UNITED KINGDOM WITHOUT INCINERATION NETWORK

Application by Peel Environmental for Off Eakring Road, Bilsthorpe

PINS Ref: ***APP/L3055/V/14/3001886***
Application No: ***ES/2950***

INTERESTED PARTY SUPPLEMENTARY REPRESENTATION ON RESTORATION PLAN

"Development of the Bilsthorpe Energy Centre to manage unprocessed and pre-treated waste materials through the construction and operation of a plasma gasification facility, materials recovery facility and energy generation infrastructure together with supporting infrastructure"

10th June 2015

Introduction

1. On 15th April 2015 the Planning Inspectorate provided UKWIN with a copy of the Statement of Common Ground between Nottinghamshire County Council and the Applicant ('the SoCG', also known as Core Document 65).

2. Paragraph 4.3 of the SoCG refers to a restoration scheme approved for the Bilsthorpe site on 12th September 1996, but did not include a copy of that scheme.

3. Therefore, on 16th April 2015, UKWIN requested a copy of the restoration scheme. Nottinghamshire County Council responded to our request, and on 14th May 2015 provided UKWIN with an electronic copy of the Bilsthorpe Restoration Scheme.

4. On 8th June 2015 UKWIN produced a map that overlaid the BEC Proposal onto the 1996 Bilsthorpe Restoration Scheme (see Annex), and submitted the overlay map and source documents to Nottinghamshire County Council's Planning Applications Senior Practitioner for confirmation of the accuracy of the overlay map.

5. On 10th June 2015 Nottinghamshire County Council's Planning Applications Senior Practitioner replied saying: "*The documents appear to provide a fair overlay of the BEC development on the section of the Bilsthorpe Colliery Restoration Map that is relevant for the former pit head area...I will make the Bilsthorpe Restoration Scheme documents into a core document".*

6. Having taken the time to review the Bilsthorpe Restoration Scheme documents, and the feedback from the Waste Planning Authority, UKWIN now wishes to comment on the Scheme as it relates to the present application and to previous comments made by parties to the Inquiry.

New Information: Bilsthorpe Restoration Scheme

7. The Bilsthorpe Restoration Scheme documents supplied by Nottinghamshire County Council (NCC) include a decision letter to RJB Mining (UK) Ltd. from NCC, dated 12th September 1996 and signed by G. Atkinson on behalf of NCC's Group Manager (Development).

8. The first page of this decision letter includes the following: *"(a) the restoration shall be carried out before the end of the period of 24 months from the date when the mining operations have permanently ceased, with the exception of the Development Area indicated on Drawing No. 2007.6 RevB where interim restoration shall take place in accordance with the details set out in Chapter 3 of your scheme and, should no development take place on this area within five years of the closure of the mine, the final restoration proposals in that Chapter shall be implemented forthwith*".

9. In UKWIN's understanding, the implication of this statement is confirmation that provision for restoration was made for the entire site through development control procedures.

10. The statement quoted above supports Paragraphs 132-135 of the formal representation to this inquiry from RAGE *et al*, dated 24th February 2015 [IP1], because the excerpt from NCC's 1996 decision letter demonstrates that provision was made for the restoration of the current application site through development control procedures.

11. This means that the site proposed for the BEC development is excluded from the NPPF definition of 'previously developed land' and therefore, in land use terms, the application site is properly classified as greenfield and not as brownfield / previously developed land (as the NPPF definition of previously developed land explicitly excludes *"…land that has been developed for minerals extraction …where provision for restoration has been made through development control procedures*").

12. The statement quoted above is also consistent with the Applicant's acknowledgement, at Page 154 of their Planning Statement [CD01], that "*Whilst the site is a former mineral site with restoration conditions, it does not fall within the description of previously developed land presented within the glossary within the NPPF"*.

13. As noted at Paragraph 183 of UKWIN's 7th February 2014 objection [CD40], the Nottinghamshire and Nottingham Waste Core Strategy [CD62] acknowledges at Paragraph 7.35 that: *"…where there are existing restoration conditions in place that require the site to be returned to greenfield, any planning decision will need to consider the site as if it was undeveloped".*

14. For the northernmost third of the BEC application site, which is located within the 'development area', this restoration is in the form of provision for 'interim' restoration accompanied by provision for further restoration in the event that the site is not developed.

15. According to Paragraph 5.1 of the Bilsthorpe Colliery Pithead Restoration Proposals (Version: 2, dated February 1996), as supplied by Nottinghamshire County Council: "*All land outside the development area would be treated in a similar way to the tip, being restored to a mixture of wildflower grassland and woodland planting, providing an attractive outlook and setting for development or other proposed end use. Restoration proposals have been designed to integrate with proposals for restoration of adjacent tip areas".*

16. Paragraph 2.2.3 of the Applicant's Planning Statement [CD01] claims that: "*The agreed restoration scheme was largely for soft landscaping comprising woodland planting and grassland / wildflower meadow, but it also included a large 'Development Area' which is centred upon what has subsequently become Bilsthorpe Business Park. This area encompasses the northern half of the current application site".* (Emphasis ours)

17. However, as can be seen from then overlay map (included as an Annex to this submission), according to the 1996 Restoration Scheme, the 'Development Area' actually only covers the northernmost third of the BEC application site, much of which would be occupied by the proposed attenuation pond.

18. Around 70% of the BEC application site falls outside of the 'Development Area', and if one excludes the attenuation ponds then around 85% of the BEC application site is outside of the 'Development Area'.

19. Paragraph 4.3 of the SoCG [CD65] stated: "…*Whilst contingency provisions were incorporated within the restoration plan in the event that an industrial re-development of the [development] area was not agreed comprising the treatment of the underlying ground to provide 200-300mm soil depth and seeding to create a low nutrient wildflower grassland area, these works were not undertaken on the basis that the land obtained outline planning permission for redevelopment and that this redevelopment was progressing…"* (emphasis added)

20. This statement is incorrect. The 12th September 1996 approval states that: "*should no development take place on this area within five years of the closure of the mine, the final restoration proposals in that Chapter shall be implemented forthwith*". That is, the restoration proposals shall be implemented in the event that development had not taken place within a given timeframe, i.e. before September 2002 (as the colliery closed in 1997, as per Paragraph 4.1 of the SoCG), not in the event that no development proposal had been agreed within that timeframe.

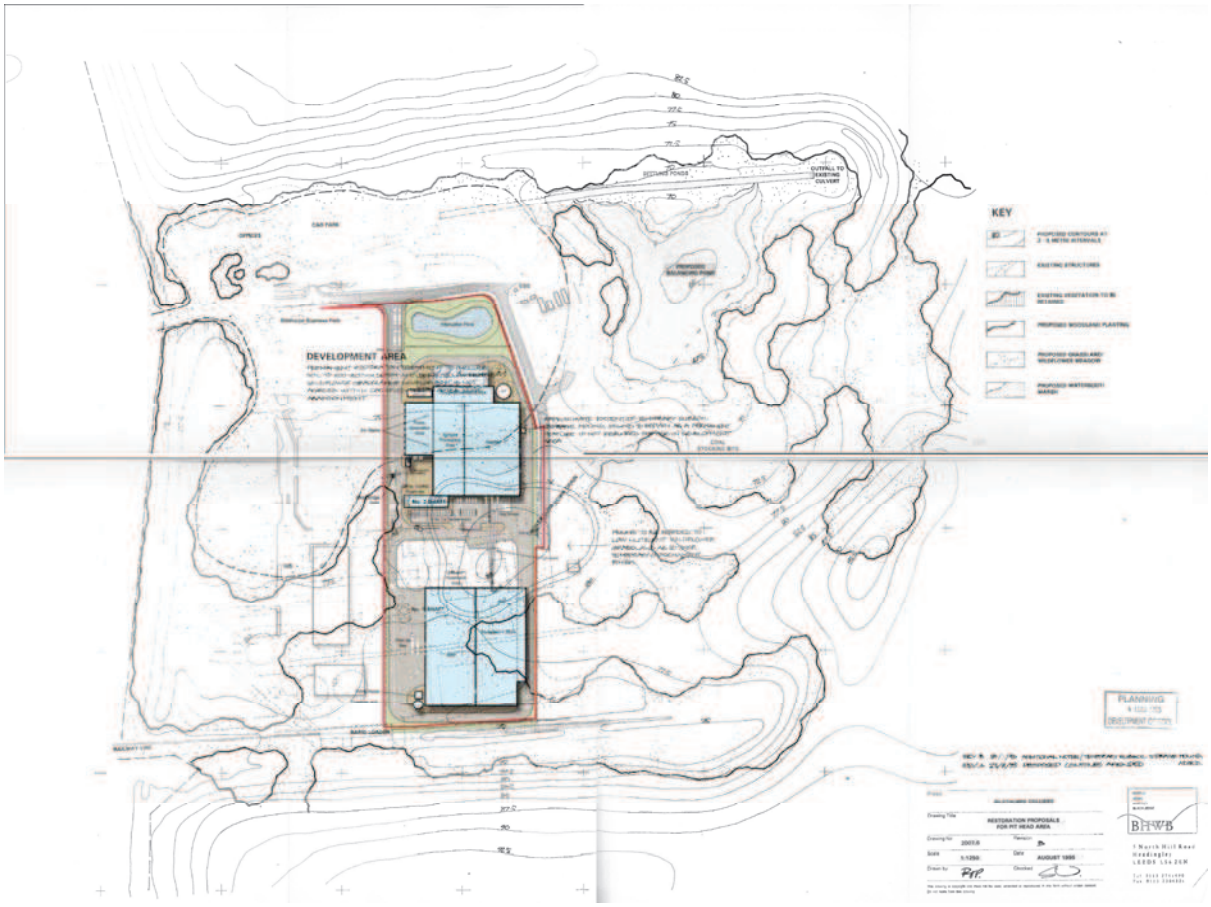
21. The adequacy or otherwise of the Council's enforcement of this planning condition is irrelevant to the question of whether provision for restoration was made through development control procedures.

22. Paragraph 4.3 of the SoCG [CD65] goes on to state: *"…As the former pit-head area has undergone no formal restoration since the colliery closure the planning status of this land is considered to remain as 'previously developed land'".*

23. As stated above, and in previous submissions made by UKWIN and by RAGE, the question is whether provision has been made for restoration. In light of the fact that provision for restoration was indeed made, as can be seen from the newly released decision letter of 12th September 1996 and accompanying documents, the application site should be treated as greenfield in line with the NPPF as previously acknowledged by the applicant.

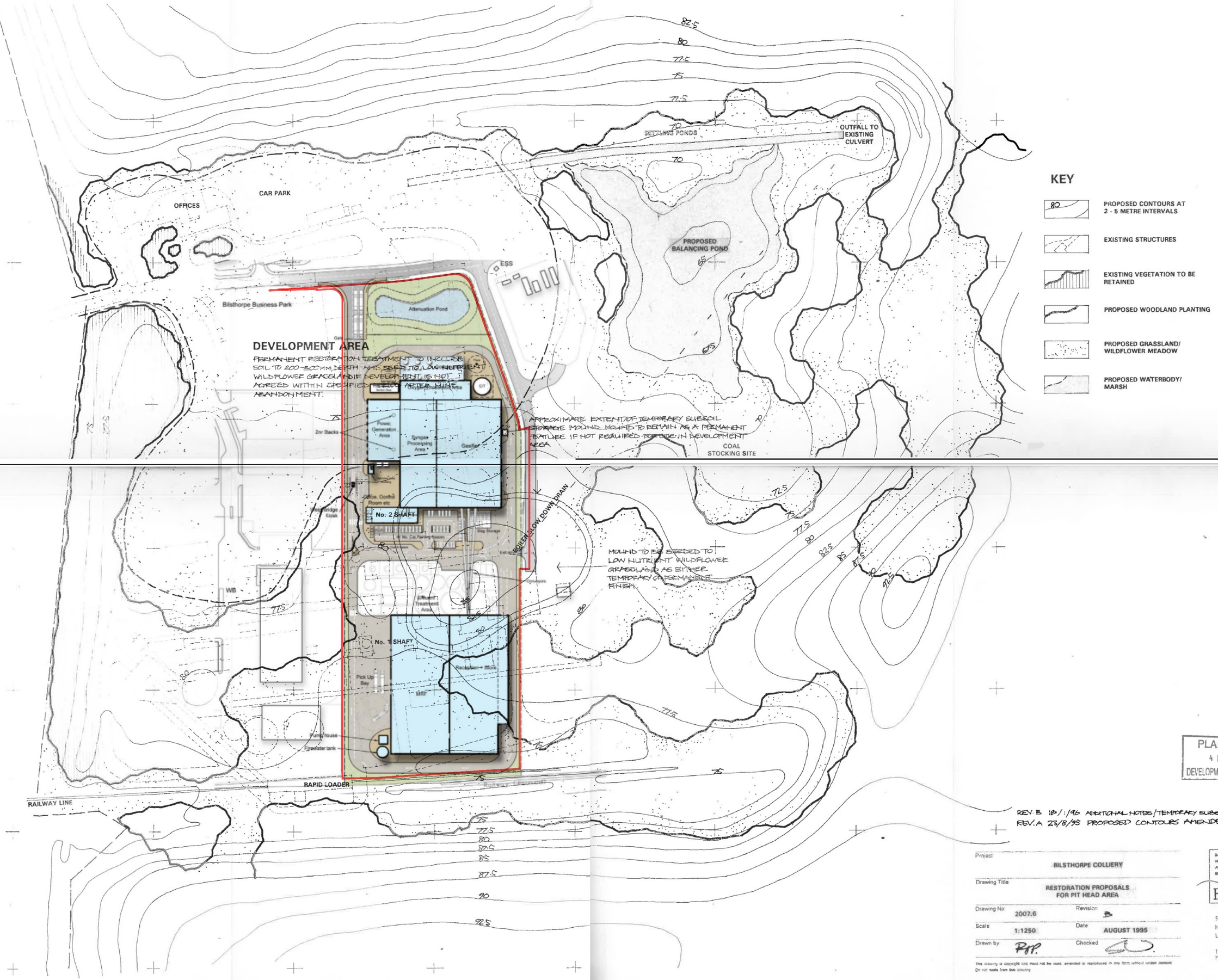
24. Furthermore, as the Bilsthorpe Restoration Scheme shows, much of the application site under consideration is outside of the 'Development Area' in any case, and therefore that land should certainly be treated as greenfield.

Annex: Overlay map of BEC Proposal onto 1996 Restoration Scheme



Note: The overlay map above was produced using the following maps:

- Bilsthorpe Restoration Scheme Map (Drawing number 2007.6 (Revision B) entitled Restoration Proposals for Pithead Area, as approved on 12th September 1996) referred to in the Statement of Common Ground between Peel and Notts County Council [CD65];
- The Applicant's Red Line Plan (Drawing number 13001 P001A, from Part 5 of their Planning Application Drawings); and
- The Applicant's Site Layout Plan (Drawing number 13001 P002 (Revision C) from Part 5 of their Planning Application Drawings).



PLANNING
4 MAR 1996
DEVELOPMENT CONTROL

REV. B 18/1/96 ADDITIONAL NOTES/TEMPORARY SUBSOIL STORAGE MOUND ADDED.
REV. A 23/8/95 PROPOSED CONTOURS AMENDED

Project: BILSTHORPE COLLIERY

Drawing Title: RESTORATION PROPOSALS FOR PIT HEAD AREA

Drawing No: 2007.6 Revision: B

Scale: 1:1250 Date: AUGUST 1995

Drawn by: PJP. Checked:

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Do not scale from this drawing

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