

Agenda Item No. 3.2

DERBYSHIRE COUNTY COUNCIL
REGULATORY – PLANNING COMMITTEE

6 June 2016

Report of Strategic Director – Economy, Transport and Communities

- 2 APPLICATION UNDER SECTION 73 OF THE TOWN AND COUNTRY PLANNING ACT 1990 TO REMOVE CONDITION 19 OF PLANNING PERMISSION CM4/0914/77 TO ALLOW THE USE OF SCREENS TO SIZE THE ASH PRIOR TO REMOVAL AT STATION YARD, STATION ROAD, RENISHAW**
APPLICANT: ASH RENISHAW LIMITED
CODE NO: CM4/0116/133

4.224.12

Introductory Summary This is an application under Section 73 of the Town and Country Planning Act 1990 to remove Condition 19 of planning permission CM4/0914/77 in order to allow the use of screens to size ash prior to removal off site at Station Yard, Station Road, Renishaw.

This application seeks to remove Condition 19 of planning permission CM4/0914/77 in order to enable the use of mobile screening plant to size excavated ash and to separate oversized material prior to removal from the site. I am satisfied that the removal of the condition, which currently prevents the use of screens on the site during the removal of the ash, is reasonable and would not be likely to have any adverse effect on local amenity or the environment. I consider that the proposal accords with the National Planning Policy Framework and the relevant policies of the development plan, and it is therefore recommended for approval, subject to a revised suite of conditions.

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

(2) **Information and Analysis** This report relates to a proposal to remove a restriction contained in Condition 19 of planning permission CM4/0914/77, which currently prevents the use of screens to size ash excavated at Station Yard, Station Road, Renishaw. This permission allows the second phase of excavation and removal of ash from the former railway sidings and subsequent filling with inert materials. The filling would enable a nine hole golf course to be formed, under a separate permission issued by North East Derbyshire District Council (NEDDC).

Site and Surroundings

The 'Phase 2' site occupies 1.8ha to the south of Station Road, Renishaw. The site was previously 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 site was characterised by woodland and grassland, which had re-vegetated naturally on the tipped material. Most of this vegetation has now been cleared by the applicant.

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 North East Derbyshire Local Plan (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 is located to the west and north of the site.

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 the HS2 would cross the site in an approximate north to south direction.

Planning Background

In 1988, Derbyshire County Council (DCC) 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 NEDLP. The application was subsequently refused by 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, DCC 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.

In August 2013, DCC considered two applications for the site. The first was for the recovery of approximately 40,000 tonnes of ash and ballast, and importation of fill material for restoration purposes; referred to as 'Phase 2' and relating to land immediately to the south of the 'Phase 1' permission (CM4/0206/184) and within the area covered by the golf course permission. The Regulatory - Planning Committee resolved in favour of granting permission for this application. Accordingly, planning permission CM4/0212/162 was granted subject to conditions, upon the completion on 30 April 2014 of an agreement under section 106 of the Town and Country Planning Act 1990 which contains planning obligations which provide for traffic routing, a liaison group and community fund.

The second application (CW4/0111/150), considered in August 2013, sought permission for the 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. This application was refused.

A further application was made to change Condition 9 of planning permission CM4/0212/162 to allow the submission of the slope stabilisation scheme for the infilling phase of the development no later than 12 months from the commencement date of the development.

This application was approved in 2015 and the current planning permission

CM4/0914/77 allows the extraction of approximately 40,000 tonnes of ash and ballast, and the restoration of the site over a 41 month period. Under this permission, the ash and ballast is to be extracted in a single phase, commencing in the south and progressing in a northerly direction before finishing adjacent to the northern site boundary. As insufficient soils and fill materials are present on site, suitable waste materials will need to be imported to the site to restore the land. Once ground levels have been restored to pre ash and ballast removal levels, the final golf course landform will be constructed. It is a requirement of a condition in this permission that the applicant now seeks to vary.

Planning History Summary

Application Reference	Development	Decision
NED/00/00784/OL	Golf course permission	Approved 2001
04/01437/OL	Golf course renewal	Approved 2005
11/00028/OL	Golf course renewal	Approved 2011 (NEDDC)
08/00732/RM	Golf course - reserved matters	Approved 2009/2011 (NEDDC)
CM4/0206/184	Recovery of ash and importation of soil making materials for restoration - 'Phase 1'	Approved 2006 (DCC)
CM4/1109/156	Extension in time for recovery of ash and restoration	Approved 2010 (DCC)
CW4/0111/150	Waste soil bio-remediation	Refused 2013 (DCC)
CM4/0212/162	Recovery of ash and ballast and importation of fill for restoration - 'Phase 2'	Approved 2014 (DCC)
CM4/0914/77	S73 Condition 9 of CM4/0212/162 relating to submission of slope stabilisation	Approved 2015 (DCC)

The Proposals

The application is for a permission which would authorise the phase 2 development without requiring compliance with the restriction of Condition 19 of planning permission CM4/0914/77. The applicant has made the application in order to enable the use of mobile screening plant to size the excavated ash and to separate oversized material prior to removal from the site. It was previously the operator's intention to remove the ash off site 'as dug', but the operator now wishes to screen the ash into two sizes plus rejects. The sizes would be 0mm to 12mm, plus 12mm to 40mm. The material over 40mm would

be retained on site for use in restoration (the applicant estimates that this would amount to 10% of the excavated ash). The graded ash exported from the site would be used as aggregate in the manufacture of concrete blocks.

The applicant considers that screening out the over 40mm material on-site, rather than off-site, would reduce the quantity of material taken off site by an estimated 4,000 tonnes, (this being 10% of the estimated 40,000 tonnes of ash to be excavated). The applicant also calculates that the 4,000 tonnes of material retained on site would be the equivalent of 200 lorry loads at 20 tonnes per load. Consequently, the retention of the 4,000 tonnes of oversize ash on site would also reduce the quantity of material required to be brought in as fill by an equivalent amount, meaning 400 fewer lorry loads as a result of the development than originally conceived.

The screens would be located within the Phase 2 area and would be moved as excavation proceeds. The applicant states that screens would always be located below ground level along the eastern boundary, thus ensuring that there would always be a solid barrier between the screens and the houses on Hague Lane to the east. The screens would be open to view from the west, with the closest noise sensitive dwelling being located 920m to the west.

For most of the time, a single screen would be used and it is likely to be a Powerscreen Chieftain 1400. A second screen may also be used periodically if additional production capacity is required, and would be a Powerscreen Warrior. There is no intention to operate the screens on Saturdays, (operation on Sundays and public holidays is not allowed under the existing permission).

The screens would operate under Local Authority (NEDDC) mobile permits and would have water sprays fitted to the feed belts to control dust. The approved dust control scheme would apply to the use of the screens.

A further noise assessment has been submitted in support of the application. The assessment concludes that the sound levels produced by the operation of the screening plant in the Phase 2 area are predicted to be 39 dB LAeq (1-hour) at the nearest dwellings along Hague Lane with one screen operating. This would increase to 42 dB LAeq (1-hour) during the operation of a second screen. Background noise levels at these dwellings were measured during a weekday daytime at 40-49 dB LA90. The predicted sound levels with one screen operating are below the background sound levels at all dwellings and, when a second screen would be in operation, the predicted sound levels at the dwellings would be up to 2 dB above the background.

The applicant analysed this data in the context of the acceptable noise limits set out in the Planning Practice Guidance that accompanies the National Planning Policy Framework (NPPF). This guidance is specific to surface workings, and recommends that, during the daytime from 0700 hours to 1900

hours the sound level from mineral extraction operations measured at noise sensitive properties should not exceed the background noise levels by more than 10 dBA. From this, the applicant concludes that the screening plant proposal would be within these limits by a significant margin.

In terms of the more general definitions given in the Noise Policy Statement for England (NPSE) of the NPPF, the applicant states that the proposal is predicted to cause sound levels between No Observed Effect Level (NOEL) and the Lowest Observable Adverse Effect Level (LOAEL).

The applicant's position is, therefore, that screening plant can be operated without unacceptable impacts on the amenity of local residents. The applicant also states that the use of the screening plant would reduce the number of lorries entering and leaving the site during the lifetime of the development.

Consultations

Local Members

Councillors Ridgeway and Charles have been consulted.

North East Derbyshire District Council - Environmental Health Officer

In his initial response, the Environmental Health Officer (EHO) considered that the noise assessment was not complete and so lodged a holding objection and requested that further information be provided. Following the submission of further information, the EHO accepted the findings of the acoustician and the applicant's agent, and recommended approval subject to a noise limit on the operation of the screens or the establishment of a stand-off maintaining a separation distance from nearby dwellings.

North East Derbyshire District Council - Planning

The District Council passed on objections from members of the public submitted to the Council via its website, and initially lodged an objection based upon the initial concerns of the EHO. A new consultation was made following receipt of the further comments of the EHO; however, at the time of writing, no further Planning response has been received.

Eckington Parish Council

The Parish Council provided comments to the NEDDC, in which it stated an objection based on concerns relating to air pollution and contamination.

Environment Agency

The Environment Agency had no comments to make.

Highways

The Highways Officer advised that there are considered to be no highway objections to this proposal.

Western Power Distribution

Acknowledged receipt of the consultation and noted that it had previously informed the Council and the applicant that there may be a need to divert underground cables and that no excavations should be undertaken around these cables without consultation with Western Power Distribution.

Public Rights of Way and National Grid Plant Protection Team

Consulted with a request to respond by 18 February 2016. No correspondence has been received.

Publicity

The application was advertised by site notices and a notice published in the Derbyshire Times with a request for observations by 25 February 2016.

Eight objections have been received as a result of the publicity, including two originally sent to NEDDC, and one from Eckington Primary School.

In summary, the key points raised in the objections are that the condition should not be removed as it was put in place because of the excessive noise levels that would be produced, and because of health risks to local residents, children attending the school, and wildlife, associated with airborne particles and dust that would be caused by the screening operations.

These issues are discussed in the 'Planning Considerations' section below.

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) and the NEDLP. The NPPF is also a material consideration.

National Planning Policy Framework

The NPPF is the overarching planning policy document for England, replacing, with a few exceptions, all preceding planning policy guidance. The NPPF states that the purpose of the planning system is to help achieve sustainable development and that there should be a presumption in favour of sustainable development.

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

Derby and Derbyshire Minerals Local Plan

For this application, the most relevant planning policies are in the DDMLP, are general policies 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, MP8: Planning Conditions, MP10: Reclamation and After-Use, MP17 Safeguarding Resources, and MP24: Secondary and Recycled Materials.

North East Derbyshire Local Plan

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.

Planning Assessment

The Phase 2 development has been considered by the Regulatory - Planning Committee against the relevant current planning policies and was granted planning permission in 2014, with a variation approved in 2015. I am satisfied that there have not been any material changes in the circumstances of the development site that would require a wholesale reappraisal of that development. I am also satisfied that the environmental information submitted in 2014 and 2015, together with the information submitted as part of this

application, is sufficient for the further consideration of the current proposal to vary Condition 19 of that permission.

Condition 19, which the applicant seeks to remove, states that: *'There shall be no screening, grading, blending or processing of the excavated ash and ballast on the site'*, and the reason given for the condition being required is: *'To ensure that the development does not have an adverse impact on local amenity'*.

The condition was used on the first permission for the site; CM4/0206/184 - 'Phase 1'. In considering the potential noise impacts of the development, the Officer's report stated that: *'Given the modest scale of plant proposed on site and the limited nature of operations, the applicant does not expect to generate significant amounts of noise. The local Environment Health Officer has considered the information submitted and raises no objection to the proposal in terms of noise generation'*. The condition controlling noise reflected this and required that plant be: *'maintained, silenced and operated on accordance with the manufacturer's specifications'*. The Officer's report went on to recommend: *'that the plant proposed to be operated on site for the life of the proposal be limited to guard against potential increases in noise emissions'*. It is in this context that the condition prohibiting the use of screening plant was imposed to support the noise condition as part of a 'belt-and-braces' approach.

It is notable that this condition was not requested by the NEDDC EHO. When granting the golf course permission, NEDDC allowed the use of plant that included screens under that permission. This meant that, although the Phase 1 permission issued by DCC prohibited the use of screens, screens were used on site during this period under the NEDDC permission. It is also notable that DCC received no complaints in relation to noise during this period.

The document submitted in support of the application for 'Phase 2' included an assessment of the likely noise impacts associated with the proposals, and the resulting planning permission CM4/0212/162 included a condition requiring the submission and approval of a Noise Management Plan.

The Noise Impact Assessment submitted with the current application includes background noise measurements taken close to the nearest residential properties, together with calculations of the predicted noise levels at these locations from operational screens. The predicted noise levels from the screens in operation are close to the recorded background noise levels at these properties. The guidance on acceptable noise levels for normal operations at a minerals site, set out in the NPPF, uses the long established benchmark of no more than 10 dBA above the background noise level.

The lowest background level is 39.6 dBA; the predicted level for one screen operating is 39.3 dBA, and two screens 42.3 dBA. Any cumulative increase

associated with excavators and lorries operating simultaneously with the screens would not be likely to increase this by more than 1 or 2 dBA if at all. Even when allowing for a margin of error in relation to these calculations, I do not consider it likely that noise levels generated by operations from the development would exceed 45 dBA, a figure which is well below the background plus 10 dBA benchmark of a fraction below 50 dBA.

Taking into account the analysis set out above, I am satisfied that the noise levels from the operation of screens on site would not be likely to exceed the limits set out in the NPPF. Therefore, I consider that the removal of Condition 19 would be acceptable in terms of national policy criteria for noise levels associated with minerals development.

The controls set out within the existing Noise Management Plan are considered to be satisfactory for the control of noise at the site including the noise associated with the operation of the screens. However, I am mindful of the advice of the NEDDC EHO and recommend a condition requiring a 'stand-off' between the site and noise sensitive properties along Hague Lane. The applicant has produced drawing reference: 8754D/10 to illustrate the stand-off and I recommend this be referred to in the condition.

I also consider that there are sufficient existing controls in relation to emissions to air and dust, and note that the EHO raised no concerns in this regard.

Conclusion

I consider that the proposed removal of the restriction of Condition 19, (which currently prevents the use of screens on the site), is reasonable and would not be likely to have any adverse effect on local amenity or the environment. Therefore, the application is put forward with a recommendation for approval subject to the retention of other appropriate requirements by condition and to prior completion of an agreement which will apply the provisions of the agreement dated 30 April 2014 referred to above to the permission being granted.

(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 and transport considerations.

- (6) **Background Papers** File No. 4.224.12
Application documents received from the applicant's agents dated 25 January 2016. Letter from the Environment Agency dated 29 January 2016. Email from the Highways Officer dated 5 February 2016. Email from Western Power Distribution dated 8 February 2016. Letters from NEDDC dated 15 March 2016. Email from the NEDDC EHO dated 22 April 2016. Representations variously dated February 2016.

- (7) **OFFICER'S RECOMMENDATION** That the Committee resolves that planning permission for planning application CM4/0116/133 be authorised to be **granted**, subject to the following conditions and to the prior completion of an agreement under Section 106A of the Town and Country Planning Act 1990 to apply the provisions of the agreement dated 30 April 2014 referred to in this report to the permission to be granted:

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 41 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 Details

- 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 received by cover of letter from LDP Planning

dated 2 October 2012. For the avoidance of doubt, the approved plans and documents are:

- 1App Form – Application for planning dated 15 February 2012;
- Drawing number 8754A/01A entitled 'Site Location Plan';
- Drawing number 8754A/02B rev B entitled 'Topographical Survey';
- Drawing number 8754A/03B entitled 'Phase 2 Extraction Area';
- Drawing number 8754A/04 entitled 'Cross Sections';
- Environmental Statement and its associated appendices dated January 2012;
- Planning Application Supporting Statement dated January 2012;
- Letter from LDP Planning dated 2 October 2012;
- Reclamation Strategy, Issue 3 Final (47060257) undertaken by URS dated September 2012;
- Odour Management Plan (47060257) undertaken by URS dated June 2012;
- Ecology Addendum report under by Rob Frith and Associates dated July 2012 including Figure 8754A-06 entitled 'Restoration Scheme 4m standoff to River Bank' in Appendix 3 of the Ecology Addendum;
- Revised Environmental Impact Assessment Transport Statement (1085/01) undertaken by ARP Associates; and
- Drawing Number 8754D/10 entitled 'Restricted Working Area'.

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 36 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.

Form of development

- 6) The output of mineral from the site shall not exceed a maximum of 40,000 tonnes. From the date of this permission, the operators shall maintain records of their quarterly output and shall make them available to the Mineral Planning Authority at any time upon request.

Reason: For the avoidance of doubt and to enable the Mineral Planning Authority to monitor the output of the site.

- 7) The importation of materials for the purposes of in-filling the void, left by the mineral extraction operations, shall not exceed a maximum of 40,000 tonnes. From the date of this permission, the operators shall maintain quarterly records of the amount of infill materials imported to site and shall make them available to the Mineral Planning Authority at any time upon request.

Reason: To allow the Local Planning Authority to adequately monitor activity at the site and in the interests of the amenity of the residents of the area.

Mineral Extraction

- 8) 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.

- 9) A scheme providing details of the slope stability design and materials shall be submitted to the Mineral Planning Authority within 12 months of the date of commencement of the development. No fill shall be placed on site until the scheme has been approved in writing by the Mineral Planning Authority and thereafter shall be only placed in accordance with the approved scheme.

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

- 10) 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

- 11) 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.

- 12) The development shall be carried out in accordance with the scheme detailing temporary road signage to be used for the duration of the development as set out in Drawing GTMD00 REV C, submitted by MWP Planning on 10 November 2014, and approved by the Mineral Planning Authority on 11 December 2014.

Reason: In the interests of highway safety.

- 13) The development shall be carried out in accordance with the scheme detailing wheel washing facilities, submitted by MWP Planning on 30

September 2014 and approved by the Mineral Planning Authority on 11 December 2014.

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

- 14) 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.

- 15) The total number of HGV movements (where one HGV entering and then leaving the site would generate two movements) using the site access off Station Road in connection with this permission, shall not exceed 192 during any period of seven days when ash and ballast extraction, and the importation of materials are taking place reducing to 100 during any period of seven days once ash and ballast extraction operations are complete. Within those periods, there shall be no more than 68 movements per day, reducing to 36 per day once ash and ballast 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 upon request.

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

- 16) 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.

- 17) 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

- 18) 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 1500 hours and 1600 hours and 1800 hours Mondays to Fridays; and
0800 hours and 1300 hours Saturdays.

Screens shall not operate on 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

- 19) There shall be no screening, grading, or processing of materials imported into the site for the purposes of infilling the excavated area.

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

Noise

- 20) The development shall be carried out in accordance with the Noise Management Plan, submitted by MWP Planning on 30 September 2014 and in accordance with the requirements imposed by the Mineral Planning Authority on 11 December 2014.

Throughout the duration of the development, noise generating activity shall be controlled and monitored in accordance with the provisions of a Noise Management Plan. 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 exceedance 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. 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.

- 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)

- 23) The development shall be carried out in accordance with the Dust Management Plan, submitted by MWP Planning on 30 September 2014 and approved by the Mineral Planning Authority on 11 December 2014.

The Dust Management Plan 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

- 24) 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

- 25) 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

- 26) 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

- 27) 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.

- 28) The Waste Acceptance Procedure shall be carried out in accordance with the documents submitted under the covering letter from MWP Planning dated 3 September 2014 and approved by the Mineral Planning Authority on 11 December 2014.

Reason: The site lies adjacent to a surface watercourse classified with a poor ecological status under the Water Framework Directive. Whilst the chemical status is good at present, this only considers a limited number of determinants. Chemical input into the surface water can have adverse effects on the ecology.

- 29) 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.

Ground Gas

- 30) 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.

- 31) 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.

- 32) 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

- 33) 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.

- 34) 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 out 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.

- 35) 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 be 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

- 36) The development shall be carried out in accordance with the document titled 'SCHEME OF WORKING AND RESTORATION' and referenced 8754H/Working Scheme/CJB/260914, submitted by MWP Planning on 30 September 2014 and approved by the Mineral Planning Authority on 11 December 2014.

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.

- 37) 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.

- 38) Screens shall not operate in the area demarcated 'restricted area' on Drawing Number 8754D/10 dated 4 May 2016.

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

- 39) No materials other than clean soil, clean soil making materials, or construction, demolition and excavation waste shall be used as fill materials.

Reason: To ensure the satisfactory reclamation of the site.

- 40) The site shall be restored back 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 ensure a satisfactory restoration and landscaping of the site.

- 41) During the first available season following the completion of site restoration as set out in Condition 39 above, the site shall be prepared and sown with an appropriate grass seed mix and maintained until those operations to form the landform for the golf course, which received planning permission under Code Number NED/04/01437/0L, have been begun.

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

Premature Cessation

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

b) the Mineral Planning Authority considers that mining operations have ceased before the site has been restored in accordance with Condition 39 above, the site shall be restored in accordance with an alternative restoration and landscaping scheme which shall be submitted to the Mineral Planning Authority for its written approval within three months of that date. The scheme, which shall be implemented as approved, shall provide 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.

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

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

The Authority worked with the applicant in a positive and proactive manner in seeking solutions to issues which arose during the processing of this planning application, in full accordance with Article 31. The Authority provided advice to the applicant on the range of information required to enable statutory consultees to fully consider the potential impacts of the proposed development.

Policies

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

National Planning Policy Framework

Adopted Derby and Derbyshire Minerals Local Plan Policies

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.

MP8: Planning Conditions.

MP10: Reclamation and After-Use.

MP17: Safeguarding Resources.

MP24: Secondary and Recycled Materials.

North East Derbyshire Local Plan 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 Conservations.

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.

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(s) be required and shall comply with any imposed advance notice periods and programme.
- 3) The Planning Consultation Response report prepared by Rob Frith & Associates dated July 2012, indicates that a Natural England licence only remained in force until September 2013. Therefore, any works that are being carried out that have potential to impact upon the local great crested newt population will need to be covered by a valid up to date Environment Protected Species licence. The proposed works needs to be re-assessed in relation to impacts upon great crested newt and, if required, a modified licence should be applied for. Once obtained, a copy of the valid Natural England licence should be forwarded to the Mineral Planning Authority.
- 4) The Rights of Way Officer provided the following advice for the applicant:
 - The route must remain open, unobstructed and on its legal alignment at all times.
 - There should be no disturbance to the surface of the path without prior authorisation from the Rights of Way Inspector for the area.

- Consideration should be given to members of the public using the path at all times.
 - A temporary closure of the footpath may be granted to facilitate public safety during the construction phase subject to certain conditions. Further information may be obtained by contacting the Rights of Way Section.
 - If a structure is to be erected adjacent to the public footpath, it should be installed within the site boundary so that the width of the right of way is not encroached upon.
 - Any alterations to land levels adjacent to the path must not affect the hydrology of the site. This could, in turn, have an adverse impact on the public right of way.
- 5) The applicant's attention is drawn to the comments of Western Power Distribution with regard to the existence of buried power cables passing through the site and the need to give notice before commencement of excavations.

Mike Ashworth
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