

**10 December 2013****Agenda Item:****REPORT OF CORPORATE DIRECTOR POLICY, PLANNING AND  
CORPORATE SERVICES****BROXTOWE DISTRICT REF. NO.: 5/13/00590/CCM****PROPOSAL: EXTRACTION OF COAL AND FIRECLAY BY SURFACE MINING  
METHODS WITH RESTORATION TO AGRICULTURE, WOODLAND, NATURE  
CONSERVATION AND PUBLIC AMENITY****LOCATION: LAND OFF COSSALL ROAD BETWEEN THE VILLAGES OF COSSALL  
AND TROWELL, REFERRED TO AS THE SHORTWOOD SITE****APPLICANT: UK COAL SURFACE MINES LIMITED****Purpose of Report**

1. To consider a planning application for the extraction of an estimated 1.275 million tonnes of coal and 250,000 tonnes of fireclay by opencast extraction methods from land known as 'Shortwood' between Cossall and Trowell, and the restoration of the site to agriculture, woodland, nature conservation and public amenity. The key issues relate to landscape and visual impact, the impact on the setting of Cossall Conservation Area, HGV traffic, noise, dust, health impacts, the impact on the Green Belt and countryside, the impacts on rights of way, and the restoration of the site including its deliverability.
2. A small section of the application site, extending to approximately five hectares, is within Cossall Mature Landscape Area (MLA) and MLAs are identified in the adopted Nottinghamshire Minerals Local Plan (MLP) as opencast coal constraint areas and are protected from opencast coal extraction in Policy M12.7 of the MLP. Accordingly the application has been treated as a 'departure' from the Development Plan. The recommendation is to grant planning permission subject to conditions and a legal agreement.

**Background to this application**

3. Members of Planning and Licensing Committee will be aware that an almost identical planning application to the one under consideration in this report was submitted to the County Council in February 2012. However, in mid-2013, it became apparent that there was a discrepancy regarding the ownership certificates that had been submitted with the application which had not

previously been identified, largely due to the complicated structure of the applicant company. The County Council sought counsel advice regarding the correct course of action to take and was advised that the application should be returned as invalid, as the matter could not simply be rectified through the resubmission of the correct certificates in support of that application.

4. Following the application's return, the applicant resubmitted an almost identical application in September with the only changes being to the ownership certificates and two plans which were amended to reflect changes to land ownership since the previous application was submitted. In all other respects, the new application remained as previously submitted and included additional information which had been submitted during the course of the previous application's consideration. Consultees and the public alike were made aware of the situation when notified or consulted on the new application. Consultees were invited to confirm to the County Council that their previous response on the application remained valid, whilst members of the public who had made representations to the first application had their representation automatically transferred to the new application, but were also informed that they could make additional representations within the statutory consultation period.

## **The Site and Surroundings**

5. The application site covers an area of 130.75 hectares and is predominately located on the north western side of the M1 motorway close to the Trowell Motorway Service Area (see plan 1). A triangular section of the site, extending to approximately six hectares, is linked by an underpass to the south east of the motorway immediately north of the A609 and is abutted by residential properties. Much of the western and part of the northern boundary of the site abuts Cossall Road which links the villages of Cossall and Trowell (see Plan 2), whilst the northern section of the western boundary of the site is also close to a section of the Nottingham Canal, with the Robbinetts Arm of the canal running close to the northern boundary of the site (see Plan 2). These sections of canal form part of the Nottingham Canal (Awsorth and Cossall) Site of Importance for Nature Conservation (SINC), designated as a 'species-rich disused canal of botanical and zoological importance' (see Plan 3). The Canal Bank Marsh, Cossall SINC ('an interesting marshy grassland with scattered scrub') and Nottingham Canal Grassland, Cossall SINC ('a rank grassland with species-rich areas') are adjacent to the canal.
6. Other watercourses in the area include an unnamed drainage ditch which carries surface water drainage along the line of the historic Cossall/Trowell parish boundary on the western side of the site before eventually outfalling into the Nottingham Canal further north west. The parish boundary only remains visible in two short sections on the site: the aforementioned section on the western side of the site and another section close to a bridleway running along the eastern boundary of the site. Any physical remains of the parish boundary within the application site were removed during previous opencast mining operations on the site. Trowell Stream runs roughly east to west to the south of the motorway before passing under the motorway and then heading south and discharging into the River Erewash (see Plan 2).

7. The canal towpaths are both footpaths and form part of a wide network of footpaths and bridleways in the area (see Plan 4). Much of the north eastern boundary of the site abuts Cossall Bridleway Number 16 (a short section of which is designated as Shortwood SINC and noted for its 'remnant ancient woodland flora along a trackside' (see Plan 3)). This bridleway then becomes Trowell Bridleway Number 14 (a section of which crosses the site) and then Strelley Bridleway Number 14 which runs adjacent to and crosses the motorway before continuing as Trowell Bridleway Number 14 to the south of the motorway (see Plan 4). Adjacent to the north east corner of the site are Oldmoor Wood and Oldmoor Pond (see Plan 2) which are also designated as SINCs ('a broad-leaved woodland with a notable ground flora and zoological interest' and 'a fishing pool with well-established vegetation and valuable wooded surrounds' respectively).
8. The site and surrounding area fall within the Babbington Rolling Farmlands Draft Policy Zone in the Nottinghamshire Coalfield Regional Character Area. The site also falls within a section of the Nottingham Green Belt which separates Greater Nottingham to the east from Ilkeston to the west. Cossall Mature Landscape Area (MLA) adjoins much of the north eastern boundary of the site and extends to the north and around the village of Cossall (see Plan 2). A small part of the MLA, extending to around 3.3 hectares, is within the application area close to Cossall Bridleway Number 16/Trowell Bridleway Number 14/Strelley Bridleway Number 14, with even smaller areas of around 0.5 hectares in the north eastern corner of the site to the immediate south of Oldmoor Pond and Oldmoor Wood. The application site also falls within the Greenwood Community Forest which covers a total area of 417 square kilometres on the western side of the county, stretching from Mansfield in the north to Attenborough in the south, and from Eastwood in the west to Farnsfield in the east.
9. The village of Cossall, which, along with surrounding pasture land is designated a Conservation Area (see Plan 3) is located to the north of the site with properties on Mill Lane such as Highlands, The White House, The Coppice, and Woodlands, along with Keeper's Cottage to the south of Robinettes Lane, being approximately 400 metres from the northern boundary of the site. The Grade II\* listed village church, St Catherine's, located towards the centre of the village, is approximately 550 metres from the site boundary, along with other listed buildings including Church Cottage (Grade II listed) which has links to D H Lawrence, the Willoughby Almshouses, which along with the adjoining boundary wall is Grade II\* listed, and Glebe Farm Cottage (Grade II listed).
10. Adjacent to Keeper's Cottage is the Robbinetts Site of Special Scientific Interest (SSSI), approximately 150 metres to the north of the site at its closest point, which is also designated as a SINC and is noted for its grassland habitats (see Plan 3). To the immediate south of this is the Brickyard Plantation SINC, described as 'a diverse woodland over a variously wet and dry substrate'.
11. The village of Trowell is located to the south of the site (see Plan 5) with properties on the A609 Nottingham Road to the immediate east of the motorway; on Cossall Road including Uplands Farm, Field House Farm and Field House Bungalow; and Shortwood Farm on Waterloo Lane to the north east of the motorway services, abutting the site boundary. Further properties on

Nottingham Road, Cossall Road and Ellesmere Drive off Cossall Road are also close to the site boundary. The Festival Inn on the A609 is approximately 600 metres from the site with the Grade II\* Church of St Helen on the opposite side of the road and the Grade II listed Rectory Farmhouse, barns, stables and pigsty close by. A further section of the Nottingham Canal also runs through the village and part of it is designated as the Nottingham Canal (Trowell to Balloon Wood) SINC ('a valuable length of disused canal, and associated woodland, of botanical and zoological interest') with an adjacent woodland designated as the Grange Wood, Trowell SINC ('a deciduous woodland with a well-developed structure and a noteworthy ground flora'), and a small area of land adjacent to the motorway designated as the Motorway Grassland, Trowell SINC ('a species-rich stepped grassland with scrub').

12. The village of Strelley is located to the east of the motorway (see Plan 6) with the Grade I listed All Saints Church approximately 650 metres from the north eastern boundary of the site with Old Rectory Farm and the Grade II listed Strelley Hall and other listed outbuildings close by. To the south of these is the 'Moat and Fishpond at Strelley' Scheduled Ancient Monument (SAM), a medieval manorial moat with an associated fishpond, whilst to the east of this is the 'Coal Mining Remains at Broad Oak Farm' SAM, the shaftmounds of which are the best preserved remains of the Strelley and Wollaton coal mining area, whose development in the 16th and 17th centuries was important to the expansion of the industry and its commercial success. The village and the surrounding fields form the Strelley Conservation Area which is approximately 400 metres from the application site at its closest point while to the east of the village is an area extending to approximately 36 hectares which is designated as the Strelley Hall Park SINC noted for its 'mature parkland incorporating extensive grassland, deciduous woodland and valuable pond'. To the north of the church is the Watnall Wood Geological SINC, designated as 'a good exposure of Lower Magnesian Limestone with sedimentary features'. To the west of the motorway, close to Turkey Fields Farm, is Holly Copse, Strelley SINC, noted as a 'dispersed woodland canopy over a noteworthy ground flora'.
13. There are a number of isolated farm buildings close to the site, including Oldmoor Farmhouse and Robinettes Cottage to the north of Oldmoor Wood and approximately 460 metres from the site; Turkeys Fields Farm approximately 600 metres from the site, again to the north of Oldmoor Wood; and Moss Cottage approximately 650 metres from the site, west of Robinettes Cottage (see Plan 6).
14. Table 1 below details the distance between a number of nearby properties and also Cossall and Trowell to both the application boundary and the proposed mineral extraction area. These are as follows:

<b>Table 1 – Proximity of Nearby Residential Properties</b>		
<b>Property</b>	<b>Distance to site boundary</b>	<b>Distance to mineral extraction area</b>
Uplands Farm	30 metres	250 metres
Field House Farm and Bungalow	15 metres	30 metres
Shortwood Farm	5 metres	270 metres
Keeper's Cottage	380 metres	430 metres
Properties on Nottingham Road (A609)	5 metres	465 metres
Properties on Ellesmere Drive, Cossall	90 metres	260 metres
Properties on Mill Lane, Cossall	390 metres	625 metres

15. Further afield, the Derbyshire town of Ilkeston is to the west of the site (see Plan 1) on the other side of the River Erewash, which, in this area, forms the county boundary between Nottinghamshire and Derbyshire, with the edge of the town approximately 700 metres from the site and the retail centre approximately two kilometres from the site. To the north of Cossall is Awsworth, approximately two kilometres from the site with a small number of properties in Babbington to the east of Awsworth. To the south of Trowell is the town of Stapleford, the retail centre of which is approximately three kilometres from the site whilst approximately 1.5 kilometres to the east of the site, beyond agricultural fields, is the western edge of the city of Nottingham, including Bilborough and the western edge of Wollaton.
16. The application site itself is in agricultural use with around 59 hectares in pasture, predominately on the western side of the site along with two fields close to Shortwood Farm, and 71 hectares in arable. The lowest parts of the site are on the north western boundary and the southern boundary at approximately 58 metres above ordnance datum (AOD) whilst the bridleway along the north eastern boundary ranges from 72 metres AOD on the northern boundary to 88 metres AOD adjacent to the motorway. The main part of the site north of the motorway generally rises towards a central plateau which is around 96 metres AOD, 170 metres to the north of the site boundary close to the motorway services and which then falls gently to around 90 metres AOD, 220 metres from the northern boundary. An agricultural track from Shortwood Farm runs along this plateau through the centre of the site. The north eastern segment of the site falls gently from 86 metres AOD adjacent to the motorway to 70 metres AOD close to Oldmoor Wood, whilst the triangular section of land to the south east of

the motorway rises from between 64 and 68 metres AOD adjacent to the motorway to 76 metres AOD adjacent to the A609. The entire site lies within the catchment of the River Erewash which flows in a generally southerly direction approximately 500 metres west of the site.

17. Fields on the site vary in size from around two hectares towards the southern boundary of the site to around 12 hectares on the northern boundary of the site. The field boundaries are delineated by either wooden fences or hedgerows of varying degrees of size and maturity, or a combination of both. The aforementioned central plateau area is distinct from the remainder of the site on account of the limited hedgerow planting on the field boundaries and reflects the area once covered by Short Wood, a wooded area thought to have been removed during earlier opencast mining operations. The soils on site have been surveyed and, despite some having been disturbed in the past by previous opencast mining whilst others have not, all the soils on site have been classified as being Grade 3b (of moderate quality) under the Agricultural Land Classification system.
18. The Environmental Statement (ES) accompanying the application identifies a total of 69 hedgerows on the site covering a combined length of 10,410 metres. Of these, six hedgerows measuring a total of 1,535 metres in length are considered to be 'important' hedgerows, as defined under the Hedgerow Regulations 1997. These are largely located on the edge of the site. In addition to these hedgerows, a total of 95 'mature' trees have been identified on or close to the site with 12 of these – 11 within the application boundary and one close by – considered to be 'veteran' trees taking account of Natural England assessment criteria. Of these veteran trees, one is considered to be 'ancient' and is located close to the A609.

## **Geology of the Site**

19. The geology of the site is typical of opencast coal sites insofar as the coal lies between layers of overburden. As set out in Table 2 below, the amount of coal proposed to be extracted amounts to approximately 1.275 million tonnes and yet around 18 million cubic metres of overburden which lies between the layers of coal needs to be removed in order to access the coal. An idea of how much coal there is compared to overburden can also be gauged by comparing the thickness of the seams of coal to be worked against the overall depth of the workings. The ES has identified 13 different seams of coal on the site which range in average thickness from 0.22 metres to 1.37 metres and give a combined thickness of around 8.2 metres of coal. However, the proposed workings would be approximately 70 metres below existing ground levels at their deepest towards the centre of the site. The proposed development therefore includes the provision of substantial areas of overburden storage whilst mineral extraction would be taking place.

## **Planning History**

20. The application site and the surrounding area have been subject to both opencast and deep mine workings in the past. Most notably, four opencast operations since the end of World War II have taken place at the site with the working areas covering much of the application area (see Plan 7). The first of these workings started in 1947 with the last being completed in 1966. The only areas that have remained undisturbed from these previous workings are fields along the western boundary of the site, close to Cossall Road, and some fields close to Shortwood Farm. Underground workings have been recorded through the centre of the site in a band running northwards from the motorway services.
21. In 1993, British Coal Opencast submitted two applications (references 5/09/93/0071 and 5/09/93/0072) for an area referred to as 'Robbinetts' which covered most of the present application site in addition to land to the north east around Oldmoor Wood and a substantial strip of land to the south of the M1 (see Plan 8). The applications site areas both covered a total of 191 hectares, although the applications were not 'twin-tracked' applications for the same development. Planning application reference 5/09/93/0071 proposed to extract a total of 3.5 million tonnes of coal over a ten year period, while planning application reference 5/09/93/0072 proposed to extract 2.5 million tonnes of coal over a six year period. Both applications sought to transport the coal by a pipeline conveyor to the Bennerley Disposal Point, immediately north of the Bennerley Viaduct near Awsworth for processing whilst each sought to restore the site to a mixture of agriculture and woodland.
22. Both applications were refused planning permission in 1994 for the same reasons, namely visual impact; the cumulative impacts of noise, dust and blasting; the risks to nature conservation; the impact on the amenity value and open character of a sensitive area of Green Belt; the impact on a designated area of mature landscape; and the impact to rights of way across the site and in close proximity to it. British Coal submitted appeals against these decisions but following the privatisation of the coal industry, RJB Mining withdrew the appeals in 1995.
23. A planning application (reference 5/09/95/0456/-) to extract approximately 1.8 million tonnes of coal over a period of five and a half years, followed by a restoration period, was submitted by RJB Mining to the County Council in 1995. The extent of that planning application area, known as Shortwood Farm, is detailed on Plan 9 and extended to 151 hectares. Again, the application proposed to transport the coal by pipeline conveyor to the Bennerley Disposal Point for processing with the site being restored to areas of agriculture, woodland, scrub and wetland areas.
24. The County Council refused the application in 1996 on the grounds of its impact on the local community, the surrounding area and users of the area and its rights of way because of its visual impact; the impacts of noise and dust; the cumulative impact of the proposed development in the context of previous opencast coal mining in the locality and on the site itself; the impact on part of the Cossall Mature Landscape Area, and the impact of the amenity value and open character of an area of Green Belt. The applicant lodged an appeal against the decision and, following a public inquiry in 1997, the Secretary of State allowed the appeal in 1998. However, both the County Council and

Broxtowe Borough Council challenged the decision in the High Court on the grounds that the Secretary of State had not taken account of the fact that the Minerals Local Plan at the time had become adopted between the date he received the inquiry Inspector's report and the date he issued the planning permission. The two councils argued that, as an adopted plan, the Minerals Local Plan carried more weight and the Secretary of State should have had regard to the importance of the policies in that plan, rather than those in the Structure Plan. Mr Justice Sullivan quashed the Secretary of State's decision and the applicant subsequently withdrew the application.

## Proposed Development

25. The key facts relating to the proposed development are set out in Table 2 below.

<b>Table 2 – Key Facts</b>	
Site area	130.75 hectares
Extraction area	56 hectares
Area affected by extraction, soil/overburden storage, plant site etc	114 hectares
Duration of mineral extraction	4 years, 9 months
During of all operations, including restoration	5 years, 7 months
Topsoil to be stripped	249,000 cubic metres (average 0.25 metres thick)
Subsoil to be stripped	680,000 cubic metres (average 0.75 metres thick)
Coal extraction	1.275 million tonnes
Fireclay extraction	250,000 tonnes
Overburden to be moved	18 million cubic metres
Site access	Main HGV access onto the A609
Daily HGV trips/movements	Average 46 trips/92 movements, maximum 68 trips/136 movements for six months
HGV route	East along A609 to A6002, north to A610, west to M1 junction 26
Hours of operation	Monday to Friday 7am – 7pm, Saturdays 7am – 4pm (maintenance only between 12pm – 4pm)
Blasting	If required, between 10am – 12pm and 2pm – 4pm Monday to Friday. No blasting on Saturdays
Employment	Up to 56 full time jobs
Restoration	105 hectares of agriculture, 14 hectares of



	woodland, 4.3 hectares of species rich grassland, 1.7 hectares of water areas, 9,000 metres of new hedgerows, 3,500 metres of field margins, 4,500 metres of new public bridleways, 680 metres of new public footpaths
Aftercare	5 year statutory aftercare period plus an extra 5 years for wetlands, hedgerows, field margins and woodland

#### Site preparation works and initial phase of mineral extraction (0 – 6 months)

26. Prior to any mineral extraction taking place, site preparation works would need to be undertaken. These would involve the construction of the site access roads, the site plant and office area, the water treatment areas, in addition to soil stripping and the erection of site fencing. These works would take a combined seven months.
27. It is proposed to access the site primarily off the A609 using an access that was previously used by vehicles accessing a compound associated with the M1 widening works (see Plan 10). Soils would be stripped from the line of the haul road which would run for a distance of approximately 350 metres from the A609 across a field to an existing underpass beneath the M1. The soils would be stored either side of the access road close to the A609 in bunds approximately 80 – 90 metres long and three metres high. The ES states that the 'initial length' of the access road would be hard surfaced in either asphalt or concrete but the actual length of this is not detailed.
28. A further site access would be constructed off Cossall Road approximately 200 metres north of Ellesmere Drive (see Plan 10). This access would be solely for the use of vehicles delivering plant and machinery that could not access the site using the main site access, primarily due to height restrictions in the motorway underpass.
29. To the north west of the M1 on the other side of the underpass would be located the main site plant and office area (see Plan 11 for details). Prior to the construction of the facilities in this area, soils would be stripped from the area and stored in five metre high soil bunds close by along the southern perimeter of the site. To the immediate north of the underpass, there would be a weighbridge and wheelwash with the coal processing and coal stocking area to the north of these. To the immediate west of the underpass would be a water treatment area, one of three across the site. Each water treatment area would comprise a series of connected lagoons used for the settlement of ground and surface water, prior to its discharge off site in accordance with the appropriate permit issued by the Environment Agency. To the north of the water treatment area would be the plant yard and workshops with site offices and car park to the west of this close to the access off Cossall Road.
30. Other preliminary operations that would take place would include the creation of the other two water treatment areas: one to the immediate south of Oldmoor

Wood to the west of Oldmoor Pond; and the other to the immediate east of Cossall Road between Field House Farm and the northern boundary of the site (see Plan 10). Soil stripping would also take place across a large part of the site in anticipation of the commencement of overburden storage and mineral extraction. Topsoils would be stored to a height of five metres in various locations including along the western boundary of the site south of Field House Farm; to the north of the motorway services; in a field to the east of Shortwood Farm; adjacent to Cossall Road close to the northern boundary of the site; and on the north eastern boundary of the site close to Cossall Bridleway Number 16 (see Plan 10). Five months into the proposed development, and two months prior to the commencement of coal extraction, overburden excavation would commence.

31. Seven months into the proposed development, mineral extraction would commence to the north of the office and car park area (Area A) to the immediate east of Cossall Road (see Plan 12). Overburden removed during this initial process would be stored in overburden mounds immediately north of the coal processing and stocking area (see Plan 11) and in two areas either side of the bridleway on the eastern boundary of the site (see Plan 10). It is proposed to construct the outer faces of these overburden mounds at the earliest opportunity to provide screening of the ongoing works.
32. Mineral extraction would continue in a northerly direction across the western side of the site (see Plan 12) with excavated overburden returned to the first cut as backfill where possible and any excess overburden stored in the overburden mounds. The depth of the workings would be around 46 metres towards the southern end of the working void, as depicted on Plan 12.

#### Mineral extraction (6 – 18 months)

33. Mineral extraction would continue in a northerly direction across the western side of the site (see Plan 12) and would include the deepest workings on site, approximately 70 metres below existing ground levels. Overburden would either be placed as backfill in previously excavated areas to the south or moved to the overburden mound to the west of Cossall Bridleway Number 16 and Trowell Bridleway Number 14.

#### Mineral extraction (18 – 30 months)

34. Further soil stripping would take place towards the northern boundary of the site in advance of the continuing mineral extraction on the westerly side of the site which would continue to be around 65 – 70 metres deep at its deepest locations. Overburden would continue to be placed as backfill in previously excavated areas with any excess used to complete the construction of the overburden mound immediately north of the coal processing and stocking area which would reach a maximum height of 25 metres.

#### Mineral extraction (30 – 48 months)

35. Any remaining soils to be stripped from the northern end of the site would be placed on previously worked areas to the south of the site which had been subject to overburden backfilling to restoration levels. This would allow an area around Field House Farm to be restored. Following the completion of mineral extraction at the northern end of the western side of the site, mineral extraction would then commence through the centre of the site, again starting towards the southern boundary of the site to the north of the motorway services (see Plan 12). The workings are anticipated to be around 18 – 43 metres deep in this section of the site. Mineral extraction would progress in a northerly direction and would involve the partial removal of the overburden mound to the west of Cossall Bridleway Number 16 and Trowell Bridleway Number 14.

#### Mineral extraction and restoration (48 – 67 months)

36. Mineral extraction would continue in a northerly direction through the centre of the site and also close to the north eastern boundary of the site (Area B) where the working void would be between 26 – 36 metres deep (see Plan 12). Extraction would also commence in the area to the north east of Trowell Bridleway Number 14, south of Oldmoor Wood, where the working void would be between 14 – 32 metres deep. This would also involve the removal of the overburden mound in this area which, in addition to the overburden excavated in this area, would be used to complete the backfilling of previous areas of working to the west of the bridleway until sufficient backfill areas are available in the excavation area to allow direct backfilling to take place. Any remaining overburden in the two other overburden mounds would be used to complete the backfilling of any remaining void areas to final restoration levels. The final works to be completed would be the replacement of soils and the restoration of the site.

#### Crossing of Trowell Bridleway Number 14

37. Throughout the life of the proposed development, it would be necessary for heavy plant and machinery to cross Trowell Bridleway Number 14 in order to access that part of the site to the north east of the bridleway close to Oldmoor Wood, not only for the excavation of coal but also for overburden and subsoil storage and the creation of a water treatment area. The crossing point would be approximately 180 metres north west of the point where the bridleway turns to run alongside the motorway and it is proposed to install a reinforced concrete pad approximately ten metres wide and 15 metres in length.
38. Gates would be installed at the crossing point and it is proposed to have them positioned across the bridleway during normal working hours and across the haul route outside working hours. During working hours, the crossing would be manned at all times and, should a bridleway user approach the crossing point, traffic lights installed on the haul road approaches to the crossing point would be changed from green to red and the gates would be moved to close the haul route and open the bridleway. The site operative manning the crossing would guide bridleway users through the crossing point and the gates would be reinstated to allow site traffic to continue crossing the bridleway.

39. The ES provides details of the number of crossings anticipated during the proposed development. During the early stages of the proposals, soil stripping in the area to the north east of the bridleway would result in 3,100 trips (6,200 movements) by articulated dump trucks (ADTs) taking the stripped topsoils to storage mounds in the main part of the site west of the bridleway. There would also be 8,700 trips (17,400 movements) of subsoils being transported from the main part of the site to a subsoil storage mound south of Oldmoor Wood.

#### Processing and transport of coal and fireclay

40. The ES sets out the mobile plant that would be used on the site during site preparation works (soil stripping etc) and during normal mineral extraction operations. Site preparation works would require two excavators to strip soils, 14 dumper trucks and two dozers associated with the formation of bunds. During normal activities, there would be 13 dozers on site moving overburden; four dumpers transporting coal; eight excavators at the working faces; three face shovels and five dozers for overburden management and slope trimming; two motor graders maintaining the condition of the haul roads; two tractors and bowsers providing dust suppression on the haul roads; and a coal screen/sizer and two loading shovels in the coal processing area. The ES states that the level of on-site plant has been chosen in order to keep the duration of the proposed development to that proposed (five years and seven months) whilst taking into account noise levels and the number of HGVs on local roads.
41. The extracted coal and fireclay would be transported from the working void to the coal processing and stocking area by dump trucks where the coal would be processed prior to removal from the site (the clay would be removed from the site as dug). The application anticipates the typical rate of coal and clay extraction to be approximately 6,500 tonnes per week, or around 330,000 tonnes per annum. However, there would be a six month period (months 31-36 of the excavation process) when production would be around 9,600 tonnes per week. Processing would involve the excavated coal being loaded into a screen hopper which would separate coal which is either greater or less than 50mm in size. Any coal greater than 50mm in size would be directed into a crusher which would crush the coal to 50mm or less in size. This size of coal is specified by the power generators to whom the coal would be sold.
42. Once processed, the coal and fireclay would be taken off site by HGVs via the access road which passes under the motorway and which joins the public highway on the A609 approximately 375 metres east of the motorway (see Plan 10). Based on the levels of extraction described above, this would result in an average of 46 HGV trips in and out of the site per day (92 movements) whilst at peak times, this would rise to 68 HGV trips in and out (136 movements). In addition to this, there would be 56 trips (112 movements) by staff at the start and end of each working day. The transport section of the ES does not envisage car and HGV movements taking place at the same time of the day with staff arriving between 6am and 7am and leaving between 7pm and 8pm. HGV movements would take place between 7am and 6pm subject to a restriction between 8am and 9am when no HGVs would enter or leave the site.

43. The applicant is proposing a specific route that all HGVs would take when travelling to and from the site (see Plan 13). From the site entrance, HGVs would turn left and head east along the A609 to the A609/A6002 Balloon Wood junction where they would turn left and head north on the A6002. At the A6002/A610 junction, HGVs would turn left on the A610 up to junction 26 of the motorway where they would then join the motorway network. The applicant anticipates the coal being sold to one of the power stations, most likely Ratcliffe on Soar.
44. As part of the application, it is proposed to extend the existing anti-skid surfacing at the Balloon Wood junction. This surfacing is presently laid on Coventry Lane on the northbound approach to the junction and ends at the traffic lights, covering a distance of 47 metres. The surfacing would be extended to a line level with the refuge on the Nottingham Road approach, thereby extending the surfacing by approximately 27 metres (see inset on Plan 13). This is being proposed given that there is no dedicated right turn at the junction for HGVs which need to turn right off Bilborough Lane onto Nottingham Road when heading to the site.

#### Loss of vegetation, trees and hedgerows

45. As highlighted in Table 2 above, approximately 114 hectares of the 130 hectare site would be subject to some sort of disturbance, be it actual mineral extraction, soil and overburden storage, or plant site and haul roads. The majority of these affected areas would be arable land (56.8 hectares), and improved grassland (54.3 hectares), with small areas of semi-improved grassland, bare ground, ruderal vegetation, ditches and 'non-important' hedgerows also affected. All these area would be subject to topsoil and subsoil stripping with the exception of areas to be used for subsoil storage where only topsoil stripping would take place.
46. The ES states that a total of 4,380 metres of hedgerows would be lost as a result of the proposed development. A hedgerow assessment has been carried out by the applicant and six hedgerows with a total length of 1,535 metres have been assessed as being 'important' under the Hedgerow Regulations 1997, meaning they meet a number of specific criteria regarding the species they contain etc. None of these 'important' hedgerows would be lost as a result of the proposed development.
47. A total of 95 mature trees have been identified on the site, of which 12 are considered to be 'veteran' trees, one of which is considered to be an 'ancient' tree. These figures are based on surveys in accordance with English Nature's (now Natural England's) Veteran Tree Recording System which identifies such trees as having features such as large or very large girths, trunk cavities or hollowing, dead wood in the canopy, bark loss, and high aesthetic interest. The proposed development would result in the loss of one veteran tree on the western side of the site, along with ten mature trees.

#### Restoration

48. Upon the completion of mineral extraction and backfilling of overburden, subsoils and topsoils would be replaced and the site restored. The proposed restoration of the site provides for a mix of arable and pasture land, woodland, hedgerows, species-rich grassland, wetland areas, conservation field margins, and new public rights of way. Despite the coal and fireclay that would be extracted, the bulking up of the returned overburden would lead to the landform being largely similar to that which exists at the present time. The restoration plan will be displayed at the committee meeting for Members.
49. A significant area of woodland, approximately 13 hectares, is proposed towards the northern boundary of the site on part of the former Short Wood area. Adjacent to this, alongside the parish boundary, a further strip of woodland approximately 0.3 hectares in size would be planted with a further area approximately one hectare in size planted on the southern boundary of the site close to the motorway services. The species composition of these woodland areas is not confirmed in the application, largely due to the recent concerns regarding the ash dieback disease.
50. Approximately 9,000 metres of new hedgerows are proposed across the site, compared to the 4,380 metres of hedgerows which the application states would be lost as a result of the proposed development. These would divide the restored site into various fields which the applicant considers replicate, where possible, historic field patterns whilst recognising the needs of modern farming practices. A total of 133 trees are also proposed across the site with the vast majority to be planted within the proposed hedgerows. The fields themselves would be restored to a soil profile which would make them suitable for an agricultural after-use. Subsoils would be spread to a depth of 750mm with topsoils spread to a depth of 250mm. The fields would then be sown with a grass seed mix in order to introduce more nutrients into the soils.
51. Towards the north west corner of the site would be an area of species-rich grassland and wetlands extending to around five hectares. Three ponds are proposed in this area with the depth of the ponds ranging from 1.5 – 3 metres. The three ponds would be interconnected by either a stone cascade or a pipe and there would also be connections to nearby field drainage ditches. The surrounding area would be sown with a species-rich grass seed mix comprising red fescue, chewing fescue, birdsfoot trefoil, yarrow and sheep's sorrel. A small number of individual trees are also proposed in this area. Soils would have a shallower profile than in the areas restored to agriculture with only subsoil spread to a depth of 450mm. There would be areas of open ground with limited soil cover providing favourable ground temperatures for butterflies. Hot rocks would be placed on the southern aspects of the pond margins for the benefit of invertebrates and reptiles. Aquatic plants from nearby ponds would be introduced such as common reed, yellow flag, lesser spearwort and soft rush. Reedbeds would also be planted whilst invasive species would be cleared in order to maintain areas of open water suitable for dragonflies. A further area of species rich grassland would be established to the immediate south of Oldmoor Pond.
52. A further pond is proposed close to the south western edge of Oldmoor Wood approximately 250 metres west of Oldmoor Pond. The new pond would have

marginal species-rich grassland and, between these two ponds, it is proposed to create a six metre wide field margin along the southern boundary of Oldmoor Wood which would be sown with a species-rich grassland mix. This would be in addition to an existing three to five metre wide strip of naturally regenerated scrubland and a stream/ditch which already exists on the edge of the woodland. Similar field margins totalling a length of approximately 3,500 metres are proposed across the site, largely alongside hedgerows between arable and pasture fields or along sections of the site boundary or adjacent to proposed woodland planting.

53. The proposed restoration of the site also provides for new public rights of way across the site totalling almost 4,400 metres in length. A bridleway would cross the centre of the site north to south, eventually passing beneath the motorway and then heading east towards Waterloo Lane where it would link with the existing Trowell Bridleway Number 13. This new bridleway link would measure approximately 2,450 metres in total. A further bridleway measuring approximately 500 metres in length would link this new bridleway with the existing bridleway running along the eastern boundary of the site.
54. There would be a further new bridleway linking the new north to south bridleway with the western boundary of the site adjacent to Cossall Road. Measuring approximately 750 metres in length, this would travel along, or close to, the line of the parish boundary and would link in with Cossall Road to the north of Field House Farm opposite one of the existing car parks which serves users of the canal towpaths in the area. The speed of motorised traffic travelling along Cossall Road has been measured in order to find the most suitable crossing point so that this bridleway can link up with Trowell Bridleway Number 26 which runs south from this point along the canal towpath.
55. Two new footpaths are also proposed: one, measuring approximately 360 metres in length, heading south from the motorway underpass to the A609 to the point where HGVs would access the site during site operations; and the other, measuring approximately 320 metres in length, linking the bridleway on the eastern boundary of the site with the new pond proposed close to Oldmoor Pond. This second footpath would link in with other permissive footpaths in and around Oldmoor Wood which are outside the site boundary.
56. The applicant is proposing to enter into a five year aftercare period for the entire site with an additional five years of aftercare for those areas restored to nature conservation and woodland.

#### Hours of operation

57. It is proposed to operate the site from 7am to 7pm Monday to Friday and 7am to 4pm on Saturdays, although the hours between 12pm and 4pm on Saturdays would be for maintenance work only. Apart from any maintenance works, the site would be closed on Saturday afternoons and would also be closed on Sundays and Public and Bank Holidays. HGVs would enter and leave the site between 7am and 7pm Monday to Friday except for between 8am and 9am when no HGVs would travel to and from the site.

58. Soil stripping operations would take place during normal hours although there would be no soil stripping within 200 metres of any residential property until after 8am. Any blasting required would only take place between 10am and 12pm and between 2pm and 4pm Monday to Friday. There would be no blasting on Saturdays.

#### Employment

59. The application states that the proposed development would provide up to 56 jobs over the life of the development, in addition to providing employment to UK Coal support staff, independent hauliers, contractors, maintenance workers and other support services. The applicant has also confirmed that they would be prepared to employ four local unskilled workers as apprentices and would seek to train them at their existing operation at the nearby Lodge House opencast coal site in Derbyshire in preparation for the commencement of the Shortwood scheme. However, this would be dependent on when the Shortwood site would commence.
60. As a result of the level of employment associated with the proposed development, the applicant anticipates that there would be 56 cars travelling to and from the site per day.

#### **Details submitted with planning application**

61. The application has been submitted with an Environmental Statement (ES) in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (the 'EIA Regs') which, in addition to describing the site, its geology, its mining history and the proposed development (including restoration), covers a number of environmental issues. These are summarised below, in addition to further information that was originally provided by the applicant on the previous application under Regulation 22 of the EIA Regs and was subsequently included in the resubmitted application.

#### Landscape and Visual Impact

62. The Landscape and Visual Impact Assessment has assessed the potential landscape and visual impacts of the proposed development. It has assessed the present condition of the site and the surrounding area, including its location in the Green Belt and Greenwood Community Forest, in addition to the close proximity of Cossall Conservation Area; the characteristics and impacts of the proposed development, including their significance and taking into account various mitigation measures; and also the impacts once the site has been restored.
63. The assessment considers that the proposed development would result in a significant adverse effect on the landscape fabric of the site itself although this would only be for a temporary period of five years and seven months. The landscape impacts would become positive following restoration and the assessment points to the reinstatement of historic field patterns, including



smaller fields, new native hedgerows and hedgerow trees, new woodland areas to screen the motorway, new waterbodies and wetlands, and new rights of way.

64. The assessment considers that there would be significant visual effects on a number of recreational users around the site but these would be limited to relatively short periods during the working phases. The nature of these effects would range from adverse, when vehicles and mobile plant are present, to neutral when they are not active and only vegetated soil and overburden mounds are present. These mounds would have rounded shapes and profiles to minimise their impact. Following the restoration of the site, the visual effects would become neutral.

### Transport

65. The transport assessment confirms that an average of 6,551 tonnes of coal and fireclay would leave the site per week with a peak extraction rate of 9,660 tonnes per week for a six month period. In addition to this, the assessment assumes as a worst case scenario that all employees at the site would travel to work alone by car. The assessment recognises a need to improve the access into the site off the A609 by widening the approach road and increasing the junction radii. In light of comments made by local residents during the public exhibitions held before the application was submitted, it is proposed to restrict the movement of HGVs during the morning school run (8am – 9am).
66. The assessment considers that the volume of traffic travelling to and from the site would not result in any geometric constraints on any part of the road network. The safety record of the affected section of the highway network has been assessed, including an independent safety audit of the Balloon Wood junction, and it is concluded that there is no highway layout deficiency that would cause unacceptable safety risks.
67. The assessment considers that the impact of increased traffic flows associated with the proposed development on the highway network would be immeasurably small, with only a marginal worsening at the Balloon Wood junction. Other junctions in the study area would also only be similarly affected. The assessment concludes by stating that there would be only very marginal temporary environmental impacts with no residual effects following the completion of the proposed development.

### Ecology

68. An ecological impact assessment has been carried out including an extended Phase 1 habitat survey which led to individual surveys being carried out for hedgerows, veteran trees, bats, water voles, breeding birds, amphibians, reptiles and terrestrial invertebrates.
69. The ecological assessment has identified important habitats on the site such as semi-improved neutral grassland; hedgerows; mature trees; dry or seasonally damp ditches; semi-mature plantation woodland; scattered scrub; amenity grassland; ruderal vegetation; bare ground; and farm buildings. The

assessment has also identified ecologically important receptors in and around the site such as statutory and non-statutory designated sites within the zone of influence of the proposed development; the hedgerow network; 'important' hedgerows; veteran trees; the bat assemblage; water voles; breeding barn owl; the breeding bird assemblage; the reptile assemblage; and the terrestrial invertebrate assemblage.

70. The assessment has identified a series of impacts from the proposed development such as habitat loss, habitat fragmentation, hydrological effects, dust, noise, and visual impacts and the ecologically important receptors have been assessed to ascertain whether the impacts would likely have significant ecological impacts. The assessment considers that, with the imposition of mitigation measures, there would be no significant long term adverse impacts. Significant mitigation measures have been identified for bats, reptiles and breeding birds to ensure that there would be no adverse impacts.

### Noise

71. The noise assessment provides existing background noise levels at six locations previously agreed with the County Council: Moss Cottage on Robinnettes Lane; Woodlands on Mill Lane; Field House Farm on Cossall Road; Ellesmere Drive, Trowell; Shortwood Farm on Waterloo Lane, Trowell; and a property on Nottingham Road, Trowell close to the site entrance. The existing noise climate at each of these locations has been described, detailing the prominent sources of noise such as road traffic, particularly from the motorway.
72. The assessment has then made predictions as to the levels of noise that would be experienced at these locations as a result of both temporary and normal operations associated with the proposed development. Temporary operations are described as the construction and decommissioning of perimeter screening bunds and the predictions take account of the location of these bunds in relation to the noise sensitive locations and the types and numbers of plant and machinery that would be used. Predictions have also been made regarding the noise impact of the HGVs which would be travelling to and from the site.
73. The assessment then sets out what measures would be undertaken to minimise the impact of noise from the development. In addition to the construction of screening bunds, measures also include the use of white noise reversing alarms on all mobile plant on site; the use of existing natural landforms as noise attenuation; the maximisation of the distance between internal haul routes and noise sensitive locations; the maintenance of all internal haul routes; using and maintaining plant which meets recognised noise levels; the provision of circular routes within the site to minimise the use of reversing alarms by mobile plant and HGVs; the proper use of plant on site to reduce noise levels from excessive revving of engines etc; the shutting down of plant when not in use; and the siting of pumps, generators and compressors behind existing screening mounds, preferably being powered electrically with any diesel powered pumps, generators and compressors being installed within acoustic enclosures.

74. A number of site specific attenuation measures are also proposed including a reduction in the number of dumper trucks in phases closest to Moss Cottage, and the use of acoustic fencing around Field House Farm and Field House Bungalow where it is not possible to construct screening mounds. The assessment notes that existing background noise levels at Shortwood Farm are already above 55dB LAeq, 1hr due to noise from the motorway and so this property is not considered to be noise sensitive. Noise levels from the proposed development would only exceed this figure 15 months into the extraction phase and then only by less than 1dB.
75. With these mitigation measures in place, the noise assessment concludes by stating that noise should not pose a material constraint to the proposed development.

### Vibration

76. The vibration assessment states that, if possible, it is proposed to carry out the proposed development without the need for blasting. However, if required, it would be carried out only in the southern part of the site. The assessment then describes the various impacts of blasting, such as ground vibration, air overpressure and fly-rock. Vibration predictions have been calculated for the same locations as used in the noise assessment and a series of mitigation measures are proposed, such as correct blast design including a survey of the face profile prior to design; the accurate setting out and drilling of shot holes; the use of the correct charging; correct stemming of the shot holes to control air overpressure, fly-rock and ground vibration; and monitoring of any blasting undertaken with modifications to the blast design in light of the results. Warning signs are proposed along the bridleway which runs along the eastern boundary of the site to warn users of the possibility of blasting operations. The assessment concludes by stating that the criterion set out in British Standards 6472-2:2008: Guide to Evaluation of Human Exposure to Vibration in Buildings could be achieved by suitable blast design. A test blast would be undertaken and the results analysed prior to any operational blasting taking place.

### Air Quality

77. The air quality assessment acknowledges that the proposed development has the potential to increase air particle pollution, dust deposition and exhaust emissions, particularly levels of nitrogen dioxide (NO<sub>2</sub>). The source of these impacts on air quality include overburden excavation and back-filling; bulldozing; the movement of haul traffic; coal extraction; coal processing; and exhaust emissions from mobile plant.
78. The assessment has considered five different scenarios in order to consider the impacts of the proposed development on air quality. These scenarios relate to various phases throughout the proposed development and have been assessed against various sensitive receptors around the site, in Cossall, Trowell and Strelley, and also along the proposed HGV route and air quality impacts on these various receptors have been modelled. The assessment considers that

the levels of PM<sub>10</sub> (particulate matter less than ten microns in diameter) from the proposed development would have a 'negligible' impact on annual average concentrations, a 'slight adverse' impact on 24 hour average concentrations and a 'slight adverse' impact on the number of days when the 24 hour average concentration limit of PM<sub>10</sub> would be exceeded. Based on this, the assessment considers that air quality would be a low to medium priority consideration and therefore mitigation measures should be incorporated into the proposed development to ensure it conforms to best standards.

### Water Environment

79. This section of the ES describes the hydrogeology of the site and notes that some of the deeper seams of coal lie beneath the regional water table level. Groundwater measurements from a Coal Authority monitoring borehole 500 metres north of the application site range from approximately 41 metres and 47 metres above ordnance datum (AOD) between 2009 and 2011.
80. The ES acknowledges that, without mitigation, there is the potential for the proposed development to have an impact on ground and surface water quality, hydrology, flooding and local hydrogeological conditions. The mitigation measures proposed are to develop the site on a phased basis to minimise the area of working, reduce the potential for the generation of contaminated water and allow progressive restoration; the provision of water treatment and settlement lagoons to control surface water run-off, including their daily inspection; the use of temporary catchpits and sumps to collect, gather and manage surface water run-off generated within the working areas; the appropriate design of the access road and plant site area to allow effective drainage; the routine compaction of backfill material to reduce infiltration rates and therefore the potential quantity of acid mine drainage generated; the routine monitoring of surface and groundwater quality; and the discharge of water off site in accordance with Environment Agency consents. With these measures in place, the ES states that there would be no significant residual impacts arising from the proposed development in respect to geology, groundwater and surface water.

### Archaeology and Cultural Heritage

81. The heritage section of the ES confirms that, whilst there are no designated heritage assets within the application area, there are nine assets recorded on the Nottinghamshire Historic Environment Record (HER), although it is stated that only four of these have survived previous opencast mining. Within the wider study area (an area within two kilometres of the site boundary) there are a total of 295 assets recorded on the Nottinghamshire HER, 40 on the Derbyshire HER, in addition to two scheduled monuments, 44 listed buildings, three conservation areas but no registered battlefields or world heritage sites.
82. The ES considers the direct and indirect impacts of the proposed development on these assets and considers that, without mitigation, these impacts would be 'moderate'. Mitigation measures proposed include a detailed high resolution

topographical survey of an area to the east of Shortwood Farm in which low earthworks are visible; a watching brief on all initial groundworks in areas not previously subject to opencast mining; sample excavation of a section of the Cossall and Trowell parish boundary for analysis; an intermittent watching brief throughout the proposed excavation works; the preparation of reports confirming the archaeological works undertaken; the reinstatement of the existing hedgerow-bounded field system with the addition of a hedgerow following the line of the parish boundary; and the provision of a public display if significant archaeological remains are recorded. The ES considers that the significance of these impacts once mitigated would be 'minor' or 'negligible to moderate'.

Additional information submitted on the previous application under Regulation 22 of the EIA Regs and subsequently included in the resubmitted application

83. In response to issues raised by consultees and members of the public on the previous application, the applicant submitted additional information under Regulation 22 of the EIA Regs, information which has been included in the resubmitted application. The first Regulation 22 submission was made in January 2013. Regarding landscape, the applicant has provided further photographic viewpoints and photomontages; plans showing the zone of theoretical visibility for each phase of working, incorporating all the elements of the proposed development; and various three dimensional viewpoints. A summary of the visual impacts of the proposed development on selected residential receptors has also been provided and the applicant has also assessed the cumulative impacts of the proposed development with other major developments in the area, notably a single 130 metre high wind turbine at Newthorpe Sewage Works, an outline planning application for residential development at Field Farm, Stapleford, the regeneration of Stanton Ironworks, and UK Coal's existing Lodge House opencast coal site at Smalley, Derbyshire. The assessment concludes by stating that there would be no significant cumulative landscape and visual impacts with these other proposals.
84. Regarding cultural heritage, additional consideration has been given to the visual impact of the proposed development on Cossall Conservation Area and it is considered that there would be a low magnitude of impact with the proposed screening mound contributing the largest component of temporary change. The assessment considers that the mound would not significantly change the character of the view from the conservation area and it would be obscured by either buildings or hedgerows from within much of the area. It is therefore considered to be a visual impact of minor significance.
85. Further assessment has also been undertaken of 39 non-designated heritage assets in the vicinity of the site, of which 11 would experience a moderate significance of impact on their setting. The assessment also considers Shortwood Farm which, despite not being included on the County Council's Historic Building Dataset, is similar in nature to other non-designated assets. The assessment considers that the setting of this building is already compromised by the motorway and although the proposed development would represent a further visual impact, the site restoration would result in a significant improvement with the replanting of a section of Short Wood.

86. With respect to archaeology, the additional information sets out further details of the programme of works which would be undertaken should planning permission be granted. This includes targeted geophysical surveys of those areas not previously subject to opencast mining in order to identify archaeological features and a 'strip, map and sample' programme on all groundworks in areas not previously impacted by opencast mining.
87. On air quality, the applicant has provided additional information on the levels of PM<sub>10</sub> at Shortwood Farm and Field House Farm and considers that the proposed development would not result in 24 hour or annual objectives being exceeded, subject to the implementation of a dust management scheme.
88. Additional information has been provided regarding the predicted noise impacts at Keeper's Cottage and Uplands Farm, in addition to detailed site operational plans showing the various mobile plant that would be in operation in close proximity to Field House Farm. Details of the acoustic fencing that would be erected around Field House Farm have also been submitted.
89. Further information has been provided regarding the impact of traffic associated with the proposed development and the safety of HGVs returning to the site turning right at the Balloon Wood junction. Whilst the information concludes by stating that the traffic associated with the proposed development can be safely accommodated at the junction, the applicant is proposing additional anti-skid surfacing at the junction, as described in paragraph 44 above.
90. The additional information proposes a minor change to the footprint of the excavation area in order to allow for the retention of an additional mature tree to mitigate for the loss of a veteran tree on the western boundary of the site. To provide mitigation for bats, birds and reptiles, the applicant is proposing to seed all overburden, topsoil and subsoil mounds, in addition to around 3.5 hectares of arable land identified as undisturbed during the proposals, with a rapidly developing grass and herby seed mix which would be managed as rough grassland. This seed mix would include a selection of herbaceous plants which are known to act as sources of nectar for invertebrates, therefore creating high value bat foraging habitat during the operation of the site. The 3.5 hectares of arable land would comprise 0.4 hectares to the north of the site, 2.3 hectares to the east of the site and 0.8 hectares to the south. In addition to this, two further areas of 0.5 hectares in size each, either side of the 2.3 hectare area of arable land to the east of the site, would be sown with a wild bird seed mix including species such as linseed, mustard, rape, quinoa and millet which would provide a foraging resource for wild birds.
91. The second Regulation 22 submission was made in May 2013 and again has been included in the resubmitted application. The submission provided a further restoration plan to take account of previous comments made by consultees and provided revisions to reflect historic field boundaries and field patterns; further detailed information on the proposed wetland area on the western side of the site; and the provision of further field margins. It also provided details of a speed survey carried out on Cossall Road to inform the safety of the proposed bridleway crossing point across that road, and also details of the proposed location of the crossing point itself. Further information was also provided to

clarify the definitions for the different levels of magnitude and sensitivity in the landscape and visual impact assessment; whilst consideration of the combined impact of the proposed development and the proposed housing development at Field Farm, Trowell has also been provided. Finally, confirmation has been provided regarding the mobile plant that would be used on site.

92. Members will recall inspecting both the application site and one of the applicant's operational sites at Lodge House near Smalley, Derbyshire.

## Consultations

93. As detailed in paragraph 4 above, consultees were invited to confirm to the County Council that their response on the previous application remained valid and of those who did, confirmations are set out below. Those who did not respond have had their previous responses rolled forward to the new application. No consultees provided any additional information over and above what they submitted on the first application.
94. *Broxtowe Borough Council has confirmed that it wishes to transfer comments made in respect of the original application. The council reported the application to its Cabinet with officers recommending that no objection be raised, although concerns were raised regarding noise and vibration, dust and air quality, the discharge of surface water, the impact on existing groundwater regimes, and disruption to wildlife. Officers considered that appropriate mitigation measures would need to be fully considered and appropriate conditions put in place.*
95. *Members of Broxtowe's Cabinet disagreed with the officers' report and considered that, if implemented, the proposed development would have harmful adverse impacts on people in the borough due to the potential adverse effects of noise and visual impact on residents and communities. The devastation of Green Belt land would be unacceptable even for a temporary period and the damage of any landscape of mature and valued quality would be unacceptable. There would likely be damage to wildlife interests which would also be unacceptable. There would be an unacceptable number of additional transport movements, particularly HGVs, which would undoubtedly badly affect the local transport network and there was a threat of additional HGV traffic through Bramcote despite the applicant's traffic proposals.*
96. *Concerns raised by officers which were also echoed by councillors were the potential impact on Uplands Farm, Shortwood Farm and Field House Farm and Bungalow, and the small number of properties within 500 metres of the application site and within 250 metres of the site access; the need for the County Council's ecologist to assess and conclude whether the biodiversity and natural environment reports produced by the applicant are accurate; impacts to nesting birds, water voles and wildlife generally; impacts on groundwater regimes and the stability of embankments; potential pollution of the canal and discharge to the River Erewash; the need to assess the quality of the archaeological work proposed; noise and vibration and the need for restrictions to noise limits, traffic movements, silencing of machinery and equipment, a scheme for dealing with*

complaints, and conditions on dust and air quality; and the need to protect horse riders.

97. Cossall Parish Council objects to the application due to water run-off and possible pollution of the Nottingham Canal causing damage to fish and wildlife; the management of the surface water lagoons and the potential for pollution in the future; the impacts of dust, pollution and noise on the Robbinetts SSSI; the impacts on various wildlife including swans and geese, deer, water voles and terrapins; the impact of blasting on wildlife and also on footpath and bridleway users, particularly as any warning signs would likely result in people avoiding these rights of way, effectively closing them for the duration of the development; and concerns about how the site could be restored to present levels following the removal of the coal and fireclay, unless similar amounts of infill material are imported or lower levels of backfill material are not compacted leading to settlement in the future.
98. Concerns have been raised regarding UK Coal's financial stability and it is considered that a financial bond should be put in place to cover remedial works should the project fail at any time. An objection is also raised regarding the size of the community fund being offered which is insufficient when compared to nearby schemes. Other costs cited by UK Coal, such as alterations to the Balloon Wood junction should bear no connection to the community project funds which are in effect compensation for the five years and seven months when the site would disrupt parishioners' lives. Finally, the noise and dust assessments should be based on the fact that Keeper's Cottage is occupied.
99. Trowell Parish Council has confirmed its wish to transfer its previous response and objects to the application due to dust emissions; impacts on health and living standards; impacts on the area's already busy roads; loss of visual amenity; and concerns as to whether the site would be appropriately restored. Concerns are raised about why the air quality assessment suggests that air quality is of less sensitivity for residences controlled by UK Coal than for privately owned residences. There are also health risks for residents with pre-existing conditions such as chronic obstructive pulmonary disease. It is considered that the noise assessment should take account of the sensitivity of individual people.
100. The photomontages provided do not reassure the council that there would be a low impact from the working and mounds which would be too close to homes and farms. It is not accepted that the proposal would create additional jobs as any jobs created would be specialised roles that would be brought into the area and not recruited locally. The community fund is not as generous as those in other areas. The Balloon Wood junction would welcome a proper right turn filter while Trowell's infrastructure would be put under severe pressure and the disruption caused would be unbearable.
101. If the application is granted, there should be no further extensions for continued working past the initial agreed timescale. A bond of £2 million should be secured prior to the commencement of works and the £150,000 community fund should be at least doubled to compensate the local villages which would directly be affected by the site.



102. Awsworth Parish Council objects to the application due to dust and the effects on the health of residents; the increase in noise levels; the increase in vehicles on the A609, the A6002 and then onto the M1, roads which are already congested; the loss of leisure amenity such as the Nottingham Canal; and the loss of Green Belt land. Concerns are also raised about a claim which has been put to the parish council that the five years of coal extraction would only provide sufficient coal for six weeks burning at Ratcliffe on Soar Power Station.
103. Kimberley Town Council objects to the application as it is considered that the proposed development would have a serious impact on the Kimberley community due to increases in traffic, noise and air pollution. Air pollution may seriously harm residents' health, particularly the more vulnerable including the elderly and young. In addition to this, mining destroys landscapes, forests and wildlife habitats when trees, plants and topsoil are cleared. This leads to soil erosion and destruction of agricultural land. Soil erosion can pollute watercourses, damaging fish and plant life and causing flooding. There is an increased risk of chemical contamination of ground water when minerals in upturned earth seep into the water table. Mining also causes dust and noise pollution when topsoil is disrupted by heavy machinery and coal dust is created in mines.
104. Nottingham City Council has no objection to the application. The City Council has commented solely with respect to the highways information submitted as sections of the A6002 Bilborough Road/Woodhouse Way are within the City Council boundary and therefore the City Council is the Highways Authority for these sections of road. The City Council considers that the content and conclusions made in the original ES are acceptable subject to some matters of clarification, such as the survey data used for summarising the A609/A6002 junction, additional accident analysis to be undertaken, and confirmation of the management of vehicles attempting to arrive at the site during the restricted period of 8am to 9am.
105. Following the first Regulation 22 submission, Nottingham City Council is satisfied that the additional information reinforces the original content of the transport assessment. Conditions or legal agreement commitments should be provided for the routing of HGVs and the restriction of vehicular movements in and out of the site between 8am and 9am.
106. Derbyshire County Council has confirmed that it would like its previous consultation response to be transferred onto this application and considers that its principal concern relates to the visual impact on Derbyshire residents during the operation, restoration and post-restoration of the site. Overburden mounds 1 and 3 would be prominent from views in Derbyshire as they would both form part of the new skyline. The impact of the proposed development from the location detailed in the ES would be slightly higher than the ES indicates and it should be noted that there would be times when the impacts would be greater, such as during soil stripping, overburden construction etc. The proposal to 'gap up' existing hedgerows is welcomed and should be conditioned.
107. Overall, there would be some adverse visual impacts on a number of local communities associated with Ilkeston, Hallam Fields and Stanton-by-Dale. In

some respect, distance is a mitigating factor as is the orientation of many residential properties. The overburden mounds would be the most prominent feature although their impact would be lessened by their seeding and existing vegetation around the site boundary would also screen and filter views, a matter which would be improved through advanced planting.

108. *Derbyshire County Council has also noted that, in conjunction with Derby City Council, it is working on a new Minerals Local Plan and they will be working closely with Nottinghamshire County Council to ensure that respective strategies are compatible with one another, particularly in terms of surface coal extraction.*
109. *Erewash Borough Council has no comments to make on the application.*
110. *NCC (Planning Policy) is happy for its previous comments to be transferred over to the new application and notes that the key policy in the Nottinghamshire Minerals Local Plan (MLP) is Policy M12.1 which reflected national guidance at that time. However, national policy has now been superseded by paragraph 143 of the National Planning Policy Framework (NPPF) which has removed reference to the Green Belt in relation to coal development. The NPPF does consider minerals development in general in the Green Belt and considers it not to be inappropriate provided it preserves the openness of the Green Belt and does not conflict with the purposes of including land in the Green Belt.*
111. *Policy M12.7 concerns opencast constraint areas and the application area takes in part of the Cossall constraint area. Although the area would not be worked for coal, a haul road linking two parts of the site would be opened up through this area. Further advice should be sought to ensure that long term damage would not result or whether an alternative route to the south east of the constraint area could be considered.*
112. *Policy M12.8 considers incidental mineral extraction and assurances should be sought that the extraction of 250,000 tonnes of fireclay does not result in any unacceptable environmental impact. There are a number of policies in chapters 3 and 4 of the MLP which should be considered. Due to the location of the site adjacent to the M1, the applicant should be encouraged to explore the viability of accessing the motorway to minimise the impact on the surrounding local highway network and reduce emissions from increased lorry miles.*
113. *There are a number of documents which refer to national energy security and future coal provision including the Overarching National Policy Statement for Energy (EN-1) and the Energy Security Strategy that relate to future coal provision.*
114. *In conclusion, given the fact that guidance in the NPPF has a presumption against coal development taking place unless adequate national, local or community benefits can be provided, the applicant would need to provide clear local or national justification for the proposal and put in place comprehensive measures to offset the impact on local communities. Acceptability of the proposal in policy terms is therefore likely to rest on detailed comments from landscape, conservation, heritage, highways and other consultees.*

115. *The Environment Agency has no further comments to add to those made on the previous application and has no objection to the proposed development subject to conditions relating to groundwater monitoring, a surface water drainage scheme, and the storage of oils and chemicals. Comments are provided with respect to the wetland area being proposed as part of the restoration scheme.*
116. *Informatives are provided regarding dewatering, the discharge of sewage or trade effluent, surface water drainage, and the restoration of the site.*
117. *Public Health England (PHE) (formerly the Health Protection Agency) has confirmed that their previous consultation responses remain valid and considers that any planning permission granted should include conditions in relation to noise mitigation measures to ensure that noise from the proposed development does not cause a nuisance to nearby residents. A condition should also be applied to require a full vibration assessment to be undertaken to take account of the results of a test blast, before any blasting is allowed.*
118. *Regarding dust and traffic emissions, PHE is satisfied that the most appropriate meteorological data has been used to undertake the dust assessment. The additional assessment of PM<sub>10</sub> (particulate matter under 10 microns in diameter) for Field House Farm and Shortwood Farm show results are within air quality standards. The planning authority should be satisfied that the percentage reduction of emissions referred to in the dust assessment have been adequately justified by the applicant and might also wish to establish the modelled levels of dust expected at relevant receptor locations if the mitigation measures were less effective. A condition should be attached to any planning permission granted requiring a dust action plan to be produced to minimise dust emissions off-site. Monitoring of dust and airborne particulate matter is also proposed by the applicant and should be conditioned to review and validate the conclusions of the air quality assessment.*
119. *The Coal Authority has reiterated its previous response and encourages and supports the planning application which seeks to work coal in an environmentally and socially acceptable way to meet market requirements. The application would contribute to the Government's policy framework for a diverse and secure energy supply and incorporates the principles of sustainable development. The NPPF sets the most challenging standards for surface coal mining and the Coal Authority believes that the coal industry can successfully operate within these principles provided they are applied equitably by all planning authorities. The planning process should take account of the fact that minerals can only be worked where they occur.*
120. *The Coal Authority recognises that the site has been subject to past mining activities and is pleased that the ES demonstrates a full awareness of this legacy in the interests of health and safety.*
121. *The Coal Authority considers that surface mining is critical to the continued supply of good quality coal for the UK market. Coal provides the basis for up to half the electricity generated in the UK and the Coal Authority believes that a significant proportion of this coal should be indigenously produced as it offers security against the volatility of international coal prices, freight rates and*

exchange rates; and security against a reliance on port capacity. It should also be recognised that imported coal has its own environmental footprint related to transportation. It is essential to ensure a regular supply of new and extended environmentally acceptable sites is able to replace sites nearing completion and there is no shortage of coal in the ground to achieve this. Surface mining frequently assists in the removal of surface dereliction and can also treat surface and sub-surface contamination and instability, reduce hazard potential from mine gas and spontaneous combustion, improve water quality, and allows for the recovery of minerals other than coal which support the fireclay, building and brick clay industries.

122. Natural England has confirmed that its previous response applies equally to this application and has no objection to the application. The application is in close proximity to the Robbinetts SSSI but there is not likely to be an adverse effect on the SSSI subject to the proposed development being carried out in strict accordance with the details in the application as submitted. The SSSI does not therefore represent a constraint in determining the application.
123. The possible presence of a protected or Biodiversity Action Plan species on the site should be investigated through survey work from the applicant. The site provides valuable foraging habitat for bats and there is evidence of bat roosts at Shortwood Farm and Field House Farm. Any external lighting around these buildings should be sensitively positioned to minimise the impact on bats. The removal of any trees with the potential to support bat roosts should not be undertaken until further precautionary measures have been carried out to ensure no roosts are destroyed. The provision of bat boxes is supported. The provision of native broadleaf woodland areas, four new waterbodies, species-rich neutral grassland, species-rich hedgerow and hedgerow trees is supported and should help to improve ecological connectivity across the site providing valuable foraging and roosting habitat for bats in the long term.
124. The planning authority should consider securing measures to enhance the biodiversity of the site should planning permission be granted, through features such as roosting opportunities for bats or the installation of bird nest boxes, in accordance with paragraph 118 of the NPPF.
125. NCC (Nature Conservation) have confirmed that their comments on the previous application still stand and that they have no further comments to make. They consider that the retention of the large mature tree (number 83) as mitigation for the loss of veteran tree number 77 is a reasonable compromise, although the felled tree should be retained as dead wood alongside a retained hedgerow. The impact of hedgerow loss on foraging bats would be mitigated by the seeding of soil storage mounds and retained arable land to create rough grassland which would be suitable alternative foraging habitat. These habitats would also be suitable mitigation for the loss of foraging habitat for barn owls and would also provide suitable alternative habitats for reptiles. Details provided regarding badgers are accepted.
126. The proposed reinstatement of the northern part of the former Short Wood is supported, as is the scaling back of planting around the motorway services. Conditions are recommended regarding woodland creation and species mixes,

*given the present issues regarding ash die-back which might or might not be resolved by the time the woodland planting takes place.*

- 127. The field patterns on the restoration plan closely reflect those on the Sanderson Map with only one minor discrepancy. There is a pasture field linking the reinstated Short Wood with the ponds and species-rich grassland to the west which is welcomed. However, it is considered that a further pasture field should be provided to retain the overall balance of arable and pasture provided in earlier restoration plans. The species-rich pasture seed mix should be covered by a condition requiring details of the seed mix to be submitted.*
- 128. The details submitted regarding the depths and profiles of the proposed water bodies is accepted, although details of additional small field ponds in the adjacent pasture fields have been described in the supporting statement but have not been shown on the restoration plan. The inclusion of these would be a simple way of improving the nature conservation value of the restored site.*
- 129. A recommended conservation headland has been provided along the southern boundary of Oldmoor Wood, which is welcomed, although it should be 15 metres wide, not six metres as indicated. The management of hedgerows on the western side of the site should be conditioned as part of a landscape and biodiversity management plan to allow them to grow large. A condition is also recommended regarding plant and seed species mixes including proportions, provenance, establishment methods and maintenance regimes, with UK provenance seed used.*
- 130. In summary, whilst the information submitted in relation to ecology is sufficient, there are some minor concerns regarding the restoration scheme and further steps should be secured to maximise its biodiversity value.*
- 131. Nottinghamshire Wildlife Trust (NWT) has asked for its previous response to be transferred over to this application and objects to the proposed development, despite a number of earlier concerns having been wholly or partially addressed. NWT considers that there would be no direct impact on the Robbinetts SSSI, including no changes to water flows to the SSSI, whilst there would also be no impact on Oldmoor Wood SINC from run-off from the site.*
- 132. NWT supports the applicant's commitment to manage retained hedgerows so that they achieve greater size, thereby providing more nesting habitat and strengthened foraging corridors. However, the loss of over 4,000 metres of hedgerows, even though they are generally species-poor, would result in the loss of a locally important ecological resource for at least 15 years which could not be mitigated fully in the short to medium term.*
- 133. There would be a small residual adverse effect from the loss of veteran tree number 77 which would not be fully mitigated through the soft felling and retention of the tree as dead wood, nor through the retention of mature tree number 83 as it is not a native species (Turkey Oak) and so is likely to be of less value to invertebrates.*

134. *The loss of hedgerows as foraging corridors for bats would appear to be adequately mitigated during the working of the proposed development through suitable hedgerow management for those being retained; the sowing of a nectar-rich herb and grassland mix on all the overburden, topsoil and subsoil mounds; and the reversion of a 3.5 hectare undisturbed arable field in the north of the site to species-rich grassland. After the site is restored, this field should be retained as species-rich grassland, whilst the creation of species-rich field margins along retained hedgerows should be undertaken during the operational stage of the proposed development and not left until the restoration stage. NWT is satisfied that water voles would not be affected by the proposed development.*
135. *Barn owls are Schedule 1 birds under the Wildlife and Countryside Act and so their roosts are protected. The applicant is committed to a net increase in suitable foraging habitat for barn owls through the reversion of 3.5 hectares of arable land to pasture; the suitable management of 0.5 hectares of rush-pasture, the suitable seeding of overburden and soil mounds; and the management of the six metre stand-off around Oldmoor Wood. These measures, in addition to the creation of two 0.5 hectare areas which would be sown with a seed mix suitable for wild birds, would partially but not wholly mitigate for the direct and indirect impacts on the breeding bird assemblage, although the scale of hedgerow loss cannot be mitigated during the operational and early restoration periods. It is considered that vegetation clearance and the noisiest activities, such as soil stripping, should be undertaken outside the bird breeding season.*
136. *The provision of rough grassland habitat would mitigate the adverse impacts of the proposed development on reptiles whilst it should be possible to retain a substantial element of invertebrate habitat through the distribution of felled trees around the undisturbed periphery of the site within existing plantations and adjacent to hedgerows. The monitoring scheme proposed for a protected species would identify whether their foraging behaviour and habitat use is being detrimentally affected by the proposed development, while reflector posts should be erected along internal haul roads to prevent collision injuries to this protected species in the early evening when the site would be operational.*
137. *Whilst the restoration of the site would result in ten hectares of new native woodland, four hectares of species-rich grassland, four new ponds, over 4,000 metres of new hedgerow, and the creation of six metre field margins, it is considered that a larger area of biodiversity action plan priority habitat should be provided, given the nature and scale of the proposed development which would result in the rapid loss of existing mature habitat. Given the site's location within NWT's Erewash Valley Living Landscape, there should be a greater commitment to the principles of landscape-scale conservation with improved de-fragmentation of habitats and extending and buffering of existing habitats, in accordance with the recommendations of the Natural Environment White Paper. This could be achieved by extending Oldmoor Wood, the creation of larger areas of species-rich grassland, and a more extensive network of small ponds to the benefit of water voles, amphibians, bats, grass snakes and invertebrates, rather than the larger ponds being proposed which would only be of value for wildfowl and water voles.*

138. *The proposed restoration for the Shortwood Farm scheme in 1997 included twice as much woodland and thus would have resulted in substantive enhancements for both biodiversity and landscape. This former scheme sought to recreate the former Short Wood in its entirety and also to substantively expand Oldmoor Wood. Notwithstanding that this latest scheme has a slightly smaller application boundary, there is no reason why the habitat restoration should not be more visionary, particularly given the changes in both planning and policy context which all now drive towards more biodiversity action plan habitat creation, not less. More detailed restoration details should also be provided at this stage, including full species mixes. The creation of woodland brings flood control benefits and establishing permanent grassland prevents soil erosion. The applicant states that the restoration scheme balances land use by determining a number of factors including food production. However, the previous Shortwood Farm restoration scheme had less agricultural land and was considered agriculturally viable, and this was against a backdrop of far less government intervention to pay farmers to take land out of production and put it into wildlife habitats. To therefore suggest that the restoration of a few tens of hectares of land to woodland on this site would affect UK food security is irrelevant. NWT states that even if every mineral site in the county was restored to biodiversity action plan habitats, there would only be a loss of less than 1% of the county's farmland so it cannot be argued that this land is needed for food production.*
139. *The Woodland Trust has resubmitted its previous response and objects to the application due to the adverse impacts that the proposed opencast coal mine would have on Oldmoor Wood. The wood contains a good mixture of trees, shrubs and ground flora species including oak, ash, sycamore, and beech; holly, rowan, blackthorn and hawthorn; and bluebells, wood anemone, wood sorrel, less celandine and creeping jenny. It was planted in the 1790s but has had trees on the site since at least 1683, potentially making the site planted ancient woodland, a status which is being checked by Natural England. However, the Woodland Trust considers that the site should be considered as ancient woodland.*
140. *The Woodland Trust considers that ancient woodland is an irreplaceable natural resource which should be protected from inappropriate development. It is a habitat most representative of original, natural, stable conditions and is home to more threatened species than any other habitat in the UK. The National Planning Policy Framework states that 'planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodlands, unless the need for, and benefits of, the development in that location clearly outweigh the loss.*
141. *The Woodland Trust is concerned about the production of dust to which woodland flora is particularly sensitive and also noise which could affect species living in the wood. The wood is also used by the community and is of high historical value due to its links to Strelley Hall and Strelley Village. If planning permission is granted, a 50 metre buffer zone should be planted to stop the adverse impacts of the development affecting Oldmoor Wood.*

142. *The Canal and River Trust* has reiterated its previous response and has no comment to make on the application as the application site lies a significant distance beyond its notification area.
143. *NCC (Landscape)* has resubmitted its previous response and has noted the vegetation loss that would result from the proposed development. The total length of hedgerows which would be removed (4,380 metres) would amount to 48% of the total that exists at present but none of the losses would be of hedgerows classified as 'important hedgerows'. The ES explains that the hedgerow network within the application site is considered to be a feature of parish importance and although 'important hedgerows' would be retained, the removal of 4,380 metres of hedgerows would constitute a significant adverse impact on the hedgerow network. The ES also confirms the loss of 56.8 hectares of arable land, 54.3 hectares of improved grassland, one hectare of semi improved grassland, 0.3 hectares of bare ground and 0.6 hectares of ditch habitat. From a comparison of the Existing Features drawing (186 D01) and the Restoration Plan (186 D03B) there would also be the loss of ten mature and one veteran trees. Also 9 to 12 small to medium sized trees would be lost in association with the proposed new right of way link to Trowell Bridleway Number 26. It is assumed that these works would form part of the restoration works for the site following mineral extraction.
144. The submitted details show that the first restoration works would occur three years and six months into the development. The applicant cites a lack of available space as being a constraint to carrying out any earlier restoration works. This is accepted but in light of this there should be consideration to carrying out some advanced planting works in the area to the north of the motorway services and in an undisturbed field to the north west of the site facing Cossall village. Around 18 hectares of land within the site would be left undisturbed, mostly land on the site's periphery, including hedgerows and veteran and mature trees.
145. The extent of land previously subject to opencast coal extraction has been provided by the applicant and the details provided are accepted.
146. Regarding the impact of the proposed development on the local landscape fabric, the ES considers that the proposed development would have a moderate to substantial effect on the local landscape fabric of the site during the working phases and would cause a very noticeable difference to the landscape and would affect several receptors.
147. Details have been provided of the contour heights of the overburden (25 metres), subsoil (eight metres) and topsoil (five metres) mounds as the site is progressively worked and show the shape and form of the mounds and give an indication as to when they would be seeded and therefore greened over. The ES states that the existing topography of the site would be primarily altered by the stripping of soils and the creation of these mounds with subsequent mineral extraction and construction of roads and ancillary areas. Details of the existing topography have also been provided with steeper gradients highlighted which are relatively localised and dispersed throughout the study area with some man-made and others natural.



148. *Information on the composite zone of theoretical visibility (ZTV) has been provided which shows that this changes only marginally as the site is worked. Cross section drawings through the coal stocking area have also been provided giving an indication of the proposed development in relation to the motorway.*
149. *A number of photomontages have been provided which give a more comprehensive understanding of the development during its working phase. Whilst the summary of the effects after restoration, which are the permanent long term effects of the proposed development, are generally accepted, it is considered that immediately following planting, the landscape would appear to be denuded when compared to the existing situation. The benefits of woodland, tree and hedge planting would gradually and incrementally become more visible in the landscape through each growing season, as the planting establishes and matures. The significance of effect for each viewpoint during the working phase is set out and it is acknowledged that these impacts would be temporary, lasting for a period of up to five years and seven months.*
150. *A comparison of various ZTV plans during phase 3 of mineral extraction shows that the largest visual impact would be from the overburden and subsoil mounds. These would have the largest visual impact on surrounding receptors from most viewpoints due to their size, shape, position and appearance when actively worked and their size, shape and position when not being worked. Their impact would be greatest when being worked, particularly during their construction and removal which would involve the trafficking of vehicles and mobile plant as well as the appearance of the overburden material itself. It is recognised, however, that the design of the overburden mounds has been profiled to produce rounded shapes and less engineered profiles and this has gone some way to them integrating these into the surrounding landscape. However, it is not accepted that all the viewpoints would have a neutral magnitude of change and significance of effect when “plant are not active and only the grassy mounds are present (such as at weekends or outside working hours)”. It is considered instead that 14 of the 22 viewpoints detailed in the ES would have either a negligible, negligible to slight, slight, slight to moderate, or moderate significance of impact at these times instead of neutral. This is because:*
- the mounds may still appear engineered with rounded shoulders, flat tops and uniform gradients to the sides;*
  - the mounds may be more apparent when they cross the horizon since they would not be vegetated by trees and hedges when the majority of views out over the surrounding rural landscape are to wooded horizons. (a key characteristic of the Babbington Rolling Farmlands);*
  - other aspects of development may still be visible such as plant buildings/extraction areas and coal stocks.*
151. *During the construction and removal of the mounds, the significance of impacts set out in the ES are accepted with the exception of a view from the Robin Hood Way close to Trowell Moor where the significance of the impact would be moderate to substantial adverse as opposed to moderate adverse.*

152. *Regarding the proposed restoration, the reinstatement of the northern part of Short Wood is welcomed whilst planting adjacent to Trowell Services would help implement one of the landscape actions for the Babbington Rolling Farmlands Landscape Policy Zone. This should be conditioned to be carried out as advanced planting. The reference to ash dieback is noted and the possible substitution with another suitable native species suitable for this character area. It is considered that the lower ground facing Cossall and focussing around the canal should be restored to pasture to link with the Robbinetts Arm/Nottingham Canal and the wider character of the Nottinghamshire Coalfield Regional Character Area. The three new ponds would be new, permanent features within the restored landscape and the pasture field between these ponds and the new wood would help link these new habitats. The restoration plan should be amended to show the proposed in-field ponds and details on hedgerow management should be provided and contained within a wider landscape management plan. The restoration scheme would benefit from a written design philosophy and annotation on the drawing itself to demonstrate how decisions have been made and what has influenced the design process, to help ensure that the restoration design and management has responded to the cultural aspects and character of the wider surrounding landscape.*
153. *In summary, the statement in the ES that the overall sensitivity for the application site and the wider area is medium during the working phases and negligible to low after restoration is accepted. The magnitude of change is considered to be high and adverse during the working phases and low to medium beneficial after restoration.*
154. *The above sensitivity and magnitude of change would result in a moderate to substantial adverse effect on the local landscape fabric of the site during the working phases which the ES defines as:*
- “The proposed scheme would cause a very noticeable difference to the landscape, and would affect several or many receptors. This change would therefore alter the character of the landscape in this locality, or the character of the view.”*
155. *NCC (Landscape) agrees with this conclusion and would classify this effect as a significant impact which, for the working phase, would be adverse.*
156. *For the restoration of the site, there would be a slight to moderate beneficial effect on the local landscape fabric of the site which the ES defines as:*
- “The proposed scheme would cause changes to the landscape, which would not be clearly noticeable and would affect a limited number of receptors. These changes would be permanent and become more noticeable as the new hedgerow and woodland planting matures.”*
157. *NCC (Landscape) agrees with this conclusion.*
158. *The direct impacts are summarised in the ES as:*

*“...the proposed development would result in a temporary change of the site to “active mineral working” and would result in a significant adverse effect on the landscape fabric of the site itself albeit for a period of 5 years and 7 months.”*

159. *To conclude NCC (Landscape) considers that the proposed development would have moderate to substantial (adverse) effect on the local landscape fabric during the working phases of the active mineral working. This would be a temporary impact for five years and seven months but for both some residential receptors and recreational receptors this is still over a sustained period and should not be overlooked. It is noted that much of the site has previously been disturbed, being subject to four previous open cast mining activities during the period 1947 -1966 and also that coal extraction has been historically part of this Coalfields Farmlands Landscape.*
160. *NCC (Landscape) is satisfied that the restoration scheme would bring about a slight to moderate beneficial effect on the landscape but this would be a gradual change as the planting matured.*
161. *Overall NCC (Landscape) does not object to this application on the grounds of landscape and visual impact but consider that there is still scope to improve the restoration scheme and to include some advanced planting as part of the initial site works.*
162. *The Campaign to Protect Rural England (CPRE) has indicated its wish to transfer its previous response to this application and objects to the application as the land is Green Belt, part mature landscape, agricultural and woodland and would lead to the loss of wildlife habitat, wetland and ponds. There would be a loss of visual amenity to the area and people would be deprived of access to the open countryside. The CPRE considers that there would be an adverse effect on local people through dust and associated health impacts, and noise, whilst already congested roads would be impacted by additional HGVs. There would be a loss of businesses on the site. Opencast mines scar the landscape for years at a time and, even when restored, cannot bring back the original landscape and wildlife. They increase carbon emissions at a time when we are supposed to be reducing them.*
163. *NCC (Highways) has resubmitted its previous response and has no objection in principle to the proposed development as it would not have a material impact on adjacent roads and the rest of county’s highway network. The Highway Authority has noted that a lorry routeing agreement between Nottinghamshire County Council, the applicant and Nottingham City Council would be in place prior to commencement of the development requiring Heavy Goods Vehicles to travel towards junction 26 of the motorway when leaving the site and vice versa. The agreement should include a lorry routeing plan and a clause to restrict HGVs from entering or leaving the site during the morning peak hour of 8am – 9am as indicated in the Transport Assessment.*
164. *It has also been noted that the applicant has proposed improvements to the existing site access off the A609 Nottingham Road to restrict HGVs from turning*

*right when exiting the site. An advisory sign such as 'All HGVs Turn Left' should be erected within the site (facing vehicles exiting the site) at the exit point.*

165. *The use of the existing temporary access from Cossall Road for the establishment of the site and its decommissioning is acceptable although visibility is substandard due to the presence of overgrown vegetation on both sides of the access point. In addition to this, the present access surface is made up of loose stones. Cossall Road in the vicinity of the temporary access is subject to the national speed limit and has a 7.5 tonnes weight limit restriction except for access. Given the nature of Cossall Road being narrow with no footways it could be difficult for larger elements of mobile plant (details not known at present) and other vehicles to pass each other. Prior to use of the temporary access for larger element mobile plant the applicant is advised to contact the Highways Authority to consider if any traffic management issues arise. In order to ensure safe use of the temporary access, it is recommended that overgrown vegetation should be trimmed back to improve visibility splays and that the access road is constructed with a bound material for at least 20 metres behind the public highway to prevent any loose material being transported to the public highway which could be detrimental to road safety.*
166. *In addition to the provisions in the legal agreement and conditions set out above, controls should also be in place regarding improvements to the Balloon Wood junction through the provision of additional anti-skid surfacing; the provision of suitable access points; the hard surfacing of a minimum 20 metres of the access road off the A609 and the trimming of vegetation at this access; the provision of wheel washing facilities to prevent mud and debris being trafficked onto the public highway; the prevention of surface water off the access road discharging onto the public highway; and the submission of a travel plan.*
167. *The Highways Agency has reiterated its previous response and has no objection to the application subject to conditions regarding the submission of a Construction and Traffic Management Plan to detail and mitigate against any potential impacts of the proposed development on the motorway, including the use of the underpass and the setting up of any temporary haul roads and site compounds next to the motorway; details of the treatment of the boundary between the application site and Highways Agency land; any floodlighting which shall be located to reduce glare and avoid light scatter; and surface water drainage.*
168. *NCC (Countryside Access) have confirmed that their previous comments remain valid and note that users of the existing bridleway which crosses the site and skirts around the north east boundary enjoy a quiet, rural, traffic-free route with views over farmland and woodland. Once extraction begins, this route would be considerably less desirable and would be crossed by a haul route to Area B. To compensate for this, the existing bridleway surface from Cossall Road to the motorway underpass should be upgraded to a surface specification agreed with the Rights of Way Officer.*
169. *Regarding the proposed restoration, the new bridleways and footpaths proposed are welcomed. The other crossing point would connect to an existing bridleway which runs from a car park on Cossall Road all the way to Nottingham Road and*

beyond. The Woodland Trust should also be consulted on the proposed new footpath leading to Oldmoor Wood.

170. *The Ramblers' Association has confirmed that it wishes its previous consultation response to be transferred to this application objects to the application as it is considered that the proposed timescale for the development is unrealistic; the site is open countryside and would be devalued; the area is an important amenity well used and enjoyed by both local and visiting people who would be affected by detrimental views; and lower visitor numbers to the area would impact the local economy. However, the efforts made to protect the bridleway across the site are appreciated as are the proposed additional paths within the restoration scheme. If approved, these additional rights of way should be added to the definitive map.*
171. *NCC (Archaeology) has confirmed that its previous comments still stand and notes that the mitigation measures likely to be proposed are very welcome. The proposals for topographical and geophysical survey on appropriate areas, as a means of identifying potential targets for further investigation are welcomed and the details of these works could be achieved through a suitably worded condition requiring the submission of a written scheme of investigation, and specifying that discharge of the condition will require the implementation of the agreed scheme to the satisfaction of the planning authority. It is reassuring that UK Coal has developed a good track record in dealing with the archaeological remains of early coal mining. NCC Archaeology is aware of this from other counties although there is no experience of their work in this respect in Nottinghamshire.*
172. *NCC Archaeology also notes that it has been suggested that this site might be suitable for a community archaeological project. Such projects have been linked to developer funded works on a number of sites in the county, most notably Besthorpe Quarry. The choice of suitable sites is dictated by the nature of the archaeology involved and the practical circumstances of the development, to ensure volunteers will be safe and have a rewarding experience of the process of archaeological excavation. The application site is not considered a suitable site for such a project, as much of the archaeology here is likely to be related to early coal mining, which tends to be a specialist investigation field, with its own inherent health and safety issues.*
173. *NCC (Built Heritage) notes that while the ES states that there are no listed buildings or conservation areas within or adjacent to the site, Cossall Conservation Area borders the north of the site. The boundary of the Conservation Area is not parallel to the absolute boundary of the application site, however considering the relative size of the application site and that of the smaller conservation area site it is considered misleading to suggest that there is not a conservation area adjacent to the site.*
174. *The agricultural land lying between Cossall and the application site is subject to an Article 4 (1) direction placed in 1996 which aims to protect important views both to and from the important hilltop setting of Cossall Conservation Area. This is referenced in the ES although it focuses on the impact of a physical view to and of Cossall. Views from Cossall are also considered important and it should be recognised that setting is not a purely visual experience. For example the*

*contextual setting of Cossall as a agricultural settlement is enhanced and better revealed by the surrounding pastoral and arable landscape. Consideration needs to be given to the extent to which the scheme would impact upon this for the duration of the proposed development and beyond.*

- 175. A recent Conservation Area Appraisal also highlights important views within Cossall, although this document has not yet been adopted. However, the document does highlight the significance of the relationship Cossall has within its surrounding countryside.*
- 176. NCC (Built Heritage) considers that there would undoubtedly be negative impacts on all heritage assets, designated and non-designated. As indicated by the ES some of these would be short terms effects whilst the extraction is in progress with some being medium to long term whilst the restoration plan is ongoing.*
- 177. If the planning authority considers that the short term operational impact of the proposals on the conservation area is less than substantial harm that is outweighed by the public benefit of the proposal then it is key that the restoration becomes the focus.*
- 178. The presence of non-designated heritage assets (traditional farm buildings and the canal) in and on the site boundaries should be seen as an opportunity for potential long term enhancement. Whilst none of these assets would be lost, there is a degree of significance with regard to setting and potential viability for future use. Part of the landscape issue in the context of Cossall Conservation Area and Trowell as a historic core is that the land between them has historically been in and out of agricultural use. The ES identifies many of the outlying farmsteads as being heritage assets which contain traditional farm buildings that are of interest as well as forming part of the landscape including the setting of designated assets.*
- 179. It is accepted, however, that there are various difficulties with supporting improvements to privately owned vernacular farm buildings in this area. Therefore it is recommended that efforts are made to contribute to seeking resolutions to the future of Bennerley Viaduct. The viaduct crosses the Erewash Valley to the north of the site and is a Grade II\* listed building of national importance. As one of only two surviving viaducts of its type in the country, it stands as an industrial monument and is a key landscape feature of the Erewash Valley. It has been a long time feature of the county's Buildings at Risk Register.*
- 180. The viaduct is owned by Sustrans which has long term aims of incorporating it into the cycle network, potentially connecting the River Erewash to the Nottingham Canal which runs up to the boundary of Shortwood. Bringing the viaduct into use could represent a step forward in a route connecting Ilkeston/Cotmanhay with Kimberley and Eastwood. Sustrans has carried out feasibility work and discussed options with the Heritage Lottery Fund (HLF). A future funding bid would be greatly boosted by a condition survey on the viaduct which would allow a full understanding of what costs would need to be built into*

any HLF bid but Sustrans does not have the in-house expertise to carry out this type of survey.

181. *NCC (Built Heritage) has contacted English Heritage and, given the size and nature of the viaduct, it is considered that such as survey would cost around £25,000. It is strongly recommended that the council seeks to ensure that funds are earmarked from any community fund to help offset the heritage impact of the scheme.*
182. *This reflects the NPPF which states that local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness.*
183. *The parish rooms in Cossall village have applied to build an extension at the rear of the building. It would also be worth investigating whether support could be provided to help achieve this on what is a key character building. This could also be seen as further mitigation in helping ensure a historic building is kept in repair and use for future generations.*
184. *English Heritage does not wish to add to its previous response and recommends that guidance should be sought from the County Council's Archaeologist regarding any buried archaeological remains that lie within the footprint of the site. Topographic and geophysical survey work is recommended to clarify the extent and nature of the likely archaeological impacts to ensure an appropriately informed determination and mitigation proposal. English Heritage recommends developing a scheme for mitigating the impacts on the archaeological remains of historic coal workings which is a poorly understood yet significant resource in Nottinghamshire. If the proposals are not considered to be environmentally acceptable, enhancements to the historic environment may be an option for making them acceptable by providing appropriate benefits and English Heritage would be happy to advise further on these possibilities.*
185. *NCC (Reclamation) have confirmed that their previous comments remain valid and considers that the applicant appears to have identified the key issues relating to potential adverse impacts associated with the proposed development, namely dust and impacts to sub-surface and surface waters. Both of these have been addressed and would be regulated by the Environment Agency. There would appear to be no significant additional impact either to human health or the wider environment and so no objection is raised.*
186. *NCC (Noise Engineer) have confirmed that their previous comments remain valid and considers that planning conditions could suitably control the levels of noise from both temporary and normal operations in order to comply with the noise limits detailed in the NPPF; the hours of operation at the site; the number of daily HGV movements; blasting vibration limits; mitigation measures such as the silencing of machinery, reversing alarms, use of generators etc; the provision of a noise monitoring scheme; and a complaints procedure.*

187. *A calculation check of the predicted noise levels from both temporary and normal operations, as presented in the ES, has been carried out and the noise levels presented accurately reflect typical noise exposures likely to be experienced at surrounding residential receptors. Details regarding the location of haul roads, the location of overburden mounds, the number of dump truck movements, and the speed of dump trucks are also considered to be realistic. Given this, noise and vibration impacts should not be given as reasons to support a refusal of planning permission. Compliance with the details in the ES will ensure that the effects of blasting operations, if required, are controlled to levels that should avoid complaint.*
188. *HM Inspectorate of Mines (Health and Safety Executive) considers that the proposed development does not appear to be covered by Government Circulars or any other statutory consultation procedures, so no comment is offered.*
189. *National Grid has apparatus in the vicinity of the application site which it considers could be affected by the proposed development.*
190. Severn Trent Water Limited; Western Power Distribution; National Grid Company PLC; the Food Standards Agency; Cossall, Awworth, Trowell Against Coal; British Horse Society; and the RSPB have not responded on the application. Any responses received will be orally reported.

## **Publicity**

191. The application has been publicised by means of 40 site notices which were erected around the site, in the villages of Trowell, Cossall and Strelley, and close to the Balloon Wood junction. This mirrored the notification carried out when the first application was submitted and when that application was subject to two submissions of additional information submitted under Regulation 22 of the EIA Regs. A press notice has also placed in the Nottingham Post. 125 neighbour notification letters have been sent to the nearest properties in Cossall and Trowell, again mirroring the previous application. It should be noted that the consultation period for the original application was extended and ran for over two months in light of comments from the public at the time that the period allowed for making responses was not long enough. All the above was carried out in accordance with the County Council's adopted Statement of Community Involvement.
192. The site and press notices, along with the neighbour notification letters, made it clear that, given the fact that the nature of the proposed development had not changed from the previous application, all representations made on the previous application would be automatically transferred over to the new application. The details below therefore set out the number and nature of representations received during the three consultation phases on the previous application, in addition to any further representations made on this latest application, all of which have been taken into consideration in the Observation section of this report.



193. In response to the original submission of the previous application, a total of 342 objections were received regarding the application. Of these, 167 were received from residents in Trowell, 53 from Cossall, 17 from Strelley, 16 from Awwsworth, 78 from elsewhere in the county, and 11 from outside the county. Of the 342 objections received, the greatest number of concerns raised regard traffic impacts (245 objections), dust and dirt (219), noise impacts (177), health impacts (164), the impact on the Green Belt (152), and impacts on the countryside (150). Details of all the issues raised, both in total and from individual villages, are set out in Appendix 1 of this report. One letter of support for the scheme was also received.
194. In response to the consultation exercise on the first Regulation 22 submission for the previous application, a further 26 letters of objection were received, 17 of which were from objectors who had not objected previously. Six objections were received from residents in Trowell, five from Cossall and 15 from elsewhere in the county. Again, traffic and dirt/dust were the main concerns and details of all the issues raised on this consultation exercise are set out in Appendix 2 of this report.
195. In response to the consultation exercise on the second Regulation 22 submission for the previous application, 11 letters of objection were received: three from residents in Trowell; one from a resident in Strelley; six from elsewhere in the county and one from outside the county. Again, details of the issues raised are set out in Appendix 3 of this report.
196. A petition containing 95 signatures has been submitted by organisers of Walks for Age UK, stating that the walks they organise would not be possible if the proposed development goes ahead as footpaths would be blocked off, the area would become an eyesore and the Green Belt would be severely affected. It would take many years to return to its present beauty whilst deer from in and around Oldmoor Wood regularly feed on one of the fields proposed for mining.
197. Given that members of the public were informed that any representations made on the previous application would be carried forward over to the new application, only a small number of additional representations have been made on the new application. Five letters of objection have been received (four from residents who have previously objected to the application), while two letters of support has also been received. Concerns have been raised regarding HGVs, including the use of low loaders delivering heavy plant along Cossall Road; the need for any additional coal extraction by opencast methods when power generation is moving towards cleaner, more sustainable options; the impact of the proposals on the site and its surrounding area, being open countryside in the Green Belt; the impact on recreation users in the area; and the impact on the conservation area status of Cossall and Strelley. Details of the issues raised are set out in Appendix 4 of this report. One letter of support welcomes the restoration and aftercare commitments and sees the benefits for future generations, whilst the other, from a member of a liaison committee at one of the applicant's existing sites near Telford, considers that, despite concerns during the planning application process, the on-site team has, overall, done a most professional job. The committee has been impressed with the restoration works carried out so far and have confidence that it shall be completed to a high standard. The

committee member confirms that there were few problems during the operation of the site and that UK Coal listened to any comments made and, where appropriate, took action to address any concerns including banning HGV drivers who did not comply with the rules for the site.

198. *Councillor Ken Rigby has confirmed that he would like his original objection to be carried forward and objects to the application on the grounds of traffic movements on the A609; dust and its effects on health and living standards; vibration and noise from blasting operations with risks of damage to private properties; loss of amenity due to the destruction of the countryside and public rights of way, noting that there is less than a mile of Green Belt between Trowell and the City of Nottingham; adverse effects on wildlife; doubts over the restoration of the site; and concerns regarding the financial viability of the applicant leading to a high risk of the restoration of the site being left uncompleted should the applicant go into liquidation.*
199. *He considers that the devastation for the countryside for the development period plus a loss of community amenity far outweighs the need for the coal which would only keep a power station going for 60 days. Should the application be approved, a £2 million bond should be put in place to cover any restoration works required should the applicant company go bankrupt. In addition to this, the community fund should be a minimum of £300,000 to compensate Trowell, Cossall, Awsworth and Kimberley from potentially seven years of disruption. The community fund should include a substantial donation towards a new village hall for Trowell and a suitable donation towards an extension to Cossall Community Hall.*
200. *Councillor Philip Owen has confirmed that he would like his original objection to be carried forward and objects to the application due to the increase in HGVs using already congested roads through Nuthall, particularly Nuthall roundabout. An objection is also raised regarding dust from the extraction and loading of coal which prevailing winds would result in adverse impacts to his constituents. Finally, the proposed development is out of keeping with a Green Belt location with the open aspect of the Green Belt being severely compromised.*
201. *Broxtowe Borough Councillor Richard Robinson objects to the application as it would be an inappropriate use of Green Belt land; would result in long term sustainability losses such as woodland; nature and walks; impacts on the residents of Cossall and Trowell from noise and HGVs; health effects from fumes and dust; and little extra economic benefit for the area as few new jobs would be created.*
202. *Anna Soubry MP highlights concerns raised by constituents regarding dust and pollution during the preparation of the site, during the extraction of coal and fireclay, and during the restoration works, concerns which would be exacerbated by the close proximity of the M1. The proposed development would pollute constituents' homes, property and gardens and affect their health whilst there would also be noise pollution, again exacerbated by the close proximity of the M1. Alongside the air quality assessments undertaken by the applicant, an independent health impact assessment should be produced to accurately*

*forecast the impact of this proposal on constituents' health, a precedent for this having been set in previous opencast mining applications made in the UK.*

203. *The HGVs in the area would have a significant impact on noise levels in the area. Residents in Trowell already experience significant levels of noise pollution from the M1 which dissects the parish. Any additional noise from the proposed development would become a 'tipping point' in making noise pollution in both Trowell and Cossall intolerable.*
204. *Concerns are also raised regarding the added vehicles (HGVs and workers travelling to and from the site) on already unacceptably congested roads, notably around Nuthall roundabout and all roads that meet it. The applicant's assertion that the proposed development would have little effect on the traffic on the roads surrounding the site is not recognised by the MP's and her constituents' experiences. The roads that would be used by HGVs, especially the A609 across Trowell Moor, are often gridlocked at peak times, a situation that would only get worse if the application is granted planning permission.*
205. *Whilst the national rules for mineral extraction, as outlined in the NPPF, are appreciated, concerns are also raised about the impact of the proposal on those people who know, use, enjoy, value and love the application site. Broxtowe is the most densely populated borough in the East Midlands so green open spaces are important and valued by residents and visitors to the area with the area being used for walking, horse riding and exercising pets. The application area would be lost for many years and it is difficult to believe it can ever be fully restored. The site would be close to the homes of many people and is on Green Belt land.*
206. *The application should be rejected and any subsequent appeal resisted.*
207. *Given the financial pressures that UK Coal is under, it is questioned whether it could commit to pay the £150,000 being offered into the community fund. The County Council should continue discussions with UK Coal to ensure that any money promised under the application is put under Trust.*
208. *Shortwood Farm Opencast Opposition (SOCO) considers that the ecological mitigation proposed would not be sufficient to protect wildlife, botanical species and wildlife corridors, some of which are nationally red listed and of conservation concern. There are concerns that the proposed development could damage the hydrology and fresh water run-off in the area which largely contributes to the health of the River Erewash which sustains nationally distinct red listed wildlife species. There are also concerns that plans to release water into existing watercourses could increase instances of flooding which are already occurring.*
209. *SOCO considers that the site contains mining heritage which dates back to the bronze and iron ages and, given that this is some of the earliest industrial heritage, it should be nationally protected. They also have evidence of one of the country's first ever forms of coal railed transport, the first arable clearings, along with cave dwellings, ancient and Roman trackways and boundary markers, ancient healing wells, ancient calendar stones, ancient pagan and British ritual monuments, Roman and bronze age settlements/forts, ancient*

smelting and quarrying, and the oldest archaeology listed in Nottingham's collection of finds. It is considered that the East Midlands is nationally recognised as being the earliest area of the country for human settlement with more prehistoric settlements in the Trent Basin than in the whole of Wessex. The proposed development would destroy this heritage and archaeology and this industrial heritage has not been investigated by the applicant.

210. SOCO also has concerns regarding damage caused by UK Coal to the water table and sandstone geology in the Sherwood Forest area leading to dramatic and irreversible change to some of this area's ecology. The proposed development would lead to dramatic changes to residents' views, access, and the topography of the area. There are concerns that an application to extend the site could be made in the future, given UK Coal's track record. This would lead to a much larger blot on the area's rich heritage and ecological landscape. This would also lead to mining for a longer period of time making all the original planning application modelling and calculations nonsense. A greener, cleaner and longer term method of contributing to the national grid should be considered by UK Coal which would be more sustainable, pose little or no health threat to the surrounding population and ecology and would contribute towards local and national commitments for cleaner renewable energy and reduce carbon footprint.
211. There are concerns about the net accumulative effect of congestion from this application and others in the area such as the Stanton by Dale and Field Farm housing developments which SOCO considers would put an approximate additional 4,425 vehicles onto already heavily congested roads. In addition to this, heavy, slow UK Coal vehicles would result in additional pressure on roads.
212. The proposals would produce lethally large amounts of diesel emissions which when combined with the same lethal emissions from the motorway, local road structure and overhead planes from East Midlands Airport pose a great health risk to local residents. UK Coal's application would add to this lethal cocktail of particulate dust at a size of one micron or less and there is irrefutable evidence that this size of airborne particulate, once inhaled, cannot be coughed out. This causes lethal medical conditions such as pneumoconiosis, silicosis, asthma and other lung related diseases which has also been evidenced to have the fastest and most damaging effect on the smallest mammalian lung capacities, such as children, infants and wildlife. This would affect local residents, UK Coal employees and any auxiliary visiting staff.
213. SOCO has quoted some officers, within and outside the County Council, which it considers highlights the importance of the area from an ecological and archaeological point of view and the potential for areas of interest to have been overlooked in the past.
214. SOCO has made a further response following the resubmission of the application. Regarding highways impacts, SOCO considers that the Highways Agency is controlling the flow of traffic at junctions leading onto the A52 in order to reduce congestion on that road but to the detriment of other local roads. The resulting problems would be further exacerbated by unprecedented levels of development in the area and the ongoing construction work required for HS2,

*matters which should be considered. The impacts on the local roads are already being felt on the A609 where traffic heading towards the Balloon Wood junction can queue back to the Festival Inn at Trowell. Other roads such as Cossall Road are used as shortcuts and problems on these roads would only get worse if the application is approved.*

215. *SOCO considers that the proposed site access off the A609 and the nature of the winding road in this area is totally unsuitable for the purpose of large HGVs turning both in and out of the site as they would take up the entire road. The access point is sited just after a 60 mile an hour national speed limit road in a 40 mile an hour restricted zone and before a 30 mile an hour restricted zone with extremely limited vision and is an accident waiting to happen. Consideration should be given to a temporary traffic light system or a suitable alternative such as direct access onto the M1 motorway. It is also understood that HGVs could use lay bays on Bilborough Road to avoid congestion.*
216. *SOCO considers that an increase in congestion would lead to an increase in accidents due to motorists getting tired and impatient and attempting to find alternative routes through either Trowell or Cossall, thus putting those residents at an increased risk of being involved in or witnessing a serious accident. There is a school patrol point outside Trowell pre-school on the A609 intended for the use of Trowell primary school children. There is no other pedestrian crossing or safe way for children and other residents to cross this busy main road safely. In addition, roads in Trowell and Cossall are used by horse riders and increased traffic is a risk in terms of accidents and pollution.*
217. *SOCO considers that Natural England's assessment of the application on the Robbinetts SSSI is unfounded as any changes in hydrogeology in addition to pollution from opencast mining could have a serious impact of what has been quoted as "some of the best acidic grass and heathland in the county". Natural England, in addition to the Nottinghamshire Biological and Geological Record Centre (NBGRC), does not have a complete flora and fauna listing for the local area and when asked why a Regional Head at Natural England quoted "a lack of resource" as an excuse. In addition, no reference is made to the damaging effects that dust and nano particulates have on both plants and animals. This lack of data has affected the quality of their response as a statutory consultee. The consultation response from the Woodland Trust clearly shows the devastating impact of dust.*
218. *SOCO considers the ecology section of the ES to be flawed as the timings of floral surveys did not coincide with the emergence of a number of species whilst any approach by the applicant to the NBGRC for information on flora and fauna would have produced incomplete results, as highlighted above. A spokesman for NBGRC quotes that this area is "well overdue a phase I and II ecological survey". Any data collected from the Greater Nottingham Landscape Character Assessment would have borne no resemblance to the local area. SOCO has spoken to the company which carried out the EIA for the landscape character assessment and they have confirmed that the area was not assessed. It is also considered that fauna surveys should have been carried out for a longer period. The small, struggling local population of barn owls would be affected by the proposed development as a result of noise and loss of habitat. An independent*

*ecological survey should be carried out to accurately record the area's flora and fauna.*

- 219. In addition to the SSSI, there are numerous local nature reserves in the area in addition to conservation areas. Any drop in the water table would have impacts on trees in the area. Previously opencast areas are barren whereas before they contained extensive heritage trees and hedgerows. SOCO considers that conservation schemes which are often delivered as mitigation to development are not preventing the decline in UK species.*
- 220. The area is popular for walking, cycling, running and observing wildlife. The site would lose its visual beauty and would be impossible to restore back to the way it is now. It is also not known how the hole created by the proposed development would be infilled.*
- 221. Trees on site are vital for roosting bats and nesting birds and the various impacts of the proposed development would affect the use of these trees by these species in addition to compromising the health and structure of the trees themselves. It is considered that the introduction of bat boxes would not be sufficient mitigation. Attempts to mitigate the impacts on other species would also not work.*
- 222. SOCO has concerns regarding the proposed development on hydrogeology due to the sandstone aquifer. Mining would disturb natural underground water flows and impact upon biodiversity, habitats, residents' health and damage to private property. The Nottingham Canal could also be polluted by water discharged from the site and there is the potential for flooding in the area. Underground water flows should be investigated and a surface topology survey should be carried out. A Water Framework Directive assessment should also be undertaken to assess water quality. There are also concerns that evidence of problems caused to Sherwood Forest as a result of mining could be replicated.*
- 223. Regarding archaeology, SOCO considers that further work should be undertaken prior to the determination of the application. The application area includes a small area of ancient bell pit mining which should be investigated further with the possibility of scheduled protection for any evidence found. A 13<sup>th</sup> Century lead mine is listed on English Heritage's website in the Shortwood area but there is no reference to it in the planning application. SOCO considers that this should be protected. Cossall and Trowell churches are both built over pre-existing Iron Age and Bronze Age sites which shows the rich heritage of the area which has not been investigated. The heritage assets of the Erewash Valley should also be investigated, highlighted and protecting.*
- 224. SOCO also has concerns regarding pollution as HGVs would not only pass houses on the A609 but also when passing the area on the M1. Geological contaminants such as methane, radon, contaminated water and CO<sub>2</sub> could also be released by the proposed mining. Dust would also affect wildlife, humans and habitats, in particular those with the smallest lung capacity such as local children and wildlife, causing a whole host of illnesses, some of which could be fatal. A health impact assessment should be carried out, particularly given the close proximity of the M1. The cumulative impact of the proposed development*

and the mass house building in the area need to be taken into account. In addition, there is already air pollution from air traffic, a diesel railway line and local businesses. The dust assessments in the ES are flawed as they were carried out at a high point in Cossall rather than low points in Trowell and the timings were flawed. SOCO is aware that other noise assessments have been carried out in the area for the HS2 project and these should be compared to those carried out by the applicant. There are also concerns regarding dust from fireclay stored on site.

225. SOCO is concerned about UK Coal's ability to fulfil their restoration commitments given their recent restructuring. In addition, now that the Strawson Group has purchased the site, they are ultimately legally responsible for any restoration requirements. A legal bond should be provided to ensure the site is restored. SOCO would also like to know what would happen to the site in the long term and whether any guarantees could be offered as to how long the land would be left should the application proceed. SOCO is concerned about the future use of the site once the mining is completed. There have been rumours of extra motorway junctions, and housing developments. The site should retain its Green Belt status.
226. SOCO considers the assessment of the application does not come up to best practice with consultee responses being inadequate or non-existent. SOCO has spoken to the Coal Authority which has stated that the price of imported coal is at an all-time low due to the use of greener methods of producing electricity. The UK should take advantage of these cheap imports rather than mine its own coal.
227. SOCO considers that the community fund falls well below equivalent projects. Members of the community have been asked what they would like to see the community fund used for and projects at local churches, Trowell pre-school, Trowell Primary School, Cossall Church Hall, and heritage buildings in Cossall and Trowell have been identified. The purchase or gift of a piece of land for community use is also highlighted as such a piece of land would then be community owned and could not be developed in the future. A committee should be set up to make these decisions and at least one member of SOCO should be represented at the committee.
228. The Loose Anti Opencast Network (LAON) has submitted an objection which is largely the same as an individual letter of objection submitted previously by the group's co-ordinator. The co-ordinator states that LAON links groups and persons opposed to opencast mining across the UK.
229. The objection states that the coal produced at the site could easily be imported and would not have the environmental impacts that the proposed scheme would have. Ports in the country have the necessary infrastructure to deal with large imports of coal with Immingham able to deal with cargoes of up to 130,000 tonnes. The proposed development is therefore the equivalent of just ten shiploads of coal.
230. LAON considers that the power generators in this country have a degree of flexibility in terms of how they produce electricity and can easily switch from one

energy source (coal, gas, biomass) to another. Recent changes to the world price for coal, which has dropped on account of cheaper shale gas, makes it difficult to predict the future need for coal. European legislation aimed at reducing pollution is reducing the amount of coal being burnt.

231. LAON quotes a Department for Energy and Climate Change (DECC) document called 'Biomass, Electricity and Combined Heat and Power Plants' which promotes biomass energy whilst removing coal from the UK power generation mix. LAON considers it to be official Government policy to phase out the use of coal for power generation purposes and details a DECC table which shows a fall in the use of coal for power generation from 40.57 million tonnes in 2011 to 1.36 million tonnes in 2030. LAON considers that the coal from the application site would only be sufficient for keep Ratcliffe on Soar power station in operation for 66 days.
232. LAON concludes by stating that claims made by the applicant about the importance of coal in producing energy in the UK have to be tempered by coal's future prospects. Unless quick and significant breakthroughs are made in developing commercial carbon capture technology, demand for coal will fall by a third between now and 2017. It is therefore questioned whether it is necessary to develop the application site for such a marginal coal resource.
233. Cossall Robbinetts Action Group (CRAG) objects to the application as it is considered to be inconsistent with the Minerals Local Plan. It is close to a residential area in Trowell and, with no effective buffer zone, residents would be subjected to constant noise and air pollution and the movement of heavy plant to and from the site. There is also the potential for pollution of the Nottingham Canal which is an official local nature reserve. The use of the proposed access off the A609 by coal lorries constitutes a potential for congestion and accidents.
234. The D H Lawrence Society has confirmed that they would like their original representation to be carried forward and has no objection to the application.
235. The Unite Union supports the application given the jobs that would be created for plant operatives, engineers, clerical support workers and apprenticeships. The proposed development would also assist the supply chain and the local economy.
236. Notts Against New Coal has disbanded since the application was submitted and has not commented on the application.
237. All the issues raised are considered in the Observations Section of this report.

## Observations

### Comparison between this application and those submitted previously in and around the site

238. As set out in the 'Planning History' section above (see paragraphs 20 – 24 above), land in and around the application site has been the subject of planning



applications for opencast coal extraction before. In 1993, two applications were submitted with the site being called Robbinetts (see plan 8): one to extract 3.5 million tonnes of coal over a ten year period and the second to extract 2.5 million tonnes over a six year period. Both these applications were refused by the County Council, decisions which were appealed but the appeals were withdrawn when the coal industry was privatised. A further application was submitted in 1996 to extract 1.8 million tonnes of coal over a 5½ year period from the Shortwood Farm site (see Plan 9) and again this application was refused. An appeal was lodged and the Secretary of State overturned the refusal. However, that decision was challenged in the High Court and the Secretary of State's decision was quashed.

239. In addition to the different site areas and amounts of coal that were proposed to be extracted in these applications, there are a number of other key differences between these and the application under consideration in this report. These are summarised in Table 3 below. For confirmation, the 1993 application to extract 3.5 million tonnes of coal is called 'Robbinetts A' while the application to extract 2.5 million tonnes is called 'Robbinetts B'.

<b>Table 3 – Comparison Between Present and Former Applications</b>				
<b>Application</b>	<b>2013 Shortwood</b>	<b>1996 Shortwood Farm</b>	<b>1993 Robbinetts A</b>	<b>1993 Robbinetts B</b>
<b>Application site area</b>	130.6 hectares	151 hectares	191 hectares	191 hectares
<b>Excavation area</b>	55.9 hectares	66 hectares	120.7 hectares	88.7 hectares
<b>Quantity of mineral to be extracted</b>	1.275 million tonnes of coal/250,000 tonnes of fireclay	1.8 million tonnes of coal	3.5 million tonnes of coal	2.5 million tonnes of coal
<b>Timescales of coal extraction</b>	4 years, 9 months	5 years, 6 months	10 years	6 years
<b>Method of transportation of coal</b>	By road (A609/A6002/A610/M1)	Pipe line conveyor to Bennerley disposal point, then by road	Pipe line conveyor to Bennerley disposal point, then by road	Pipe line conveyor to Bennerley disposal point, then by road
<b>Maximum size of overburden mounds</b>	25 metres	27 metres	25 metres	35 metres
<b>Loss of</b>	None	None	Shortwood Farm, Field	Shortwood

<b>buildings</b>			House, Field House Bungalow	Farm
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240. As can be seen from the above, there are some significant differences between the applications, particularly with respect to site and excavation areas, the amount of coal to be excavated, and the timescales for the proposals. In addition to this, the applications differ in terms of how they would be worked, where soil and overburden mounds would be located and the proposed restoration. So while there is a general similarity between the application under consideration in this report and those previously submitted (i.e. they all involve the extraction of significant quantities of coal on land between Cossall and Trowell), there are significant differences which confirm that the existing application should be considered on its own planning merits. It is also worth highlighting that present planning policies in the Nottinghamshire Minerals Local Plan (MLP) were not in place when the previous applications were being considered and there is also a raft of national planning guidance which was not in place previously, most importantly the NPPF.
241. Table 3 also confirms that there are additional coal resources in the immediate area which are not proposed for extraction as part of this application and concerns have been raised by Trowell Parish Council and some Members at the site visits about the potential for further extensions to the application site, particularly given the extension that is presently being worked at the applicant's site at Lodge House, Smalley. Whilst this is clearly a concern, Members are required to consider the application before them, not any potential future application that might or might not materialise. What can be confirmed is that, since the original application for this proposed development was submitted, UK Coal has sold the application site and adjoining land. Therefore, any application it might consider making for an extension would be less likely than when it did own adjacent land given that it would require the agreement of a third party.

#### Planning policy/guidance considerations

242. Prior to considering specific policies and guidance relating to the extraction of coal, it is worth noting that the NPPF, a key material consideration in the determination of planning applications, states that “minerals are essential to support sustainable economic growth and our quality of life”. When determining planning applications, mineral planning authorities should “give great weight to the benefits of the mineral extraction, including to the economy”. However, planning authorities should “ensure, in granting planning permission for mineral development, that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety” and “ensure that any unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source, and establish appropriate noise limits for extraction in proximity to noise sensitive properties”.
243. There are three key policies in the MLP relating to opencast coal development which are relevant to this application. Policy M12.1 (Coal Development) states:

*Planning permission will not be granted for opencast or deep mine coal extraction, or colliery disposal unless the proposal:*

- (a) Is environmentally acceptable, or can be made so by planning conditions or obligations; or*
- (b) Where the proposal is not and cannot be made environmentally acceptable the local and community benefits that are provided clearly outweigh the likely impacts;*
- (c) Where proposals occur within the Green Belt they will be tested against the highest environmental standards and, if planning permission is granted, stringent conditions will be imposed to ensure that the site is well operated and restored to the highest standards.*

244. Guidance in the NPPF on the extraction of coal broadly mirrors Policy M12.1 by stating that:

*Permission should not be given for the extraction of coal unless the proposal is environmentally acceptable, or can be made so by planning conditions or obligations; or if not, it provides national, local or community benefits which clearly outweigh the likely impacts to justify the grant of planning permission.*

245. An assessment of the application against Policy M12.1, and therefore the guidance in the NPPF, can only be made by assessing all the potential environmental impacts associated with the proposed development, such as noise, dust, traffic impacts etc. Only then can it be determined whether the proposal is environmentally acceptable, can be made so through the provision of conditions or obligations, or whether local and community benefits are provided which outweigh the likely impacts. There is a range of policies in chapter 3 of the MLP which consider these various issues and against which the proposed development needs to be tested to ascertain its overall environmental impact. There is also guidance regarding minerals development and issues such as noise, dust and restoration in the NPPF Technical Guidance.
246. The site is located in the Green Belt, a matter highlighted by a significant number of objectors, and Policy M12.1 is more demanding insofar as the proposal has to be tested against the 'highest environmental standards', although no definition is given in either the policy or the supporting text as to precisely what these 'highest environmental standards' are. Similarly, the 'highest standards' of site operation and restoration required in the Green Belt are not defined, although such phrases seem to be derived from Government guidance in Planning Policy Guidance Note 2: Green Belts which has since been replaced by the NPPF.
247. Broxtowe's Local Plan considers Green Belts and identifies mineral extraction as being appropriate in the Green Belt, again subject to high environmental standards and a high standard of restoration (Policy E8). Policy E9 further states that:

*Development in the Green Belt which is considered appropriate in accordance with the provisions of Policy E8, and development which is outside the Green Belt but conspicuous from within it, will not be permitted if the development, by reason of its siting, design or materials, would harm the open character in the former case or visual amenities of the Green Belt in both cases.*

248. Finally, Policy E10 of the Broxtowe Local Plan state:

*Within the context set by policies E8 and E9, planning permission will be granted for uses of land in the Green Belt which provide opportunities for access to the open countryside, or for outdoor sport and recreation, and retain or enhance the attractiveness of landscapes and secure nature conservation interests.*

249. The NPPF (paragraph 90) states that mineral extraction is not inappropriate development in the Green Belt, provided the openness of the Green Belt is preserved and the development does not conflict with the purposes of including land in the Green Belt. Regarding the impact on the openness of the Green Belt, this is considered in detail in the landscape observations below (see paragraph 264 – 290), although it is worth noting at this point that the NPPF states (paragraph 79) that “the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open”.

250. The NPPF (paragraph 80) sets out five purposes which Green Belts serve, three of which are to check the unrestricted sprawl of large built-up areas, to prevent neighbouring towns merging into one another, and to assist in safeguarding the countryside from encroachment. Concerns have been raised by objectors and SOCO that permitting the extraction of coal opens the door to the development of the site in the future for other development, specifically housing. Members are likely to be aware of a recent application for around 450 houses on Green Belt land at Field Farm, Trowell, approximately 1.5 kilometres south of the Shortwood site which Broxtowe Borough Council resolved to grant planning permission for in April 2013 but which the Secretary of State has called in for a public inquiry due to take place in early 2014. There are concerns that a precedent could be set in the area for housing on Green Belt land and these concerns have been heightened by the fact that UK Coal has sold the Shortwood site to another company, Strawson Group Investments Limited, since submitting the application although UK Coal has retained the right to work the site in accordance with this application. Concerns have also been raised that the site could be utilised as part of the HS2 proposals, although initial plans released by the Department for Transport only show the route passing through the section of the site to the east of the motorway where the haul road would link with the A609, rather than through the main part of the site to the west of the motorway (see Plan 1).

251. This proposal seeks to restore the site to a mixture of agriculture, woodland, nature conservation and public rights of way (see paragraphs 48 – 56 above for details). Should planning permission be granted, conditions would be attached to the planning permission requiring the site to be restored as proposed. The presence of such conditions, in addition to the temporary nature of the proposal,

means that the site would not be removed from the Green Belt either during or after the development and the site would not be suddenly classed as 'brownfield'. Whilst the NPPF describes 'brownfield' land as land that has been previously developed, this issue was considered at the public inquiry into the construction and operation of an Energy Recovery Facility at the former Rufford Colliery site. The Inspector's report states that "the application site is .... on land which (because of the restoration conditions attached to the current permission) cannot be regarded as brownfield." That 'current permission' was also a temporary minerals permission.

252. Therefore, any proposals that the new owners of the site might have regarding the future development of the site are not a consideration in the determination of this application and it should be noted that the County Council is not aware of any such proposals for the site. Any application to develop the site for housing or any other built development would be considered by Broxtowe Borough Council on the basis that the site is in the Green Belt and is a 'greenfield' site.
253. A 4.4 hectare section of the Cossall Mature Landscape Area (MLA) falls within the application area close to Cossall Bridleway Number 16 and Trowell Bridleway Number 14. MLAs are identified as 'opencast coal constraint areas' and Policy M12.7 (Opencast Coal Constraint Areas) states:

*Planning permission will not be granted for opencast coal extraction within areas defined as 'opencast constraint areas' on the proposals map, unless the proposal meets the requirements of Policy M12.1.*

254. Whilst MLAs appear to have been singled out for additional protection, Policy M12.7 does not actually provide any additional protection over and above what is in Policy M12.1, given that it does not allow development "unless the proposal meets the requirements of Policy M12.1". It is therefore considered that this part of the site should be tested to the same degree as the rest of the site and as set out in Policy M12.1. Further consideration of the impact of the proposed development on this section of MLA is detailed in the landscape observations below.
255. Finally, the proposed development includes the extraction of 250,000 tonnes of fireclay. Policy M12.8 states:

*Where proposals for opencast coal extraction are acceptable the recovery of fireclays and other incidental minerals will be granted where this does not result in any unacceptable environmental impact.*

256. The supporting text of the MLP confirms that fireclay has a relatively restricted geological occurrence and is only found below coal seams. Extracting this mineral as part of the development would avoid its sterilisation and would make the proposed development more sustainable. There is therefore policy support for the extraction of this fireclay, subject to the development as a whole being environmentally acceptable. The NPPF has a similar stance in stating that planning authorities "should provide for coal producers to extract separately, and if necessary stockpile, fireclay so that it remains available for use".

#### Need for the coal from the site

257. The NPPF does not require the need for the coal within the site to be demonstrated in the planning application process, a stance which reflects previous Government planning guidance on energy minerals such as coal and oil. However, concerns have been raised by some objectors and parish councils that the amount of coal proposed to be extracted, and in particular the time it would take a power station to burn that amount of coal, does not justify the disruption that would be caused by the proposed development for around five years. A number of objectors have stated that the coal that would be extracted would only be sufficient for six weeks power generation at Ratcliffe on Soar Power Station, the intended destination of the coal should planning permission be granted. Others have suggested that the coal would serve the power station for around 60 – 70 days. LAON considers that the amount of coal proposed for extraction is the equivalent of just ten shiploads of imported coal.
258. E-On, the company which operates this power station, has been contacted and has confirmed that, in present market conditions, approximately four million tonnes of coal are burnt at the power station per annum. The 1.275 million tonnes of coal proposed to be extracted from Shortwood would therefore provide sufficient coal for the power station for around 16 weeks of energy production in present market conditions. Whilst this is a relatively short period of time compared to the timescale of the proposed development, it does serve to highlight the amount of coal that is burnt at major coal fired power stations, coal which is increasingly being imported in volatile international market conditions rather than being sourced in the UK.
259. In July 2011, the Department for Energy and Climate Change (DECC) published 'Planning our Electric Future: a White Paper for Secure, Affordable and Low Carbon Electricity' which "sets out the Government's commitment to transform the UK's electricity system to ensure that our future electricity supply is secure, low-carbon and affordable". The White Paper has yet to become law but it does clearly set out the Government's objective to reduce carbon emissions in the electricity generating process. This would not necessarily mean a reduction in the amount of coal burnt in order to generate electricity but would require a change in the way it is burnt in order to reduce carbon emissions. The White Paper confirms this by stating that "new capacity will include renewables, carbon capture and storage (CCS) on gas and coal and new nuclear stations". However, there is also confirmation that bringing this new capacity on line is going to take time and that "fossil fuels without CCS, especially gas, will also continue to have a key role to play in the coming years".
260. The White Paper also sees the decarbonisation of electricity generation as "making our electricity supply more secure by encouraging a diverse range of new generation capacity and reducing our reliance on energy imports". Although the proposed development at Shortwood would not address the drive towards decarbonisation of electricity generation, as the coal extracted would be sent to a power station without CCS technology, it would contribute towards reducing coal imports.

261. The DECC Overarching National Policy Statement for Energy (EN-1), published in July 2011, also recognises the continuing importance of fossil fuels, in the short to medium term at least, by stating that “the UK economy is reliant on fossil fuels, and they are likely to play a significant role for some time to come”. However, it does recognise the need for the UK “to wean itself off such a high carbon energy mix: to reduce greenhouse gas emissions, and to improve the security, availability and affordability of energy through diversification” and “therefore reduce over time its dependence on fossil fuels, particularly unabated combustion”.
262. To put the contribution of the proposed site into context, in 2012, the last year for which the DECC has published figures, the UK produced 17 million tonnes of coal: 6 million tonnes from deep mines and 11 million tonnes from opencast sites. A further 45 million tonnes of coal was imported. Over the last ten years, domestic opencast production has averaged around 9 million tonnes per annum from sites totalling between 26 in 2009 and 41 in 2004. With the Shortwood site proposing to extract around 270,000 tonnes per annum, this would equate to around 3% of average annual production from opencast sites over the last ten years. Whilst this seems a relatively small amount, this could probably be said for all individual sites, but together they make a significant contribution to the coal that is consumed in this country every year and reduce the already significant amount of coal that has to be imported to ensure continued electricity generation. Whilst comments from LAON regarding the phasing out of coal use are noted, this phasing out is over a considerable period of time during which there will continue to be a need for coal. The timeframe for phasing out coal’s use which LAON refers to (up to 2030) extends way beyond the timeframe for the proposed development.
263. In addition to reducing the amount of coal that needs to be imported into the country, the proposed development would bring other economic benefits such as the anticipated 56 jobs that would be created directly at the site. Of these, the applicant has stated that four apprentices would be recruited locally and trained up at their existing Lodge House site, should planning permission be in place in time. The applicant is committed to recruiting these apprentices to the extent that it is prepared to see this matter form part of the legal agreement attached to any planning permission granted. What also needs to be considered is that, in addition to the above level of employment, there would be other indirect employment opportunities for hauliers, contractors, maintenance workers and other support services. Members need to consider the economic benefits of the scheme against the environmental and amenity impacts considered below.

#### Landscape and visual impact

264. Policy M3.3 seeks to reduce the visual impact of minerals developments to acceptable levels by controlling the location, colour and height of any plant, buildings and structures on site. Policy M3.4 seeks to reduce visual impact through the screening and landscaping of minerals developments. Policy M3.22 of the MLP requires landscape character and local distinctiveness to be fully taken into consideration as part of development proposals and does not allow for

development which adversely impacts the character and distinctiveness of the landscape unless there are reasons of overriding public interest and where ameliorative measures can reduce the impact to acceptable levels. Policy M3.23 does not allow for minerals development which is likely to cause harm to a MLA unless there are reasons of overriding public interest or where ameliorative measures and opportunities for enhancement can reduce the impact to acceptable levels. Significant levels of local concern have been raised about the impact the proposed development would have on the local landscape.

265. The application site falls within the Derbyshire and Nottinghamshire Coalfields County Landscape Character Area and within that area, the Babbington Rolling Farmland Landscape Policy Zone. This character area and policy zone form part of the County Council's updated Landscape Character Assessment. The zone covers an area of around 1,500 hectares extending from Trowell in the south to the southern edge of Eastwood in the north and has a predominately rural character. It is characterised by a varied landform with areas of strongly undulating to gently rolling landscape; a number of small brooks and ditches which drain towards the Nottingham Canal and River Erewash; medium sized arable fields, generally bounded by well maintained hedgerows, with evidence of historic field patterns around Cossall; smaller pasture and grazing fields around Cossall and Babbington; blocks of woodland, smaller copses and a high number of hedgerows and hedgerow trees; a network of narrow winding lanes; settlements such as Cossall which have retained their original rural settlement pattern with distinctive centres, brick built farmsteads and traditional churches; largely undeveloped rolling farmland characterised by large isolated farmsteads across the centre of the zone; long open views over the rolling landscape to wooded horizons with views to the west across the Erewash valley towards Ilkeston; and the motorway which cuts across the character area.
266. The condition of the landscape is considered to be moderate with modern agricultural practices resulting in the loss of some landscape features such as hedgerows. However, the landscape character is considered to be strong with the canal, areas of historic woodland and the rural settlements of Cossall and Babbington being strong features and the agricultural landscape being a common feature.
267. The assessment of this policy zone has identified a number of actions which could strengthen the condition and character of the zone. These include the conservation and enhancement of the historic woodland areas; replacing lost hedgerows and planting new hedgerow trees; enhanced screening of the motorway and minimising the effect of any further widening of the motorway by small scale planting of woodlands; conserving areas of old enclosure such as those around Cossall; and retaining or creating traditional smaller pastoral fields close to settlements.
268. It is clear that the proposed development would have an impact on the local landscape fabric and the County Council's Landscape Officer considers that the significance of this impact during the working phase would be a moderate to substantial adverse effect. However, the Landscape Officer has highlighted that this impact would only be temporary, for five years and seven months, although



for some residential receptors and recreational users this would be a sustained period of time which should not be overlooked.

269. Prior to any coal extraction taking place, there would be landscape impacts that would not be replaced to the same degree of maturity upon the restoration of the site with the removal of a number of trees, including mature trees, and significant lengths of hedgerows. A tree survey has been undertaken as part of the ES which has identified 95 mature trees in the study area, of which 88 are within the application area. Of these 88, 11 have been identified as being veteran trees with one, close to the site access off the A609, being identified as ancient due to its exceptional girth. The proposed development would result in the loss of ten mature and one veteran tree, a large English Oak towards the western boundary of the site south of Field House Farm. It is close to this tree that six mature trees would be felled, with the other four to the east of the site north of Shortwood Farm.
270. The proposed method of working has been designed to retain as many of these trees as possible and close examination of the working plans shows how the locations of soil and overburden mounds, the working void, and the processing area have been set out so that such trees can be retained wherever possible. This includes a break in the topsoil mound running along the western boundary of the site adjacent to Cossall Road in order to retain one particular mature tree, which has the third largest girth of all trees on the site, which it was originally proposed to remove. It is considered that the retention of the majority of mature trees on site would also be beneficial to the restoration of the site and, in combination with the retained hedgerows, would bring some instant maturity to the periphery of the site once it is restored. It is therefore considered that the proposed development accords with Policy M3.4 of the MLP which supports the retention of existing features of interest and value for screening, in addition to their contribution to the reclamation of the site.
271. The veteran tree that would be removed has been assessed by the applicant in terms of its suitability for translocation, something which the applicant has carried out successfully with mature trees on other sites. The ES states that the tree is badly damaged due to a lightning strike which has left much of the trunk dead resulting in an uneven canopy spread. Any translocation would likely require works to reduce the canopy which would remove much of the tree's veteran characteristics.
272. The County Council's Nature Conservation Officer considers that the retention of the additional mature tree adjacent to Cossall Road, in addition to the retention of the felled veteran tree as dead wood, with it being laid adjacent to a hedgerow on site, provides reasonable mitigation for the loss of this veteran tree. The laying of this and other felled trees on site would provide good habitat for invertebrates which would be beneficial to birds and bats.
273. The proposed development would also result in the loss of 4,380 metres of hedgerows on the site, out of a total length of around 8,935 metres within the application area. Within the hedgerow network, there are six hedgerows with a total length of 1,535 metres which have been assessed as being 'important' under the Hedgerow Regulations 1997. Six of these are designated on account

of the high density of native woody species they support along with other features such as hedgerow trees, ditches and connections to other ecological features such as other hedgerows, woods or ponds. The other hedgerow meets the 'important' criteria as it supports common lizard. They are all located on the site boundary with the exception of one towards the north western boundary which starts on the site boundary and heads approximately 200 metres into the site.

274. All of these important hedgerows would be retained as part of the proposed development and a condition is proposed which would require them to be managed to increase their size, which would be of benefit from both a landscape and screening point of view in accordance with Policy M3.4 of the MLP. The majority of hedgerows that would be lost would be on the western side of the site with two sections on the eastern side of the site also being removed. The impact of these losses would be noticeable upon the restoration of the site when the western side of the site would look significantly different to how it does now, bearing a greater resemblance to the central plateau of the site where there are few field boundary hedges. This would remain the case until the hedgerow planting proposed – approximately 9,000 metres in length with over 100 hedgerow trees – has matured. It is accepted that it would take a significant period of time for the benefits of this planting to be fully realised.
275. Once coal extraction commences, the main landscape and visual impacts would result from the three overburden mounds on the site: one to the south of the site to the immediate north of the coal processing/site offices area; one on the eastern side of the site; and the other in the north eastern corner of the site. These mounds would be up to 25 metres in height, even though the phasing plans submitted indicate a height difference of 34 metres between the edge of one of the mounds and its highest point. This mound would be created on ground which already slopes but it would be no more than 25 metres above existing ground level at any given point.
276. In addition to the overburden mounds, there would be four subsoil mounds up to eight metres in height and three topsoil mounds up to five metres in height close to the perimeter of the site. Whilst these soil and overburden mounds would help to screen views into the site, they would be very visible structures, particularly the overburden mounds. In addition to this, they would have an impact on the openness of this Green Belt location, although this would only be for a temporary period.
277. The site would also be noticeable due to the coal processing and stocking area, although views of this would be mainly restricted to traffic on the motorway given its location towards the south of the site and a topsoil mound on the southern boundary of the site which would help screen views from properties in Trowell on Nottingham Road, Cossall Road and Ellesmere Drive. Precise details of the plant to be installed could be secured through a suitably worded condition and a condition could also require the plant to be maintained throughout the life of the development, given the site's sensitive Green Belt location. These matters would be in accordance with Policy M3.3 of the MLP.

278. It is proposed to construct the outer faces of the overburden mounds first so vehicle movements associated with the construction of the remainder of the mounds are hidden as much as possible. It is also proposed to seed the mounds to give them a grass covering in the intervening period between construction and excavation. Contour details have also been provided which show that the overburden mounds would be constructed in a manner which would partly remove their engineered look by rounding off their corners. Whilst being constructed or re-excavated, in conjunction with the other visible aspects of the proposed development, it is considered that their impact on the landscape from certain viewpoints would be moderate to substantial but these impacts would lessen once the mounds have been seeded and the vegetation has grown.
279. The ES considers that the significance of the temporary impacts of these grassed over overburden mounds would be neutral but, for 14 of the 22 viewpoints assessed in the ES, the County Council's Landscape Officer considers that the impact would be either negligible, slight or moderate. For example, from the junction of Trowell Bridleways 13 and 14 on the other side of the motorway to the east of the site, existing views towards the site are of a fairly flat landscape with trees and hedgerows in the mid to background. All three grassed overburden mounds would be visible from this location approximately two years into the coal extraction process and would be significantly higher than the existing wooded skyline. The County Council's Landscape Officer considers that the impact of the proposed development from this viewpoint, particularly the overburden mounds even when grassed over, would be moderate adverse rather than neutral. From the footbridge which crosses the Nottingham Canal close to the north eastern corner of the site, views of the site approximately 2½ years into the coal extraction phase would include views of the working void and whilst the land already rises fairly steeply when viewing the site at present, these rises would be accentuated by a subsoil and overburden mound. Again the Landscape Officer considers that the impact of the proposed development from this viewpoint would be moderate adverse as opposed to neutral.
280. Despite these differences, it should be noted that the Landscape Officer does not consider the impacts of the proposed development on any of the viewpoints to be substantially adverse when the overburden mounds are vegetated. This reflects the mitigation measures that are being proposed such as the contouring and seeding of the mounds, the retention of the majority of mature trees and a number of hedgerows on site which would help screen some views into the site, in addition to the fact that the proposed development would be a temporary feature on the landscape.
281. It is accepted that all the soil and overburden mounds, in addition to the plant site area, would have an impact on the openness of this Green Belt location but this impact needs to be considered against the mitigation measures being proposed, as described above, and in particular the temporary nature of the proposed development. This matter has been highlighted in an appeal decision from the Planning Inspectorate in 2010 in relation to a proposed opencast coal site on land extending to 137 hectares near Leeds. The proposal was to extract 875,000 tonnes of coal and 200,000 tonnes of other minerals. The development was planned to last for 5¼ years with mineral extraction lasting for 3½ years.

Topsoil mounds were proposed at four metres in height, subsoil mounds eight metres high and overburden mounds 15-18 metres high. There therefore appears to be some similarities between that development and the Shortwood development, albeit that the Shortwood development would last a little longer and the overburden mounds would be up to seven to ten metres higher.

282. The Inspector commented on the impact of the proposed development near Leeds on the openness of the Green Belt and stated in her report:

*“During the extraction period screening mounds, buildings, security fencing, hard surfacing and roads, use of large plant and equipment would erode the openness of the Green Belt. The design and phasing of the site workings, combined with detailed measures in the EMP and conditions, would limit the incursions. Nevertheless, material loss of openness is unavoidable. Should the proposed scheme be found to be acceptable in all other respects, the short-lived impact on openness would not be of such significance as to undermine the environmental standards necessary to render the proposal appropriate in the Green Belt.”*

283. Even though the appeal was dismissed and planning permission refused, this was not due to the impact on the openness of the Green Belt during the actual extraction period, although refusal was in part due to what the Inspector considered to be the unacceptable impact of the final restored site, which proposed to retain a significant amount of overburden material above ground and permanently raise ground levels. However, on the issue of the impact of the actual extraction period on the openness of the Green Belt, the Secretary of State agreed with the Inspector’s reasonings and conclusions and stated that:

*“Should the proposed scheme be found to be acceptable in all other respects, the short-lived impact on openness would not be of such significance as to undermine the environmental standards necessary to render the proposal appropriate in the Green Belt.”*

284. It is therefore considered that the acceptability of the proposed development in terms of its impact on the openness of the Green Belt needs to be weighed against the acceptability of the development as a whole. If the proposed development is found to be acceptable in all other respects, then the fact that the loss of openness in the Green Belt would only be for a temporary period needs to be taken into account, given the above judgement. It is also worth highlighting again that the NPPF states that “the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open”. Although the decision in Leeds was taken before the publication of the NPPF, the guidance in the NPPF on this matter largely reflects previous Government guidance in Planning Policy Guidance Note 2: Green Belts which highlighted the need to maintain the openness of the Green Belt. The proposed development at Shortwood would not have a permanent impact on the openness of the Green Belt as the site would be restored to a similar landform to that which exists today.

285. A small part of the site, amounting to approximately 3.3 hectares, lies within the Cossall MLA and MLAs are protected from minerals development under Policy

M3.23 of the MLP unless there are reasons of overriding public interest or where ameliorative measures and opportunities for enhancement can reduce the impact to an acceptable level. Policy E14 of the Broxtowe Local Plan requires the siting, scale and design of the proposals to minimise the harm to the MLA and the need for the proposal to clearly outweigh the remaining harm to the special qualities for which the area was designated. Of this 3.3 hectares, around 2.5 hectares would remain undisturbed and would be sown with a rapidly developing grass and herb seed mix and thereafter managed as rough grassland. The seed mix would include a selection of herbaceous plants which are known to attract invertebrates, thereby providing high quality bat foraging habitat.

286. The remainder of the section of MLA within the site would not be subject to coal extraction but would be used as a haul route from the main part of the site to the area in the north eastern corner. Initially, the haul route would be used to transport subsoils and overburden, in addition to allowing access for plant required to construct the water treatment area south of Oldmoor Wood. The haul route would not be required again until late in the coal extraction period when the overburden mound would be removed, allowing coal extraction in the north east corner of the site to take place. There are a number of trees close to the haul route, including one veteran tree, but these would be retained, thereby allowing this part of the site to retain its key mature features upon the restoration of the site. It is therefore considered that the impact of the proposed development on this small section of MLA would not be significantly adverse and so accords with Policy M3.23 of the MLP and Policy E14 of the Broxtowe Local Plan.
287. In conclusion, and as detailed above, the Landscape Officer considers that the working phase of the proposed development would have a moderate to substantial adverse effect on the local landscape fabric but this would be for a temporary period of time. It is also acknowledged that the site has been subject to previous opencast coal extraction and that coal extraction has historically been a part of the Coalfields Farmlands Landscape. Given these factors, the Landscape Officer does not object to the application on the grounds of landscape and visual impact and it is considered that the proposed development would not be contrary to Policy M3.22 of the MLP as any adverse effects on the character and distinctiveness of the landscape would only be for a temporary period.
288. The Landscape Officer considers that the restoration of the site would bring a slight to moderate beneficial effect on the landscape but this would be a gradual change as the planting matures. This in part reflects the attractiveness of the site at the present time, although Members are reminded that the majority of the site has been previously subject to opencast coal extraction. Assessment of the restoration of the site is considered in detail below but the County Council's Landscape Officer considers that there would be benefits from carrying out advance planting once the development starts, rather than leaving it until the entire site is restored. The focus of this advance planting would be on an undisturbed area to the immediate north of the motorway services extending to 0.7 hectares. Whilst any such planting would not provide any screening of the site whilst it is being worked, an additional five years of plant growth would be

attained and would help accelerate the final restoration of the site. The advance planting would also be beneficial to one of the landscape actions for the Babbington Rolling Farmlands Landscape Policy Zone which is to 'enhance screening of the M1 by planting woodland belts to reduce views of the motorway'. Further advanced planting of hedgerows, including some hedgerow trees, is also recommended in the north west corner of the site in a field which would remain undisturbed throughout the proposed development.

289. This advance planting is considered beneficial and could be secured through a suitably worded condition. The condition could require some small pockets of this planting area to be left unplanted in case it is possible to plant some ash upon the completion of works on site when the ash dieback issue might have been resolved. Alternatively, the planting of this area could be done at a less dense rate than would normally be the case to allow additional ash planting at a later date. If the ash dieback situation has not been resolved by this time, the additional planting could be carried out using other suitable species.
290. It is considered that this advance planting, and the restoration scheme as a whole, would result in the proposed development according with Policy M3.22 of the MLP as the impacts of the entire proposed development on landscape character, from the working of the site to the proposed restoration and the long term landscape benefits of the restoration scheme, would not result in an adverse impact upon the character and distinctiveness of the landscape.

### Highways

291. Policy M3.12 of the MLP allows for minerals development so long as measures are in place to prevent damage to the highway and to also prevent mud and other material being trafficked onto public highways. Policy M3.13 only allows minerals development where the highway network can satisfactorily accommodate the vehicle movements likely to be generated and where the vehicle movements would not cause an unacceptable impact on the environment and disturbance to local amenity. Policy M3.14 allows for the County Council to impose conditions regarding routes that should be avoided, negotiate specified vehicular routes, and negotiate planning obligations to secure highway improvements. Policy M3.15 promotes the bulk transport of minerals by rail, barge, pipeline or conveyor where it results in overall environmental benefit. Proposals reliant on road transport shall not be granted planning permission until it has been demonstrated that more sustainable forms of transport are not viable.
292. The NPPF requires proposals which would generate significant amounts of traffic to consider opportunities for sustainable transport modes; provide safe and suitable access to the site for all people; and consider improvements within the transport network that cost effectively limit the significant impacts of the development. Most importantly, the NPPF states that "development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe".

293. As highlighted in Table 3 above which compares this application to those previously submitted for opencast coal extraction in the area, this application differs insofar as the coal and fireclay extracted would be removed directly from the site by HGV. The previous applications all proposed to move the coal by a conveyor starting to the west of Cossall Road and running north to the former Bennerley Disposal Point to the south of the A610 between Awworth and Giltbrook. From there, the minerals would have been moved on by HGVs using the access to the Bennerley site off the A610 bypass.
294. This proposed development would therefore result in HGV movements which would impact on the immediate local highway network and this has been the single biggest cause for concern for objectors with 245 of the 342 objectors to the initial consultation on the original application citing traffic and HGVs as a reason for opposing the application, a view echoed by local County Councillors, a Broxtowe Borough Councillor and the MP. Concerns have also been raised by SOCO including the cumulative impacts of this proposal and proposed housing developments in the area, in addition to works associated with HS2.
295. The ES is proposing a specified HGV route which would take HGVs leaving the site onto the A609 and east to its junction with the A6002 (the Balloon Wood junction). From there, HGVs would travel north on the A6002 up to its junction with the A610 at Nuthall from where HGVs would continue to junction 26 of the M1. HGVs travelling to the site would follow the same route. This route is considered acceptable and would be secured through a legal agreement between the applicant and both the County and City Highways Authorities, given that the route passes through both administrative areas. In addition to this, the Highways Authority considers the access point onto the A609 to be acceptable and the concerns raised by SOCO that HGVs would straddle both sides of the road are not accepted.
296. For the majority of the proposed development, there would be 46 HGVs entering and leaving the site per day (92 movements) to take coal and fireclay from the site, based on a typical weekly extraction rate of 5,478 tonnes of coal and 1,073 tonnes of fireclay, and a typical HGV payload of 28.5 tonnes. However, for a period of six months between the 31<sup>st</sup> and 36<sup>th</sup> months of the extraction period, it is anticipated that extraction rates would be 9,600 tonnes a week (8,027 tonnes of coal and 1,573 tonnes of fireclay), which would increase the number of HGVs entering and leaving the site per day to 68 (136 movements). This daily number would be split per hour as detailed in Table 4 below and includes employees arriving and leaving by car and a restriction proposed by the applicant between 8am and 9am in light of concerns from local residents about the impact on the morning school run.

<b>Table 4 – Maximum Daily Vehicle Movements</b>		
Time	Inbound	Outbound
6am – 7am	56 (employees)	
7am – 8am	12 HGVs	

8am – 9am	0	0
9am – 10am	7 HGVs	12 HGVs
10am – 11am	7 HGVs	7 HGVs
11am – 12pm	7 HGVs	7 HGVs
12pm – 1pm	7 HGVs	7 HGVs
1pm – 2pm	7 HGVs	7 HGVs
2pm – 3pm	7 HGVs	7 HGVs
3pm – 4pm	7 HGVs	7 HGVs
4pm – 5pm	7 HGVs	7 HGVs
5pm – 6pm	0	7 HGVs
6pm – 7pm	0	0
7pm – 8pm	0	56 (employees)

297. It should be highlighted that both the applicant and the planning authority have sought permission from the Highways Agency (HA) to allow direct access and egress for HGVs via the motorway services adjacent to the application site. The ES highlights the HA's response to a pre-application meeting which confirmed that such an access would not be permitted in light of paragraph 33 of the Department for Transport Circular 01/2008. Paragraph 33, and the preceding paragraph 32, state:

*As outlined in DfT Circular 02/2007, there is a general presumption against additional accesses to the motorway and other routes of strategic national importance other than for 'service areas, facilities for the travelling public, maintenance compounds and, exceptionally, other major transport interchanges'.*

*Therefore, the Highways Agency will not agree to the provision of accesses to the Strategic Road Network (SRN) from private developments for the purpose of service provision other than for facilities that meet the standard range of minimum requirements set out in this circular, nor will it permit the development of activities at service area sites which are unconnected with the immediate needs of the travelling public and which would therefore lead to the site becoming a destination in its own right.*

298. The HA were asked by the County Council to reconsider the comments they had previously made to the applicant, in particular relating to the following matters in relation to the application:



- (i) The fact that the provision of access and egress via the motorway services would not require the provision of additional access and egress points onto the motorway but merely the utilisation of existing facilities at the Trowell motorway service area;
  - (ii) The fact that the proposed development is not permanent with coal being taken from the site for a period of four years and nine months;
  - (iii) The fact that access and egress via the motorway services would be to/from a four lane motorway, rather than the standard three, thereby allowing for safer use by HGVs;
  - (iv) The fact that appropriate traffic management systems could be put in place to stagger the movement of HGVs accessing and leaving the site via the motorway services, and also restrict access and egress during the rush hours;
  - (v) The fact that the HA would not be setting a precedent but would simply be assessing a potentially unique situation in that an economically viable coal resource is located not only adjacent to a four lane motorway but also next to a motorway service area. Any positive decision by the HA on this matter would not preclude it from considering other proposals on their own individual merits;
  - (vi) The fact that providing access and egress via the motorway services would save each HGV approximately 20 kilometres for each trip compared to using the proposed HGV route up to the point where HGVs would pass the motorway services, which would equate to a saving of around 890,000 kilometres of HGV traffic in relation to the transport of coal only. The HA were reminded that the NPPF states that “encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion”.
299. The HA has responded by reiterating Government policy that there should be no access to other developments via a motorway service area as these service areas are only allowed in order to meet the needs of motorists using the motorway. The HA also states that the Trowell services are privately owned and so it has no authority to agree to such a proposal whilst the operator of the services has entered into a sealed agreement with the Secretary of State and must comply with Government policy, including the prohibition of the use of the site to serve other development.
300. The HA considers that motorists and pedestrians using the services should not be expected to interact with heavily loaded trucks serving other developments, whilst empty trucks entering the services at speed would also be a concern. A traffic management system would be difficult to monitor and enforce and would interfere with legitimate users of the site. The arrival of HGVs in convoy would be difficult to prevent. The HA also considers that the length of the proposed development is not a short period of time and highlights an occasion when access through a service station has been permitted as a departure from policy

in order to allow a temporary access associated with the construction of wind turbines.

301. Both the County Council's letter to the HA and the HA's response are attached to this report in Appendix 5. Subsequent to this exchange of correspondence, the matter has been raised again at Service Director level but the Highways Agency has responded by stating that as the proposed development is not considered to be strategic, the prohibition on direct access onto the motorway remains.
302. The HA's response is disappointing insofar as, whilst it would not have removed significant numbers of HGVs off the road, it would have reduced their environmental impact. However, given the above, along with the fact that the Bennerley disposal point was decommissioned some years ago thereby removing the opportunity to move the coal and fireclay by conveyor, it is considered that sufficient consideration has been given to alternative means of transporting these minerals, as required by Policy M3.15 of the MLP.
303. Whilst the HA is not prepared to authorise a HGV route which would significantly reduce the impact of the proposed development on the local highway network and local amenity, responses to the application from both the County and City Highways Authorities indicate that the proposed development, particularly the number of HGVs and the proposed HGV route, would not cause an adverse impact on the public highway network subject to a number of matters. Concerns were initially raised regarding HGVs travelling towards the site having to carry out a right hand turn at the Balloon Wood junction without the benefit of separate signalling for this manoeuvre and the potential danger this could have for oncoming vehicles travelling along Coventry Lane from the south. The applicant has carried out some additional survey work on this matter and although they do not consider it necessary from a highway safety viewpoint, they are offering to fund an extension to the existing anti-skid surfacing on the Coventry Lane approach to this junction by approximately 27 metres, thereby providing greater opportunity for vehicles to stop should a HGV associated with the proposed development, or any other vehicle for that matter, attempt to make this right hand turn whilst a vehicle is approaching from the south. It is considered that this measure would bring benefits to the junction for the duration of the proposed development in accordance with Policy M3.14 of the MLP, benefits that would remain once the proposed development has been completed. The sum of money being offered to provide for these works (£20,000) is considered to be sufficient to not only provide the additional anti-skid surfacing but would also cover the costs of traffic management whilst the works are being carried out whilst also providing a sum towards its maintenance which reflects the period of time over which HGVs associated with the proposed development would use the junction. The sum of money being offered would need to be secured through a legal agreement and the additional anti-skid surfacing would need to be in place prior to any HGVs carrying coal and fireclay leaving the site.
304. Concerns have also been raised by local residents, SOCO and the County Highways Authority about the cumulative impact of the proposed development and other significant developments proposed in the area, most notably the Field Farm housing development in Trowell which Broxtowe Borough Council

resolved to grant outline planning permission for in April 2013 but which has been called in by the Secretary of State for a public inquiry, due to take place in early 2014, as its approval would constitute a material departure from Green Belt policy. In particular, there are concerns about the combined impact of the proposed developments on the Balloon Wood junction. In response to these concerns, the applicant has submitted some additional information in support of the application.

305. The application at Field Farm, for 450 houses, is proposing improvements to the Trowell Road approach to the Balloon Wood junction from the east to mitigate the anticipated levels of traffic which that development would generate. Whilst this approach would not be used by HGVs associated with the Shortwood application, the improvements proposed would have knock-on improvements for other approaches to the junction and so would be of benefit to these HGVs.
306. It should also be noted that the Balloon Wood junction has a Microprocessor Optimised Vehicle Actuation (MOVA) signal control system in operation. The system uses detectors in the road surface to vary the time that any particular green light is on in order to clear traffic when the junction becomes congested with long queues. The MOVA system detects which approaches, if any, are overloaded with traffic and adjusts the signal timings accordingly to clear the traffic as effectively as possible. With this system in place, along with the improvements being proposed through the Field Farm application, the Highways Authority considers that, even if the 12 HGVs anticipated to leave the site between 9am and 10am all leave the site together in convoy, the MOVA system would clear the resulting queue of traffic without causing an adverse impact to the junction. Again, it should be highlighted that HGVs would not leave the Shortwood site between 8am and 9am when the Balloon Wood junction, and particularly the Nottingham Road approach from the west, would be at its busiest.
307. What also needs to be considered is the time it would take to build all the houses at the Field Farm site and therefore bring all the traffic impacts associated with that site onto the local highway network. Even if the Secretary of State allows Broxtowe Borough Council to grant outline planning permission, the developers would need to submit various reserved matters for approval prior to commencing any building work on site. Given that the public inquiry is not due to take place until early 2014, it would be surprising if building began before the start of 2015 should planning permission be granted.
308. The planned building programme for the Field Farm development runs over five years and would see 50 houses built in the first year with 100 a year for the following four years. Therefore, if building works was to begin at the start of 2015, the site would not be fully occupied until the beginning of 2020 at the earliest and assuming that all the properties are sold promptly. If Members resolve to grant planning permission for the Shortwood application, a condition would be attached to the planning permission requiring UK Coal to start the development within three years of the date of the permission. Given the need to negotiate and sign a legal agreement covering a number of matters set out below (see paragraph 447) it is unlikely that a permission would be issued until early 2014 giving UK Coal until early 2017 to commence the development. If UK

Coal commences operations early in 2014 as soon as weather conditions allow soil stripping to commence, given a short period of time to get the plant site and haul road constructed, coal extraction could commence in late spring of 2014 and would therefore end at the beginning of 2019. In this scenario, coal extraction would not coincide with the full occupation of the Field Farm development. However, if UK Coal does not implement any planning permission granted until the latest opportunity – early 2017 – coal extraction would not end until the middle of 2022, thereby leading to a period of a little over two years when coal extraction would coincide with the full occupation of the Field Farm development.

309. The County Highways Authority has considered the additional information submitted regarding the cumulative highways impact and does not object to the Shortwood application as it considers that there would not be a material impact on the highway network. As stated above, the NPPF states that “development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe”. This is not considered to be the case.
310. Further concerns regarding cumulative highways impacts have been raised by SOCO in respect of the construction of the proposed HS2 rail line. However, it should be noted that latest estimates on the HS2 website do not foresee construction of the first phase of the line from London to Birmingham commencing until 2017. It is therefore highly unlikely that any construction traffic associated with phase 2, which would include the line passing through Trowell, would take place at the same time as the proposed development.
311. SOCO has also raised concerns suggesting that the Highways Agency controls traffic signals at junctions along the A52 to the benefit of traffic on the A52 but to the detriment of traffic on approach roads. SOCO considers that this is having knock-on effects on traffic in the Trowell area which would be exacerbated should planning permission be granted. A County Council Traffic Systems Officer has confirmed that the phasing of traffic lights at such junctions is controlled by the Highways Authority through a continuing service agreement it has with the Highways Agency. Decisions regarding changes to the phasing of traffic lights at such junctions therefore take account of traffic flows on all roads, not just the trunk roads, contrary to SOCO’s view. It has also been confirmed that these junctions also have the MOVA signal control systems in place to deal with any unexpected peaks on particular approaches.
312. In addition to assessing the impact of minerals workings on the highways network, Policy M3.13 also requires an assessment on the environment and local amenity. The greatest number of HGVs entering and leaving the site would be between the 31<sup>st</sup> and 36<sup>th</sup> months of the extraction period and in particular between 9am and 10am when 12 HGVs would be leaving the site and seven would be entering. Given that no HGVs would be allowed to leave the site in the previous hour, it would be possible for the 12 HGVs leaving the site between 9am and 10am to be all loaded and therefore be in a position to leave the site in convoy.

313. Additional information submitted by the applicant has confirmed that controls are in place at existing sites to prevent HGVs leaving in convoy with penalties in place for non-compliance and similar controls could be implemented for the Shortwood development. It would be possible to attach a condition to any planning permission granted to control those 12 HGVs that are leaving the site during this hour to ensure they do not leave in convoy and therefore cause an adverse impact on local amenity for that period of time. In this respect, it is also considered worthwhile to require the applicant to control HGVs entering and leaving the site through the remainder of the day. This could be achieved through a traffic management scheme included in a legal agreement which would need to set out the measures that would be undertaken to achieve these controls, usually details set out in the contract between UK Coal and their hauliers. With this scheme in place, it is considered that the proposed development would accord with Policy M3.13 of the MLP.
314. There would also be a second vehicular access into the site off Cossall Road, north of Ellesmere Drive. This would be used by staff and visitors and for the delivery of plant and machinery at the start and end of the proposed development which could not access the site via the A609 access due to height restrictions through the underpass beneath the motorway. The Highways Authority does not object to the use of this access for these temporary periods of time but has raised concerns about visibility due to roadside vegetation and also with regards to the size of low loaders which would deliver the plant and machinery and the ability of such vehicles to pass other vehicles travelling along this road.
315. It is therefore considered that a traffic management scheme would also need to be in place for this access point. Some minor trimming of vegetation would be required at the access to improve visibility without causing any adverse ecological or visual impacts. In addition to this, concerns have been raised by local residents regarding heavy plant and machinery being delivered to the site on low loaders and the potential impact on overhanging trees on Cossall Road. UK Coal has confirmed that the largest piece of plant and machinery would be 4.88 metres high when transported on a low loader whilst the County Council's Forestry Officer has stated that overhanging roadside vegetation should be no lower than 5.2 metres. County Council Highways Inspectors have visited Cossall Road and have confirmed that the vegetation is high enough to accommodate the site traffic for the proposed development based on the information provided by the applicant.
316. Provisions would need to be put in place to ensure that these low loaders entering the site do so without causing danger to other road users, given that they would need to travel across both sides of the road. This could be achieved through temporary traffic lights or banksmen with 'stop/go' lollipops to control other traffic. With such provisions in place, it is considered that these vehicles could be accommodated on the local highway network in accordance with Policy M3.13 of the MLP as any impacts would be localised and for short periods of time.
317. The Highways Authority has recommended a number of other matters be secured through either conditions or a legal agreement including the

aforementioned HGV routeing agreement and the improvements to the Balloon Wood junction; the two traffic management schemes detailed above; restricting the number of HGVs entering and leaving the site to those figures set out in Table 4 above (a matter also recommended by the County Council's Noise Engineer); restricting any HGV movements between 8am and 9am; the construction of suitable access points and the hard surfacing of at least the first 20 metres of both accesses; the sheeting of HGVs leaving the site carrying coal and fireclay; the provision of wheel washing facilities and their use by HGVs leaving the site; preventing the discharge of surface water from the access road onto the public highway; and the submission of a travel plan to encourage sustainable travel by employees.

318. Regarding the hard surfacing of the access roads, Members will have noted from the site visit to the applicant's existing opencast operation in Derbyshire that the entire length of the access road into the site is hard surfaced and the applicant has confirmed its intention to hard surface all internal roads which would be trafficked by HGVs which would then use the public highway. Given this, it is considered appropriate to condition this matter for the benefit of other highway users.
319. The Highways Agency has also recommended a number of matters are secured by either conditions or a legal agreement, some of which are also recommended by the Highways Authority. These cover issues such as the routeing and number of HGVs entering and leaving the site; the use of the motorway underpass; details of any temporary haul roads and site compounds adjacent to the motorway; any floodlighting to be erected on site; ensuring the continued safety of the motorway; details of boundary treatment between the site and the motorway; and the protection of surface water drainage systems on the motorway. These are all considered acceptable and could be either conditioned or covered by a legal agreement, depending on whether the matters are within the application site or not.

#### Air Quality

320. Policy M3.7 of the MLP allows for minerals development only when dust generation does not lead to unacceptable impacts. Conditions which are considered appropriate could relate to the layout of the site and the design of stockpiles; the containment of processing plant and the provision of dust collection equipment; the use of bowsers on haul roads, stockpiles and transfer points; limiting on-site vehicle speeds; soil handling strategies; and the provision of monitoring.
321. The Technical Guidance to the NPPF makes it clear that unavoidable dust emissions are to be controlled, mitigated or removed at source. Applications should be accompanied by a dust assessment which establishes baseline conditions of the existing dust climate in the area; identifies activities which could lead to dust emissions without mitigation; identify site parameters which might increase potential dust impacts; recommend mitigation measures; and provide for dust monitoring to ensure compliance with appropriate environmental standards and to enable effective response to complaints.

322. The Technical Guidance also categorises different types of dust sensitive developments with hospitals and clinics, retirement homes, high-tech industries, and painting, furnishing and food processing businesses being of high sensitivity. Schools, residential areas, food retailers, glasshouses and nurseries, horticultural land and offices are considered to be of medium sensitivity with farms, light and heavy industry, and outdoor storage being of low sensitivity.
323. The ES has assessed existing background air quality in the area in and around the application site from the UK Air Quality Archive, which shows a worst case annual mean background concentration of PM<sub>10</sub> (particulate matter less than ten microns in diameter) of 20.6 µg/m<sup>3</sup>. To put this figure into context, the Air Quality Standards Regulations 2010 sets an annual average PM<sub>10</sub> target of 40 µg/m<sup>3</sup> and a 24 hour average of 50 µg/m<sup>3</sup> which should not be exceeded more than 35 times in a year. The ES states that these 24 hour and annual objectives should only apply to houses or other locations which the public can be expected to occupy on a continuous basis. They do not apply to the workplace and footpaths or other locations where members of the public are likely to be exposed for a short period of time.
324. In addition to the UK Air Quality Archive data, the applicant has monitored PM<sub>10</sub>, PM<sub>2.5</sub> and PM<sub>1</sub> at Field House Farm on the western boundary of the site, for a 12 month period between June 2010 and May 2011. Data was collected at 15 minute intervals although issues with equipment meant that data availability amounted to only 75% of what could have been collected. Based on this monitoring, the average PM<sub>10</sub> level was 21.1 µg/m<sup>3</sup> with averages of 8.1 µg/m<sup>3</sup> for PM<sub>2.5</sub> and 2.8 µg/m<sup>3</sup> for PM<sub>1</sub>. The average for PM<sub>10</sub> (21.1 µg/m<sup>3</sup>) is therefore very similar to the level provided by the UK Air Quality Archive (20.6 µg/m<sup>3</sup>) and around half the Air Quality Standards Regulations target.
325. Broxtowe Borough Council and Erewash Borough Council jointly monitored PM<sub>10</sub> and nitrogen dioxide (NO<sub>2</sub>) levels for 12 months in 2004-05 at a location on the A6007 Stapleford Road approximately 40 metres south of the motorway. This monitoring provided an average annual PM<sub>10</sub> level of 26.2 µg/m<sup>3</sup> with the highest reading being 72 µg/m<sup>3</sup> and the 24 hours average exceeding 50 µg/m<sup>3</sup> on seven occasions. These results suggest that the motorway has a significant impact on air quality levels in locations in close proximity to it. In order to demonstrate the impact of the motorway, the ES has modelled PM<sub>10</sub> levels generated by motorway traffic and considers that these levels fall from 6.8 µg/m<sup>3</sup> adjacent to the motorway to 4.0 µg/m<sup>3</sup> 20 metres from the roadside, to 2.5 µg/m<sup>3</sup> 40 metres from the roadside and down to 0.6 µg/m<sup>3</sup> 100 metres from the roadside.
326. The ES has assessed the likely impacts of the proposed development in terms of dust at five different periods during the proposed mineral extraction activities: at 6, 18, 30, 48 and 60 months. The assessment has taken account of the rate of coal and overburden excavation at these times; the various processes that would be ongoing at these times, such as overburden excavation and backfilling, bulldozing, movement of haul traffic, coal extraction, and coal processing; the subsequent amount of vehicle emissions from mobile plant and HGVs; the proposed hours of operation; local meteorological conditions; and surface conditions. The assessment has also considered the implementation of

abatement measures such as the spraying of internal haul roads and stockpiles with water and the assessment considers that such measures would reduce dust emissions by at least 95%. Similar abatement measures within the working void are anticipated to reduce dust emissions in these areas by 85%.

327. All the above potential sources of dust, along with existing conditions and abatement measures, have been modelled for the five different periods during the mineral extraction process at over 130 locations around the site and along the proposed HGV route. The results of this monitoring show that the most affected residential property in terms of the annual average PM<sub>10</sub> levels would be Shortwood Farm six months into the mineral extraction process with the proposed development contributing an annual average of 3.69 µg/m<sup>3</sup> at this location. Shortwood Farm would also be the most affected property in terms of the 24 hour average of PM<sub>10</sub> levels with an increase in levels of 9.78 µg/m<sup>3</sup> six months into the extraction process. These increases would result primarily from the haulage of soils and overburden from the west of the site to the east where it would be stored.
328. The ES states that the 24 hour average air quality objective of 50 µg/m<sup>3</sup> would be exceeded for a further 7 – 8 days in the first year of mineral extraction, taking the total from 15.4 days a year to 23. During other periods of the extraction process, the 24 hour objective would be exceeded an additional five days taking the number of exceeded days from 15.4 a year to 20. Therefore, the ES considers that the number of times that the 24 hour objective would be exceeded would remain less than the 35 days a year target set out in the Air Quality Standards Regulations 2010.
329. The ES considers that the impact of the proposed development as a whole on annual average concentrations of PM<sub>10</sub> would be 'negligible', the impact on 24 hour average concentrations would be 'slight adverse', and the impact on the number of days where the 24 hour average concentration would be exceeded would also be 'slight adverse', subject to the imposition of mitigation measures.
330. Public Health England (PHE) (formerly the Health Protection Agency (HPA)) has considered the information submitted and with respect to Shortwood Farm and Field House Farm considers that levels of PM<sub>10</sub> would be below the maximum air quality standards targets. As the ES highlights, the high levels associated with the haulage of soils and overburden to the north of Shortwood Farm would require a robust dust management scheme to be in place during this phase of the works. PHE concurs with this view and a condition covering the entire life of the development would be attached to any grant of planning permission.
331. Broxtowe Borough Council's Environmental Health Officer (EHO) has raised no objection to the proposals with respect to air quality subject to a suitable scheme of monitoring being implemented along with a scheme for dealing with complaints. The EHO also recommends a condition regarding the provision of wheel washing facilities, and dust suppression measures should be required to mitigate potential dust issues from overburden mounds and extraction activities during dry conditions. The EHO does not consider that air quality could be considered a reason to recommend refusal of the application, contrary to concerns raised by SOCO and objectors. These recommended conditions are



all considered acceptable and would ensure that the proposed development accords with Policy M3.7 of the MLP and the NPPF which highlights that “particular care should be taken in respect of any conditions they (minerals planning authorities) attach to a grant of permission for working in proximity to communities”.

332. An air quality assessment has also been undertaken specifically in relation to road traffic emissions along the proposed HGV route. SOCO has highlighted concerns that the proposed HGV route would result in emissions not only when HGVs immediately enter and leave the site but also when they pass the area when travelling along the motorway. A total of 13 receptor locations have been identified and assessed along this route, comprising six schools or colleges and seven residential locations. The ES sets out calculations regarding the increase in NO<sub>2</sub> and PM<sub>10</sub> levels at all these locations and predicts that levels of NO<sub>2</sub> would increase by a negligible level and would not result in any exceedences of the annual mean NO<sub>2</sub> air quality objective of 40 µg/m<sup>3</sup>. Similarly, the impact of HGVs associated with the proposed development on annual mean PM<sub>10</sub> concentrations is predicted to be negligible with a negligible impact on the number of days when 24 hour average PM<sub>10</sub> levels would be exceeded. There would be no exceedences of either the annual mean or 24 hour mean PM<sub>10</sub> air quality objective levels (40 µg/m<sup>3</sup> and 50 µg/m<sup>3</sup> respectively). Broxtowe’s EHO and PHE have raised no concerns regarding the impact of HGVs on air quality.
333. It should be noted that Natural England has not raised an objection to the application. The Robbinetts SSSI is located approximately 150 metres north of the site at its nearest point and is designated on account of its acidic grassland. Clearly, the deposition of dust on the vegetation on the SSSI has the potential to impact on its ecological interest, as highlighted by SOCO and objectors, but Natural England has no objection subject to the proposed development being carried out in strict accordance with the submitted details. With the dust mitigation measures detailed above in place, it is considered that dust from the site is very unlikely to disperse onto the SSSI.
334. An objection has been submitted by the Woodland Trust regarding the potential deposition of dust on Oldmoor Wood, which is designated as a SINIC. Details of the measures proposed to mitigate the impact of the proposed development on the wood, and also the adjacent Oldmoor Pond, are set out in the Ecology observations below (see paragraphs 387 – 401).

### Noise

335. Policy M3.5 of the MLP states that planning permission will only be granted where noise levels outside the boundary of the site do not exceed acceptable levels and conditions should be imposed, where appropriate, to restrict the hours of operation; require the use of conveyors instead of dump trucks; soundproof fixed and mobile plant; set maximum noise limits at sensitive locations; impose stand-off distances between operations and noise-sensitive locations; and require the use of acoustic screening.

336. Regarding the definition of 'acceptable levels', advice can be found in the Technical Guidance to the NPPF which considers noise emissions from mineral operations. The Technical Guidance states that, subject to a maximum of 55 dB(A) LAeq, 1hr (free field), mineral planning authorities should aim to establish noise limits at noise-sensitive properties that do not exceed background noise levels by more than 10 dB(A) between the hours of 7am and 7pm, which are the proposed hours of operation at the site. However, the Technical Guidance acknowledges that it can be difficult to not exceed background noise levels by more than 10 dB(A) without imposing unreasonable burdens on the operator and, in such cases, the limit should be as near to that level as possible and should not exceed 55 dB(A) LAeq, 1hr (free field).
337. The Technical Guidance also recognises that minerals developments can include some particularly noisy operations which cannot meet the above limits such as soil stripping and the construction and removal of soil storage mounds. However, the Technical Guidance recognises that these activities can bring environmental benefits such as reduced noise levels resulting from the construction of soil storage mounds around noise-sensitive properties and so temporary daytime noise limits of up to 70 dB(A) LAeq 1hr (free field) for up to eight weeks in a year should be considered at noise-sensitive properties to facilitate these works where it is clear that environmental benefits would result. If these works are anticipated to take longer than eight weeks in any given year, then a lower noise limit should be considered.
338. The Technical Guidance also states that proposals for the control or mitigation of noise emissions should consider the following:
- (i) The main characteristics of the production process and its environs, including the location of noise-sensitive properties;
  - (ii) Proposals to minimise, mitigate or remove noise emissions at source;
  - (iii) Assessing the existing noise climate around the site, including background noise levels at noise-sensitive properties;
  - (iv) Establishing the likely future noise from the development and its impact on the surrounding area;
  - (v) Monitoring noise emissions to ensure compliance with appropriate standards.
339. Opencast coal operations have the potential to generate significant levels of noise over and above other mineral developments such as sand and gravel extraction on account of the greater number of mobile plant usually operational on site at any one time. Although the amount of coal and fireclay proposed to be excavated per year (330,000 tonnes) is not dissimilar to production at an average sand and gravel quarry, the winning of this amount of coal and fireclay involves the excavation of significant quantities of overburden which lies between the bands of minerals, a situation which does not arise at sand and gravel quarries once the initial soils and overburden have been stripped. As the MLP states, "the ratio of overburden to coal extracted on average is 17:1" and

therefore large numbers of earth moving plant are required. This geological situation arises at the Shortwood site as described in paragraph 19 above. The applicant has provided details of the various mobile and static plant that would be operational at the site (see paragraph 40 above) in addition to a plan requested by the County Council's Noise Engineer showing the plant that would be operational 15 months into coal extraction activities, with operations primarily taking place on the western side of the site close to Field House Farm and Field House Bungalow.

340. The County Council's Noise Engineer has studied the noise assessment carried out as part of the ES and notes that normal operational noise levels at Shortwood Farm, which is located to the north of the motorway services, would exceed the 55 dB(A)L<sub>Aeq</sub> 1hr (free field) maximum level set out in the NPPF. However, the measured background noise levels at that property are already above this level due to the proximity of the property to the motorway. Broxtowe Borough Council's EHO also acknowledged that background levels are higher than 55 dB(A) at this location. It is therefore considered that this property is not noise sensitive and the exceeded levels do not pose a constraint to the proposed development. The Noise Engineer also considers that number 77 Nottingham Road, which is located immediately west of the motorway and south of the site offices and car park, is not a noise sensitive property given its location and existing background noise levels.
341. For Woodlands, located on the southern edge of Cossall village, Ellesmere Drive to the south west of the site, and 151 Nottingham Road, close to the site access, noise levels would not be more than 10 dB(A) above existing background levels and would therefore be in accordance with the criteria in the Technical Guidance to the NPPF.
342. Whilst noise levels would be more than 10 dB(A) above existing background levels during the 54 month phase at Moss Cottage to the north of the site, and during the 6, 15, 27 and 42 month phases at Field House Farm and Bungalow, they would not exceed 55 dB(A)L<sub>Aeq</sub> 1hr (free field) and so again meet the criteria in the Technical Guidance. The largest discrepancy would be at Field House Farm and Bungalow during the 15 month phases when noise levels would be 54.2 dB(A)L<sub>Aeq</sub> 1hr (free field), compared to the target of 49 dB(A)L<sub>Aeq</sub> 1hr (free field). With the predicted noise levels for Field House Farm and Bungalow being very close to the 55 dB(A)L<sub>Aeq</sub> 1hr (free field) limit set out in the NPPF, the County Council's Noise Engineer requested more details of the noise calculations carried out and details of the site layout when operations would be close to this property. These have been provided by the applicant and the Noise Engineer is satisfied that noise levels could be controlled to levels that avoid adverse impacts on residential amenity. For Moss Cottage, the ES has identified that reducing the number of dumper truck movements associated with overburden operations to 20 movements per hour would reduce noise levels sufficiently to be within the 10 dB(A) above background target. Broxtowe Borough Council's EHO recommends that the criteria values, absolute maximum levels and mitigation measures for these two properties are conditioned. However, given that the absolute maximum levels would in themselves achieve the noise levels that the additional mitigation measures for Moss Cottage are

seeking to achieve, it is not considered necessary to include these specific measures in a separate condition.

343. The Noise Engineer has also highlighted that the noise predictions in the ES represent worst case scenarios in terms of the location of operations in relation to the noise sensitive properties and also represent the time when operations would be at or close to existing surface levels. Therefore, the noise levels set out in the ES for these locations would not be experienced throughout the entire length of the proposed development as excavation works would largely be carried out below ground level. For 151 Nottingham Road and other properties on that road in close proximity to the proposed access road, the Noise Engineer considers that there would be no adverse noise impact from HGV movements associated with the proposed development, despite the fact that HGVs would be running along the access road for much of the proposed development. As detailed in the highways observation above, it is proposed to require a traffic management plan to be in place to prevent convoys of HGVs from entering and leaving the site, to the benefit of residential amenity.
344. It is therefore considered that the proposed development accords with the noise standards set out in the NPPF and therefore accords with Policy M3.5 of the MLP. In order to ensure that noise levels at these noise-sensitive locations do not exceed the predicted levels, conditions are recommended regarding the hours of operation; detailing the maximum noise levels that should not be exceeded at any noise-sensitive locations; the use of 'white noise' reversing alarms on all mobile plant on site; the maintenance of all plant on site to ensure that no unnecessary noise is generated; restricting temporary noise operations to eight weeks in any given year; and the maintenance of any acoustic fencing erected during the proposed development. Again, such conditions would accord with the advice in the Technical Guidance to the NPPF which states that "particular care should be taken in respect of any conditions they (minerals planning authorities) attach to a grant of permission for working in proximity to communities".
345. As a further measure to reduce noise impacts, the applicant proposes not to carry out any temporary operations, such as soil stripping, replacement, regrading or ripping, and overburden and soil bund formation, within 120 metres of any property close to the site prior to 8am in the morning and after 5pm in the afternoon, and not at all on Saturday mornings. The distance proposed should result in noise levels from temporary operations at these properties not exceeding the 55 dB(A) LAeq 1hr (free field) limit applied for normal daytime operations. A condition requiring details of how this stand-off distance would be marked out on site is recommended.
346. There are also a number of measures identified in the ES which would be incorporated into the operation of the site, such as the routing of haul roads as far away as possible from noise-sensitive properties; ensuring that all haul roads are well maintained with no uneven surfaces that could cause 'body slap' from mobile plant; designing the site so that all vehicles move in a circular pattern to minimise the need for reversing; and the siting of any pumps, generators and compressors behind existing screening mounds and fitted with acoustic covers or within acoustic enclosures where necessary. Again, it is considered

appropriate to condition these matters should planning permission be granted. Finally, a condition is proposed, as recommended by Broxtowe Borough Council's EHO, requiring noise monitoring to be undertaken throughout the life of the proposed development along with a scheme for dealing with any complaints that might be received.

### Blasting

347. Policy M3.6 of the MLP requires blasting levels to be kept within acceptable levels and suggests the imposition of conditions relating to maximum vibration levels, restrictions on the hours when blasting can take place, limiting air overpressure levels, and the monitoring of blast vibration levels in sensitive locations.
348. The impacts of blasting can include vibration, audible noise, flyrock and dust. Blasting at mineral workings usually involves the drilling of a number of boreholes into which are placed explosive charges. These charges are individually detonated with millisecond time delays between each detonation and results in the rock being fractured. The impacts of the detonations diminish over distance from the point of source and the rate at which the impacts diminish is dependent on factors such as the type and design of the blast and local geology.
349. Ground vibration is measured in terms of the maximum particle velocity which is called peak particle velocity (ppv) and is measured in millimetres per second ( $\text{mms}^{-1}$ ). Guidance in 'British Standard 6472-2:2008 – Guide to Evaluation of Human Exposure to Vibration in Buildings Part 2: Blast-Induced Vibration' gives guidance with regards to human exposure to blast-induced vibration in buildings. The guidance states that "for blast vibration occurring up to three times per day the generally accepted maximum satisfactory magnitude for residential premises is a ppv of  $6.0 \text{ mms}^{-1}$ . However, when  $6.0 \text{ mms}^{-1}$  is considered to be too restrictive a value between  $6.0 \text{ mms}^{-1}$  and  $10.0 \text{ mms}^{-1}$  could be used".
350. 'Minerals Planning Guidance Note 9: Planning and Compensation Act 1991 – Interim Development Order Permissions: Conditions' (MPG9) provides sample conditions for blasting which state that ground vibrations shall not exceed a ppv of either 6 or  $10 \text{ mms}^{-1}$  ppv in 95% of all blasts over any period of six months with no individual blast exceeding a ppv of  $12.0 \text{ mms}^{-1}$  ppv. MPG9 also provides suggested conditions with respects to limits on the timing of blasts, monitoring, and methods to be employed to minimise air overpressure.
351. The ES does not categorically state that blasting would be required but, due to thickening bands of sandstone towards the southern part of the site, the applicant anticipates that blasting could be required although it would not be required to the north of the site. The ES states that the limit of the proposed excavation in the south of the site has been defined by the five metre thickness contour of this sandstone in order to reduce to minimal levels the likelihood of blasting being required. The applicant has also indicated that blasting is avoided wherever possible as it can lead to the coal and overburden becoming mixed, making it more difficult to recover the coal.

352. The ES has assessed the impacts of any potential blasting on the same six properties assessed in the noise assessment. Based on blasting data gathered from a nearby quarry with similar geological characteristics, which the applicant has confirmed is the Forge and Monument site in Derbyshire which was subject to coal extraction ending in 2004, the ES has predicted what maximum charge weights would be allowed in order to meet the vibration criterion of  $6.0 \text{ mms}^{-1}$  ppv with 95% confidence, depending on the distance between the blast and any sensitive property. These charge weights are set out in the ES and the County Council's Noise Engineer considers that these maximum charge weights should be set out in a condition to control blasting to a level which should avoid complaint. However, it is considered more appropriate to set out the maximum allowable ppv levels in accordance with suggested conditions in MPG9 which, in this instance, would be  $6 \text{ mms}^{-1}$  ppv in 95% of all blasts over any period of six months in line with the findings of the ES. Other mitigation measures proposed in the ES which would be the subject of suitably worded conditions or clauses in a legal agreement include placing warning signs along the bridleway running along the eastern boundary of the site (see Rights of Way observations below for further details), confirmation of the hours when blasting would be allowed (10am – 12pm and 2pm – 4pm Monday to Friday only), and the carrying out of a test blast in order to obtain data prior to any operational blasting taking place. It is also considered appropriate for a publicity exercise to be carried out at least a week before any blasting takes place in the area so that residents are aware that blasting is to take place in addition to details of visible and audible warnings to be implemented prior to any blast. With these measures in place, and subject to the test blast demonstrating that the vibration criterion can be met, it is considered that the proposed development accords with Policy M3.6 of the MLP and the guidance in MPG9.
353. Concerns have been raised by local residents that any blasting taking place on site has the potential to release pockets of radon gas which could have adverse impacts on local communities. This matter has been raised with Public Health England (PHE) (formally the Health Protection Agency) which has stated that the presence of the proposed development would not change the amount of radon present in rocks and soils close to any individual home. In order to increase indoor radon levels, PHE states that activities on site would need to have a significant and durable effect on the availability of that radon and make it easier for the radon to be drawn into homes. PHE considers that, outside the immediate volume of rock/sub-soil that the blasting intends to disrupt, the effect of any blasting would be transient, as noted in the Vibration section of the ES, and would not be expected to alter the underground structures that determine radon movement through the ground. Thus, there is no reason to believe that the proposed development would have any effect on the indoor radon levels in the area. PHE also considers that the proposed development would not make any significant difference to outdoor radon levels in the area and would continue to be a small fraction of the overall radiation exposure in the area.

#### Rights of Way

354. There is a bridleway which runs along much of the north eastern boundary of the site, the enjoyment of which would be compromised during the proposed development, as highlighted by the County Council's Countryside Access Team and a significant number of objectors. As stated above, the site could be subject to blasting in order to displace some of the thicker layers of sandstone to the south of the site and this has the potential to adversely impact upon bridleway users, particularly horse riders. In addition to this, the bridleway would need to be crossed by mobile plant in order to access that area of the site to the immediate south of Oldmoor Wood. Plant would need to access this part of the site throughout the proposed development as the area would first be used for the storage of overburden before being subject to coal extraction towards the end of the proposed development.
355. Policy M3.26 of the MLP does not concern itself with impacts on the amenity of rights of way users but instead seeks to provide alternative routes where rights of way are either temporarily or permanently disrupted by mineral workings in order to maintain the rights of way network. The application is not seeking to provide an alternative route for the bridleway but is proposing to manage the crossing of the bridleway by mobile plant and so it is considered important to consider the impacts of the proposed development on users of this bridleway.
356. The applicant is proposing to permanently man the crossing point whilst it is being crossed. Traffic lights would be installed which would be turned to red if a bridleway user approached the crossing point. Once mobile plant had stopped, gates would be moved across the crossing point allowing the bridleway users to pass. Once passed, the gates would be moved to block the bridleway and allow mobile plant to continue until the next bridleway user approached. Details of these measures could be secured through a suitably worded condition.
357. Regarding the proximity of workings to the bridleway, a topsoil mound approximately 160 metres long would abut part of the bridleway, as would the northern tip of Overburden Mound 3 for part of the proposed development. Clearly, there would be adverse impacts on bridleway users whilst these mounds were being constructed but, once in place, they would provide a buffer between the bridleway and the proposed workings.
358. To the south of the overburden mound, there would be an area adjacent to part of the bridleway which would remain undisturbed throughout the proposed development and which would provide a buffer between the bridleway and the proposed workings of up to around 100 metres. To the south of this, the bridleway crossing point would be located. Given all the above, it is considered that the experience of using the bridleway would be significantly impacted upon, even though it could be argued that the enjoyment of the more southern extent of the bridleway is already impacted upon by significant levels of noise from the nearby motorway.
359. To help mitigate some of the impacts that would be experienced by bridleway users, the County Council's Countryside Access Team considers it appropriate that the applicant upgrades the surface of the bridleway to a specification agreed with the Rights of Way Officer. The applicant has already made a preliminary inspection of the bridleway and accepts that there are sections of it which would

benefit from resurfacing. There are also sections which would benefit horse riders in particular if overhanging vegetation was cut back as the bridleway is difficult to navigate in places. The applicant is agreeable to paying an agreed sum of £12,000 to the County Council's Rights of Way Team to carry out these works and the payment of this sum could be secured through a legal agreement. It is considered important that the money is paid at the earliest opportunity to allow the works to be carried out promptly, rather than being done when the site is restored.

360. Regarding blasting, the ES states that it would only take place between 10am and 12pm, and 2pm and 4pm Mondays to Fridays. The ES proposes to erect warning signs at the start of the bridleway and at locations along it in the immediate vicinity of potential blasting areas in order to warn bridleway users. The details of what information would be on the signs would need to be agreed with the MPA and would need to be secured through a legal agreement as the majority of the right of way is outside the application area, but it is considered that it would be beneficial for the signs to be regularly updated in order to state the time and day of the next blast. This would allow bridleway users to make an informed decision as to whether to access the bridleway if a blast is imminent or whether to decide and wait for the blast to take place prior to continuing on their journey. Again, this is particularly relevant to horse riders from a health and safety aspect. Without this continuous updating of information regarding blasting, there is the possibility that bridleway users would avoid using the bridleway throughout the entire life of the proposed development due to uncertainties as to when the next blast might take place. The provision of this type of signage is therefore considered imperative should planning permission be granted to ensure the continued use of this right of way as much as possible.
361. The restoration of the site proposes significant new rights of way totalling approximately 4,400 metres, predominately bridleways. Detailed consideration of these is set out in the restoration observations below.

#### Historic Buildings and the Conservation Area

362. Policy M3.25 of the MLP does not allow for minerals development which would cause an unacceptable level of harm to the character, appearance, condition or setting of conservation areas, listed buildings, historic battlefields, and historic parks and gardens. Policy E3 of the Broxtowe Local Plan allows for planning permission within or in the vicinity of a conservation area which preserves or enhances the character and appearance of the area having regard to its location, scale, design and materials.
363. The NPPF seeks to avoid or minimise conflict between any heritage asset's conservation and any aspect of a proposal. The NPPF states that "in determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the



desirability of new development making a positive contribution to local character and distinctiveness.”

364. The NPPF recognises that the significance of a designated heritage asset can be harmed by development within its setting and any such harm needs to be clearly and convincingly justified. It further states that “where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss.....Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.” The NPPF also requires any impacts on the significance of non-designated assets to be taken into account with the scale of any harm or loss needing to be balanced against the significance of the non-designated asset.
365. Finally, the NPPF states that “local planning authorities should look for opportunities for new development .... within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.”
366. The County Council’s Historic Buildings and Conservation Officer considers that there would be negative impacts on all heritage assets, designated and non-designated, impacts which would be short term during actual operations on site and medium to long term as the site is restored and planting matures. The key consideration is the impact of the proposals on the Cossall Conservation Area, which not only covers the majority of the village itself but also pasture land to the south which extends to within 100 metres of the application boundary (see Plan 3). The proposed development would impact upon the setting of the conservation area and there would be clear views of operations on site, particularly of overburden and subsoil mounds from residential properties on the southern edge of the village. The impact on the conservation area also needs to be considered in terms of its context which is of an agricultural settlement surrounded by pasture and arable fields.
367. From the commencement of the development, two subsoil mounds towards the northern boundary of the site would be visible from the conservation area but as works progressed, views of works on site from the village would be dominated by two overburden mounds towards the eastern side of the site. Only towards the fourth year of the workings would these overburden mounds be removed to backfill the working void.
368. It should be noted that these mounds would bring some benefits insofar as they would help to screen views of the working void, whilst the easternmost overburden mound would screen distant views of the motorway. However, this needs to be balanced against their presence in the setting of the conservation area, particularly during their construction and removal and for the period immediately following their construction when vegetation cover would be sparse. What also needs to be considered is the relatively short

period of time for which the proposed development would have a negative impact on the setting of the conservation area. The proposed extraction period is four years and nine months which when compared to other minerals developments in the county, which can go on for decades, is a relatively short period of time.

369. There are also a significant number of non-designated built heritage assets around the site such as the canal network and old farm buildings. Whilst there would be no direct loss of any of these assets, the NPPF does recognise their importance and the need to assess the impact on them. The County Council's Historic Buildings and Conservation Officer considers that the context of the landscape around Cossall Conservation Area and Trowell as a historic core is based on the fact that the land between these two settlements has historically been farmed. The farmsteads in this area contain many farm buildings of interest and form part of the landscape including the setting of the conservation area and listed buildings in the area.
370. The County Council's Historic Buildings and Conservation Officer considers that any consideration of the impacts of the proposed development on both designated and non-designated heritage assets should include the proposed restoration scheme. After all, whilst the duration of the proposed development might not be considered to be significantly long when compared to other minerals developments, the scale and nature of the proposal means that the application site will not be subject to opencast coal extraction again in the future, unlike previous schemes which have not exploited the mineral resource to its greatest extent and therefore left sufficient reserves of coal, resulting in this application and the applications submitted in the 1990s. Therefore, the proposed restoration scheme is of added importance, particularly to the setting of the conservation area, as this is how the site is going to look in the long term.
371. The Historic Buildings and Conservation Officer considers that the revisions to the restoration scheme, particularly amendments to field patterns and the reinstatement of a significant area of the former Short Wood, provide suitable mitigation for the proposed development which would be beneficial to the conservation area and non-designated farmsteads close to the site. These issues are considered in greater detail in the restoration observations below.
372. In addition to comments on the restoration scheme, the Historic Buildings and Conservation Officer has also made observations with regards to the community fund being offered through the application which amounts to £150,000 as it is considered that the historic environment could benefit from this fund. Such funding could involve restoration works to some of the farmsteads which are located in close proximity to the application site, particularly some old barns which are considered to be at risk. However, with these buildings being in private ownership, ensuring that any funds provided are used for their intended purpose is difficult to control.
373. Another potential heritage asset in the area which the Historic Buildings and Conservation Officer has identified as being a suitable use for monies from the community fund is the Bennerley Viaduct which is located 2.5 kilometres north

west of the application site. Constructed between 1876 and 1877, the viaduct is now Grade II\* listed. It is approximately 450 metres long and 18 metres high and, according to details of the listing, comprises 15 piers with brick abutments at each end. It is one of only two remaining wrought iron lattice girder bridges in the British Isles, the other being Meldon Viaduct in Devon which is 160 metres long. The viaduct was constructed to form part of the Great Northern Railway Derbyshire Extension which was partly built to exploit the coalfields in the area.

374. The viaduct is owned by Sustrans, the charity which promotes sustainable transport and there are hopes that the viaduct could become part of the cycle network in the area in the future. However, from a purely heritage aspect, the viaduct is Grade II\* listed and so is a significant national heritage asset in the county given that only around 8% of listed buildings in the UK are either Grade I (2.5%) or Grade II\* (5.5%) listed. The viaduct is registered by English Heritage as a building at risk due to the need for continuing maintenance and the submission of a bid for funding under the Heritage Lottery Fund is being considered by Sustrans which would not only help preserve this designated heritage asset but also potentially help bring it back into use as a valuable part of the local cycle network. The Historic Buildings and Conservation Officer considers that any future bid for funding would benefit from a full structural survey of the viaduct being carried out beforehand in order to provide greater certainty regarding the size of the fund bid. To this end, he has liaised with English Heritage and it is considered that a full structural survey would cost around £25,000.
375. It has been known for some years that such a survey is required, particularly if the viaduct is to be brought into a beneficial leisure use. However, securing the necessary funding has not previously been possible. Having been informed of this matter, the applicant has offered £25,000 in addition to the community fund being proposed for use in “historic conservation improvements projects”. Although the applicant has not directly stated what it considers the money should be used for, providing funding for this survey would accord with the NPPF which states that planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness. Members are therefore asked to consider setting this money aside for this particular project.
376. Given the Historic Buildings and Conservation Officer’s consideration of the proposed development, including the restoration scheme, it is considered that the proposed development as a whole would not have an unacceptable impact on the setting of the conservation area and so therefore accords with Policy M3.25 of the MLP. It is also considered that the proposed development accords with Policy E3 of the Broxtowe Local Plan given the long term benefits of the proposed restoration scheme. It is also considered that the proposed restoration scheme would accord with the NPPF as it would make a positive contribution to local character and distinctiveness, albeit in the long term. In

addition to this, the provision of funds to allow a survey of the viaduct to be carried out would also accord with the NPPF, as detailed in the previous paragraph.

### Archaeology

377. Policy M3.24 of the MLP does not allow minerals development which would destroy or degrade nationally important archaeological remains and their settings, whether scheduled or not. Where there are remains of less than national importance, it needs to be demonstrated that the importance of the proposed development outweighs the significance of the remains and, where appropriate, provision is made for the excavation and recording of the remains.
378. The NPPF requires the effects of a proposal on non-designated heritage assets to be taken into account when determining applications. The scale of any harm or loss and the significance of the heritage asset should be taken into account.
379. As previously described, much of the application site has been subject to previous opencast mining (see Plan 7) and there has also been some deep mining in the area in the past. The extent of previous surface mining has been confirmed with the Coal Authority which has checked its records in response to suggestions from objectors that previous opencasting on site is not as extensive as suggested in the ES, therefore resulting in the site having far greater areas of archaeological interest. However, there remain some small pockets of land, most notably to the east and north of Shortwood Farm and along the eastern boundary of the site, including parts of the historic parish boundary, which have not been subject to previous mining activities and so have the potential to be archaeologically important, albeit that there are no designated heritage assets on the site.
380. The County Council's Archaeologist has visited the site and has noted earthwork remains in a field close to Shortwood Farm where records of earlier coal mining exist. This field also contains an amount of masonry which suggests a previous settlement in the area which could be of Medieval origin. The early deep mining on the site is likely to have resulted in some interesting features remaining below ground level.
381. The ES is proposing a variety of measures to mitigate known and unknown archaeological remains. First, it is proposed to prepare a written statement of investigation which would set out in detail the archaeological works that would be undertaken. This would include a detailed, high resolution topographical survey of the area close to Shortwood Farm not previously subject to opencast workings, which would be undertaken prior to any groundworks taking place. There is evidence of earthworks in this area which relate to historic mining in the area and the topographical survey would allow any remaining information on the layout of shaft locations, spoil heaps, trackways, buildings and processing areas to be accurately recorded.
382. Geophysical surveys are proposed in other areas not previously subject to opencasting which would identify archaeological features of interest and

therefore areas which could take longer to clear of archaeological remains. These surveys would therefore help inform what mitigation would be required in certain areas. A 'strip, map and sample' programme would be implemented on all initial groundworks not previously subject to opencast mining and at the boundaries of previous schemes in case they were not actually impacted upon in the past. This would provide for the recording and sample excavation of exposed archaeological remains. A sample excavation of a section of the existing remaining parish boundary would also be undertaken allowing the recovery of samples for further analysis and scientific dating which would hopefully provide evidence as to when the parish boundary originated as well as information on how agricultural practices have changed over time.

383. The County Council's Archaeologist considers that above ground and close-to-surface remains would be best identified, recorded and investigated through the 'strip, map and sample' method proposed and should be applied to previously undisturbed areas and in areas around the edges of previously opencasted parts of the site, until a clear interface with fill material is visible and obvious.
384. Should deeper remains of coal mining be encountered by the proposed development, the County Council's Archaeologist considers that there would need to be a set of procedures to allow for regular monitoring of the opencasting process by both mining and archaeological personnel to identify these earlier workings; notification of the identification of such remains to the County Council; and the implementation of a previously agreed scheme of investigation and recording of such remains to be undertaken by suitably qualified and experienced archaeological personnel.
385. All the above matters could be secured through a suitably worded condition which would ensure that the proposed development accords with Policy M3.24 of the MLP and the NPPF. Contrary to suggestions from SOCO, it is not considered essential to carry out any of the surveys detailed above in advance of any determination of the planning application, particularly given the previous surface mining which has taken place across much of the site.
386. Objectors to the application have suggested that the site would be suitable for a community archaeology project, as has occurred through developer funded projects at other minerals sites in the county, most notably Besthorpe quarry north of Newark. The County Council's Archaeologist has stated that the choice of suitable sites is dictated by the nature of the archaeology involved and the practical circumstances of the development, to ensure that volunteers are safe and have a rewarding experience of the process of archaeological excavation. The Shortwood site is not considered a suitable site for such a project, as much of the archaeology is likely to be related to early coal mining, which tends to be a specialist investigation field with its own inherent health and safety issues.

### Ecology

387. Policy M3.19 of the MLP does not allow for minerals development which would have an adverse effect, directly or indirectly, on the special interest of a Site of Special Scientific Interest (SSSI) unless the reasons for the development

outweigh the nature conservation considerations, taking account of the scope for mitigation or compensatory measures. This stance is broadly reflected in the NPPF which states that “where an adverse effect on the site’s notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of SSSIs.”

388. Policy M3.20 provides protection for regional and local designated sites unless the importance of the development outweighs the regional or local value of the site, again taking into account measures to mitigate or compensate for any adverse impacts.
389. The NPPF states that planning permission should be refused if significant harm to biodiversity cannot be avoided, adequately mitigated or, as a last resort, compensated for, whilst permission should also be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss. Opportunities to incorporate biodiversity in and around developments should be encouraged.
390. The Robbinetts SSSI is approximately 150 metres north of the site and is designated for its grassland habitat. This type of habitat is particularly vulnerable to dust deposition from nearby quarries, an issue raised by objectors and SOCO, but Natural England has not raised an objection to the application subject to operations being carried out in strict accordance with the submitted details. With dust suppression measures in place to protect local amenity, it is considered that the ecological interest of the SSSI would not be adversely affected, in accordance with Policy M3.19 of the MLP. The SSSI has also been assessed with respect to any changes to the surface water regime as a result of the proposed development and this assessment has been deemed to be satisfactory to Nottinghamshire Wildlife Trust (NWT).
391. The Woodland Trust has objected to the application on the grounds that the proposed development would have an adverse impact on Oldmoor Wood, an issue that has also been raised by SOCO and objectors. According to the Woodland Trust, the wood was planted in the 1790s but has had trees on site since at least 1683. Woodland which has existed continuously since 1600 can be classed as ancient woodland, hence the reason why this woodland is not designated as such. However, the wood is designated as a Site of Importance for Nature Conservation (SINC), as is the adjacent Oldmoor Pond and it is important to ensure that these sites do not suffer adverse impacts as a result of the proposed development.
392. It should be noted that for the majority of the proposed development, one of the three water treatment areas would abut much of the southern boundary of Oldmoor Wood and the water treatment area itself would be set back approximately 20 metres from the edge of the wood. However, phasing plans submitted with the application do show land right up to the edge of the wood as being a ‘disturbed area’, although the applicant has confirmed that whilst this

area would be stripped of soils so that it can be trafficked by mobile plant constructing the water treatment area and the adjacent subsoil mound, the majority of works associated with the construction of these facilities could be achieved without trafficking this strip of land. Detailed working arrangements in this part of the site are a matter which could be secured through a suitably worded condition in order to protect the wood from any significant adverse impact.

393. Coal extraction in this area would be limited to a fairly short period of time towards the end of the proposed development which would coincide with the removal of part of this water treatment area to allow the coal extraction to take place. Again, the proposed condition detailed above could require details of the working arrangements for coal extraction in this part of the site to be submitted for approval.
394. Other ecological consultees have not raised any concerns about the impact of the proposed development on the wood and the ES considers that the imposition of dust suppression measures would mitigate dust impacts to levels which would not have significant negative impacts upon its vegetation. The Woodland Trust's recommendation that a 50 metre buffer zone of tree planting should be provided on the southern edge of the wood is not accepted, particularly given the additional levels of protection which would be afforded by the aforementioned condition and the fact that any such planting, given its immaturity during the life of the proposed development, would not provide any significant benefits.
395. The dust suppression measures being proposed are also considered to be sufficient mitigation against any adverse impact on other SINCs close to the site, such as the Oldmoor Pond, Nottingham Canal, Canal Bank Marsh, Short Wood, and Motorway Grassland SINCs which have been highlighted by objectors as features at risk from the proposed development. These are all within a distance which dust could easily travel but with the proposed mitigation measures in place, it is considered that all these sites would be protected in accordance with Policy M3.20 of the MLP.
396. As detailed in the landscape section above, the proposed development would result in the removal of ten mature and one veteran tree, along with 4,380 metres of hedgerows. The loss of hedgerows in particular would have an adverse impact on foraging bats but the County Council's Nature Conservation Officer considers that this loss would be mitigated through the proposal to seed topsoil and subsoil mounds, in addition to around 2.8 hectares of undisturbed land on the periphery of the site, with a suitable nectar-rich herb and grassland seed mix which would then be managed as rough grassland. These areas would also be beneficial habitat for reptiles and foraging areas for barn owls. This mitigation was also recommended by NWT in its initial consultation response but, in the first Regulation 22 submission submitted by the applicant for the previous application, the application was amended to not only propose the sowing of topsoil and subsoil mounds with a nectar-rich herb and grassland seed mix but also the overburden mounds, an amendment which NWT supported. However, the applicant has recently confirmed that the use of such a seed mix on the overburden mounds would compromise their stability,

particularly on their steep slopes, and Members will recall the thick grass sward on the overburden mounds at the applicant's Lodge House site, a sward which helps to stabilise the mounds and reduce the potential for slippage. It is therefore recommended that the overburden mounds are sown with a predominately grass seed mix, although any potential to incorporate some herb seed mix onto the top of the mounds, where stability is not such an issue, would be explored. This seeding regime, and that of the topsoil and subsoil mounds with the nectar-rich herb and grassland seed mix, would reflect the original consultation response of NWT and is acceptable to the County Council's Nature Conservation Officer. Details of the management of all the mounds and the additional nectar-rich herb and grassland areas could be secured by a suitably worded condition.

397. A further 0.7 hectares of land to the immediate north of the motorway services had been put forward by the applicant as an additional nectar-rich herb and grassland area but, as described in the landscape observations in paragraphs 264 – 290 above, it is considered that this area of land would benefit from advanced tree planting. Given the extent of the other areas which would be sown with the nectar-rich herb and grassland seed mix, the County Council's Conservation Officer does not consider this to be a significant issue and it is considered that the advance planting would bring greater long-term benefits to the site which offset the loss of this area as rough grassland whilst the site is operational.
398. In addition to this, it is considered important to allow any retained hedgerows to grow larger to provide more nesting habitat for birds and foraging corridors for bats, a matter which again could be secured by condition. Further mitigation which would be beneficial to birds would be secured through the sowing of two 0.5 hectare blocks of land with a wild bird seed mix whilst the site is operational. These two areas would be located close to the bridleway on the eastern boundary of the site.
399. The loss of the veteran tree would be partially mitigated through its retention as dead wood, which would be placed close to a hedgerow, and also through the retention of an additional mature tree originally earmarked for removal. The retention of the veteran tree and the ten mature trees to be felled as dead wood could be secured through a condition which would require details of where the trees would be laid which should be adjacent to hedgerows or wooded areas.
400. Other ecological matters that would need to be secured through conditions are the carrying out of a survey for protected species prior to operations on site commencing, and the erection of reflector posts on internal haul roads to prevent collision injuries for that species. The recommendation from NWT that soil stripping and other noisy activities are not carried out during the bird breeding season is not supported with the County Council's Nature Conservation Officer stating that no noise sensitive bird species were identified during the bird surveys carried out as part of the ES.
401. Consideration of the ecological benefits of the proposed restoration is detailed in the restoration observations below.



## Water Environment

402. Policy M3.8 of the MLP provides for minerals development so long as surface water flows are not detrimentally altered; groundwater levels, where critical, are not affected; and there are no risks of polluting ground or surface waters. Policy M3.9 states that planning permission will not be granted where there is an unacceptable impact on flood flows and flood storage capacity, or on the integrity or function of flood defences and local land drainage systems, unless conditions can be imposed to protect flood defences from both the temporary and permanent adverse effects of the development.
403. The ES identifies that, without suitable mitigation, there is the potential for surface waters to become contaminated with suspended solids from surface water run-off on the site from working areas, stockpiles and haul roads. The use of diesel powered plant also has the potential to cause pollution to local watercourses such as the nearby canals and the River Erewash through spillages of fuels or lubricants. Other sources of pollutants which could have adverse impacts include pyrite-rich overburden, coal washery fines and dewatering operations which could draw already contaminated groundwater into the mining void. Such concerns have been raised by SOCO and objectors.
404. The ES has identified a number of mitigation measures that would be implemented throughout the life of the proposed development. These measures are aimed to mitigate impacts to groundwater and surface water quality, groundwater flow regime, and hydrology and flooding, although the ES states that several of the measures would mitigate more than one impact.
405. To reduce the risk of groundwater and surface water pollution, the ES proposes to develop the site on a phased basis in order to minimise the area of working and allow progressive restoration; control all surface water from the site through suitable cross-falls on the access road and plant site area to allow effective drainage and the construction of water treatment and settlement lagoons; minimise the working area to reduce the potential for the generation of contaminated water; discharge water from the site in accordance with consents from the Environment Agency; and use temporary catchpits and sumps to collect and manage surface water run-off generated within the working area. Further measures would include the compaction of backfill material to minimise any potential acid mine drainage; routine groundwater and surface water quality monitoring, including the daily inspection of water treatment lagoons; and various measures to minimise the risk of fuel and oil spillage such as speed limits, training for staff and appropriate storage.
406. The ES considers that the proposed excavation and dewatering scheme would result in negligible risks of significant negative impacts. However, it is proposed to continue existing groundwater and surface water monitoring programmes so that any potential impacts are identified at the earliest possible opportunity. This monitoring would include checking water levels at boreholes on the perimeter of the site and a private borehole at Uplands Farm; checking flow rates and surface water levels within Trowell Stream; and checking that no water was entering the quarry which would indicate significant drainage of groundwater from the surrounding aquifer.

407. Regarding hydrology and flooding, the ES acknowledges that the initial stretch of a surface water ditch running through the western part of the site would be lost as a result of the proposed development, as would approximately 16% of the catchment of the Robbinetts Arm. To compensate for this, treated surface water would be discharged from the application site to both watercourses as part of the site surface water management scheme to ensure that the flow characteristics of each remained as close to existing conditions as possible. This would be done in accordance with environmental permits issued by the Environment Agency which would ensure that no contaminated water is discharged from the site. The unnamed watercourse would be reinstated in the long term as part of the restoration of the site. The ES considers that these measures would result in only a low level of disruption or alteration to watercourses.
408. A flood risk assessment has also been carried out by the applicant which has considered potential impacts from old flooded mine workings and overland flooding from embankments along the motorway and from any failure of the Strelley surface reservoir which is located approximately 500 metres east of the site. The ES states that the design of the site would be such that run-off rates would not increase during the development and would not downgrade any downstream watercourse or habitat; any surface run-off contamination would be treated on site; water resources on-site would be managed and controlled in the development area; off-site impacts such as contamination and flooding would be limited; and surface waters would be discharged from three surface water treatment areas to nearby watercourses. Any rainfall which falls on the working area would be managed to reduce the impact of surface water run-off. The ES considers that the overall risks would be low.
409. The main observation to make with respect to the assessment in the ES of the water environment is the stated proposal to work the site on a phased basis to reduce the potential for the generation of contaminated water. Due to the significant amounts of overburden that would need to be moved to reach the depth of coal seams that are proposed to be extracted, much of the extraction period would result in significant areas of the site being disturbed, either by being the subject of actual excavation of coal and overburden or by being trafficked by mobile plant travelling to and from overburden mounds subject to construction or excavation. It should be noted, however, that these overburden mounds would be seeded for significant periods of time and so would not contribute to the generation of contaminated water. For example, Overburden Mound 3, which would have a footprint of around 14 hectares on the eastern side of the site, would be fully constructed within 1½ years of the commencement of coal extraction and would remain in situ for around two years prior to coal extraction taking place on the eastern side of the site.
410. The Environment Agency (EA) has not raised an objection to the application and so it is considered that the site could be operated in accordance with Policy M3.8 and Policy M3.9 of the MLP. Contrary to comments from SOCO, it is not considered necessary to carry out any further assessments regarding the water environment although it should be noted that, should planning permission be granted for the proposed development, the operator would also need to secure an environmental permit from the EA prior to commencing operations and the site would also be monitored by EA officers to ensure that surface and

groundwater conditions accorded with that permit. The conditions recommended by the EA regarding groundwater monitoring, surface water drainage, and the storage of oils and chemicals are considered acceptable and would help ensure that the site is operated in accordance with the above policies.

### Restoration

411. Policy M12.1 of the MLP requires sites in the Green Belt subject to coal development to be restored to the highest standards. Policy M4.4 requires details of landscape treatment to be provided whilst Policy M4.12 requires reclamation schemes to agricultural use to take full account of the countryside appraisal and the local biodiversity action plan. Regarding the site's Green Belt locations, the NPPF advises that "local planning authorities should plan positively to enhance the beneficial use of the Green Belt, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land".
412. The restoration scheme has been amended since the application was first submitted to take account of input from the County Council's Landscape, Historic Buildings, Nature Conservation, and Rights of Way Officers. This has resulted in what are considered to be significant improvements to the restoration scheme which would bring a number of improvements to the site in the long term.
413. The restoration scheme is now seeking to reinstate the vast majority of the historic field boundaries across the site, based on the Sanderson Map of 1835. It is also proposed to replant the northern part of the former Short Wood which was felled during previous opencast operations and which also features on the Sanderson Map. The restoration details have been revised to ensure that the boundary of the proposed woodland reflects its previous boundary whilst the southern boundary would be on the line of the historic parish boundary. This reflects one of the landscape actions for the Babbington Rolling Farmlands Policy Zone which is to 'conserve and enhance the historic woodland through management to retain its landscape value'. Regarding the species of trees which would be planted in this new woodland, this matter would be subject to a condition which would allow the species mix to be agreed closer to the end of the proposed development when the ash dieback issues being experienced at present shall hopefully be resolved.
414. A further block of planting to the immediate north of the motorway services would accord with another landscape action for the area which is to 'enhance screening of the M1 by planting woodland belts to reduce views of the motorway'. As detailed in the landscape observations above, it is considered appropriate to condition this planting so that it is carried out at the start of the proposed development, rather than leave it until the rest of the site is restored.
415. Nottinghamshire Wildlife Trust (NWT) has objected to the proposed restoration scheme and considers that it should more closely reflect the restoration

scheme proposed for the Shortwood Farm scheme submitted in 1996. That scheme proposed far greater woodland planting, totalling 81 hectares, including one block of 75 hectares which included the total area of the former Short Wood. NWT considers that a restoration scheme similar to that would have resulted in substantive enhancement for both biodiversity and landscape.

416. The main area of woodland proposed for this application is around 13 hectares and whilst this is a significantly smaller area, the County Council's Landscape Officer considers that the area to be replanted is far more reflective of the local landscape. This is confirmed when considering the two other large woodlands in the Babbington Rolling Farmlands Policy Zone: Oldmoor Wood which is approximately 15 hectares in size and Spring Wood to the north of the site which covers approximately 14 hectares. These are clearly very similar in size to the 13 hectare woodland proposed and it is considered that a block of woodland of 75 hectares would be out of keeping with the local landscape character.
417. The mixture of arable and pasture fields is also considered acceptable, subject to the provision of additional pasture fields to the north of the site with a pasture field further south reverting back to arable. This would provide for the northern part of the site to have far greater biodiversity interconnection through the proposed Short Wood planting, the wetland areas and surrounding species-rich grassland, and pasture fields. The County Council's Historic Buildings and Conservation Officer supports these amendments as the land to the north of the site is closest to Cossall Conservation Area which has been extended beyond the village core to include pasture fields to the immediate south of the village. Bringing bordering fields to a similar pasture use would enhance the village setting by reinforcing this character. NWT recommended the retention of an area of species-rich grassland which would be temporarily created during the proposed development adjacent to Cossall Bridleway Number 16. This does not form part of the proposed restoration scheme but it should be noted that the emphasis of County Council Officers who have recommended amendments to the restoration scheme has been to create a coherent block of various habitats from woodland through species-rich grassland and pasture to wetlands and it is considered that the final restoration scheme would achieve this.
418. These minor changes are acceptable to the applicant and could be secured through a condition which would require a revised scheme to be submitted which reflects this minor change. The ES contains a detailed soils and agricultural land classification assessment, including proposals for the resspreading of soils as part of the restoration scheme. Conditions could be attached to any planning permission granted to ensure that soils are resspread appropriately, taking into account the fact that some soil horizons have previously been disturbed by opencasting operations on site whilst other areas have not. These different soil horizons would need to be stored separately in order that they can be replaced separately to the long term benefit of the site.
419. A further amendment to the restoration plan is also required as the applicant has stated in the supporting text that a number of small field corner ponds are

to be provided to give additional biodiversity interest at the site. Unfortunately, these have not been shown on the restoration plan and so a further amendment is required. The provision of such ponds, in addition to the proposed wetland area and surrounding species rich grassland, significant lengths of conservation field margins, and the proposed hedgerows and hedgerow trees would bring significant ecological improvements to the site over and above its present condition. Details regarding the depths and bank gradients of the ponds in the wetland area have been provided and are considered acceptable. Features such as large rocks placed on the south facing banks of the ponds would be beneficial to invertebrates and reptiles whilst the natural establishment of reedbed is also proposed which, in addition to the ponds themselves, would be a priority local biodiversity action plan habitat. Details of the species mix for the species rich grassland could be secured through a suitably worded condition.

420. The proposed hedgerow and tree planting would bring benefits to bats and birds with approximately 9,000 metres of new hedgerows and 133 further trees being planted as either hedgerow trees or within the wetland area to the north west of the site. The level of hedgerow planting in particular would be significantly greater than the amount of hedgerows that would be removed from the site as part of the proposals and would provide particular benefits across the middle of the site which is largely devoid of hedgerows as a result of previous opencast mining operations. These measures would accord with another landscape action for the area to 'enhance the field pattern of the areas of large scale agriculture by replacing areas of lost hedgerow and planting new hedgerow trees'.
421. The restoration proposals also provide significant levels of new public access with approximately 4,400 metres of new rights of way across the site. The majority of these would be new bridleways and have been designed to link with existing bridleways in the area. This includes a section of bridleway outside the application area but on land which the applicant recently owned. One of the new footpaths would link in with permissive footpaths in and around Oldmoor Wood which is a popular area for walkers. These new rights of way accord with the NPPF and Policy E10 of the Broxtowe Local Plan which promote opportunities to provide access and opportunities for outdoor sport and recreation within the Green Belt. Many objectors to the application have commented on their use of this area for walking and cycling and so it is considered important to enhance the rights of way network as much as possible through the restoration scheme. To this end, it is considered important to ensure that these new rights of way are added to the definitive rights of way map, something that could be secured through a legal agreement.
422. One of the bridleways proposed would run from the proposed bridleway running through the centre of the site to the western boundary of the site, exiting the site onto Cossall Road opposite a car park which provides access to the rights of way network running along the canal towpath. One of these rights of way is Trowell Bridleway Number 26 and it is considered important to provide a link between this existing bridleway and the network of bridleways being proposed as part of the restoration of the site. However, it is also considered important to make sure that any crossing point across Cossall Road is as safe as possible.

To this end, the applicant has been advised to carry out a survey of traffic speeds in both directions along Cossall Road and, based on the results of this survey, a crossing point a few metres south of the car park entrance has been proposed.

423. The survey results and the proposed crossing point have been considered by the County Council's Highways Departure Board which has highlighted the Geometric Design of Pedestrian, Cycle and Equestrian Routes Guidance (TA90/05) which states that "as with all highway design, there is a need to balance issues of safety and practicality. This Advice Note provides 'preferred' and 'acceptable' minimum values based on best available evidence, but in exceptional circumstances it may be appropriate to apply some flexibility in using these figures over short distances and where other measures are used such as 'SLOW' road markings to encourage lower speeds". The Board considers that this statement allows for flexibility on a site by site basis to reflect local conditions.
424. Whilst the speed survey requires a 211 metre visibility splay to be provided, as recommended by TA90/05, the applicant considers that the available visibility at the proposed crossing point would be between 150 metres and 170 metres, subject to the removal of 12 small to medium trees located on the eastern edge of the highway adjacent to the site boundary. However, as detailed above, TA90/05 does state that where it is not possible to achieve the required visibility, measures that can reduce the speed of vehicles, commensurate with the visibility that can be provided, should be considered.
425. The Board acknowledges previous surveys carried out by Rights of Way Officers which show that horse riders cross Cossall Road at the present time using a number of unofficial crossing points which are considered to be to a lesser standard than that being proposed through this application. There is also evidence to suggest that horse riders are riding along Cossall Road for considerable distances due to the lack of connectivity on the bridleway network, although there are no records of reported injury accidents associated with these crossings. The Board considers that the proposed restoration of the application site, in particular the proposed new bridleways, would attract more horse riders to the area, highlighting the need for a safe crossing point.
426. The Board accepts that the visibility distances at the proposed new crossing point could be further improved over what is being proposed by the removal of additional hedgerows and vegetation on both sides of the road but it is acknowledged that this could result in changes to the rural character of the road and also to driver behaviour by 'opening up' the highway and possibly increasing vehicle speeds. Additional vegetation clearance could also require the installation of safety barriers due to the proximity of the canal. The Board notes that whilst the road is subject to the national speed limit (60 mph), speed surveys carried out by the applicant confirm that mean speeds are in the region of 36 – 37 mph.
427. Taking the above matters into account, the Board considers that whilst the proposed crossing point would not meet the standard with respect to visibility for road users, it does offer a safer crossing point than those used by horse riders at

present. Given the low mean speeds of vehicles and the overall nature of the road, it is accepted that the proposed crossing should not endanger horse riders and/or road users. However, the Board recommends speed reduction measures are introduced in association with the crossing, such as an effective system of warning signs, road markings etc, with a formal traffic signal controlled crossing to be considered if necessary. The Board recommends that the proposed crossing point is re-evaluated prior to its installation to take account of any changes in the circumstances and condition of the road with the measures to be implemented to slow vehicles reflecting the traffic conditions at that time, a matter that could be secured through a legal agreement. Given the above, it is considered that a safe crossing point can be provided.

428. It is therefore considered that the proposed restoration scheme, subject to some minor amendments which could be secured through conditions and the provision of the bridleway crossing point through a legal agreement, accords with Policy M4.4 and M4.12 of the MLP as the largely agricultural restoration scheme does take account of the countryside appraisal and the local biodiversity action plan. It is also considered that the changes that have been incorporated into the restoration scheme would bring benefits in the long term to this Green Belt location.
429. The applicant is proposing to provide an additional five years of aftercare, over and above the standard five years, for those areas to be restored to nature conservation areas and woodland. It is considered important that this additional five years also covers the hedgerow planting, although this would only be to ensure that the hedgerows are allowed to grow, rather than being subject to trimming at an early age. This would ensure that they are of benefit to wildlife, particularly birds, at the earliest opportunity in addition to being a prominent feature on the landscape at the earliest opportunity. The additional five years would also need to be secured through a legal agreement attached to any planning permission granted and would accord with Policy M4.11 of the MLP.

#### Restoration bond

430. Concerns have been raised by SOCO, objectors and some of the parish councils regarding the ability of the applicant to deliver the restoration of the site, given what is perceived to be the applicant's financial position at the present time. In light of these concerns, objectors consider that any grant of planning permission should include a restoration bond which would be provided by the applicant and held by the County Council until the site has been fully restored. Councillor Rigby considers a sum of £2 million should be put into a bond for this purpose.
431. Following the submission of the application, UK Coal sold the application site to Strawson Group Investments Limited but has retained the rights to develop the site as proposed in this application. It is understood that Strawson Group Investments Limited has significant landholdings across the country which are in agricultural use. The County Council has had sight of the legal agreement between the two parties regarding the sale of the site and the rights for UK Coal

to work it are subject to it being restored in accordance with the restoration details set out in any planning permission granted. It is worth noting that the NPPF Technical Guidance states that “responsibility for the restoration and aftercare of mineral sites lies with the operator and, in the case of default, with the landowner”.

432. In July 2013, UK Coal went into administration with the loss of around 350 jobs from the Daw Mill deep mine, which closed following a fire in February and which has been transferred to the Coal Authority. However, the remaining parts of the business have been saved and a restructuring has seen the two remaining deep mines – Thoresby and Kellingley – and surface mine operations have their assets transferred to individual companies within a new business called UK Coal Production Limited. This has resulted in a further 2,000 jobs being saved. The Government sponsored Pension Protection Fund (PPF) has taken over the pensions of existing and previous employees who are part of the company’s pension scheme. The deficit taken on by the PPF is estimated to be around £450 - £500 million and some members who have not yet reached retirement may have up to 10% wiped off the retirement value of the pensions they have accrued although there are additional benefits (such as a larger lump sum) which help to balance the overall position. As part of the restructuring, the PPF also has a 75% interest in Harworth Estates which owns brownfield land previously used for mining operations.
433. Members might also be aware that both the Scottish Coal Company Limited and Aardvark TMC Limited, major opencast coal operators in Scotland, went into liquidation earlier in the year. East Ayrshire Council has produced reports on the consequences of this situation, including potential difficulties in securing the restoration of sites which have been mothballed, despite the fact that restoration bonds are in place at those sites.
434. Planning guidance on financial guarantees is set out in the Technical Guidance to the NPPF which highlights instances when it would be reasonable for a minerals planning authority to seek a financial guarantee to cover restoration and aftercare costs through either a voluntary agreement or a planning obligation. These include where there is reliable evidence of the likelihood of either financial or technical failure but where such concerns are not such as to justify refusal of permission.
435. Given the applicant company’s recent restructuring and difficulties facing the coal industry in general, it is considered that a bond should be put in place should planning permission be granted. Members should also be aware that the applicant’s site at Lodge House, Derbyshire has a restoration bond attached to it which totals £1.8 million so the provision of such an arrangement is not unusual for the applicant.
436. Discussions have taken place with the applicant regarding this matter and they have agreed to provide a restoration bond through a legal agreement which would be attached to any planning permission granted. The bond would be held in a bank account which the County Council could access should the applicant company fail at any time during the proposed development. The size of the bond is based on costings for the various and numerous works that would be



required to restore the site, such as plant and machinery hire, diesel costs, labour costs, and the price of tree and hedgerow plants and grass seed. These costs have been examined by an officer in the County Council's Reclamation Team and he is satisfied that they represent the realistic costs involved.

437. The amount being proposed for the bond varies depending on how advanced the proposed development is at any particular time and reflects not only the costs of restoring the site at that particular time but also the value of any remaining coal that would be in the ground at any particular time. It is considered that, should the applicant default whilst there are reserves of coal remaining at the site, it would be attractive to other coal operators given that considerable costs would have already been incurred, for example installing the plant site and access road. Such a situation has recently occurred in Scotland whereby a number of the sites which recently closed have been taken over by another company.
438. The size of the restoration bond therefore reflects the above factors. For example, 12 months from the commencement of the development, the restoration bond would have a sum of £800,000 which would reflect that most of the coal in the site would remain while the restoration works would comprise the deconstruction of overburden in Overburden Mounds 1 and 2, the replacement of topsoils and subsoils and the decommissioning of the plant site area. However, the bond would rise to over £2 million after 3½ years and, towards the end of the proposed development, would be £2.6 million pounds given the scale of the works that would be required to restore the site at that time and the smaller amount of coal remaining.
439. Whilst these figures are considered to be robust at the present time, the provision of the restoration bond would be subject to six monthly reviews throughout the proposed development. These reviews would allow progress on site to be reviewed, given that severe weather conditions could slow the development down, and would also allow changes to the coal market to be taken into account. The restoration bond would be amended accordingly taking these factors into account.
440. It is considered that the most secure way of holding the restoration bond would be through a bank account held in the County Council's name. Details of how the monies would be commuted would be agreed through a legal agreement attached to any planning permission granted.
441. Whilst recent events in Scotland, and the applicant company's recent restructuring, highlight the fact that the coal industry in this country has had its difficulties, the applicant has stressed to officers the fact that it has not defaulted on any of its restoration requirements in the past at other sites in the country, irrespective of whether a restoration bond has been on place or not. It is considered that Members should take this matter into consideration.

Community Fund and Liaison Committee

442. The applicant is proposing to provide a community fund of £150,000 as part of the proposed development. The application states that the fund would be “administered by a local site liaison group committee in order to support environmental and community benefits primarily within the parishes that comprise the site”. It further states that “although no specific major community projects were either raised or became evident at any of the public information exhibitions, UK Coal is willing to engage with local communities in order to bring about future benefits as a consequence of the scheme”. The applicant sees the fund as forming part of a package of benefits that would include significant new rights of way, improvements to the Balloon Wood junction and the landscape and ecological benefits that would result from the proposed restoration scheme.
443. Through the consultation process for the application, a number of suggestions have been made with regards to the size of the fund and how the money could be spent. Details of a proposed survey of the Bennerley Viaduct are set out in paragraphs 372 – 375 above although the applicant is offering a further £25,000 for “historic conservation improvements projects” and Members are requested to consider setting this particular sum aside for this project. In addition to this, SOCO has consulted the community and projects at local churches, Trowell pre-school, Trowell Primary School, Cossall Church Hall, and heritage buildings in Cossall and Trowell have been identified. Councillor Rigby has suggested that an extension to Cossall Parish Hall, granted planning permission in 2010, could benefit from some of the monies and he has also suggested that Trowell Parish Hall is in need of rebuilding. Councillor Rigby has also stated that the fund should be at least £300,000 to reflect the impact of the proposed development. Trowell Parish Council considers that the fund should be at least doubled.
444. Councillor Rigby has provided additional information regarding the developments in Cossall and Trowell which he considers should benefit from the community fund. He has stated that Cossall Parish Hall requires a total of £100,000 of which £20,000 needs to be raised by the parish council itself. So far, £10,000 has been raised. With regards to a new parish hall at Trowell, Councillor Rigby has stated that the total build price would be around £500,000 of which the parish council would need to provide funding in the order of £100,000.
445. If the community fund being offered by the applicant is used to provide the remaining £10,000 funding which Cossall Parish Council needs to raise itself, which would amount to 50% of the total it needed to raise, and also contributes 50% of the money that Trowell Parish Council needs to raise (£50,000), then, this would account for £60,000 of the total being offered and leave £90,000 for other projects within the local community. Alternatively, the fund could provide the same sum of money to Trowell Parish Council as is required by Cossall Parish Council (£10,000) which would leave a further £130,000 for other projects. Members are advised to take these sums of money into consideration in the determination of the application.
446. Any community fund provided through the proposed development, if granted planning permission, would be administered through a site liaison committee

which would be set up and would run through the life of the development. The liaison committee would allow County Council officers and Members, borough and parish councils, representatives of the applicant and members of the public to meet on a regular basis (four times a year) to discuss ongoing operations on site and to address any concerns that might arise, in addition to considering applications for funds from the community fund. The provision of the liaison committee would be secured through a legal agreement.

#### Legal Agreement

447. The observations section has highlighted a number of matters which would need to be covered by a legal agreement between the County Council and UK Coal should planning permission be granted. These can be summarised as follows:
- (a) The provision of a community fund of £150,000 and details of how the fund would be managed;
  - (b) The setting up of a liaison committee to allow officers and Members of the County Council, representatives of the applicant, members of the borough and parish councils, and members of the public to meet on a regular basis to discuss the ongoing development;
  - (c) The provision of a sum of £20,000 for additional anti-skid surfacing at the Balloon Wood junction;
  - (d) The provision of a sum of £25,000 for historic conservation improvements projects;
  - (e) The provision of £12,000 for bridleway repairs to Cossall Bridleway 16 and Trowell Bridleway 14;
  - (f) The lorry routing agreement (also to be agreed by Nottingham City Council) which shall ensure that HGVs entering and leaving the site travel along the A609, the A6002 and the A610 to junction 26 of the M1 and vice versa;
  - (g) The submission of a traffic management plan to allow the safe access of large vehicles delivering plant and equipment to the site via the temporary access off Cossall Road with minimal impact to other highway users and with minimal loss of roadside vegetation;
  - (h) The submission of a traffic management plan to control HGVs entering and leaving the site off the A609, with details including:
    - (i) Measures to ensure that all HGVs entering and leaving the site abide by the lorry routing agreement, including measures to be taken should any hauliers not abide with the agreement;
    - (ii) Measures to ensure that no HGVs enter and leave the site between 8am and 9am;

- (iii) Measures to ensure that HGVs do not leave the site in convoy;
- (i) The utilisation of the motorway underpass including the submission of all necessary method statements and structural assessments as required by the Highway Agency, measures to be put in place to avoid impact with the structure including the appropriate vehicle height limit, and confirmation that the Highways Agency would be allowed access to the underpass at all reasonable times to facilitate inspection and maintenance activities essential for safe operation of the motorway (this matter would also require the agreement of the Highways Agency);
- (j) The provision of signs on Cossall Bridleway 16 and Trowell Bridleway 14 notifying bridleway users of the time and date of the next blast on site;
- (k) The employment of four unskilled local apprentices who would be trained at one of the applicant's existing sites prior to operations commencing on site;
- (l) The provision of an additional five years of aftercare for those area to be restored to nature conservation, woodland and hedgerows;
- (m) The carrying out of further speed surveys on Cossall Road close to the proposed bridleway crossing point and the submission of details of the measures to be implemented to ensure that a safe crossing point can be provided;
- (n) The provision of a new right of way outside the site and the addition of all the new rights of way to be provided through the restoration of the site onto the definitive rights of way map.

#### Referral of the application to the Secretary of State

448. Circular 02/2009 advises on applications which should be referred to the Secretary of State prior to the issuing of any planning permission. This includes certain developments in the Green Belt and the circular advises that the Secretary of State should be consulted on applications for "development which consists of or includes inappropriate development on land allocated as Green Belt in an adopted plan, unitary development plan or development plan document and which consists of or includes:
- (i) The provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
  - (ii) Any other development which, by reason of its scale or nature or location, would have a significant impact on the openness of the Green Belt"
449. The NPPF states, at paragraph 90, that mineral extraction is not inappropriate development in the Green Belt so long as it preserves the openness of the Green Belt. As detailed in the landscape observations above, the issue of the temporary nature of impacts on the openness have been considered at a public inquiry for another opencast coal proposal and it is considered important to take

into account the fact that the proposed development would not have a permanent impact on the openness of the Green Belt. Given this, it is considered that there is no requirement to refer the application to the Secretary of State.

### **Other Options Considered**

450. The report relates to the determination of a planning application. The County council is under a duty to consider the planning application as submitted. Accordingly no other options have been considered. However, the ES has considered other alternatives within the application site, such as the direction of working which could have been undertaken in a southerly direction or could have been carried out using full width cuts, rather than the half width cuts proposed across the main part of the site. The ES considers that the method of working proposed takes account of the three different base seams of coal that would be worked, maximises the amount of coal recovered, and minimises the amount of overburden that would need to be stored above ground. The ES also considers that working in a northerly direction, in addition to the location and shaping of the overburden mounds, would reduce the environmental impacts of the proposed development.
451. The ES has also considered the timescale of the proposed development and states that working the coal in the five year, seven month period proposed keeps noise levels and HGV movements to acceptable levels, whilst reducing the amount of mobile plant on site would increase the timescale of the development whilst not decreasing the amount of overburden above ground.
452. Finally, the ES has considered the 'do nothing' scenario and states that this would result in an indigenous supply of coal not being mined, the loss of employment opportunities and the loss of input into the local economy.

### **Statutory and Policy Implications**

453. This report has been compiled after consideration of implications in respect of finance, the public sector equality duty, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment, and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

#### **Financial Implications**

454. It is considered that the main financial implication for the County Council to consider with respect to this application would arise if the applicant could not restore the site as proposed due to financial difficulties. Members should therefore consider the suitability of a financial bond being in place should planning permission be granted. Details of this matter are set out in paragraphs 430 – 441 of this report.

### Human Rights Act Implications

455. The relevant issues arising out of consideration of the Human Rights Act have been assessed in accordance with the Council's adopted protocol. Rights under Article 8 and Article 1 of the First Protocol may be affected. The proposals have the potential to introduce noise, dust and visual impacts and HGV traffic upon residents in Trowell, Cossall and other surrounding areas. However, these considerations need to be balanced against the wider benefits the proposals would provide in the form of an indigenous supply of coal and local employment opportunities. Members will need to consider whether these benefits would outweigh the potential impacts.

### Implications for Sustainability and the Environment

456. The proposed development has a wide range of implications with respect to sustainability and the environment and these are considered in details above. Members need to consider whether the proposed development is sustainable and whether the impacts on the environment could be controlled or mitigated in order to avoid adverse impacts to both the environment and local residents.

### Crime and Disorder Implications

457. The operation of a site such as that being proposed in this application has crime implications given the presence of expensive machinery on site which could be attractive to thieves. The applicant has confirmed that the site would be manned outside operating hours.

### Implications for Service Users

458. The proposed development has implications for the users of the local highway network and the adjacent bridleway, both of which are maintained by the County Council. The implications for users of these services are set out in the Observations Section of the report above.
459. There are no implications for equalities, safeguarding of children and human resources.

## **Conclusions**

460. This is a significant minerals application which has generated high levels of public opposition through the consultation process and has required detailed consideration of a number of key issues. The application site is within the Green Belt but minerals can only be worked where they are found and the NPPF states that mineral extraction is not inappropriate in the Green Belt so long as it preserves the openness of the Green Belt. Whilst the overburden mounds in particular would impact on the openness of the Green Belt during the mining operation, this would only be for a temporary period and the site would ultimately be restored leading to no permanent loss of openness as a result of the

proposals. It is therefore considered that the proposed development accords with the NPPF in this respect, which highlights that the aim of Green Belt policy is to keep land permanently open. It is considered that the temporary nature of the proposal also ensures compliance with Policy E9 of the Broxtowe Local Plan.

461. The proposed development, and the overburden mounds in particular, also have the potential to impact on the setting of Cossall Conservation Area. Again, the temporary nature of the proposals is an important consideration, as is the proposed restoration scheme which is seeking to reinstate historic field patterns and also replant the northern section of Short Wood, which would face the village. Given these matters, it is considered that there would not be an unacceptable level of harm to the conservation area and so it is considered that the proposed development accords with Policy M3.25 of the MLP and Policy E3 of the Broxtowe Local Plan.
462. The overburden mounds would be designed with contoured slopes and would be seeded in order to soften their impact on the landscape in accordance with Policy M3.4 of the MLP. External slopes would be constructed first in order that many activities would be subsequently screened from view. A topsoil mound would help screen views of the plant site from residential properties immediately south and west in Trowell, although the coal stockpiles and processing area would be visible to motorway users. Whilst there would be landscape and visual impacts as a result of the proposed development, it is not considered to be contrary to Policy M3.22 of the MLP as any adverse effects on the character and distinctiveness of the landscape would only be for a temporary period. It is also considered that the design of the scheme, the direction of working, the location of screening mounds and the location of the plant site area are all in accordance with Policies M3.3 and M3.4 of the MLP. The development of a small section of mature landscape area would not result in any long term adverse impact and so it is considered that it accords with Policy M3.23 of the MLP.
463. The issue which has caused greatest concern to local residents is the impact of HGVs on the local highway network and it is disappointing that the Highways Agency has been unwilling to be flexible and allow direct access onto the motorway through Trowell services as this would have taken the HGVs off the local 'A' roads and significantly reduced the miles that each HGV would have to take when travelling to and from the site. However, given that the most intense period of coal extraction would see 68 HGVs entering and leaving the site per day for a six month period, which equates to one HGV entering or leaving the site every eight minutes, it is considered that the highway network on the proposed HGV route could satisfactorily accommodate this level of traffic on the proposed HGV route in accordance with Policy M3.13 and M3.14 of the MLP. Members should also be aware that the applicant is proposing additional safety measures at the Balloon Wood junction as part of the proposed development which would be of benefit to all road users throughout and beyond the proposed development.
464. Noise impacts are also of great concern to local residents and the proposed development has the potential to generate significant levels unless adequate mitigation measures are in place. Existing background noise levels have been

calculated and it is acknowledged that areas close to the motorway already have high background noise levels. As part of the proposals, soil and overburden mounds would provide noise attenuation whilst acoustic fencing would be erected around Field House Farm and Field House Bungalow. Given these measures, it is considered that the proposed development would accord with the noise standards set out in the NPPF and conditions would restrict the hours of working and set the maximum noise levels allowed at nearby noise sensitive locations in accordance with Policy M3.5 of the MLP.

- 465. The amount of soils, overburden and coal that needs to be moved and the amount of plant and machinery required to move it also has the potential to generate significant amounts of dust. The measures being proposed to suppress dust are considered to be acceptable to Broxtowe Borough Council's EHO and Public Health England as Air Quality Standards Regulations targets would not be exceeded. These measures could be secured by conditions attached to any planning permission granted in accordance with Policy M3.7 of the MLP.
- 466. The extraction area proposed has been designed to stand-off thicker seams of sandstone which lie between the seams of coal in order to reduce the need for blasting on site. However, the application does seek permission to blast if required, although this would be avoided if possible as it makes the clean recovery of coal more difficult. Should blasting be required, it is considered that conditions would ensure that any such blasting would be carried out without causing any adverse impact to sensitive receptors or properties and a test blast would be carried out prior to any blasting taking place in accordance with Policy M3.6 of the MLP.
- 467. Blasting also has the potential to have adverse impacts on bridleway users and there is a bridleway running along the eastern boundary of the site. Appropriate signs would be installed to warn users of any blasting that is due to take place and bridleway users would also be protected from mobile plant and machinery which needs to cross the bridleway through a manned crossing point with traffic lights and gates. Although it is accepted that the amenity of the bridleway would be impacted during the life of the development, the restoration of the site is proposing significant additions to the bridleway network, including links to existing bridleways in the area.
- 468. The application site has the potential to include some historic mining remains whilst the few remaining fields not previously mined could also be of archaeological importance. Measures to record these findings would accord with Policy M3.24 of the MLP.
- 469. Suitable mitigation measures would be put in place to offset the loss of features of ecological interest on the site, in particular the removal of 4,000 metres of hedgerows. This includes the sowing of soil and overburden mounds, along with some undisturbed areas, with seed mixes which would provide suitable habitat for foraging birds and bats. The ten mature and one veteran trees to be removed would be retained on site as dead wood habitat. Measures would also be put in place to protect any protected species which use the site for foraging.



It is not considered that the proposed development would have an adverse impact on the Robbinetts SSSI.

470. The restoration scheme would also bring ecological benefits to the site in the form of wetland areas, woodland and hedgerow planting, species rich grassland and conservation field margins. These would be managed for a total of ten years in accordance with Policy M4.11 of the MLP.
471. It is considered that the restoration scheme would also bring landscape benefits to the area, reflecting the landscape of the Babbington Rolling Farmlands Policy Zone, whilst also being of benefit to the setting of the conservation area. It would also bring significant benefits for rights of way users in the area with a number of new footpaths and bridleways to be added to the definitive rights of way map. Given the scale of the proposed development and recent uncertainties regarding the applicant company and the coal mining industry in general, a restoration bond is proposed which would allow for the site to be restored should the applicant default partway through the development. The applicant is also offering £150,000 to go into a community fund, a further £25,000 for “historic conservation improvements projects” which Members should consider setting aside for a full structural survey of the Grade II\* listed Bennerley Viaduct, and £12,000 for bridleway repairs. The community fund could help with local schemes such as an extension to Cossall Parish Hall and the redevelopment of Trowell Parish Hall. The fund would be administered through a site liaison committee which would meet throughout the proposed development.
472. It is therefore considered that, whilst there are significant local concerns regarding the application and a number of issues have been raised by consultees, there are no material planning considerations which would support the refusal of planning permission. It is considered that the proposed development accords with Policy M12.1 of the MLP as it would be largely environmentally acceptable, community benefits would outweigh any impacts on the environment, and the restoration scheme would bring long term benefits to the site. It is therefore considered that planning permission should be granted subject to the conditions set out in Appendix 6 of this report and a legal agreement, the clauses of which are outlined in paragraph 447 above.

## **RECOMMENDATIONS**

473. It is RECOMMENDED that the Corporate Director for Policy, Planning and Corporate Services be instructed to enter into a legal agreement under Section 106 of the Town and Country Planning Act 1990 and/or Section 278 of the Highways Act 1980 to secure the provision of a community fund; the setting up of a liaison meeting; the provision of £20,000 for additional anti-skid surfacing at the Balloon Wood junction; the provision of a sum of £25,000 for historic conservation improvements projects which Members should consider setting aside for a full structural survey of the Grade II\* listed Bennerley Viaduct; the provision of £12,000 for bridleway repairs to Cossall Bridleway 16 and Trowell Bridleway 14; a lorry routeing agreement; traffic management plans at the two site accesses; the safe working through the motorway underpass; the provision

of signs on the bridleway to warn users of any blasting on site; the employment of unskilled local apprentices; the provision of an additional five years of aftercare for features of ecological interest; the carrying out of speed surveys on Cossall Road and the provision of a suitable crossing point; and the addition of new rights of way onto the definitive rights of way map.

474. It is FURTHER RECOMMENDED that subject to the completion of the legal agreement the Corporate Director for Policy, Planning and Corporate Services be authorised to grant planning permission for the above development subject to the conditions set out in Appendix 6 of this report. Members need to consider the issues, including the Human Rights Act issues set out in the report and resolve accordingly.

**JAYNE FRANCIS-WARD**

**Corporate Director for Policy Planning and Corporate Services**

### **Constitutional Comments**

Planning and Licensing Committee has authority to approve the recommendations set out in this report by virtue of its terms of reference.

[NAB 26.11.13]

### **Comments of the Service Director – Finance**

The financial implications are set out in the report.

[SEM 02.12.13]

### **Background Papers Available for Inspection**

The application file available for public inspection by virtue of the Local Government (Access to Information) Act 1985.

### **Electoral Division(s) and Member(s) Affected**

Kimberley and Trowell

Councillor Ken Rigby

Nuthall

Councillor Philip Owen

Report Author/Case Officer

Jonathan Smith

0115 9696502

For any enquiries about this report, please contact the report author.

2 December 2013

**Appendix 1 – Details of objections made against the application as originally submitted.**

<b>Total for all areas (342 objections)</b>	
<b>Issue</b>	<b>Total number of objections per issue</b>
Inadequate consultation period	28
Impact on Green belt	152
Noise	177
Dust/dirt	219
Heavy traffic/congestion	245
Contrary to Govt. policy/legislation	8
Impact on ecology/wildlife	128
Impact on heritage	31
Impact on countryside	150
General environmental impact	63
Unsustainable energy	26
Climate change	9
Pollution/air quality	94
Impact on footpaths/bridleway	74
Impact on health	164
Not local employment/impact on local jobs	19
Impact on water table/courses	15
Impact on local tourism	10
Doubts over restoration	91
Reduced demand/small amount of coal extracted	28

Impact on horses/stables	14
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<b>Trowell (167 objections)</b>	
<b>Issue</b>	<b>Total number of objections per issue</b>
Inadequate consultation period	6
Impact on Green belt	64
Noise	89
Dust/dirt	130
Heavy traffic/congestion	149
Contrary to Govt. policy/legislation	4
Impact on ecology/wildlife	71
Impact on heritage	7
Impact on countryside	60
General environmental impact	43
Unsustainable energy	16
Climate change	6
Pollution/air quality	62
Impact on footpaths/bridleway	28
Impact on health	105
Not local employment/impact on local jobs	8
Impact on water table/courses	8
Impact on local tourism	2
Doubts over restoration	53
Reduced demand/small amount of coal extracted	13

Impact on horses/stables	7
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<b>Cossall (53 objections)</b>	
<b>Issue</b>	<b>Total number of objections per issue</b>
Inadequate consultation period	1
Impact on Green belt	29
Noise	33
Dust/dirt	38
Heavy traffic/congestion	33
Contrary to Govt. policy/legislation	1
Impact on ecology/wildlife	22
Impact on heritage	5
Impact on countryside	27
General environmental impact	5
Unsustainable energy	2
Climate change	0
Pollution/air quality	11
Impact on footpaths/bridleway	20
Impact on health	27
Not local employment/impact on local jobs	2
Impact on water table/courses	3
Impact on local tourism	4
Doubts over restoration	14
Reduced demand/small amount of	4

# Appendix 1

coal extracted	
Impact on horses/stables	1

Strelley (17 objections)	
Issue	Total number of objections per issue
Inadequate consultation period	0
Impact on Green belt	7
Noise	16
Dust/dirt	11
Heavy traffic/congestion	15
Contrary to Govt. policy/legislation	1
Impact on ecology/wildlife	7
Impact on heritage	4
Impact on countryside	13
General environmental impact	2
Unsustainable energy	0
Climate change	0
Pollution/air quality	7
Impact on footpaths/bridleway	4
Impact on health	5
Not local employment/impact on local jobs	0
Impact on water table/courses	1
Impact on local tourism	0
Doubts over restoration	6

## Appendix 1

Reduced demand/small amount of coal extracted	4
Impact on horses/stables	1

Awsorth (16 objections)	
Issue	Total number of objections per issue
Inadequate consultation period	3
Impact on Green belt	13
Noise	10
Dust/dirt	11
Heavy traffic/congestion	11
Contrary to Govt. policy/legislation	0
Impact on ecology/wildlife	7
Impact on heritage	1
Impact on countryside	9
General environmental impact	0
Unsustainable energy	1
Climate change	0
Pollution/air quality	2
Impact on footpaths/bridleway	3
Impact on health	8
Not local employment/impact on local jobs	3
Impact on water table/courses	0
Impact on local tourism	0



**Appendix 1**

Doubts over restoration	6
Reduced demand/small amount of coal extracted	2
Impact on horses/stables	0

<b>Other Nottinghamshire (78 objections)</b>	
<b>Issue</b>	<b>Total number of objections per issue</b>
Inadequate consultation period	18
Impact on Green belt	33
Noise	25
Dust/dirt	24
Heavy traffic/congestion	32
Contrary to Govt. policy/legislation	2
Impact on ecology/wildlife	17
Impact on heritage	14
Impact on countryside	36
General environmental impact	10
Unsustainable energy	5
Climate change	2
Pollution/air quality	9
Impact on footpaths/bridleway	15
Impact on health	15
Not local employment/impact on local jobs	4
Impact on water table/courses	3

# Appendix 1

Impact on local tourism	3
Doubts over restoration	9
Reduced demand/small amount of coal extracted	3
Impact on horses/stables	1

Out of county (11 objections)	
Issue	Total number of objections per issue
Inadequate consultation period	0
Impact on Green belt	6
Noise	4
Dust/dirt	5
Heavy traffic/congestion	5
Contrary to Govt. policy/legislation	0
Impact on ecology/wildlife	4
Impact on heritage	0
Impact on countryside	5
General environmental impact	3
Unsustainable energy	2
Climate change	1
Pollution/air quality	3
Impact on footpaths/bridleway	4
Impact on health	4
Not local employment/impact on local jobs	2

**Appendix 1**

Impact on water table/courses	0
Impact on local tourism	1
Doubts over restoration	3
Reduced demand/small amount of coal extracted	2
Impact on horses/stables	1

**Appendix 2 – Details of objections made against the first Regulation 22 submission.**

<b>Total for all objections (26 objections)</b>	
<b>Issue</b>	<b>Total number of objections per issue</b>
Inadequate consultation period	0
Impact on Green belt	4
Noise	8
Dust/dirt	11
Heavy traffic/congestion	13
Contrary to Govt. policy/legislation	0
Impact on ecology/wildlife	4
Impact on heritage	1
Impact on countryside	8
General environmental impact	5
Unsustainable energy	1
Climate change	0
Pollution/air quality	5
Impact on footpaths/bridleway	2
Impact on health	4
Not local employment/impact on local jobs	1
Impact on water table/courses	1
Impact on local tourism	1
Doubts over restoration	4
Reduced demand/small amount of coal extracted	0

Impact on horses/stables	0
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Trowell (6 objections)	
Issue	Total number of objections per issue
Inadequate consultation period	0
Impact on Green belt	3
Noise	3
Dust/dirt	4
Heavy traffic/congestion	5
Contrary to Govt. policy/legislation	0
Impact on ecology/wildlife	2
Impact on heritage	0
Impact on countryside	5
General environmental impact	1
Unsustainable energy	0
Climate change	0
Pollution/air quality	2
Impact on footpaths/bridleway	1
Impact on health	3
Not local employment/impact on local jobs	0
Impact on water table/courses	0
Impact on local tourism	0
Doubts over restoration	3
Reduced demand/small amount of coal extracted	0

## Appendix 2

Impact on horses/stables	0
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<b>Cossall (5 objections)</b>	
<b>Issue</b>	<b>Total number of objections per issue</b>
Inadequate consultation period	0
Impact on Green belt	0
Noise	3
Dust/dirt	3
Heavy traffic/congestion	3
Contrary to Govt. policy/legislation	0
Impact on ecology/wildlife	0
Impact on heritage	0
Impact on countryside	1
General environmental impact	0
Unsustainable energy	0
Climate change	0
Pollution/air quality	0
Impact on footpaths/bridleway	0
Impact on health	0
Not local employment/impact on local jobs	0
Impact on water table/courses	0
Impact on local tourism	0
Doubts over restoration	0
Reduced demand/small amount of	0

## Appendix 2

coal extracted	
Impact on horses/stables	0

Other Nottinghamshire (15 objections)	
Issue	Total number of objections per issue
Inadequate consultation period	0
Impact on Green belt	1
Noise	2
Dust/dirt	4
Heavy traffic/congestion	5
Contrary to Govt. policy/legislation	0
Impact on ecology/wildlife	2
Impact on heritage	1
Impact on countryside	2
General environmental impact	4
Unsustainable energy	1
Climate change	0
Pollution/air quality	3
Impact on footpaths/bridleway	1
Impact on health	1
Not local employment/impact on local jobs	1
Impact on water table/courses	1
Impact on local tourism	1
Doubts over restoration	1

**Appendix 2**

Reduced demand/small amount of coal extracted	0
Impact on horses/stables	0

**Appendix 3 – Details of objections made against the second Regulation 22 submission.**

<b>Total for all objections (11 objections)</b>	
<b>Issue</b>	<b>Total number of objections per issue</b>
Inadequate consultation period	0
Impact on Green belt	2
Noise	1
Dust/dirt	1
Heavy traffic/congestion	3
Contrary to Govt. policy/legislation	0
Impact on ecology/wildlife	2
Impact on heritage	0
Impact on countryside	3
General environmental impact	4
Unsustainable energy	0
Climate change	0
Pollution/air quality	0
Impact on footpaths/bridleway	2
Impact on health	1
Not local employment/impact on local jobs	1
Impact on water table/courses	1
Impact on local tourism	0



**Appendix 3**

Doubts over restoration	2
Reduced demand/small amount of coal extracted	0
Impact on horses/stables	0

**Appendix 4 – Details of additional objections received when the application was resubmitted**

<b>Total for all objections (5 objections)</b>	
<b>Issue</b>	<b>Total number of objections per issue</b>
Inadequate consultation period	0
Impact on Green belt	1
Noise	0
Dust/dirt	0
Heavy traffic/congestion	4
Contrary to Govt. policy/legislation	0
Impact on ecology/wildlife	0
Impact on heritage	1
Impact on countryside	2
General environmental impact	1
Unsustainable energy	1
Climate change	0
Pollution/air quality	0
Impact on footpaths/bridleway	1
Impact on health	0
Not local employment/impact on local jobs	0
Impact on water table/courses	0
Impact on local tourism	0
Doubts over restoration	0
Reduced demand/small amount of coal extracted	0
Impact on horses/stables	1

This matter is being dealt with by:

**Jonathan Smith**

Reference:

**T**

**E**

**W** nottinghamshire.gov.uk



Graham Broome  
Highways Agency  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

1 February 2013

Dear Sir

**Planning application for the extraction of coal and fireclay by surface mining methods with restoration to agriculture, woodland, nature conservation and public amenity**

**Land off Cossall Road between the villages of Cossall and Trowell, referred to as the Shortwood site**

**Planning application 5/12/00268/CCM**

I refer to the above planning application to which you provided a consultation response dated 15 May 2012 (reference K489411) and a more recent response dated 30 January 2013. The planning application has generated significant levels of public objection with almost 350 letters of objection having been received so far. Of these, almost 250 have raised concerns about the impact of HGVs associated with the proposed development on the local highway network.

Prior to the application being submitted, the applicant (UK Coal) held a number of public exhibitions and members of the public asked whether it would be possible for HGVs entering and leaving the site to use the nearby Trowell motorway service area, in order to minimise the impact of the proposed development on the local highway network, particularly the A609 and A6002. The environmental statement submitted with the application makes reference to a meeting held with the Highways Agency in which the Agency confirmed that such an access would not be permitted in light of paragraph 33 of the Department for Transport Circular 01/2008. Paragraph 33, and the preceding paragraph 32, state:

*As outlined in DfT Circular 02/2007, there is a general presumption against additional accesses to the motorway and other routes of strategic national importance other than for 'service areas, facilities for the travelling public, maintenance compounds and, exceptionally, other major transport interchanges'.*

*Therefore, the Highways Agency will not agree to the provision of accesses to the SRN from private developments for the purpose of service provision other*

*than for facilities that meet the standard range of minimum requirements set out in this circular, nor will it permit the development of activities at service area sites which are unconnected with the immediate needs of the travelling public and which would therefore lead to the site becoming a destination in its own right.*

Despite the above, I would be grateful for comments on the following specific points, given the level of public concern on this matter.

- (i) The provision of an access onto and egress off the motorway for HGVs associated with the proposed development would not require the provision of additional access and egress points onto the motorway, as highlighted as a concern in Circular 02/2007, merely the utilisation of existing facilities at the Trowell motorway service area;
- (ii) The proposed development is not a permanent development and the applicant anticipates HGVs to be taking coal from the site for a period of only four years and nine months;
- (iii) Access and egress onto the motorway from the Trowell motorway service area would be to/from a four lane motorway, rather than the usual three lanes found on most motorways in the UK. Surely, this additional lane would allow for far safer access and egress for the HGVs involved;
- (iv) In order to minimise the impact of HGVs entering and leaving the motorway, I am sure that appropriate traffic management systems could be put in place through appropriate planning controls to stagger the movement of HGVs rather than having HGVs access and egress the motorway in convoy. Such systems could also be designed to restrict the access and egress of HGVs to and from the motorway during the rush hours;
- (v) I do not consider that the Highways Agency would be setting any sort of precedent in allowing the proposed development to directly access the motorway via the motorway service area. This is a potentially unique situation in that an economically viable coal resource is located not only adjacent to a four lane motorway but also next to a motorway service area. In any event, the Highways Agency would presumably be able to consider other proposals on their individual merits;
- (vi) Providing such an access and egress directly to and from the motorway would save each HGV approximately 20 kilometres for each trip compared to using the proposed HGV route along the A609 and the A6002 (see the attached plan showing the application area in red and the proposed HGV route from the application site to the point where HGVs would pass the motorway service area). Given that the application states that it is proposed to extract 1,275,000 tonnes of coal and that each HGV would carry 28.5 tonnes of coal, this equates to almost 45,000 HGV trips throughout the life of the proposed development. Therefore, not allowing direct access and egress to and from the motorway would result in an additional 890,000 kilometres of HGV traffic in the area in relation to the transport of coal only (it is also proposed to extract 250,000 tonnes of fireclay from the site). The National Planning Policy Framework states that

“encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.”

In the ministerial foreword to the National Planning Policy Framework, it is stated that:

*“Planning must not simply be about scrutiny. Planning must be a creative exercise in finding ways to enhance and improve the places in which we live our lives.”*

Whilst the local highway network is likely to be capable of absorbing the HGVs associated with this proposed development, there would clearly be benefits in not having these additional HGVs on these roads but instead to direct them onto the adjacent four lane motorway which forms part of the strategic highway network and so which is designed to carry HGVs in large numbers more effectively than any other roads. In addition to this, not having these HGVs passing residential properties which are located on the proposed HGV route would also be beneficial to the amenity of residents living on those roads.

I would therefore be grateful if you could give this matter your further consideration and set out whether the Highways Agency would be prepared to allow direct access onto the motorway for this particular proposed development, given the arguments I have set out above. I assume that if this is not possible, there would be nothing to stop every HGV associated with the proposed development from using the Trowell services when travelling along the motorway both to and from the site, thereby creating the same impact on the service area that you have indicated to UK Coal would not be accepted.

I look forward to hearing from you in due course but please do not hesitate to contact me should you wish to discuss this matter further.

Yours faithfully,

Jonathan Smith  
Principal Planning Officer  
Nottinghamshire County Council

Our ref: 687583  
Your ref: 5/12/00268/CCM

Jonathon Smith  
Principal Planning Officer  
Nottinghamshire County Council  
Trent Bridge House  
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Direct Line:  
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13 February 2013

Dear Mr Smith

**PROPOSED COAL AND FIRECLAY EXTRACTION SITE ON LAND OFF COSSALL ROAD NEAR COSSALL AND TROWELL VILLAGES KNOWN AS THE SHORTWOOD SITE**

Thank you for letter of 1 February seeking our views on the proposed use of Trowell Motorway Service Area (MSA) to provide access to the above site.

We have carefully considered your proposal and the points you have raised. However, Government policy is quite clear in that there should be no access to other development via a motorway service area. This is what differentiates motorways from other roads. The only reason why MSAs are allowed access is because they are development specifically aimed at meeting the needs of motorists using the motorway.

Furthermore, the Trowell MSA is a privately-operated and controlled commercial business and we have no authority to agree to such a proposal. Neither does the operator of the MSA have the ability to approve your request as he has entered into a sealed agreement with the Secretary of State and must comply with government policy including the prohibition of the use of the site to serve other development.

I will now address the remaining points you have raised:

Point (vi),

The National Planning Policy Framework (NPPF) (paragraph 31) states that, "The primary function of roadside facilities for motorists should be to support the safety and welfare of the road user." Motorists and pedestrians making use of an MSA should not be expected to interact with heavily-loaded trucks serving other developments. Of more concern would be empty trucks entering the services at road speed not looking for a parking space but merely transiting the site. We would only accept the use rear accesses to MSAs for authorised vehicles.

**Point (iv)**

We disagree with your suggestion of using a traffic management system to control movement within the MSA. Such controls would be very difficult to monitor and enforce and would interfere with and inconvenience legitimate users of the site. For instance how would the arrival of HGVs in convoy be prevented?

**Point (iii)**

We still require vehicles to use the left hand lane of the motorway whenever possible. It makes no difference to safety whether it is a three or four lane carriageway.

**Point (ii)**

A four year excavation scheme, not including restoration, is a long time. It is not a short term situation such as the movement of wind turbine blades via a temporary access over a period of a month which has been permitted on one occasion as a departure from policy.

I hope I have answered your points and clearly explained why we cannot agree to your proposal. Notwithstanding the above I do not have the authority to approve your request, setting aside the fact that the MSA is a privately controlled site, as we do not have the power to grant departures from policy.

Yours sincerely

Graham Broome  
NDD ( Midlands)  
Asset Manager (Derbyshire & Nottinghamshire)

## RECOMMENDED PLANNING CONDITIONS

### Commencement and duration of the development

1. The development hereby permitted shall be begun within three years from the date of this permission.

*Reason: To comply with the requirements of Section 91 (as amended) of the Town and Country Planning Act 1990.*

2. The Minerals Planning Authority (MPA) shall be notified in writing of the date of commencement of the following at least seven days, but not more than 14 days, prior to their commencement:

- (a) The commencement of site preparation works associated with the construction of the access road and the plant site;

- (b) The commencement of the winning and working of coal or fireclay;

- (c) The commencement of the export of coal or fireclay from the site.

*Reason: To enable the MPA to monitor compliance with the conditions of the planning permission.*

3. The extraction of coal and fireclay from the site shall be completed no later than 5 years from the date of the commencement of the winning and working of coal or fireclay from the site, as notified under the requirements of Condition 2(b) above. The MPA shall be notified in writing of the date of the cessation of mineral extraction within 14 days of its occurrence.

*Reason: To ensure that mineral extraction is completed within an acceptable timeframe.*

4. All plant, equipment and supporting infrastructure shall be removed from the site within 12 months of the cessation of mineral extraction, as notified under Condition 3 above.

*Reason: To secure proper restoration of the site within an acceptable timescale and in accordance with Policy M4.1 of the Nottinghamshire Minerals Local Plan.*

5. All soil replacement operations required in accordance with Conditions 54 – 59 shall be completed no later than 18 months from the date of the cessation of mineral extraction, as notified under the requirements of Condition 3 above.

*Reason: To secure the proper restoration of the site within an acceptable timeframe.*

### Approved plans



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6. From the completion of the installation of the site offices until their removal under Condition 4 above, a copy of this permission including all plans and documents hereby approved, any other plans and documents subsequently approved in accordance with this permission, and a copy of the legal agreement accompanying this permission, shall always be available at the site offices for inspection by the MPA during normal working hours.

*Reason: To enable the MPA to monitor compliance with the conditions of the planning permission.*

7. The development hereby permitted shall only be carried out in accordance with the following details, unless amendments are made pursuant to the other conditions below:

- (i) Planning application forms received by the MPA on 17 September 2013;
- (ii) 'Planning Statement Volume 1 – September 2013 (as previously submitted and dated February 2012)' received by the MPA on 17 September 2013;
- (iii) 'Environmental Statement Volume 2A – September 2013 (as previously submitted and dated February 2012)' received by the MPA on 17 September 2013;
- (iv) 'Environmental Statement Volume 2B – September 2013 (as previously submitted and dated February 2012)' received by the MPA on 17 September 2013;
- (v) 'Further Information – September 2013 (as previously submitted and dated January 2013)' received by the MPA on 17 September 2013;
- (vi) 'Further Information – September 2013 (as previously submitted and dated May 2013)' received by the MPA on 17 September 2013;
- (vii) 'Drawing Number 186/D22 – Location Plan' received by the MPA on 17 September 2013;
- (viii) 'Drawing Number 186 D02a – Site Plan' received by the MPA on 17 September 2013;
- (ix) 'Drawing Number 186D09 – Phasing Plan – 6 Months (incl. Overburden Mound Details)' received by the MPA on 17 September 2013;
- (x) 'Drawing Number 186D10 – Phasing Plan – 1.5 Years (incl. Overburden Mound Details)' received by the MPA on 17 September 2013;
- (xi) 'Drawing Number 186D11 – Phasing Plan – 2.5 Years (incl. Overburden Mound Details)' received by the MPA on 17 September 2013;
- (xii) 'Drawing Number 186D12 – Phasing Plan – 4 Years (incl. Overburden Mound Details)' received by the MPA on 17 September 2013;

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- (xiii) 'Drawing Number 186D13 – Phasing Plan – 5 Years (incl. Overburden Mound Details)' received by the MPA on 17 September 2013;
- (xiv) 'Drawing Number 186D30 – Landscape Cross Sections' received by the MPA on 4 January 2013;
- (xv) 'Drawing Number SSM 8/3 – Proposed Site Access Improvements' received by the MPA on 24 April 2012;
- (xvi) 'Drawing Number 2 – Crossing Point' detailing the management of plant crossing Trowell Bridleway Number 14 received by the MPA on 17 September 2013.

*Reason: To enable the MPA to monitor compliance with the conditions of the planning permission.*

8. Notwithstanding the phasing plans detailed in Condition 7 above, the site shall be developed in accordance with Figure 3 of Appendix E1 of 'Further Information – September 2013 (as previously submitted and dated January 2013)' received by the MPA on 17 September 2013 in order to allow the retention of Mature Tree Number 83.

*Reason: To maintain the character of the landscape in accordance with Policy M3.22 of the Nottinghamshire Minerals Local Plan.*

9. Within 24 months of the date of site preparation works, as notified under Condition 2 (a) above, a revised restoration plan shall be submitted to the MPA for its approval in writing. The revised restoration plan shall be based on 'Drawing Number 186 D03B – Restoration Plan' as contained in 'Further Information – September 2013 (as previously submitted and dated May 2013)' received by the MPA on 17 September 2013 with the following amendments:

- (i) The provision of additional fields of pasture land in the north west corner of the site to the immediate west of the proposed replanted section of Short Wood and immediately north of the proposed wetland area;
- (ii) The provision of small field ponds as detailed on page 5 of 'Further Information – September 2013 (as previously submitted and dated May 2013)' received by the MPA on 17 September 2013;

*Reason: To ensure the site is restored to the highest standard in accordance with Policy M12.1 of the Nottinghamshire Minerals Local Plan.*

### Site screening, planting and security

10. No development on site shall commence until a scheme for landscape and ecological protection and enhancement has been submitted to, and been approved in writing by, the MPA. The scheme shall provide for:
- (i) The identification of trees and hedgerows to be retained and removed;

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- (ii) Details of the measures of protection for those trees and hedgerows to be retained, including Mature Tree Number 83 as highlighted in Figure 3 of Appendix E1 of 'Further Information – September 2013 (as previously submitted and dated January 2013)' received by the MPA on 17 September 2013;
- (iii) The provision of bat and bird boxes, including barn owl boxes, on retained trees and details of the timing of their installation;
- (iv) Details of the distribution of felled trees around the undisturbed periphery of the site within existing plantations and adjacent to hedgerows;
- (v) Details of the management of retained hedgerows to allow them to grow larger, including details of the cutting regime throughout the development, and the creation of species-rich margins alongside these hedgerows, including details of the seed mixture, proportions, confirmation of the use of UK provenance seed, rate of sowing, ground preparation, and maintenance;
- (vi) Details of the planting of any gaps in the hedgerows to be retained on site, including proposed species mixes (including the provision of hedgerow trees) which shall be of native genetic origin and appropriate to the local area; proportions; size; spacing; positions; densities; ground preparation; and protection and maintenance, including the replacement of any failed planting;
- (vii) Details of the advanced planting of the proposed woodland to the immediate north of the motorway services, including proposed seed and species mixes which shall be of native genetic origin and appropriate to the local area; proportions; size; spacing (which shall allow for the later planting of ash or another appropriate species upon the final restoration of the site); positions; densities; ground preparation; and protection and maintenance, including the replacement of any failed planting;
- (viii) Details of the advanced planting of hedgerows and hedgerow trees in the area in the north east corner of the site highlighted as undisturbed on 'Drawing Number 186 D02a – Site Plan' received by the MPA on 17 September 2013, including proposed species mixes which shall be of native genetic origin and appropriate to the local area; proportions; size; spacing; positions; densities; ground preparation; and protection and maintenance, including the replacement of any failed planting;
- (ix) Details of the seeding of all topsoil and subsoil mounds with a rapidly developing grass and herb seed mix which shall be managed thereafter as rough grassland. Details shall include seed mixes including proportions and confirmation of the use of UK provenance seed (seed zone 402); rate of sowing; ground preparation; and maintenance;
- (x) Details of the seeding of all overburden mounds which shall include a rapidly developing grass and herb seed mix on their plateaux and which shall be managed thereafter as rough grassland. Details shall include

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seed mixes including proportions and confirmation of the use of UK provenance seed (seed zone 402); rate of sowing; ground preparation; and maintenance;

- (xi) Details of the seeding of those areas identified on Figure 4 of Appendix E1 of 'Further Information – September 2013 (as previously submitted and dated January 2013)' received by the MPA on 17 September 2013, which are to be sown with a rapidly developing grass and herb seed mix and managed thereafter as rough grassland (with the exception of the area to the immediate north of the motorway services which is to be the subject of advanced planting as detailed in (vii) above). Details shall include seed mixes including proportions and confirmation of the use of UK provenance seed (seed zone 402); rate of sowing; ground preparation; and maintenance;
- (xii) Details of the seeding of the two 0.5 hectare blocks, identified on Figure 4 of Appendix E1 of 'Further Information – September 2013 (as previously submitted and dated January 2013)' received by the MPA on 17 September 2013, which are to be sown with a seed mix suitable for seed eating farmland birds, including details of the seed mix including proportions and confirmation of the use of UK provenance seed (seed zone 402); rate of sowing; ground preparation; and maintenance;
- (xiii) Details of all security fencing and gates to be erected around the site, including the type and colour.

All security, landscape protection and enhancement shall be carried out in accordance with the approved details and during the first available seeding and planting seasons following approval, or, in the case of the seeding of topsoil, subsoil and overburden mounds, at the first available opportunity and no later than the end of the first available seeding season following the construction of any topsoil, subsoil and overburden mound.

*Reason: To minimise the visual impact of the proposed development in accordance with Policy M3.4 of the Nottinghamshire Minerals Local Plan, to improve the foraging habitat for bats and the habitat for breeding birds in accordance with the National Planning Policy Framework.*

### Quarry plant area

- 11. No development on site shall commence until details of the plant site including layout plans, ground levels, elevations, external materials and colours of all fixed plant, equipment and supporting infrastructure, and details of stockpile heights and surface water drainage provisions, have been submitted to, and been approved in writing by, the MPA. The plant area, plant, equipment and supporting infrastructure shall thereafter be installed in accordance with the approved details.

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*Reason: In the interest of visual amenity to ensure compliance with Policy M3.3 of the Nottinghamshire Minerals Local Plan and to protect the openness of the Green Belt in accordance with the National Planning Policy Framework.*

12. No development on site shall commence until details of all floodlighting to be used at the site has been submitted to, and been approved in writing by, the MPA. The details shall ensure that the floodlighting shall be angled downwards and suitably shielded to ensure that it does not result in glare or dazzle to surrounding land, the motorway, adjacent property and other users, and also minimises the impacts on bats. The floodlighting shall not be used outside the operating hours detailed in Condition 15 below. Outside these hours any external lighting shall be individually operated through a movement sensor switch with a maximum lighting cycle not exceeding 5 minutes.

The floodlighting shall be implemented and maintained for the life of the development in accordance with the approved details.

*Reason: In the interest of visual amenity to ensure compliance with Policy M3.3 of the Nottinghamshire Minerals Local Plan and to ensure the safe operation of the motorway is protected and maintained.*

13. Throughout the life of the development hereby permitted, the external appearance of all fixed plant, equipment and supporting infrastructure shall be maintained to the satisfaction of the MPA in order to preserve their original external appearance. Any works which the MPA considers are required to maintain the external appearance of all fixed plant, equipment and supporting infrastructure shall be carried out within one month of a written request being made by the MPA.

*Reason: In the interest of visual amenity and to ensure compliance with Policy M3.3 of the Nottinghamshire Minerals Local Plan.*

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or any subsequent amended legislation, no buildings, fixed plant, or machinery, other than those approved under Condition 11 above, shall be erected or placed on the site without the prior written approval of the MPA.

*Reason: To protect the openness of the Green Belt in accordance with the National Planning Policy Framework.*

### Hours of working

15. Except in the case of an emergency when life, limb or property are in danger (with such instances being notified in writing to the MPA within 48 hours of their occurrence), or with the prior written approval of the MPA, the following shall not take place except within the hours specified below:

	Mondays to Fridays	Saturdays	Sundays Bank/ Public Holidays
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Site development works including construction of the access road and plant area	7am to 7pm	7am to 12pm	Not at all
Stripping, replacement, regrading and ripping of soils, and overburden and soil bund formation/deconstruction	7am to 7pm	7am to 12pm	Not at all
Stripping, replacement, regrading and ripping of soils, and overburden and soil bund formation/deconstruction within 120 metres of any residential property	8am to 5pm	Not at all	Not at all
Mineral extraction, conveying, processing or treatment	7am to 7pm	7am to 12pm	Not at all
Servicing, testing, or maintenance of plant or machinery	7am to 7pm	7am to 4pm	Not at all
Transportation of coal and fireclay from the site	7am to 8am, and 9am to 7pm	Not at all	Not at all
Blasting, including any test blast	10am to 12pm and 2pm to 4pm	Not at all	Not at all

*Reason: To minimise the impact of the development on the amenity of the local area in accordance with Policy M3.5 and Policy M3.6 of the Nottinghamshire Minerals Local Plan, to minimise the impact of the development on highway safety in accordance with Policy M3.13 of the Nottinghamshire Minerals Local Plan.*

## Noise

16. All the following matters, as detailed in the 'Environmental Statement September 2013 (as previously submitted and dated February 2012)' received by the MPA on 17 September 2013, shall be incorporated throughout the life of the development hereby permitted in order to minimise noise disturbance to the satisfaction of the MPA.
  - (i) All mobile plant, machinery and vehicles (excluding delivery vehicles which are not owned or under the direct control of the operator) used on the site shall incorporate white noise reversing warning devices and be fitted with silencers maintained in accordance with the manufacturers' recommendations and specifications;
  - (ii) All haul roads shall be routed as far away as possible from noise sensitive properties;

## Appendix 6

- (iii) All haul roads shall be well maintained with no uneven surfaces which lead to 'body slap' from mobile plant;
- (iv) The site shall be designed so that all vehicles move in a circular pattern to minimise the need for reversing;
- (v) The siting of any pumps, generators and compressors behind existing screening mounds and fitted with acoustic covers or within acoustic enclosures where necessary.

*Reason: To minimise the noise impact of the development on the amenity of the local area, in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan.*

17. The free field noise levels associated with the development, when measured in the curtilage of any of the noise-sensitive properties listed below, shall not exceed the following limits measured as an Equivalent Continuous Noise Level for a 1 hour LAeq (free field):

Criterion Noise Levels LAeq, 1 hour	
Location	LAeq
Moss Cottage	49.0 dB
Woodlands	50.0 dB
Field House Farm and Field House Bungalow	55.0 dB
Ellesmere Drive	55.0 dB
No 151 Nottingham Road	55.0 dB

*Reason: To minimise the noise impact of the development on the amenity of the local area, in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan.*

18. Notwithstanding the requirements of Condition 17 above, for temporary operations such as the stripping, replacement, regrading and ripping of soils, and overburden and bund formation/deconstruction, the LAeq 1 hour (free field) noise level in the curtilage of any noise sensitive property shall not exceed 70 dB(A). Temporary operations which exceed the normal day to day criterion shall be limited to a total of eight working weeks in a year at any individual noise sensitive property. The dates of these occurrences shall be recorded and made available to the MPA in writing within one week of a written request from the MPA.

*Reason: To minimise the noise impact of the development on the amenity of the local area, in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan.*

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19. Notwithstanding the requirements of Condition 18 above, temporary operations such as the stripping, replacement, regrading and ripping of soils, and overburden and bund formation/deconstruction shall only take place within 120 metres of any residential property between the hours of 8am and 5pm Monday to Friday, as detailed in Condition 15 above. No development on site shall commence until details have been submitted to, and been approved in writing by, the MPA including a plan highlighting those areas of the site which shall not be subject to temporary operations outside the hours of 8am to 5pm Monday to Friday, in addition to details of how these areas shall be demarcated on site to ensure that no temporary operations take place within them outside the hours of 8am to 5pm Monday to Friday.

*Reason: To minimise the noise impact of the development on the amenity of the local area, in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan.*

20. Prior to the commencement of any soil stripping operations on site, the three metre high acoustic fencing, as illustrated on 'Drawing Number RANS/REFL001 – Timber Reflective Sound Screen (for illustration purposes only)' in 'Further Information – September 2013 (as previously submitted and dated January 2013)' received by the MPA on 17 September 2013 shall be installed around Field House Farm and Field House Bungalow in accordance with details previously submitted to, and been approved in writing by, the MPA. The fencing shall be maintained throughout the life of the development in order to provide effective noise attenuation.

*Reason: To minimise the noise impact of the development on the amenity of the local area, in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan.*

21. Sample noise measurements shall be taken from the five noise-sensitive properties identified within Condition 17 above, or nearest alternative location which shall first be agreed in writing with the MPA, at three monthly intervals during the operational life of the quarry. The monitoring shall take place when site equipment is operating normally and the duration of sample measurements shall be for a period of at least 15 minutes, unless the site noise is at or above the relevant site noise limit agreed for the location, in which event a minimum of a full 1 hour sample shall be taken. The survey shall exclude so far as possible extraneous noises. The measurements shall provide LAeq and L90 noise monitoring data. The measurements shall also note the date, time, prevailing weather conditions and comments on any significant noise sources which are audible. The results shall be submitted as part of a report to the MPA within 28 days of the measurements being taken and retained by the applicant for the life of the development. Should the results of the noise assessment indicate that Conditions 17 and 18 above have not been complied with, then the report shall contain an explanation as to why noise levels have been exceeded, including where appropriate, the identification of steps to be taken to ensure future compliance. If locations vary from the agreed criterion locations, the same acoustic modelling procedure shall be used to calculate the levels at the agreed locations which are consistent with achieving the criteria in Conditions 17 and 18.



*Reason: To minimise the noise impact of the development on the amenity of the local area, in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan.*

22. In the event of a noise complaint being received by the MPA regarding the development hereby permitted which, in the considered opinion of the MPA may be justified, the applicant shall at the first practicable opportunity following a request from the MPA carry out a noise impact survey which shall be submitted to the MPA for its approval in writing. The free field noise level associated with the development, when measured in the curtilage of the complainant's property (or an alternative location agreed with the MPA if the complainant's property is not available), shall not exceed the background noise level by more than 10dB(A), subject to a maximum of 55dB L<sub>Aeq, 1hr</sub> unless otherwise restricted by the maximum noise levels detailed in Condition 17 above. Should this survey demonstrate that the noise limits are being exceeded the survey report shall specify additional mitigation measures and details of their timing to overcome any unacceptable noise impacts and such measures shall be implemented immediately thereafter in accordance with the approved details and timetable.

*Reason: To minimise the noise impact of the development on the amenity of the local area, in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan.*

## **Blasting**

23. No blasting operations, other than the test blast referred to in this condition, shall take place until the following details have been submitted to, and been approved in writing by, the MPA:
- (i) Details of a test blast to be carried out, including the submission to the MPA of the results of the test blast;
  - (ii) The publicity exercise to notify residents of blasting operations which shall be carried out approximately one week prior to any blasting taking place;
  - (iii) The visual and audible warning signs to be implemented prior to any blasting operations being carried out, including the provision of signs on the adjacent bridleway as detailed in the legal agreement attached to this permission;
  - (iv) Confirmation of the location of any blast which shall not be within 200 metres of the habitats of any protected species; and
  - (v) The monitoring locations and the methodology for monitoring blasting operations, including the submission of blasting results to the MPA.

The above details shall be implemented in accordance with the approved details and no further blasting shall be carried out on site until the results of the test blast have been approved in writing by the MPA.

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*Reason: To minimise the blasting impact of the development on the amenity of the local area, in accordance with Policy M3.6 of the Nottinghamshire Minerals Local Plan.*

24. No blasting shall take place as part of the development hereby permitted which results in a peak particle velocity (ppv) in any plane which exceeds 12.0 mm per second at the nearest blast sensitive properties, as agreed under Condition 23 (iv) above, and 95% of blasts shall not exceed 6mm per second in any 6 month period at the nearest blast sensitive properties. Where the ppv on any blast exceeds 6.0 mm per second at the nearest blast sensitive property, details of the blast results shall be submitted to the MPA within 24 hours and, within one week of any blast where the ppv exceeds 6mm per second at the nearest residential property, details of the reason(s) for the exceedence and any additional mitigation measure(s) to be implemented to ensure compliance with the condition shall be submitted to the MPA. All future blasting on site shall be carried out utilising the approved additional mitigation measure(s).

*Reason: To minimise the blasting impact of the development on the amenity of the local area, in accordance with Policy M3.6 of the Nottinghamshire Minerals Local Plan and 'Minerals Planning Guidance Note 9: Planning and Compensation Act 1991 – Interim Development Order Permission Conditions'.*

## Highways

25. No development on site shall commence until the temporary access off Cossall Road, including any footways, has been surfaced in a hard bound material (not loose gravel) in accordance with details previously submitted to, and been approved in writing by, the MPA. The details shall include the extent of the area to be surfaced which shall reflect the routes to be taken by all HGVs using this access in order to minimise the amount of mud and debris deposited onto the public highway. The surfaced access and footways shall be maintained in such hard bound material for the life of the development.

*Reason: In the interests of highway safety and to accord with Policy M3.12 of the Nottinghamshire Minerals Local Plan.*

26. No HGVs associated with the haulage of coal and fireclay shall enter or leave the site until the access arrangements as shown for indicative purposes only on 'Drawing Number SSM 8/3 – Proposed Site Access Improvements' contained in 'Environmental Statement Volume 2A – September 2013 (as previously submitted and dated February 2012)' received by the MPA on 17 September 2013 have been provided in accordance with construction and signage details previously submitted to, and approved in writing by, the MPA. Details of the construction of the site access shall include provision to prevent the unregulated discharge of surface water from the site onto the public highway. The site access shall be constructed and maintained, and any associated signage shall be provided and maintained, in accordance with the approved details throughout the life of the development hereby approved.

*Reason: In the interests of highway safety and to accord with Policy M3.13 of the Nottinghamshire Minerals Local Plan.*

27. No HGVs associated with the haulage of coal or fireclay shall enter or leave the site until the access road, including footways, as shown for indicative purpose only on 'Drawing Number SSM 8/3 – Proposed Site Access Improvements' contained in 'Environmental Statement Volume 2A – September 2013 (as previously submitted and dated February 2012)' received by the MPA on 17 September 2013 has been surfaced in a hard bound material (not loose gravel) in accordance with details previously submitted to, and approved in writing by, the MPA. The details shall include the extent of the area to be surfaced which shall reflect the routes to be taken by all HGVs using this access in order to minimise the amount of mud and debris deposited onto the public highway. The surfaced access and footways shall be maintained in such hard bound material throughout the life of the development.

*Reason: In the interests of highway safety and to accord with Policy M3.12 of the Nottinghamshire Minerals Local Plan.*

28. No HGVs movements associated with the haulage of coal or fireclay shall enter or leave the site until wheel washing facilities have been installed on the site in accordance with details previously submitted to, and approved in writing by, the MPA. The wheel washing facilities shall be maintained in working order throughout the life of the development and shall be used as required by all HGVs leaving the site so that no mud or debris is deposited or carried onto the public highway.

*Reason: In the interests of highway safety and to accord with Policy M3.12 of the Nottinghamshire Minerals Local Plan.*

29. In the event that the wheel washing facilities approved under Condition 28 above, or subsequently approved under this condition, prove inadequate to prevent mud or debris from being deposited or carried onto the public highway, then within one week of a written request from the MPA, a scheme including revised and additional measures to be taken in order to prevent the deposit of materials upon the public highway shall be submitted to the MPA for its approval in writing. The additional measures to protect the surrounding roads shall be implemented within one month of their approval and thereafter maintained and used at all times throughout the life of the development.

*Reason: To ensure that all quarry traffic obtains access to the site along a permanently bound hard surfaced road thus ensuring that there is no damage to the public highway and to ensure compliance with Policy M3.12 of the Nottinghamshire Minerals Local Plan.*

30. Throughout the life of the development hereby permitted, all HGVs associated with the haulage of coal and fireclay entering and leaving the site shall only use the site access road off the A609 as constructed in accordance with the details set out in Condition 26 above.

*Reason: In the interests of highway safety and to accord with Policy M3.12 of the Nottinghamshire Minerals Local Plan.*

31. Prior to the removal of coal and fireclay from the site, a Travel Plan Statement aimed at promoting sustainable transport, including travel survey proposals, shall have been submitted to, and been approved in writing by, the MPA. The Travel Plan Statement shall include details of the carrying out of employee and visitor surveys within three months of the commencement of the winning and working of coal or fireclay, as notified under Condition 2(b) above, and thereafter on an annual basis, in addition to the methods to be employed to encourage employees to switch their mode of travel to a more sustainable mode. The required travel survey data shall then be available to the Planning Authority on request.

*Reason: To promote sustainable transport in accordance with Policy M2.1 of the Nottinghamshire Minerals Local Plan.*

32. There shall be no more than 136 HGV movements to and from the site in any one working day (68 in, 68 out). Written records shall be maintained of all HGV movements into and out of the site and copies of HGV movement records shall be made available to the MPA in writing within 7 days of a written request being made by the MPA.

*Reason: To limit HGV movements at the proposed quarry in accordance with Policy M3.13 of the Nottinghamshire Minerals Local Plan.*

33. Only coal and fireclay extracted from within the site, as detailed on 'Drawing Number 186 D02a – Site Plan' received by the MPA on 17 September 2013 shall be processed on the site. No coal or fireclay shall be imported into the site for processing.

*Reason: To limit vehicle movements at the proposed quarry in accordance with Policy M3.13 of the Nottinghamshire Minerals Local Plan.*

### **Protection of motorway users**

34. Prior to the construction of any haul roads on site which would run in close proximity to the M1 motorway, details of the location of any such haul roads shall have been submitted to, and been approved in writing by, the MPA. The submission shall include details of the measures to be implemented to ensure that any haul roads constructed in close proximity to the M1 shall not have an adverse impact on motorway users with respect to glare from the headlights of heavy plant and machinery using the haul roads and from the generation of dust. Any haul roads constructed in close proximity to the M1 shall be constructed, used and maintained in accordance with the approved details.

*Reason: To ensure that the safe use of the motorway is maintained throughout the life of the development.*

### **Protection of rights of way**

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35. No development on site shall commence until details of the management of Trowell Bridleway Number 14 at the bridleway crossing point, as shown on 'Drawing Number 2 – Crossing Point' received by the MPA on 17 September 2013, have been submitted to, and been approved in writing by, the MPA. The submitted details shall allow for the continued uninterrupted use of the bridleway by bridleway users throughout the life of the development hereby permitted. The crossing point shall be managed in accordance with the approved details.

*Reason: To protect the amenity of bridleway users.*

## Dust

36. No development on site shall commence until a dust management plan has been submitted to, and been approved in writing by, the MPA. The dust management plan shall set out measures to minimise the generation of dust and reduce its impact on nearby dust sensitive receptors to acceptable levels, provide for dust monitoring, and provide a scheme for dealing with complaints. The dust management plan shall include, but not necessarily be limited to, any or all of the following steps as appropriate:
- (i) The use of water bowsters, sprays and vapour masts to dampen overburden mounds, haul roads, coal stockpiles and other operational areas of the site;
  - (ii) The sweeping of access and haul roads, where necessary;
  - (iii) The location of haul roads as far from sensitive receptors, such as residential properties and the motorway, as is practicable;
  - (iv) The minimisation of drop heights during loading and unloading of coal and fireclay;
  - (v) Limiting on-site vehicle speeds;
  - (vi) Provisions for the temporary suspension of mineral processing, mineral extraction, soil movements or vehicle movements during periods of unfavourably dry or windy weather conditions;
  - (vii) Details of the mechanisms to be employed to monitor dust and airborne particles including the monitoring locations (which shall include fixed monitoring locations throughout the development, and additional monitoring at locations which reflect the most intense operational areas at different times of the development) and the mechanism to record the dust monitoring data, including its submission to the MPA;
  - (viii) Details of the measures to be undertaken should the monitoring results indicate that operations on site are likely to lead to justifiable complaints;
  - (ix) Details of the mechanism for dealing with any complaints received either directly from members of the public or via the MPA.

The dust management plan shall be implemented in accordance with the approved details.

*Reason: To ensure that dust impacts associated with the operation of the development are minimised, in accordance with Policy M3.7 of the Nottinghamshire Minerals Local Plan.*

37. All HGVs leaving the site with coal or fireclay shall be sheeted.

*Reason: To ensure that dust impacts associated with the operation of the development are minimised, in accordance with Policy M3.7 of the Nottinghamshire Minerals Local Plan.*

### **Ground and surface water protection**

38. No development on site shall commence until details have been submitted to, and been approved in writing by, the MPA setting out the measures that shall be undertaken to ensure that there is no interruption of the existing surface water systems of the surrounding land as a result of the operations on site. Provisions should be made that all existing drainage systems continue to operate effectively and that riparian owners upstream and downstream of the site are not adversely affected. In particular the development must not interfere with the efficient conveyance of Highway Agency surface water drainage. The provisions shall be implemented in accordance with the approved details.

*Reason: To ensure the protection of the water environment in accordance with Policy M3.8 of the Nottinghamshire Minerals Local Plan.*

39. No development on site shall commence until a surface water drainage scheme for the site, based on sustainable drainage principles and the assessment of the hydrological and hydrogeological context of the development as detailed in the Environmental Statement – September 2013, has been submitted to, and been approved in writing by, the MPA. The drainage strategy shall demonstrate that the surface water run-off generated up to and including the 100 year critical storm plus an appropriate allowance for climate change will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall be implemented in accordance with the approved details.

*Reason: To prevent the increased risk of flooding in accordance with Policy M3.9 of the Nottinghamshire Minerals Local Plan.*

40. No development on site shall commence until a scheme for groundwater monitoring has been submitted to, and been approved in writing by, the MPA. The scheme shall be supported, where necessary, by detailed calculations; include a maintenance programme; and establish current and future ownership of the facilities to be provided. The scheme shall be fully implemented and subsequently maintained in accordance with the approved details and in accordance with the timing/phasing arrangements embodied within the scheme.

*Reason: To ensure the protection of the water environment in accordance with Policy M3.8 of the Nottinghamshire Minerals Local Plan.*

41. No development on site shall commence until a scheme for the storage of oils, fuels and chemicals has been submitted to, and been approved in writing by, the MPA. The scheme shall be implemented in accordance with the approved details and shall be maintained throughout the life of the development.

*Reason: To ensure the protection of the water environment, in particular the secondary aquifer, in accordance with Policy M3.8 of the Nottinghamshire Minerals Local Plan.*

## **Ecology**

42. No development on site shall commence until details of measures to safeguard protected species from operations on site have been submitted to and approved in writing by the MPA. The details shall include measures to prevent protected species from being trapped in any deep excavations or open-ended pipes, along with the provision of reflector posts on internal haul roads. The measures shall be implemented in accordance with the approved details and maintained throughout the life of the development.

*Reason: In the interest of safeguarding protected species and their habitats in accordance with the National Planning Policy Framework.*

43. No development on site shall commence until details of workings in the area in and around Excavation Area B, as detailed on 'Drawing Number 186 D02a – Site Plan' received by the MPA on 17 September 2013, close to Oldmoor Wood and Oldmoor Pond have been submitted to, and been approved in writing by, the MPA. The submitted details shall set out how coal extraction and the construction and removal of the water treatment area and the subsoil mound in this area is to be carried out with minimal mobile plant movements in areas adjacent to the wood and the pond, along with any other measures, in addition to those under the dust management plan approved under Condition 36 above, that shall be implemented to suppress dust. The measures shall be implemented in accordance with the approved details for the duration of works in close proximity to Oldmoor Wood and Oldmoor Pond.

*Reason: To ensure that dust impacts associated with the operation of the development are minimised, in accordance with Policy M3.7 of the Nottinghamshire Minerals Local Plan.*

44. Site clearance works involving the destruction and removal of vegetation, including felling, clearing or removal of trees, shrubs or hedgerows or the removal of any standing crops, shall not commence until all potential habitats for protected species have been investigated by a qualified ecologist and a report of the investigation has been submitted to, and been approved in writing by, the MPA. In the event that protected species or nesting birds are present, the report shall provide a working design, method and timetable to mitigate any undue adverse effects on the species involved. The mitigation measures shall be implemented as approved prior to any site clearance works taking place within that phase.

*Reason: In the interest of protecting species and their habitats in accordance with the National Planning Policy Framework.*

45. Site clearance operations that involve the destruction and removal of vegetation on site shall not be undertaken during the months of March to August inclusive, except when approved in writing by the MPA following the submission of a suitable report of investigation in accordance with Condition 44 above.

*Reason: In the interest of protecting species and their habitats in accordance with the National Planning Policy Framework.*

### **Archaeology**

46. No development on site shall commence until details of a scheme for archaeological mitigation have been submitted to, and been approved in writing by, the MPA. The scheme shall include details of the extent of high resolution topographical surveys and geophysical surveys to be carried out, details of the 'strip, map and sample' programme to be implemented, and details of the submission of surveys to the MPA, including their timing and frequency. The scheme shall be implemented in accordance with the approved details.

*Reason: To ensure that that adequate archaeological investigation and recording is undertaken prior to the development taking place, in accordance with Policy M3.24 of the Nottinghamshire Minerals Local Plan.*

### **Soil stripping, handling and storage**

47. The MPA shall be notified in writing at least 5 working days before any soil stripping campaign is due to commence on site.

*Reason: To ensure the proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.*

48. A detailed soil handling scheme for each soil stripping campaign shall be submitted in writing to the MPA at least one month prior to the stripping of any soil as part of that soil stripping campaign. Such a scheme shall include the following details:
- (i) The size, location, volume and composition of soil storage mounds;
  - (ii) A methodology statement for the stripping and storage of soils, including details of how subsoils previously stripped in previous opencast coal operations shall be stripped and stored separately from soils not previously stripped in previous opencast coal operations.
  - (iii) The types of machinery to be used;



- (iv) The routes to be taken by plant and machinery involved in soil handling operations;
- (v) The depths of subsoil and topsoil to be stripped;

The soil handling schemes shall be carried out in accordance with the approved details.

*Reason: To ensure the proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.*

49. No plant or vehicles shall cross any area of unstripped topsoil or subsoil except where such trafficking is essential and unavoidable for purposes of undertaking permitted operations. Essential trafficking routes shall be marked in such a manner as to give effect to this condition. No part of the site shall be excavated, traversed or used as a road, or used for the storage of topsoil, subsoil or mineral deposits (except where topsoil is to be stored on topsoil and subsoil is to be stored on subsoil), until all available topsoil and subsoil has been stripped from that part.

*Reason: To ensure the proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.*

50. Soil stripping shall not commence until any standing crop or vegetation has been harvested and the harvested crop removed.

*Reason: To ensure the proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.*

51. Topsoil, subsoil, and soil making material shall only be stripped when they are in a dry and friable condition and movements of soils shall only occur:

- (i) When all soil above a depth of 300mm is in a suitably dry and friable condition so that it is not subject to smearing;
- (ii) When topsoil is sufficiently dry so that it can be separated from subsoil without difficulty;
- (iii) When there are no areas of standing water on the surface of soils in the area to be stripped, traversed or used for soil storage.

*Reason: To ensure the proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.*

52. All topsoil, subsoil and overburden mounds that will remain in situ for more than 6 months, or over winter, shall be seeded at the first available opportunity and no later than the end of the first available seeding season following the construction of any topsoil, subsoil or overburden mound in accordance with the seed mixture

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which has been previously agreed in writing by the MPA under Condition 10 (ix) and (x) above, i.e. a rapidly developing grass and herb seed mix using UK provenance seed and which shall be managed thereafter as rough grassland and maintained free from weeds. The mounds shall thereafter be maintained in accordance with the details approved under Condition 10 (ix) and (x) above until required for backfilling/restoration purposes.

*Reason: To ensure the proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan and to provide valuable compensation habitat in accordance with the National Planning Policy Framework.*

53. Details of the volumes and locations of soils stored on the site shall be submitted to the MPA by 31 December each year and confirmation that sufficient restoration materials are available on site to achieve the approved restoration scheme at that point in time.

*Reason: To ensure there are sufficient soils available for the restoration of the site and to ensure all available soil resources are conserved and managed, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.*

### Soil replacement

54. The MPA shall be notified in writing at least 5 working days before each of the following:

- (i) Overburden has been prepared ready for soil replacement to allow inspection of the area before further restoration of this part is carried out; and
- (ii) When subsoil has been prepared ready for topsoil replacement to allow inspection of the area before further restoration of this part is carried out; and
- (iii) On completion of topsoil replacement to allow an opportunity to inspect the completed works before the commencement of any cultivation and seeding operation.

*Reason: To ensure the proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.*

55. Topsoils and subsoils shall only be replaced when they and the ground on which they are to be placed are in a dry and friable condition and no movements, respreading, levelling, ripping or loosening of subsoils or topsoils shall occur:

- (i) When it is raining; or

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- (ii) When there are pools of water on the surface of the storage mound or receiving area.

*Reason: To ensure the proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.*

- 56. Plant and vehicles shall not cross any area of replaced and loosened ground, replaced subsoil, or replaced topsoil except where essential and unavoidable for the purposes of carrying out soil replacement, ripping and stone picking or beneficially treating such areas. Only low ground pressure machines shall work on prepared ground.

*Reason: To ensure the proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.*

- 57. Prior to the placement of any subsoils, the replaced overburden shall be ripped to a minimum depth of 250mm with tine spacings no wider than 1.5m. Any rock, boulder or larger stone greater than 200mm in any dimension and which occur on the surface of the ripped and loosened overburden shall be removed before any subsoils are laid and shall be used as hot rocks in the wetland areas, used for the construction of new rights of way on the site, or buried at a depth not less than 2 metres below the final settled contours.

*Reason: To ensure the proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.*

- 58. The re-spread subsoil shall be approximately 750mm in depth and shall be cross-ripped:

- (i) To provide loosening to the entire subsoil depth with tine spacings no wider than 600mm, and
- (ii) Any rock, boulder or larger stone greater than 200mm in any dimension shall be removed from the loosened surface before further soil is laid. Materials that are removed shall be used as hot rocks in the wetland areas, used for the construction of new rights of way on the site, or buried at a depth not less than 2 metres below the final settled contours.

*Reason: To ensure the proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan and in the interest of habitat creation in accordance with the National Planning Policy Framework.*

- 59. The re-spread topsoil shall be approximately 250mm in depth and shall be rendered suitable for agricultural cultivation by loosening and ripping:

- (i) To provide loosening to a minimum depth of 300mm with tine spacings of 300mm;

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- (ii) Any non-soil making material or rock or boulder or larger stone lying on the loosened topsoil surface and greater than 100mm in any dimension shall be used as hot rocks in the wetland areas, used for the construction of new rights of way on the site, or buried at a depth not less than 2 metres below the final settled contours.

*Reason: To ensure the proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan and in the interest of habitat creation in accordance with the National Planning Policy Framework.*

### Restoration

60. The site shall be restored in accordance with the revised restoration plan approved under Condition 9 above. The seeding of wetland, woodland and hedgerow planting areas and the establishment of arable and pasture fields, shall be undertaken during the first seeding season following placement of topsoils in each phase. Woodland, hedgerow and wetland planting shall be carried out in the first available planting season following the establishment of the grass sward in these areas. Any planting and seeding that dies or becomes diseased, damaged or removed within 5 years shall be replaced during the first planting season thereafter with others of similar size and species and maintained, unless the MPA gives written consent for a variation to be replanted.

*Reason: To ensure the satisfactory restoration of the site in accordance with Policy M4.4 of the Nottinghamshire Minerals Local Plan.*

61. Prior to the carrying out of any restoration planting and seeding required under Condition 60 above, details of all tree and hedgerow planting, and wetland and grassland establishment, shall have been submitted to the MPA for its approval in writing. These details shall identify target habitats with reference to the UK Biodiversity Action Plan and shall include proposed species to be planted including proportions; size; spacing; positions; densities; seed mixes to be used in grassland establishment methods; proportions; sources (which should be of local provenance – seed zone 402); sowing rates; methods of establishment of species; areas left for natural regeneration; creation of wetland areas; creation of field margins; ground preparation; cover material; proposed soil profiles; and fencing off of planting areas. All landscape planting and seeding shall be carried out in accordance with the approved details.

*Reason: To ensure the satisfactory restoration of the site in accordance with Policy M4.4 of the Nottinghamshire Minerals Local Plan.*

### Aftercare

62. Following the restoration of any phase or sub-phase of the site, that phase or sub-phase shall undergo aftercare management for a 5 year period.

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*Reason: To provide for the aftercare of the restored site, in accordance with Policy M4.9 of the Nottinghamshire Minerals Local Plan.*

63. Prior to any phase or sub-phase being entered into aftercare, the extent of the area and its date of entry into aftercare shall be agreed in writing with the MPA. The 5 year aftercare period shall run from the agreed date.

*Reason: To provide for the aftercare of the restored site, in accordance with Policy M4.9 of the Nottinghamshire Minerals Local Plan.*

64. An aftercare scheme and strategy for each phase or sub-phase shall be submitted for the written approval of the MPA at the same time as restoration details for that phase or sub-phase are submitted under Condition 60 above. The aftercare scheme and strategy shall outline the steps to be taken, the period during which they are to be taken, and who will be responsible for taking those steps to ensure the land is restored and brought back to its intended restored afteruse. The aftercare scheme shall include but not be restricted to details of the following:

- (i) Cultivations;
- (ii) Weed control;
- (iii) Sowing of seed mixtures;
- (iv) Soil analysis;
- (v) Keeping of records and an annual review of performance and proposed operations for the coming year, to be submitted to the MPA between 31 March and 31 May each year;
- (vi) Drainage amendments;
- (vii) Subsoiling and underdrainage proposals;
- (viii) Management practices such as the cutting of vegetation;
- (ix) Tree protection;
- (x) Remedial treatments;
- (xi) Irrigation;
- (xii) Fencing;
- (xiii) Proposals for a survey visit by a suitably qualified ecologist, to be undertaken in year 5, to assess the ecological interest of those parts of the site restored to wetland areas, woodland and hedgerow, including their habitats, flora and fauna, to inform management practices for the additional periods of aftercare secured through legal agreement; and

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- (xiv) A report detailing the findings of the survey visit referred to in (xiii) above, to be submitted to the MPA before the end of year 5.

*Reason: To provide for the aftercare of the restored site, in accordance with Policy M4.10 of the Nottinghamshire Minerals Local Plan.*

65. Site management meetings shall be held with the MPA each year to assess and review the detailed annual programmes of aftercare operations referred to in Condition 64 (v) above, having regard to the condition of the land, progress in its rehabilitation and necessary maintenance.

*Reason: To provide for the aftercare of the restored site, in accordance with Policy M4.10 of the Nottinghamshire Minerals Local Plan.*

66. The aftercare programme shall be implemented in accordance with the details approved under Condition 64 above, as amended following the annual site meeting carried out in accordance with Condition 64 (v) above.

*Reason: To provide for the aftercare of the restored site, in accordance with Policy M4.10 of the Nottinghamshire Minerals Local Plan.*

### Alternative Restoration

67. Should, for any reason, mineral extraction from the application site cease for a period in excess of 12 months, then, within three months of the receipt of a written request from the MPA, a revised scheme for the restoration of the site shall be submitted in writing to the MPA for its approval. Such a scheme shall include details of the final contours, provision of soiling, planting of trees and hedgerows, drainage and fencing in a similar manner to that submitted with the application and modified by these conditions. The scheme shall be implemented in accordance with the approved details.

*Reason: To secure the proper restoration of the site within an acceptable timescale.*

68. The revised restoration scheme approved under Condition 67 above shall be implemented within 12 months of its approval by the MPA, and shall be subject to the aftercare provisions of Conditions 62 – 66 above.

*Reason: To secure the proper restoration of the site within an acceptable timescale.*

### Notes to applicant

1. The highway mitigation works associated with this permission involved works within the public highway which is land over which you have no control. The Highways Agency therefore requires you to enter into a suitable legal agreement to cover the design, construction and supervision of the works.

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2. Under the terms of the Environmental Permitting Regulations 2010, a permit is normally required for any discharge of sewage or trade effluent into inland freshwaters, and may be required for any discharge of surface water to such waters or for any discharge of sewage or trade effluent from buildings or fixed plant into or onto ground or into waters. A permit may be withheld. The applicant should contact the Environment Agency to discuss how to obtain a permit.
3. The material which is replaced to restore the site must be fit for purpose and if material such as soil or sub soil is imported into the site then the developer must be able to prove that it meets certain criteria such as WRAP protocols or British Standards.
4. With regard to removing overburden and separating out coal, any material which is put back into the ground for restoration may also require a mining waste permit. Details of mining waste permits can be found on our website but if you require specific advice please do not hesitate to contact the Environment Agency local officer 0115 8463783.
5. Please note that the current licensing exemption on dewatering may be removed in 2014 after which dewatering activities will be brought into Environment Agency regulations.