes in local and national policy since 1992.

This proposal relates to changes to the layout of the site and the overall operation and management of the business, and so it is not necessary to reconsider the principles of the development. The relevant issues are the potential impacts that would or could arise from the proposed changes to the layout and appearance of the site, the creation and operation of the external coal storage bays and the increase in vehicle movements to and from the site.

The review and assessment of the proposed changes have been undertaken in the context of the relevant issues which were identified and reported to Committee in March 2013 for the proposal to extend the duration of the mine. The issues identified at the time included:

- Structures erected at the site without the benefit of planning permission and the general untidy appearance of the site.
- Noise issues and the need for a Noise Management Plan.
- Dust issues and the need for a Dust Management Plan.
- Unauthorised structures and amendments to site layout resulting in limitations on on-site parking and manoeuvring space and the need for Traffic Management scheme.

The planning permission (CM4/1112/103) included new and amended conditions seeking to resolve these outstanding issues.

### **Justification for the Proposals**

The reason put forward by the operator for the proposed changes is to increase the efficiency of the site and business and to increase output to enable it to remain viable and continue in operation, especially at a time of fluctuations in the price of coal. The cessation of all other underground mines in the UK, the reduction in coal obtained from surface mines in Derbyshire and an increase in the proportion of coal used in this country that is supplied from overseas is testimony to the challenges facing the viability of any coal mining operation. This is a small coal mining operation compared to the former deep mines which operated in the County and it is acknowledged that financial

margins are likely to be slender and volatile. I therefore do not doubt the underlying basis for the current proposals. It is necessary, however, to consider whether the proposed changes would be acceptable in environmental terms.

### **Changes to the Layout of the Site**

The external storage bays have now been constructed in the location and form described in the application. The position on the north-eastern corner of the site is adjacent to the site entrance and facilitates a convenient lorry manoeuvring area relative to the location of the weighbridge and other storage and parking areas. The boundary features and the established woodland beyond also provide adequate screening from the road and other industrial premises on the estate such that the coal mounds would not be visually intrusive. The proposed position of the loading/unloading area would also be well screened by the buildings on the site and would not interfere with the main vehicular movements at the site or impact adversely on the car parking areas.

### **Increase in Vehicle Movements**

The proposed increase in the maximum permitted number of HGV movements to and from the site per day (from 6 in and 6 out to 10 in and 10 out) is a small increase in terms of the nature of the industrial type activity of the business and its location on an established industrial estate with good links to the highway network. The site area and manoeuvring space within the site is small for a coal mining operation but the normal working daily hours should be sufficient to allow for the extra four lorries visiting the site to be accommodated without adversely affecting the flow of other vehicles on roads within the estate. The increase in vehicle movements could increase the potential for mud and other material to be carried by lorries travelling from the site on to the estate roads but the present facilities for vehicle cleaning/wheel washing should be sufficient. Notwithstanding, this potential impact can remain the subject of a separate condition through the granting of a new permission so that still in the event of current measures proving inadequate, the operator would be required to install other vehicle cleaning facilities.

### **Traffic Management**

It is regrettable that compliance with Condition 20 of the current permission has been outstanding for so long as the provision of satisfactory manoeuvring space for HGVs is directly related to the provision of suitable storage areas and adequate car parking spaces on this site of restricted area. The reason for the condition was to secure on-site improvements to prevent adverse impacts off-site. However, the submitted scheme, in combination with the other proposed amendments to the layout of the site do now provide for a comprehensive review of site operations and the opportunity to secure the intended improvements.



The submission states that the business now employs 27 staff (including management and administration) and the revised layout makes provision for 25 staff parking spaces, with a further two for managers, three for visitors and one for disabled people. The scheme and layout provided includes the proposed coal storage bays and the relocated loading/unloading areas. It also indicates the structures and equipment that are to be retained and those which are redundant and removed from the site. The scheme also provides details of a water drainage system whereby water would be channelled to the south-east corner, then into silt traps, settling ponds and the mine drainage system before being discharged into the River Rother under the terms of an Environment Agency discharge consent permit.

Monitoring records indicate that the operator has not fully complied with the approved layout and other operational controls resulting in a number of impact issues. The current submitted scheme provides an opportunity to improve the efficiency of the site and mitigate against further problems. The rationalisation of the structures and equipment on site is a significant step in the right direction and will help to make it possible to increase the number of parking spaces and aid the internal circulation. The drainage scheme will also help reduce the amount of standing water on the site. The scheme contains a programme of implementation and this will need to be strictly complied with to achieve the benefits set out in the supporting statement.

### **Conclusion**

The operational changes encompassed within the proposed variation from the current conditions can be implemented without any unacceptable increase or change in the impacts of the mine on the surrounding area. Indeed, the overall change to the layout of the site would enable some operational efficiencies which could help reduce impacts if fully implemented and adhered to. These would help to address problems identified at the site by the County Council. Accordingly, they would not conflict with the provisions of the development or national planning policy and are recommended for approval.

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

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

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

- (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, social value and transport considerations.

- (6) **Background Papers** File 4.478.20

Application submitted by Baker Barnett Ltd and validated on 17 April 2015. Letters and emails from NEDDC dated 8 May, 10 June and 7 July 2015 and 14 November 2016.

Letters from the Environment Agency dated 29 April 2015 and 29 June 2016.

Letter from the Coal Authority dated 15 May 2015.

Letter from Severn Trent Water Ltd dated 15 May 2015.

Letter from the Highway Authority dated 18 May 2015.

Letter from Network Rail dated 19 May 2015.

Letter from Derbyshire Wildlife Trust dated 18 August 2015.

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

#### **Form of Development**

- 1) The development shall proceed in accordance with the details contained in the application documents received from Moorside Mining Company Ltd dated 14 and 20 May 1992, 27 July 1992, as amended by drawing numbers 1950/21a (pit head extension layout and workshop/office building design), 1950/22b (revised overall pit head layout and pit head boundary treatment) and 1950/40 (revised layout of originally approved pit head area and position of rotary screen); the applicant's letters dated 29 July and 8 August 1997 and drawing numbers 1950/21a (revised extract) and MM080897; letter from Moorside Mining Company Ltd dated 2 December 1997; the letter and accompanying drawing MM100298 dated 11 March 1990 and as amended by the provisions of the application submitted by Caledonian Coal Company Limited on 15 November 2012 and 9 January 2013, except as otherwise required by the terms of the conditions below, and as further amended by the application submitted under cover of the letter from John Baker Barnett Ltd dated 13 March 2015.

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

- 2) For the purposes of this permission, the term 'the site' shall be taken to mean all the land shown outlined on drawing numbers 1950/22b (revised overall pit head layout and pit head boundary treatment)

submitted in support of planning application CM4/795/29 and Plan 3 submitted in support of planning permission CM4/392/11. Nothing specified, required by or provided for in these conditions shall be taken to permit any operations of uses associated with the approved development outside any of the boundaries of the site.

**Reason:** For the avoidance of doubt.

### **Duration**

- 3) All operations for the winning and working of minerals authorised or required by this permission shall cease on 9 January 2023. On or before that date, all processing operations shall have ceased, all plant, machinery, structures, and buildings shall have been removed, the drift entrances closed and made safe, and the whole site, including areas occupied by plant, machinery, structures and buildings shall be restored in accordance with the further conditions of this permission.

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

### **Availability of Approved Documents**

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

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

### **Notification Dates**

- 5) The following dates shall be notified in writing to the Mineral Planning Authority no later than seven days before each date:
- a) cessation of coal extraction operations;
  - b) the commencement of site restoration operations; and
  - c) the completion of site restoration operations.

**Reason:** To enable the Mineral Planning Authority to effectively monitor the progress of the development and to set the aftercare period for the site.

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

- 6) Notwithstanding the provisions of Article 3 and Part 17, Paragraph A of Schedule 2 of the Town and Country (General Permitted Development Order) 1995, as amended, no plant or machinery, buildings or structures, shall be placed or erected on the site except as expressly authorised or required by this permission, or otherwise in accordance with the prior written approval of the Mineral Planning Authority.

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

- 7) The rotary screen, screen housing and associated development, including the conveyor and feed hopper, shall be dark green in colour and be maintained in accordance with the requirements of Condition 2 of planning permission CM4/1297/93. At such time as the screen and associated facilities are no longer required at the site for the purpose for which it is approved, all structures shall be dismantled and removed from the site.

**Reason:** In the interests of the visual amenity of the area and to enable the Mineral Planning Authority to monitor the development.

- 8) The workshop/office building shall be maintained in accordance with the requirements of the letter from RVA Design dated 1 May 1996, as approved by the Mineral Planning Authority on 12 June 1996, or as amended by the letter from RVA Design dated 7 October 1996 and approved by the Mineral Planning Authority on 17 February 1997, unless otherwise required by the other conditions of this permission.

**Reason:** In the interests of the visual amenity of the area and to enable the Mineral Planning Authority to monitor the development.

- 9) The visual improvement measures contained in the letter and accompanying drawings from European Coal Products dated 14 October 2014, as approved by the Mineral Planning Authority on 30 April 2015, shall be adhered to for the duration of the mine and any measures not implemented by the date of this decision notice shall be carried out within a further two months.

**Reason:** In the interests of the visual amenity of the area and to enable the Mineral Planning Authority to effectively monitor the appearance of the development.

- 10) All new fixed structures, plant or machinery shall be coloured to BS 12B 29 (dark green), RAL 6009 or similar colour, as has been submitted and received the approval in writing by the Mineral Planning Authority.

**Reason:** In the interests of the visual amenity of the area and to enable the Mineral Planning Authority to effectively monitor the appearance of the development.

- 11) The bridge over the River Rother, which shall be sited as shown on drawing no 3 and which shall have a clear span over the river with a soffit level of no lower than 45.71m above ordnance datum (AOD), shall be maintained in accordance with the details contained in the letter from Moorside Mining Company Ltd dated 23 March 1993, as approved by the Mineral Planning Authority on 24 August 1993.

**Reason:** In the interests of visual amenity and flood risk, and to enable the Mineral Planning Authority to effectively monitor the development.

- 12) All storage of plant, machinery, structures and apparatus, and any materials not contained within the underground materials storage area, shall be in the locations and in accordance with the details contained in the report 'Planning Statement in Support of the Section 73 Application to Vary conditions 12, 18 and 20 of Planning Permission CM4/1112/103', dated February 2016 and drawing number 15-2547-03 entitled 'Proposed Site Plan'. At such time as any item of plant, structures, tanks, machinery or other installation is no longer required for the approved development, it shall be removed from the site.

**Reason:** In the interests of the visual amenity of the area and to enable the Mineral Planning Authority to monitor the development.

### **Mine Access Drifts**

- 13) The main and secondary mine access drifts shall be a maximum of 5 metres wide, 2.2m high and 33.5m apart between centres. The drifts shall pass beneath the operational freight railway line at the horizon of the Deep Soft (Sitwell) Coal seam. The density of supports within the drifts shall be increased to 0.915m centres beneath railway property and for a distance of 25m on both sides of the railway boundary.

**Reason:** In the interests of the control of subsidence and to protect the property of network rail.

### **Drift Headings**

- 14) The drift headings shall be maintained in accordance with the details provided in the letter submitted by Moorside Mining Company Limited

dated 27 October 1992, as approved by the Mineral Planning Authority dated 24 November 1992.

**Reason:** In the interests of flood risk.

### **Embankments**

- 15) The causeway and drift portal embankments shall be maintained in accordance with the details provided in the letters and photographs from Moorside Mining Company Limited dated 25 March and 12 May 1994, as approved by the Mineral Planning Authority on 6 June 1994.

**Reason:** In the interests of flood risk.

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

- 16) No vehicles shall enter or exit the site other than by the existing access points on Rotherside Road.

**Reason:** In the interests of the safety of users of the highway, including pedestrians, and to protect the amenity of the area.

- 17) The surface of the access road shall be maintained in a solid bound material and repaired as necessary, and the access shall be kept clean and free of mud and other debris at all times until completion of site restoration, landscaping and aftercare.

**Reason:** In the interests of the safety of users of the highway, including pedestrians, and to protect the amenity of the area.

- 18) There shall be no more than 20 lorry movements (10 in/10 out) to and from the site each day, or as may have otherwise received the prior written approval of the Mineral Planning Authority.

**Reason:** In the interests of the safety of users of the highway, including pedestrians, and to protect the amenity of the area.

- 19) No mud or other material shall be taken from the site and deposited on to the public highway.

**Reason:** In the interests of the safety of users of the highway, including pedestrians, and to protect the amenity of the area.

- 20) The management of traffic at the site, including car parking provision, shall be in accordance with the details set out in the report 'Planning Statement in Support of the Section 73 Application to Vary Conditions 12, 18 and 20 of Planning Permission CM4/1112/103', dated February 2016 and drawing number 15-2547-03 entitled 'Proposed Site Plan',

and shall be so maintained for the duration of the approved development.

**Reason:** In the interests of the safety of users of the highway, including pedestrians, and to protect the amenity of the area.

- 21) All laden vehicles leaving the site shall be sheeted.

**Reason:** In the interests of the safety of users of the highway, including pedestrians, and to protect the amenity of the area.

### **Hours of Operation**

- 22) Except in emergencies to maintain safe operational practices, the nature and circumstances of which shall be notified to the Mineral Planning Authority as soon as practicable, no operations (except pumping) shall be carried out except between the following hours:

0630 hours to 2030 hours Mondays to Fridays;  
0630 hours to 1330 hours Saturdays.

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

Servicing, maintenance, repair or testing operations, which involve the starting up and running of plant, machinery or engines, shall not be carried out outside the times in this condition.

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

### **Marketing**

- 23) There shall be no direct retailing of coal from the site.

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

### **Coal Stocking**

- 24) There shall be no stocking of coal on the site outside the approved storage bays or in excess of 30 tonnes at any one time.

**Reason:** To prevent the use of the site as a coal stocking ground and in the interests of local amenity.

- 25) Stockpile heights shall not exceed 3m.

**Reason:** In the interests of the visual amenity of the area.

### Colliery Waste

- 26) All waste material generated underground and not removed with the coal as 'run of mine' shall be stowed underground. There shall be no disposal of colliery spoil on the surface of the site except as otherwise allowed by this permission.

**Reason:** To prevent the development of colliery tips on the surface of the land in the interests of the local landscape and environment.

### Noise

- 27) Noise controls, monitoring arrangements and procedures to be followed in the event of the approved noise limits being exceeded shall be in full accordance with the details contained in the scheme entitled Noise Scheme for Eckington Mine dated 5 October 2015 and submitted under cover of letter from European Coal Products Ltd dated 14 October 2014, as approved by the Mineral Planning Authority on 9 February 2017 for the duration of the approved development.

**Reason:** To enable the Mineral Planning Authority to control the noise generated by the development and in the interests of the amenity of the area.

- 28) During noisy short-term activities at the site, the noise limits set out in the Noise Management Plan, required at Condition 27 above, may be exceeded during the daytime for periods not exceeding a total of 8 weeks in any period of 12 months throughout the duration of the development, as measured at the noise receptors identified in the Noise Management Plan. During these periods, the received noise levels shall not exceed 70dB(A) LAeq, 1 hour, free field. For the purposes of this condition, noisy, short-term activities are such activities as are referred to in the Technical Guidance to the National Planning Policy Framework at paragraphs 28 - 31.

**Reason:** To enable the Mineral Planning Authority to control the noise generated by the development and in the interests of the amenity of the area.

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

**Reason:** To enable the Mineral Planning Authority to control the noise generated by the development and in the interests of the amenity of the area.



- 30) All fixed machinery and pumps used in connection with the development shall be powered by electricity or acoustically insulated diesel powered units.

**Reason:** To enable the Mineral Planning Authority to control the noise generated by the development and in the interests of the amenity of the area.

- 31) All reversing alarms used on vehicles employed on or visiting the site shall be fitted with non-audible, ambient related, broadband or low-tone devices.

**Reason:** To enable the Mineral Planning Authority to control the noise generated by the development and in the interests of the amenity of the area.

- 32) All pumps shall be sited and only operated below ground, except as may otherwise be approved in writing by the Mineral Planning Authority.

**Reason:** To enable the Mineral Planning Authority to control the noise generated by the development and in the interests of the amenity of the area.

### Dust

- 33) Dust controls, monitoring arrangements and procedures to be followed in the event of the failure of those measures from preventing dust from going beyond the site boundary to nuisance levels shall be in full accordance with the details contained in the scheme entitled Eckington Mine Dust Management Plan (DMP) dated February 2016 (ref REVC 6.6.16) and submitted under cover of the letter from European Coal Products Ltd dated 14 October 2014, as approved by the Mineral Planning Authority on 26 January 2017 for the duration of the approved development.

**Reason:** To enable the Mineral Planning Authority to control the emission of dust from the development and to respond to incidents where dust emissions might cause nuisance in the surrounding area.

### Blasting

- 34) No blasting shall be carried out on or within 45m of the surface of the ground. Mining shall, wherever possible, be undertaken by machine drilage with no shotfiring. When blasting is essential, the operator shall take appropriate steps to minimise disturbance to the environment and to ensure that no ground vibration is detectable at ground level. In the event that the Mineral Planning Authority receives a complaint which it considers is justifiable concerning blasting operations, the operator

shall, after consultation with the Mineral Planning Authority, take such steps as and when approved by the Authority to prevent a recurrence of the conditions which gave rise to the complaint.

**Reason:** To minimise the impacts on local communities and the environment.

### **Lighting**

- 35) All external lighting shall comply with the details set out in the lighting scheme submitted under cover of the letter from European Coal Products Ltd dated 14 October 2014, as approved by the Mineral Planning Authority on 9 February 2017.

**Reason:** In the interests of the amenity of the area and to enable the Mineral Planning Authority to effectively monitor the development.

### **Environmental Protection**

- 36) There shall be no burning of waste or other materials at the site.

**Reason:** In the interests of the control of pollution.

- 37) All waste or scrap 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:** To ensure the development does not have a detrimental impact upon local amenity.

### **Storage of Oils, Fuels and Chemicals**

- 38) 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 equal 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 shall 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/vessel overflow pipe outlets shall be detailed to discharge downwards into the bund.

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

### **Water Protection and Pollution Prevention**

- 39) All mine water and contaminated site drainage shall be collected, treated, managed and discharged in accordance with the details of the scheme submitted under cover of the letter from European Coal Products Ltd dated 14 October 2014, as approved by the Mineral Planning Authority on 7 May 2015 throughout the duration of the approved development and any specified decommissioning period after the cessation of mining.

**Reason:** In the interests of the protection of the water environment.

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

**Reason:** In the interests of the protection of the water environment.

- 41) The flood compensation works shall be maintained in accordance with the details in the letters from Moorside Mining Company Ltd dated 25 March and 12 May 1994 as approved by the Mineral Planning Authority on 6 June 1994.

**Reason:** In the interests of flood risk.

### **Ecology**

- 42) The applicant/operator shall take all precautions to ensure that none of the following wetland habitats/sites of ecological interest are damaged or destroyed:

- (i) Chapelwheel Dam LWS;
- (ii) the Park Brook Marsh LWS; and
- (iii) the Park Brook to the east of the former North Midland Railway.

The monitoring of these features, which shall include the extent, water levels, flow characteristics, vegetation and surface features of the wetlands, in the letter and accompanying drawing MMC/180992 shall continue in accordance with the details submitted by Moorside Mining Company Limited on 30 October 1992, as approved by the Mineral Planning Authority on 24 November 1992.

The results of the monitoring shall be submitted to the Mineral Planning Authority within one month of its being undertaken.

The monitoring and the submission of the results shall take place for the duration of the development in accordance with the scheme as approved or as may subsequently be approved in writing by the Mineral Planning Authority.

In the event of a serious subsidence problem or other adverse effects which would threaten the wetland features/ecological interests, the applicants/operator shall, at the request of the Mineral Planning Authority, cease mining as necessary within parts of the mine and submit for the approval of the Mineral Planning Authority a scheme for remedial action, including restoration works where appropriate. Thereafter, the scheme shall be implemented as approved.

**Reason:** To ensure that adequate provision is made for the monitoring of subsidence for the purposes of nature conservation and to provide for remedial action where necessary.

- 43) No vegetation removal and soil stripping shall take place within the bird nesting season i.e. 1 March to 1 August within any year unless otherwise approved in writing by the Mineral Planning Authority. Any request to undertake vegetation removal or soil stripping operations with the bird nesting season shall provide the following information:

- a) a plan identifying the land affected;
- b) details of the methodology to be used in the nest check;
- c) details of the person/persons who are to undertake the nest check;
- d) the dates that the nest check is to be undertaken and the vegetation removal/soil stripping operations are to take place; and
- e) details of those measures to be implemented in the event that breeding bird are found to be present within the identified area.

The scheme shall then be implemented as approved.

**Reason:** To ensure that the development takes place without detriment to species protected by the Wildlife and Countryside Act 1981 or other legislation.

- 44) No trees or shrubs, including hedgerows, shall be cut down, uprooted, damaged, destroyed or removed during the works without the prior written approval of the Mineral Planning Authority. Retained trees and shrubs shall be protected from disturbance, damage or destruction from the approved development where necessary by the provision of adequate stand-offs, machinery and materials storage areas, fencing, marker posts and buntings or other suitable method. There shall be careful site supervision at all times to ensure that no damage occurs to the protected vegetation. All trees and shrubs under this condition shall

be incorporated into an approved scheme of post restoration landscaping of the site, except where the removal of the vegetation is otherwise provided for in the approved scheme.

**Reason:** To ensure that these features are properly maintained and managed for the duration of the development in the interests of visual amenity and local landscape character.

### **Protection of Heritage Features**

45) The operator shall take all precautions to ensure that none of the following heritage features are damaged or destroyed:

- a) The Old Tramway Line (Penny Farthing Line).
- b) The Old Chesterfield Canal routes.
- c) The former North Midland (dismantled) railway line (Staveley – Beighton section).

The monitoring of the integrity of the features shall continue to be undertaken in accordance with the scheme and accompanying drawing number MMC 280992 submitted by Moorside Mining Company Ltd on 3 November 1992, as approved by the Mineral Planning Authority on 24 November 1992.

The results of the monitoring shall be submitted to the Mineral Planning Authority within one month of its being undertaken.

The monitoring and the submission of the results shall take place for the duration of the development in accordance with the scheme as approved or as may subsequently be approved in writing by the Mineral Planning Authority.

In the event of a serious subsidence problem or other adverse effects which would threaten the heritage features, the applicants/operator shall, at the request of the Mineral Planning Authority, cease mining as necessary within parts of the mine and submit for the approval of the Mineral Planning Authority a scheme for remedial action including restoration works where appropriate. Thereafter, the scheme shall be implemented as approved.

**Reason:** To ensure that adequate provision is made for the protection of the heritage features and to provide for remedial action where necessary.

### **Site Boundaries**

- 46) All existing remaining site boundary hedges, walls and fences shall be retained and protected from damage or destruction for the duration of the development.

**Reason:** In the interests of visual amenity and the local environment.

### **Soils Storage**

- 47) All soils recorded on the site as contained in the survey submitted to and approved by the Mineral Planning Authority on 30 April 2015 shall be retained for use in the restoration of the site after the cessation of mining.

**Reason:** To ensure that sufficient soils are retained on site to enable the restoration of the land.

- 48) No topsoil and no subsoil and/or soil making material shall be stripped, moved, handled or trafficked upon unless it is in a dry and friable condition and no movements shall take place between the months of November and March unless otherwise approved in writing by the Mineral Planning Authority.

For the avoidance of doubt, under the terms of this condition, dry and friable means having a moisture content that is equal to, or greater than that at which the soils become plastic, tested in accordance with the worm test as set out in BS1377: 1975 "Methods of Test for Soils for Civil Engineering Purposes".

**Reason:** To ensure that monitoring arrangements for soil stripping and storage are in place, to prevent unnecessary trafficking of soil by heavy equipment and vehicles that may damage the soil, and to prevent damage to soils by avoiding movement when soils are wet or excessively moist.

### **Soil Replacement**

- 49) The applicant or operator shall provide no less than seven days prior written notice of the intended date of the commencement of soil and subsoil replacement for each phase of the proposed restoration works.

**Reason:** To enable the Mineral Planning Authority to monitor progress of the restoration works and to ensure that the works are carried out in accordance with best practice in the interests of good land husbandry.

- 50) The topsoil and subsoils shall be tipped and spread evenly onto the levelled surface below in such a manner to avoid compaction of the soils.

**Reason:** To ensure that the land is restored and maintained in a suitable condition for use for agricultural purposes.

- 51) The restored soils shall be ripped using appropriate machinery to a minimum depth of 600mm. The surface of the site shall then be kept free from rubble and stones greater than 100mm in diameter throughout the five year aftercare period.

**Reason:** To ensure that the land is restored and maintained in a suitable condition for use for agricultural purposes.

### **Mining and Subsidence Control**

- 52) The programme for the carrying out and submission of topographical surveys to enable subsidence monitoring shall be as set out in the letter from European Coal Products Ltd dated 14 October 2014, as approved by the Mineral Planning Authority on 30 April 2015 and shall be complied with in full throughout the duration of the approved development.

**Reason:** To ensure that adequate provision is made within the parameters of technology to limit, control and monitor subsidence for the purposes of protecting surface land uses and in the interests of the occupiers and statutory undertakers, and conservation interests, and to provide for remedial action where necessary.

- 53) The mine shall operate within the limits of technology to seek to prevent surface subsidence in excess of 0.16m.

**Reason:** To ensure that adequate provision is made within the parameters of technology to limit, control and monitor subsidence for the purposes of protecting surface land uses and building in the interests of the owners and occupiers, and to provide for remedial action where necessary.

- 54) In the event of a serious subsidence problem or other adverse effects occurring on the surface of the land, the applicant shall, at the request of the Mineral Planning Authority, cease mining as necessary within parts of the mine and submit for the approval of the Mineral Planning Authority a scheme for remedial action including restoration works where appropriate. Thereafter, the scheme shall be implemented as approved.

**Reason:** To ensure that adequate provision is made within the parameters of technology to limit, control and monitor subsidence for the purposes of protecting surface land uses and buildings in the

interests of the owners and occupiers, and to provide for remedial action where necessary.

### **Restoration**

- 55) No later than 12 months prior to the programmed completion of mineral extraction operations, the applicant or operator shall submit a scheme for the approval in writing of the Mineral Planning Authority providing details of the restoration proposals for the mine surface development areas. The scheme shall include details of:
- i) A restoration contour plan to a scale of not less than 1:1,250 with contour intervals of not more than 1 metre.
  - ii) The blending, as appropriate, of the restoration contours with the contours of the surrounding land.
  - iii) The stripping and temporary storage of soils from the embankments and flood compensatory excavations.
  - iv) The dismantling of embankments and infilling operations.
  - v) Levelling and grading.
  - vi) The areas to be restored to agriculture.
  - vii) The selective replacement and treatment of soils, including stone picking, subsoiling, cultivations and fertiliser treatments.
  - viii) A programme of implementation.

The scheme shall then be implemented as approved.

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

### **Landscaping**

- 56) No later than 12 months prior to the programmed completion of mineral extraction operations, the applicant or operator shall submit a scheme for the approval in writing of the Mineral Planning Authority providing details of landscaping to be undertaken in all restored areas. The scheme shall provide details of:
- i) the phasing of landscaping;
  - ii) ground preparation;
  - iii) plant and tree species, size of plants, density of planting and means of protection;
  - iv) seed mixes and rates of application;
  - v) means of maintenance; and
  - vi) a programme of implementation.

The scheme shall then be implemented as approved.



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

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

### **Aftercare**

- 57) No later than 12 months prior to the programmed completion of mineral extraction operations, the applicant or operator shall submit an aftercare scheme for the approval in writing of the Mineral Planning Authority.

The scheme shall provide details of such steps as may be necessary to bring the restored land to a standard suitable for the proposed after-use of agriculture. The scheme shall provide for a five year programme of maintenance, the details of the measures to be undertaken and the maintenance of appropriate records for the following information:

- i) date of commencement of the aftercare period;
- ii) location plans;
- iii) details of planting requirements;
- iv) details of the aftercare and maintenance, including cutting, trimming, watering, protection from pest damage, weed control and replacement planting;
- v) annual review meeting details; and
- vi) details of any further action required following each review meeting.

The scheme shall then be implemented as approved.

**Reason:** To comply with the requirements of Schedule 5 of the Town and Country Planning Act 1990, as amended and to ensure that the restored land in the site is correctly husbanded to bring the land to the standard required for agriculture.

### **Premature Cessation**

- 58) If:
- (a) the permission subject to these conditions expires or otherwise ceases to have effect; or

- (b) the Mineral Planning Authority and all the persons with an interest in the site agree that mining operations have ceased before the site restoration in accordance with Condition 57 has been achieved, the site shall be reclaimed in accordance with a scheme which has the written approval of the Mineral Planning Authority.

The scheme shall be based on the principles of those conditions and shall include a programme of implementation. The scheme shall be submitted not later than six months from such an event such as specified in (a) or (b) above, or such later date as the Mineral Planning Authority may specify in writing and shall be implemented in the timescales approved by the Mineral Planning Authority.

**Reason:** To ensure appropriate reclamation of the site in the interests of local amenity and the environment.

**Statement of Compliance with Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, as amended**

The Mineral Planning Authority engaged with the applicant in a positive and pro-active manner based on seeking solutions to problems and issues arising in the processing of this planning application in full compliance with this Article.

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

