

DERBYSHIRE COUNTY COUNCIL

REGULATORY – PLANNING COMMITTEE

9 February 2015

Report of the Strategic Director – Economy, Transport and Environment

- 2 APPLICATION UNDER SECTION 73 OF THE TOWN AND COUNTRY PLANNING ACT 1990 FOR PERMISSION FOR DEVELOPMENT WITHOUT COMPLYING WITH CONDITION 9 OF PLANNING PERMISSION CM4/0212/162, AND PROPOSING AN ALTERNATIVE CONDITION TO EXTEND THE DATE FOR THE SUBMISSION OF DETAILS OF THE SLOPE STABILISATION SCHEME TO WITHIN 12 MONTHS OF THE DATE OF COMMENCEMENT OF THE DEVELOPMENT, AT STATION YARD, STATION ROAD, RENISHAW
APPLICANT: ASH RENISHAW LIMITED
CODE NO: CM4/0914/77**

4.224.11

Introductory Summary This is an application by Ash Renishaw Limited under Section 73 of the Town and Country Planning Act 1990, for permission for carrying out development previously permitted under planning permission CM4/0212/162 without complying with Condition 9 of that permission and proposing an alternative condition to extend the timeline for the submission of details of the slope stabilisation scheme to 12 months from the date of commencement of the development, at Station Yard, Station Road, Renishaw.

This application proposes to change the requirements for the submission of details of the slope stabilisation scheme for the restored landform, from before commencement of the development to after the removal of the ash and ballast when the original landform would be exposed, and could be surveyed in a comprehensive manner. The application also includes a requirement in the proposed revised condition to not place fill material on the site until the scheme has the approval of the Mineral Planning Authority.

I consider that the proposed change to the requirement, in relation to the timing of the submission of the slope stability scheme, 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 (NPPF) 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 for a permission which would vary the requirement now in Condition 9 of planning permission CM4/0212/162 for the submission of details of the slope stabilisation scheme, by extending the time limit on its submission up to 12 months from the date of commencement of the development in question (at Station Yard, Station Road, Renishaw).

Site and Surroundings

The 'Phase 2' site which is subject to this development occupies 1.8ha to the south of Station Road, Renishaw. The site was previously used as a railway yard and sidings where ash from locomotive boilers was tipped. This tipping has led to the creation of an artificially raised landform, particularly at its southern extent. Until recently, the 'Phase 2' site was characterised by woodland and grassland, which had re-vegetated naturally on the tipped material, although, with the exception of groups of trees and vegetation along the eastern boundary of the site, and the temporary retention of a block of vegetation immediately to the north of the 'Phase 2' area, most of this vegetation has now been cleared by the applicant.

The 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 (LWS) and a Grade II* Registered Park and Garden. The Eckington and Renishaw Conservation Area also lies to the west and north of the site.

The Government has announced the proposed route of a second national High Speed Railway Line project (HS2). According to the current proposals,

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

Planning Background

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

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

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

Approximately 3,000 cubic metres (m³) of material has been brought in under the auspices of the NEDDC golf course permission. It is currently being stored within the Phase 1 area. It is intended that it will be used as a soil making material over the wider golf course area.

In August 2013, Derbyshire County Council 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 Committee resolved to grant permission for this application and planning permission CM4/0212/162 was granted in April 2014, following

the signing of a Section 106 Agreement. It is a condition of this permission that the applicant now seeks to vary.

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.

The proposed route of the eastern leg of HS2 runs through the site, however, the details of the scheme and the timing of its delivery are uncertain, other than it is likely to be several years beyond the conclusion of this project.

The Proposals

Planning permission CM4/0212/162 allows the extraction of approximately 40,000 tonnes of ash and ballast, and restoration of the site over a 41 month period. The ash and ballast will be extracted in a single phase, commencing in the south and progressing in a northerly direction, before finishing adjacent to the northern site boundary. The ash and ballast was originally to build out the natural slope of the landform above the River Rother forming an artificially raised platform extending from the track beds of the London and North Eastern Railway line and the sidings for the Renishaw Colliery, and Renishaw Park Colliery branch lines as they passed alongside Chesterfield Canal. Thus, the ash and ballast gradually built up close to the level of the track beds by over-tipping until the bottom of the tip got close to the river. Insufficient soils and infill materials are present on site to restore its contours to the pre-development levels (i.e. the levels prior to the start of ash and ballast removal). Suitable waste materials will be imported to the site to restore ground levels to pre-development levels. The final golf course landform can then be constructed.

As the Phase 2 proposals involved removal of this ash and ballast, and like-for-like replacement with inert fill material, the stability of the 'outer' face above the River Rother was an issue identified and addressed in the Phase 2 application and accompanying Environmental Statement. The applicant explored several methods of ensuring the stability of the outer slope of the infill material. The applicant's assessment concluded that the less steep sections would have an acceptable degree of slope stability following reconstruction irrespective of the materials used. With regard to the steeper sections of the site, it concluded that these slopes would have insufficient stability following reconstruction and, as a result, that measures such as reducing the slope angle or utilising soil reinforcement should be considered. A further survey, assessing mitigation measures for areas where the stability analysis indicated the possibility of failure, considered both benching the slopes and moving the slope crest back by between 2m and 5m. A further alternative suggestion was the use of a system of slope reinforcement or gabion walls.

The applicant intends to use a system of soil reinforcement but has acknowledged that this will require further investigation before a certified design can be provided. Because of this need for further investigation, the following condition was placed on the permission to address this issue.

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

This application now seeks to change the wording of the condition to the following:

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

The applicant states that postponing the submission of the scheme for 12 months would allow the excavation of the ash to be completed to expose the original bank between the higher level railway line and the river below, thus allowing the original bank to be surveyed and the slope stability design prepared with the survey information as its basis, adding that if the scheme has to be designed prior to any excavation of ash, it will be subject to revision once the ash has been removed, as the information on the original slope will not be available until after the ash has been removed. The applicant considers that this would impose unnecessary costs on the operator, as well as on the Mineral Planning Authority.

Consultations

Local Member

Councillor Ridgeway has been consulted.

North East Derbyshire District Council

The District Council had no objections but did bring to the County Council's attention the comments of the Parish Council (which were only sent to the District).

Eckington Parish Council

The Parish Council provided comments to the North East Derbyshire District Council, stating that: *"this is against the original judgement and goes against certainty of knowing what is to take place"*.

Environment Agency

The Environment Agency had no comments to make.

Public Health England

Public Health England (PHE) stated that, based on the information contained with the application, PHE does not have any significant concerns regarding the remediation works and the impact these may have on public health.

Natural England

Natural England offers the following comments:

“Statutory nature conservation sites – no objection. This application is in close proximity to the Moss Valley Site of Special Scientific Interest (SSSI). Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the site has been notified. We therefore advise your authority that this SSSI does not represent a constraint in determining this application. Should the details of this application change, Natural England draws your attention to Section 28(1) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England.

Protected species - We have not assessed this application and associated documents for impacts on protected species, (the letter goes on to summarise Natural England’s standing advice in relation to protected species)”.

Derbyshire Wildlife Trust

The Wildlife Trust stated that it’s only comment is to remind the applicant of the obligation in respect of great crested newt, a European Protected Species (EPS) which is known to be present in the locality, adding that any works need to be covered by a valid Natural England EPS licence. Further advice from the Wildlife Trust in this regard is included in the ‘Footnotes’ section below.

Chesterfield Canal Trust

The Canal Trust had no objection to the variation of the condition and supported the application.

Public Rights Of Way Officer

The Rights of Way Section had no objection to the proposal as it does not appear to affect any routes, but did provide advice for the applicant which is included in the ‘Footnotes’ section below.

Highways

The Highways Officer advised that there are no highway issues arising from this proposal.

Western Power

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.

National Grid Plant Protection Team

The National Grid was also consulted with a request for a response by 17 November 2014.

Publicity

The application was advertised by site notices and a notice published in the Eckington Leader with a request for observations by 20 November 2014.

Four online 'Planning Application Comment Form' responses from three individuals have been received as a result of the publicity. Two make objections and the other two, from one person, support the comments of the Chesterfield Canal Trust and state that it is important that the concerns of the objectors are addressed.

The two objections both make the point that conditions are imposed for good reasons and that removal of the ash and ballast will have an impact on slope stability and could result in contamination of the river. They also state that the proposed change to the condition is driven by cost saving and nothing to do with any reduction of risk to the environment.

Where relevant 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 their 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 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, Policy MP5: Transport, Policy 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 (CM4/0212/162) has been considered by the Committee against the relevant current planning policies and was granted planning permission in 2014. 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 as part of that application, is sufficient for the further consideration of the current proposal to vary Condition 9 of that permission.

The planning permission states that the reason for Condition 9 is 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. In simple terms, its purpose is to ensure that the reformed landform does not slip or slump at some point in the future.

The purpose of carrying out a survey is to inform the design and construction of the stabilising features to be built into the infilling programme to construct the final landform onto which the golf course would be built. For any survey such as this, the more accurate the survey can be the better it can inform the design of the stabilising features. When the permission was granted, the working programme anticipated that infilling would progressively follow extraction; though this was subject to the submission and approval of a detailed Scheme of Working and Restoration.

A number of schemes required under the pre-commencement conditions have been considered and approved. The approved Scheme of Working and Restoration schedules the removal of all the available ash and ballast before the commencement of infilling, with no change to the overall timescale for the completion of the development, which remains at 41 months. The approved scheme would enable the survey of the original pre-tipping landform to take place in the way proposed by this application.

The drafting of the existing condition anticipated a scheme, including progressive infilling, and so included a requirement for the submission and approval of such a scheme prior to the start of infilling, setting this as commencement of the development, as infilling could have begun soon after that time. The programme set out in the approved Scheme of Working and Restoration makes it possible for a survey of the surface of the original landform to take place prior to infilling. The benefit of the proposed change would be that it would enable the carrying out of a more comprehensive and reliable survey than could be achieved prior to the commencement of the development, simply by the fact that it would allow a survey of exposed ground rather than attempting to survey through the accumulated ash and ballast.

The proposed change to the control contained in Condition 9 seems to present an opportunity for better and more comprehensive information to be put into the design of the slope stability scheme when it is submitted for approval. I do not consider any potential cost saving associated with this for either the applicant or the Council to be of any relevance in considering the planning merits of the proposal.

Conclusion

I consider that the proposed change to the requirement in relation to the timing of the submission of the slope stability scheme is reasonable and would not be likely to have any adverse effect on local amenity or the environment. It is likely to facilitate a better design of the slope stability scheme than could be achieved under the requirements of the existing condition. Therefore, the application is put forward with a recommendation for approval, subject to any necessary revisions or amendments to the Section 106 Agreement associated with planning permission CM4/0212/162, which sets out provisions for traffic routeing, a liaison group and community fund.

(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. 4.224.11
Application documents received from the applicant's agents dated 29 September 2014.
Letter from the Environment Agency dated 12 November 2014. Letter from Natural England dated 14 November 2014. Letter from Derbyshire Wildlife Trust dated 9 January 2015. Email from Chesterfield Canal Trust dated 3 November 2014. Memorandum from the Public Rights of Way Officer dated 5 November 2014. Email from the Highways Officer dated 3 November 2014. Email from the County Council's Landscape Architect dated 12 November 2014. Email from Western Power Distribution dated 15 December 2014. Letter from Public Health England dated 24 December 2014. Letter from North East

Derbyshire District Council dated 13 January 2015. Online Planning Application Comment Form Responses dated 4 and 5 November, and 23 and 27 December 2014.

(7) **OFFICER'S RECOMMENDATION** That, subject to the receipt of an acceptable undertaking made pursuant to the Town and Country Planning Act 1990, Section 106, as substituted by the Planning and Compensation Act 1991, to secure similar obligations to those that were entered into with the grant of the planning permission code no. CM40212/162, the Committee resolves that planning permission for planning application CM4/0914/77 be **granted**, subject to the following conditions:

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, and by the documents associated with this application submitted on 29 September 2014. 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; and
- revised Environmental Impact Assessment Transport Statement (1085/01) undertaken by ARP Associates.

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 as identified on the Working Scheme required under Condition 36 of this permission; and
 - when ground levels 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.

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, blending or processing of the excavated ash and ballast on the site.

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

Noise

- 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 DMP 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 30 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/Contamination

- 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 3 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 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 post 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) 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.

- 39) 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.

- 40) 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

- 41) 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 31 of the Town and Country Development Management Procedure Order 2012

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 be required and shall comply with any imposed advance notice periods and programme.
- 3) The Planning Consultation Response report prepared by Rob Frith and 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 EPS 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
Strategic Director – Economy, Transport and Environment



