



23rd February 2016

Agenda Item:6

REPORT OF CORPORATE DIRECTOR – PLACE

LOCATION: RUFFORD COLLIERY, OFF EAKRING ROAD, RAINWORTH

APPLICANT: HARWORTH ESTATES

PLANNING APPLICATION 1

NEWARK AND SHERWOOD DISTRICT REF. NO.: 3/15/01797/CMA

PROPOSAL: TO VARY CONDITIONS 4, 5 AND 12 OF PLANNING PERMISSION 3/13/00495/CMM TO REGULARISE THE COAL FINES RECOVERY OPERATIONS TO INCREASE THE MAXIMUM TONNAGE OF MATERIALS TO ENTER AND LEAVE THE SITE IN ANY SEVEN DAY PERIOD TO 10,000 TONNES AND TO EXTEND THE TIMESCALE FOR COMPLETION OF MINERAL RECOVERY OPERATIONS TO 30/09/2018 WITH A FURTHER YEAR TO COMPLETE THE RESTORATION.

PLANNING APPLICATION 2

NEWARK AND SHERWOOD DISTRICT REF. NO.: 3/15/01799/CMA

PROPOSAL: TO VARY CONDITIONS 4 AND 5 OF PLANNING PERMISSION 3/14/01046/CMA TO REGULARISE THE COAL FINES RECOVERY OPERATIONS AND TO EXTEND THE TIMESCALE FOR COMPLETION OF MINERAL RECOVERY OPERATIONS TO 30/09/2018 WITH A FURTHER YEAR TO COMPLETE THE RESTORATION

PLANNING APPLICATION 3

NEWARK AND SHERWOOD DISTRICT REF. NO.: 3/15/01798/CMA

PROPOSAL: INCREASE IN THE COAL FINES STOCKING AND BLENDING AREA OF CONSENT NO. 3/13/00495/CMM TOGETHER WITH THE USE OF AN INTERNAL HAUL ROAD.

Purpose of Report

1. To consider three planning applications associated with the extraction of coal fines together with ancillary stocking, blending and dispatch of coal fines from an area of unrestored former colliery lagoons and associated hardstanding areas at the former Rufford Colliery complex near Rainworth. Since the three planning applications form part of a larger scheme of working, the planning merits of the proposed developments are considered within one planning report in the interests of expediency and brevity.
2. Whilst it is acknowledged that the site area is quite extensive and the development involves a significant quantity of coal fines extraction, the planning application does not result in any significant environmental impacts and the main consideration is ensuring the site is satisfactorily reinstated following the completion of the mineral operations. The recommendation is to grant conditional planning permission for all these applications.

The Site and Surroundings

3. The former Rufford Colliery and environs within the ownership of Harworth Estates has a total area of 225ha. The site lies approximately 5.5km to the east of Mansfield town centre and around 1km to the north of Rainworth village. The A617 Rainworth Bypass runs to the south of the site and connects the A614 to the east to Mansfield to the west. Clipstone is situated to the north. (see plan 1). The land immediately surrounding the Rufford Colliery complex is rural in character and predominantly wooded.
4. The Rufford Colliery complex was originally developed as part of a former deep mine colliery. The complex incorporates extensive areas of colliery spoil disposal for waste originating from the former Rufford, Clipstone and Mansfield Collieries. It also incorporates a sand quarry, a former landfill site and land which was formerly used for coal stocking, together with ancillary roads. (see plan 2).
5. Rainworth Bridleway No.5 runs through the centre of the colliery complex in an east-west direction. The route of the bridleway is shown on plan 2.

History of Coal Workings at Rufford Colliery

6. Tipping of colliery waste at the Rufford complex ceased following the closure of Clipstone Colliery in 2003. Subsequently, the southern part of the colliery tip was restored however the northern part of the colliery tip remains unrestored. The pit head area of the former Rufford Colliery was most recently used for coal stocking until April 2011, since this date approximately 50% of the coal stocking area has recently been restored. The sand quarry has recently closed and is undergoing restoration. The landfill site has been recently restored.

7. In September 2013 planning permission was granted (reference number 3/13/00495/CMM) for the extraction of up to 350,000 cubic metres of coal fines from the two former unrestored spoil tip lagoons. The consent also permitted the importation, stocking, blending and dispatch of coal fines. The planning permission is time limited, expiring on 30th September 2016.
8. In September 2014 planning permission was granted (reference number 3/14/1046/CMA) for the increase in coal fines stocking and blending area together with the construction of a drying shed (which has not been built). This permission also expires on the 30th September 2016
9. The coal recovery operations outlined above have now been operational for over two years. During this time the northern lagoon (one of the two lagoons where extraction is permitted) has been extracted with the recovered material being stockpiled and sold to power stations for energy generation. Also during this period the operator has pushed ahead with the restoring large areas of the colliery complex which are not required for coal recovery, creating heathland habitats which will make very important contributions to the biodiversity of the area.

Proposed Development

10. Planning permission is sought for three different elements of development which require separate grants of planning permission. Since the proposals are all linked to the coal recovery operations at Rufford and the previous consents referred to above, all of the details are set out in this one planning report in the interest of brevity. The three applications are described below:
11. The boundaries of each planning application site are identified on Plan 3 and described below.
 - a. The boundaries of planning application 3/15/01797/CMA are identical to those originally granted under planning permission 3/13/00495/CMM. The site extends to 22.3ha comprising two parcels of land, a connecting haul road and an access route to the public highway (A617). The main area of land incorporates 17ha of un-restored colliery spoil tip/slurry lagoon. The second parcel of land comprises of 5ha area of un-restored hardstanding previously used for coal stocking purposes.
 - b. The boundaries of planning application 3/15/01799/CMA are identical to those originally granted under planning permission 3/14/1046/CMM. The site provides an extension of the coal fines storage, processing, blending and dispatch area comprising two rectangular shaped parcels of land formerly used for coal stocking, and an access road extending to a total of 2.4ha. The larger of the two parcels of land forming the application site is sited immediately to the north of the consented pad and measures 170m by 100m or thereabouts. A second area of hardstanding to the south of the existing operational pad measures 100m by 50m. The boundaries of the application site area also incorporate a linear strip of land which links between the main haul access road to the extended operational pad.

- c. The boundaries of planning application 3/15/01798/CMA incorporate an additional 9ha of land which would further extend the coal fines storage, processing, blending and dispatch area. The land is incorporated within five blocks surrounding the previously consented stocking areas on land that was formerly used for coal stocking purposes.

12. The planning applications are described in greater details below:

Planning Application 3/15/01797/CMA

13. This planning application has been submitted as a Section 73 (variation of planning condition) submission, seeking to vary conditions 4, 5 and 12 of planning permission 3/13/00495/CMM as set out below:

14. Planning Condition 4 states:

'Planning permission hereby granted is for the extraction of coal and associated conditioning and storage of extracted material for a temporary period expiring three years following the date of commencement of the planning permission (as notified under the requirements of Condition 2)....'

15. Under the existing planning permission operations at Rufford are due for completion on the 30th September 2016. The applicant seeks to extend the temporary period for these operations for a further two years up to 30th September 2018, with a further one year period to complete restoration by 30th September 2019. The applicant states that the extension of time is required due to a slow start on site following the implementation of the planning permission and the importation of coal fines from nearby sites including Gedling Colliery which have extended the operational life of the site.

16. Planning Condition 5 states:

'The maximum storage height of materials on the site shall be 4m above original ground level'

17. The 4m storage height is proving to be operationally restrictive. The applicant states that the product which is principally used in the power generation industry is required to have a low moisture content. Demand for the product peaks in the winter. Increasing the height of the final product storage mounds gives a better chance to shield larger volumes of material from external weather conditions with smaller mounds being found to make the product too wet. It is therefore requested to increase the height of conditioned stock product to 15m in height.

18. Planning Condition 12 states:

'A maximum total of 6000 tonnes of material shall be permitted to enter or leave the site within any seven day period. Written records shall be maintained of all HGV movements including the time of day such movements take place. Copies of the HGV movement records shall be made available to the MPA within 7 days of a written request being made by the MPA.'

19. The applicant states the 6,000 tonnes per week limit has proved to be sufficient at present to meet the operational requirements of coal produced at Rufford, however, the applicant would like some increased flexibility to increase the import and export of coal fines at the site, particularly in winter when demand is highest. The existing limit potentially could restrict the company from meeting contractual requirements. It is therefore proposed to increase this weekly limit to 10,000 tonnes per week.

Planning Application 3/15/01799/CMA

20. This planning application has been submitted as a Section 73 (variation of planning condition) submission, seeking to vary conditions 4 and 5 of planning permission 3/14/01046/CMA as set out below:

21. Planning Condition 4 states:

'Planning permission is hereby granted to increase the area of hard standing available for stocking, drying and blending of coal fines and the erection of a demountable building for a temporary period expiring on 30th September 2016. The development shall be undertaken as part of a wider development permitted under Planning Permission 3/1300495/CMM for the extraction and processing of coal fines from lagoons at Rufford Colliery tipping complex. At the end of the temporary planning permission all stored materials and associated development shall be removed from the site and the site shall be restored within 12 months to an appropriate condition in accordance with the details to be approved under the requirements of Condition 19 of Planning Permission 3/13/00495/CMM to ensure a coordinated habitat establishment, enhancement and management strategy of the wider Rufford Colliery Complex is taken. Following completion of restoration the site shall be subject to five years of aftercare and management which shall be carried out in accordance with the arrangements set out within Condition 20 of Planning Permission 3/13/0049/CMM'

22. In order to be consistent with the main planning consent for coal recovery/stocking described above the applicant wishes to extend the time limited planning permission for the enlargement of the stocking, drying and blending of coal fines area and the erection of a demountable building for a further two years up to 30th September 2018 with a further one year for restoration which will extend until September 2019.

23. Planning Condition 5 states:

'The maximum storage height of materials on the site shall be 4m above original ground level.'

24. Again, to be consistent with the main planning consent for the site the applicant wishes to increase the maximum storage height of conditioned stock product to 15m.

Planning Application 3/15/01798/CMA

25. Full planning permission is sought to continue using an internal haul road and an extended coal fines storage, processing, blending and dispatch area. The planning application has been submitted with the aim of regularising ongoing activities at the site which have encroached on land outside the approved planning unit.
26. The additional areas are used to stockpile excavated coal which is stored in windrows being dried and final product. These materials have encroached outside the authorised site onto surrounding land which formed part of the previous coal stocking area. This land is unrestored in character. The applicant states that the expanded area would allow additional space to process materials more efficiently at the site by providing greater capacity for drying product.
27. The continued use of the former colliery haul road between the lagoon area to the drying/blending area which follows the route of the bridle path is requested since this route represents the most efficient access allowing dump trucks transporting mineral from the lagoon area to be separated from HGVs which are being loaded from the main stocking area of conditioned materials. The revised haul road crosses a bridleway and therefore warning signs have been erected in sensitive locations to alert bridleway users of the presence of quarry vehicles.

Consultations

28. The three planning applications have each been subject to separate publicity and consultation. Most consultees have provided a joint response in connection with all three planning applications. Where consultees have made separate comments in connection with each planning application these are clearly identified.
29. **Newark and Sherwood District Council:** *Raise no objections.*
30. **Environment Agency:** *Raise no objections.*
31. **The Coal Authority:** *Raise no objections to the development.*
32. **Natural England:** *Raise no objections on the basis that impacts to Rainworth Heath, Strawberry Hills Heaths, Rainworth Lakes, Clipstone Heath and Sherwood Forest Golf Course SSSIs are not anticipated. Natural England have confirmed that the additional emissions from the increased HGV movements would not result in significant increased nitrogen deposition within Rainworth Heath SSSI and therefore changes to the chemical balance of soils and habitats in this SSSI are not anticipated.*
33. **Nottinghamshire Wildlife Trust:** *Support the planning applications. The Wildlife Trust acknowledge the importance of the Rufford Colliery complex for breeding birds (notably woodlark and little ringed plover) but note that the area that is the subject of these planning applications does not contain scarce breeding species and comprises either bare spoil, hardstandings or disturbed ground with little vegetation. An extension of time for stocking on this land*

would not therefore directly impact the breeding habitat of birds, or increase disturbance levels subject to the site continuing to be managed as at present to ensure that all other areas of the colliery complex are restored as soon as possible, measures to prevent off-road vehicle access continue and restoration works continue to be monitored by the Wildlife Trust and NCC.

However, the Wildlife Trust acknowledge that extending the end date of the planning permission would delay the implementation of the restoration of the site which would otherwise be restored to heathland and acid grassland sooner. In order to mitigate for this delay in the establishment of these habitats the aftercare of the recently restored areas should be extended so as to coincide with the end of the aftercare of the last restored areas. This would ensure that the valuable developing habitat on the site is maintained in good condition for woodlark and other scarce breeding species throughout the extended working period.

34. **NCC (Nature Conservation):** No objections are raised to the extension of time of operations up to 30th September 2018 and the enlargement of the storage mounds. It is recommended that the views of Natural England are sought regarding the significance of impact from increasing vehicle movements on air quality and nitrogen deposition within Rainworth Heath SSSI.
 35. **NCC (Countryside Access):** Application 3/15/01798/CMA incorporates an amended haul road routeing which necessitates crossing Rainworth Bridleway No. 5. The proposed mitigation suggested by the applicant comprising the erection of signage is considered appropriate subject to the signs being located an adequate distance away to warn bridleway users of site traffic and a requirement for site traffic to give way to bridleway users. Additionally the surface of the bridleway crossing point must be maintained to provide a safe and level surface at all times for the public to cross.
 36. **NCC (Reclamation):** Raise no objection.
 37. **NCC (Highways):** The highway authority note that the increase to the total tonnage of material entering and leaving the site from 6,000 to 10,000 tonnes each week would increase the number of HGV to a maximum 100 per day. The highway authority are satisfied that this number of vehicles is acceptable in this location. The highway authority are satisfied the other alterations proposed within the planning applications would not impact the public highway.
 38. **NCC (Noise Engineer):** Raise no objections to the planning applications which extend the operations until 2018, subject to all existing noise conditions being carried over. With specific regard to the increase in lorry movements into and out of the site, it has been confirmed that there have been no reported noise complaints from the nearest properties which lie adjacent to the haul road since the applicant commenced its operations to export material in 2013. The increase in vehicles from 6000t to 10000t a week is anticipated to increase noise levels by approximately 2-2.5dB. The Design Manual for Roads and Bridges (DMRB), equates this level of change as a minor impact in the short term.
- NCC (Landscape Team):** Raise no objections provided there are no ecological impacts on breeding birds. The changes would result in an increase in site

area, as well as a substantial increase in the height of the windrows, however, these changes are considered to have a negligible visual impact on residential receptors which are at a distance of approximately 1 km from the site on the north western edge of Rainworth. Closer residential receptors include 3 properties and Care Home off the former colliery access road which are approximately 0.5 km to the south of the site at its nearest point, but which in general are orientated with views to the east and west rather than to the north, the only exception being the gable end of the care home. There would be impacts on recreational receptors on Bridleway Rainworth 5 as parts of the east west section of the bridleway will be open to views of the working site area, where as those to the north-south section will be screened by scrubby woodland. The extension of timescale for completion of restoration from September 2016 to September 2019 would extend the duration of the impacts that have been identified.

39. **NCC (Flood Risk Management Team):** *The application to extend the duration of the planning permissions do not appear to impact on the drainage regime or flood risk therefore no comments are raised.*
40. Rainworth Parish Council, Severn Trent Water Limited, Western Power Distribution, National Grid (Gas) and The Forestry Commission have not responded. Any response received will be orally reported.

Publicity

41. The application has been publicised by means of site notices, the publication of a press notice in the Mansfield Chad and neighbour notification letters which have been sent to the nearest occupiers on the colliery access road in accordance with the County Council's adopted Statement of Community Involvement Review. No representations have been received.
42. Councillor Yvonne Woodhead has been notified of the application.

Observations

Introduction

43. This report considers the merits of three planning applications associated with coal recovery at the former Rufford Colliery complex, two of these planning applications are submitted as Section 73 submissions seeking (amongst other matters) to extend the time for completing previously permitted coal recovery operations at the site and to extend stockpile heights with the third application seeking to extend the coal stocking and storage operational area to assist the operator with their working of the coal reserves.
44. The coal recovery operations at Rufford Colliery have substantially progressed with much of the northern lagoon being substantially extracted and the materials either stockpiled or sold to power stations. Extensive areas of the colliery complex have also been restore creating heathland habitats which will make very important contributions to the biodiversity of the area.

45. Notwithstanding the progress that has been made to date, recovery of the coal fines from the southern lagoon has not commenced and it is unlikely that these works will be completed within the currently permitted timeframe expiring on 30th September 2016. If coal recovery operations were required to be completed on this date it would effectively sterilise large quantities of mineral.
46. The NPPF acknowledges that minerals are a finite resource which can only be worked where they are found and it is therefore important to make best use of minerals to secure their long term conservation (paragraph 142). Paragraph 144 requires planning authorities when considering planning applications, to:
- *Give great weight to the benefits of the mineral extraction including the economy.*
 - *To ensure that environmental impacts are avoided, minimised or appropriately mitigated.*
47. NPPF paragraph 149 specifically states 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.'*
48. An extension of the time to complete the coal recovery operations, and other associated variations would enable the operator to fully recover the mineral resource from the site prior to final restoration thus ensuring that these minerals do not become sterilised and assisting with the conserving mineral resources elsewhere. Revenue from the recovery scheme is making a positive contribution to the wider Rufford Colliery complex insofar that it assists with delivering enhancements to the restoration of the area.
49. It is therefore evident that the NPPF is supportive in principle of the three planning applications, subject to the environmental impacts being acceptable.

Development Plan Policy concerning the reworking of colliery spoil tips

50. The adopted Nottinghamshire Minerals Local Plan (MLP) Policy M12.6 relates to the re-working of colliery spoil tips. The policy states:

Policy M12.6: Reworking of Colliery Spoil Tips

Planning permission will only be granted for the reworking of a spoil tip if:

- a. It has not become an established, attractive landscape or wildlife feature;
- b. It will not cause an unacceptable environmental impact;
- c. It will not cause an unacceptable impact to local communities;
- d. It will result in a substantial environmental improvement of the site.

51. The supporting text of the policy acknowledges that past coal processing was often inefficient leading to substantial quantities of coal remaining in the spoil, especially in the slurry ponds. The plan acknowledges that it may now be economic to recover the coal which would otherwise be lost if it was left in situ. The plan expresses caution as coal recovery operations have potential to result in severe environmental impacts in terms of visual intrusion, traffic movements, noise, dust as well as destroying any reclamation works which may have been undertaken on the colliery site, but also acknowledges that they may offer potential to provide environmental gains when undertaken on derelict or poorly reclaimed tips with potential to create a more satisfactory landform in these instances.
52. MLP Policy M12.6 is supportive of the coal recovery operations at the former Rufford Colliery complex. This conclusion is reached on the basis that:
 - (a) The development site has not been restored and is predominantly devoid of vegetation, thus there would be no loss of attractive landscape or wildlife features (criteria a);
 - (b) Environmental impacts are discussed in greater detail later in the report where it is shown that there would not be unacceptable impacts (criteria b);
 - (c) The development is remote from communities and therefore would not have any significant impacts on residential areas (criteria c); and
 - (d) The restoration of the site provides opportunities to substantially enhance the environment, particularly the ecological interest of the site (criteria d).
53. On the 14th January 2016 the Council agreed to go forward with a consultation on the submission draft of a New Minerals Local Plan. Upon adoption this plan will replace the existing Minerals Local Plan. Policy MP11 (4) of the new Minerals Local Plan sets out the counties proposed policy for the reworking of spoil tips, stating that:

Policy MP11 (4) Reworking colliery spoil tips

Applications will be supported for the reworking of colliery spoil tips where the benefits of the development, including addressing the likelihood of spontaneous combustion and substantial environmental improvement of the site, outweigh the environmental or amenity impacts of the development or the loss of established landscape and wildlife features.

54. Since the new Minerals Local Plan is still at an early stage of preparation only limited weight should be given to the policies it incorporates. Nevertheless, the replacement Minerals Local Plan does not propose a significantly different approach to the reworking of colliery spoil tips to the adopted MLP Policy 12.6 being generally supportive subject to their being environmental benefits. An approval of this planning application would not therefore be prejudicial to future emerging planning policy.
55. The strategic objectives of the Newark and Sherwood Core Strategy (NSCS) for the Mansfield Fringe area encourage the regeneration of former colliery areas and the development of additional heathland habitats. The planning applications provide for the regeneration of the former colliery to a heathland habitat and therefore are supported by these strategic objectives. A restored heathland habitat would also compliment the landscape character of the proposed Sherwood Forest Regional Park which is advocated in the plan.
56. The developments are therefore supported in principle by the minerals policy section of the NPPF, Policy M12.6 of the MLP, Policy MP11 of the emerging Minerals Local Plan and the strategic objectives of the NSCS, subject to it being demonstrated that there would not be any unacceptable environmental effects.

Assessment of Environmental Effects

57. The environmental effects of most aspects of the current development were assessed at the time planning permission was granted for the original coal recovery scheme in 2013. Most of the conclusions reached at that time remain valid today. This report therefore extensively draws on these previous assessments to consider the magnitude of environmental effects but is also informed by the operational performance of the site over the last two years which has not generated objection from the local community, plus up to date responses from consultees.

Visual Impacts

58. MLP Policy M3.3 seeks to minimise the adverse visual effects of minerals developments by developing them in appropriate locations, keeping developments as low as practicable and ensuring appropriate restoration following quarrying.

59. The Rufford Colliery complex is remote from residential properties and is a substantial distance (nearly 1 mile) midway between villages of Rainworth and Clipstone. The site benefits from extensive screening by its topography and landscaping which ensure that there are no significant views of the lagoon extraction area from outside the colliery complex.
60. Some distant views of the coal stocking area would be obtained from the A617 (Rainworth bypass) and parts of Rainworth village to the south. Increasing the height of finished product stockpiles to 15m has potential to increase the visual prominence of the operations. However, the intervening distance between the development site and receptors together with the despoiled grey appearance of the stocking site ensures that significant visual impacts would not occur.
61. The proposed enlargement of the coal stocking area proposed as part of planning application 3/15/01798/CMA would not significantly alter the visual impact of the coal recovery operations and these extended areas would merge into the existing operational areas when viewed from distance.
62. Three residential properties and a care home are located on the colliery access road. Significant visual impacts from these properties is not anticipated due to the topography of the area, the orientation of these properties and intervening boundary treatments and landscaping.
63. A public bridleway runs in an east-west direction through the centre of the colliery complex. The coal recovery and stocking operations would be clearly visible to users of this bridleway although the character of the views which is coal mining in character would be very similar to those observed for many years and therefore the development would not create any significant visual change to users of these footpath.
64. The most significant negative visual impact from the development would occur as a result of the land being retained as an operational mine for a further two year period and the resultant delay in implementing the restoration site. The significance of these impacts is considered to be comparatively minor having regard to extensive history of coal mining in the area, nevertheless, the visual impacts are considered within the overall planning balance at the conclusion of this report.
65. The applicant has demonstrated that there is an operational need for increasing the height and land occupied by the storage mounds for final product storage to overcome an existing problem of the material becoming waterlogged and therefore unmarketable. In the context of MLP Policy M3.3 it is concluded that the development satisfies the requirements of the policy insofar that the Rufford Colliery site is considered as an appropriate location in visual impact terms, being remote from receptors and well screened, the storage heights have been kept as low as practicable and an appropriate scheme for the restoration of the site is in place following the completion of quarrying operations.

Landscape Impacts

66. The site is situated within Sherwood Policy Zone 08 of the Greater Nottingham Landscape Character Assessment. The area's designation identifies the site as

being of a poor condition with poor sensitivity. The overall landscape policy is to 'create' a new heathland landscape and avoid further unnatural and engineered landforms.

67. The coal recovery scheme has introduced engineered landforms temporarily into the landscape which these planning applications would retain and with respect to the storage mounds, increase, for a further two year period. However, since the site is currently unrestored the impact of the works would be less than in many other locations. Upon restoration the development would result in the creation of a new heathland landscape, positively enhancing the landscape and therefore complying with the overall landscape policy to 'create'.
68. Ecology
69. The entire site is designated as a Local Wildlife Site (LWS) – Rufford Pit Top 5/2287, described as “part of a former colliery site with ornithological interest”. Notwithstanding this ecological designation, the land subject to the works is largely devoid of vegetation, with extraction taking place on an unrestored colliery pit tip, and stocking/blending on the former colliery yard, linked by an existing haul road. As such, no significant impact on existing habitats is likely, and nor is any direct impact on species using the area. Works within the site therefore would be compliant with MLP Policy M3.17 which aims to minimise or avoid adverse ecological impacts associated with mineral workings.
70. Two Sites of Special Scientific Interest (SSSIs) are located outside the planning application site nearby – Strawberry Hills Heath SSSI, approximately 330m to the west, and Sherwood Forest Golf Course SSSI, approximately 430m to the north-west. No adverse impacts as a result of the development are anticipated within these SSSIs given the distance of these ecological features from the development site. Natural England have been consulted in respect of the development and confirm that the SSSIs surrounding the site do not represent a constraint in determining the planning application. The development therefore is compliant with MLP Policy M3.19 which seeks to ensure that adverse impacts to SSSIs are avoided.
71. The most notable ecological consideration is the potential effect on woodlarks and nightjars. The wider area surrounding the application site has been identified as a 'prospective Special Protection Area (SPA)' on the basis of its interest for these bird species. The proposed works have potential to cause disturbance to these species and their habitats. To ensure that impacts are appropriately considered Natural England advocate local planning authorities take a 'risk-based approach' in their planning decisions within the area and consider the potential impacts on these species in the context of the prospective SPA. In particular Regulation 9A of the Conservation of Habitats and Species Regulations 2010 (as amended) requires (in summary) that local planning authorities must take such steps in the exercise of their functions as they consider appropriate to secure the preservation, maintenance and re-establishment of a sufficient diversity and area of habitat for wild birds in the UK, including by means of the upkeep, management and creation of such habitat, and endeavour to avoid any pollution or deterioration of habitats of wild birds.

72. Nightjar and woodlark surveys confirm that neither bird was present on the extraction/stockpiling area in 2013 although historical surveys indicate that woodlark have previously bred on the colliery lagoons. Records show that woodlark are present within the wider Rufford Colliery area. The development has potential to affect these birds, as well as little ringed plover (LRP) which are known to populate the area. In accordance with Natural England's recommended approach, a 'risk based assessment' has been undertaken to consider the magnitude of any impact on woodlark and nightjar and conclude that there would be no significant impact to these bird species or their habitats. This assessment has considered the following matters:

a. Loss of habitat/physical disturbance and change to habitat.

Ecological surveys confirm that the planning application sites are not currently used by nesting woodlark, primarily because the unrestored and despoiled character of the land makes the habitat unsuitable for these species. However, historical records indicate that the former slurry lagoons (prior to the development being implemented) were used by nesting woodlark. The development therefore has potential to result in a continued displacement of habitat over a longer period. These impacts would be fully mitigated by the extensive areas of new heathland habitat which are being provided in the wider colliery area as part of the Restoration Masterplan, which ensure that no significant impacts to bird species would result from the development.

b. Light spillage.

The development would not be undertaken during the hours of darkness in the summer nesting season. Adverse impacts to bird species therefore would not result from light spillage.

c. Noise.

Noise emissions from the development would be similar to those historically observed from mining activities in the past. It is evident from the assemblies of breeding birds in the local area that these noise emissions have not discouraged birds, and therefore adverse impact to birds from noise is not anticipated.

d. Nitrogen Oxide (NO_x) emissions.

The exhausts of HGVs and mining machinery associated with the development would release NO_x emissions. These emissions have potential to deposit on sensitive heathland habitats and result in enrichment of soils and changes to the ecosystem. The magnitude of the impact has been considered by Natural England which is satisfied that the level of emissions would be considerably lower than those which have previously been agreed as acceptable in the area. No significant harmful effects from NO_x emissions are therefore anticipated.

e. Additional disturbance/human activity.

The development would not result in significant increased disturbance or human activity within surrounding land which provides bird breeding habitats.

73. The original planning permissions for coal recovery were supported by a comprehensive restoration masterplan which set out a detailed programme of habitat creation works for the development sites and the wider Rufford Colliery Complex. The implementation of this Masterplan is essential to ensure that the Risk Based Approach advocated by Natural England is followed and the integrity of any future SPA is not negatively affected by this planning decision. The Masterplan was developed in close partnership with Nottinghamshire Wildlife Trust and NCC's Ecological Officer with the objective of maximising the restored sites' ecological potential. Since the Masterplan relates entirely to land within the applicant's control (red and blue land) controls can be secured through the planning conditions to ensure its implementation.
74. The Restoration Masterplan identifies a series of compartments of land within the colliery complex, identifying restoration objectives for each area of land (as shown on Plan 4). These arrangements are discussed below.
75. Restored Colliery (Southern Tip Area): The site is restored and has undergone aftercare. The Masterplan has required further conservation management works to be carried out in this area including scrapes, scrub reduction, removal of self-set conifers and birch, scalloping treeline edges and pond clearance with the objective of enhancing the ecological interest of this area of land.
76. Former Landfill and former Colliery Land (to the east): The land has been restored as part of the arrangements approved under the Masterplan to create an acid grassland and heathland habitat including the provision of ditches to prevent unauthorised 4x4 and motorcycle access.
77. Former Coal Stocking area: The approved restoration scheme for the former coal stocking area reinstates the land to a heathland habitat. The eastern side of the stocking area (known as Area A) has been restored as part of the approved Masterplan. The remainder of the site is required to be restored upon completion of current coal stocking operations.
78. Recently Restored Colliery Tip (Central section of former Rufford Tip): The area has been restored (spread with sand), seeded with a grass nurse sward and spread with heather brashing.
79. Former Lagoon (Coal extraction Area): The coal extraction scheme would alter the approved restoration scheme, primarily in terms of ground levels, but retain the overall restoration concept of providing a heathland and acid grassland habitat albeit with additional shallow wetlands. The Masterplan envisages the restoration of this part of the site following the completion of coal recovery.
80. The Sand Quarry: Sand extraction has recently been completed and the land re-engineered to restoration contours. The restored site would create an acid/grassland and heathland habitat, seeking to supplement the existing vegetation within the site with targeted seeding and planting over the next few months.
81. Spring Hill LWS: The area was restored to heathland in 1997/8 and therefore has undergone aftercare. More recently works have been undertaken as part of

the approved Masterplan to reduce the amount of gorse and broom in this area by 75% to enhance the ecological interest of the site.

82. Spoil Stockpile area: These spoil stockpiles are to be used within the restoration of the coal fines extraction area with any surplus materials used across the wider Rufford complex area in ground contouring.
83. Unrestored Colliery Tip (Land West of Extraction Area): This land is subject to an approved restoration scheme. The masterplan programmes this work to be undertaken as part of the wider restoration of the lagoon extraction works.
84. The aftercare process is managed by the operator and overseen by a management team incorporating representatives from Nottinghamshire Wildlife Trust, NCC Planning/Ecological Officers and Harworth Estates. The objectives of the management team are to maximise the ecological interest of the restored site. The operator proposes to continue these arrangements thereby ensuring the management group would continue to meet on a quarterly basis to input and shape the ongoing aftercare of the site, thus ensuring that ecological benefits would be derived from the restored site. These arrangements would provide ecological benefits for the management of the site and thus deliver benefits over the existing arrangements for the site.
85. Nottinghamshire Wildlife Trust within their consultation response identify that the proposed extension to the end date of the planning permission would delay the implementation of the restoration of the site and in turn the delivery of additional heathland and acid grassland following the expiry of the existing planning permission in September 2016. To mitigate for this delay the Wildlife Trust request that the aftercare of the recently restored areas be extended so as to coincide with the end of the aftercare of the last restored areas. The applicant has reviewed this request but would prefer to mitigate any delay to the implementation of the restoration of the site by agreeing to a further 5 years of extended aftercare within lagoon 9 (the current extraction area), the sand quarry and the former tip. The provision of extended aftercare in these areas would provide additional management for valuable developing habitats on the site for woodlark and other scarce breeding species and satisfactorily offset any harm caused by the delay in implementing the restoration of the site. The developer is agreeable to these controls being imposed through a planning condition.

Vehicle Movements

86. MLP Policy M3.13 seeks to ensure that mineral workings are only permitted where the highway network can satisfactorily accommodate the vehicle movements likely to be generated and the vehicle movements would not result in unacceptable impact upon the environment and local amenity.
87. The development utilises the former Rufford Colliery haul road to obtain vehicular access to the A617 via an existing signal controlled junction. This highway junction has been designed and engineered to serve industrial traffic and is appropriate for this use. Works were undertaken under planning permission 3/13/00495/CMM to patch and repair the road when coal transportation recently recommenced. The condition of the road is considered to be fit for purpose.

88. Planning application 3/15/01797/CMA seeks consent to increase the maximum amount of material permitted to enter or leave the site from 6,000 tonnes per week to 10,000 tonnes per week. This equates to a maximum 100 HGV's entering the site each day (200 movements). The applicant requests this alteration to provide increased flexibility at different times of the year to import and export coal fines and coincide with peak periods of demand to supply power stations. The levels of vehicle movements have been reviewed by the highway engineer who is satisfied that they would not have an adverse impact in this location.
89. MLP Policy M3.12 provides scope to impose planning conditions to ensure that the public highway is protected from mud and other deleterious materials. The length of haul road between the storage area and the public highway has to date ensured that mud does not enter the public highway, however if this proves unsuccessful the use of a planning condition can require the operator to review and improve their controls as appropriate. Furthermore, a planning condition is suggested requiring the sheeting of lorries in accordance with MLP Policy M3.12.
90. The requirement of Condition 13 of planning permission 3/13/00495/CMA has been retained in part to require the condition of the access road to be routinely maintained for any deterioration.

Noise

91. MLP Policy M3.5 seeks to control noise emissions from mineral developments through appropriate siting of facilities and the use of environmental controls to limit noise emissions.
92. The coal recovery operations at Rufford have not generated objections relating to noise. This is primarily because the application site is geographically remote from residential properties and other noise sensitive receptors with the extraction/conditioning area being 1.4km from the nearest residential property and the dispatch area being 0.9km from the nearest residential property.
93. The proposed additional vehicle movements sought consent as part of planning application 3/15/01797/CMA has potential to increase noise in the vicinity of the care home and residential properties adjacent to the A617. The noise impact generated by these additional vehicles has been assessed by NCC's Noise Engineer who reports that the increase in vehicle numbers resulting from increasing the weekly throughput from 6,000 tonnes to 10,000 tonnes a week would be likely to increase noise levels by approximately 2-2.5dB in the vicinity of these properties. Industrial standards set out within The Design Manual for Roads and Bridges (DMRB) equates this level of change as a minor impact in the short term, and therefore significant noise impact to these properties is not anticipated.
94. In accordance with the approach set out within MLP Policy M3.5, planning conditions are suggested to control working practices so as to ensure that noise emissions are not harmful to residential amenity. These controls include a limit on the working hours to restrict them to between 06:30 – 18:30 hours Mon-Fri and 06:30 – 13:00 hours Saturdays with no working on Sundays, Public or Bank

Holidays. Controls are also suggested to ensure that all plant and machinery is appropriately silenced including the use of white noise reversing alarms on plant.

Dust

95. The site has potential to generate dust with the greatest risk of emissions being from the storage/conditioning of coal reserves and the movement of vehicles along haulage roads. Lower risks of dust emissions are anticipated from the excavation of material from the lagoons due to the high moisture content of this material which suppresses dust.
96. The geographical remoteness of the site within the much larger Rufford Colliery complex assists with the dispersal of dust and minimises the potential for nuisance at sensitive residential receptors. Notwithstanding this, there is potential for dust releases associated with haulage vehicles trafficking past residential properties and the care home adjacent to the access route. Whilst to date this has not actually caused complaint, it is recommended that there continues to be an ongoing requirement for the operator to sweep and dampen the road with a water bowser to suppress dust releases when required so as to mitigate any adverse dust impacts in accordance with the requirements of MLP Policy M3.7.

Drainage

97. The development does not alter the original approved scheme which results in the remodelling of the former spoil tip and its drainage features within the site. The concept drainage scheme for the restoration for the site identifies that water would be collected within a series of drainage grips and settlement lagoons prior to being directed towards the main complex of settlement lagoons within the Rufford Colliery complex and dispersed to the wider water environment in compliance with the existing discharge consent.
98. A final detailed design of the drainage system cannot be provided until lagoon extraction works are completed and the final landform is known. It is therefore recommended that there continues to be an ongoing requirement within the planning conditions to require the submission of a drainage scheme for the restored site, an approach which is compliant with MLP Policy M3.8.

Ground Contamination

99. There is potential for the working area to potentially contain contaminated material which would only be discovered during the course of the extraction operations. To ensure that any unexpected contamination is appropriately managed to minimise potential risks it is recommended that the applicant prepares a contingency statement to manage such materials in the event that they are uncovered. The preparation of a contingency statement can be controlled through planning condition.

Public Right of Way

100. The approved haulage route for the transport of excavated material between the spoil tip and the stockpiling area currently necessitates plant and machinery

crossing Rainworth Bridleway No. 5. To ensure that users of the bridleway are protected there is an agreed footpath crossing management scheme in place for this crossing point which incorporates signage, a priority system for bridleway users and an ongoing maintenance scheme for the surface of the bridleway

101. As part of planning application 3/15/01798/CMM consent is sought to regularise the use of an alternative haulage route for the transport of excavated material between the spoil tip and the stockpiling area with vehicles trafficking along the length of Rainworth Bridleway No.5 for access, a route which was utilised historically when the colliery was in production. To ensure users of the bridleway are satisfactorily protected, the applicant proposes to erect signage to ensure users are aware of the presence of contractors' vehicles and to ensure that site traffic gives priority to bridleway users. Additionally the operator would ensure that the surface of the bridleway is maintained in a satisfactory condition at all times to provide a safe and level surface for bridleway users. These matters can be controlled by planning condition. NCC's Rights of Way Officer is satisfied with these arrangements.
102. The development therefore complies with MLP Policy M3.26 which seeks to ensure that minerals development minimises any disruption to public rights of way.

Conclusion

103. The original planning consent for coal recovery operations at Rufford Colliery enables the mineral resource which has currently been disposed of at the site to be extracted and put to beneficial use. The recovery of these mineral reserves assists with the long term conservation of mineral resources in the wider area and provides for their sustainable re-use.
104. Economic benefits derived from the development have enhanced the local area by providing revenue to carry out restoration works in the wider Rufford Colliery Complex. Significant progress has now been made in delivering the Restoration Masterplan, creating large areas of new heathland habitat from despoiled colliery land as well as enhancing existing habitats. The habitat created by these restoration works provides bio-diverse and ecologically important heathland areas which are fully in keeping with the wider character of the Sherwood Forest area and supported by MLP Policy M4.13.
105. The alterations to the development sought consent within the three planning applications would allow the completion of the approved scheme within a deliverable timescale. Furthermore, the extra operating areas and variation of the existing consents to allow additional storage heights as well as extra vehicular movements will enable the developer to process the recovered coal fines more efficiently. Environmental effects from these changes are limited and temporary.
106. Whilst it is acknowledged that there would be a delay in the completion of the long term restoration of the site resulting in some delay in delivering new habitat and a continuation of visual impact this would be offset by the economic benefits of the proposal and the sustainable use of this mineral resource.

Other Options Considered

107. 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.

Statutory and Policy Implications

108. 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.

- Crime and Disorder Implications: The development provides for the restoration of a despoiled colliery site and upon restoration the site should become less desirable to anti-social behaviour.
- Human Rights Implications: Relevant issues arising out of consideration of the Human Rights Act have been assessed. Rights under Article 8 (Right to Respect for Private and Family Life), Article 1 of the First Protocol (Protection of Property) and Article 6.1 (Right to a Fair Trial) are those to be considered and may be affected. The proposals have the potential to introduce impacts such as increased noise from vehicle movements in the vicinity of the access road upon the residential properties. However, these potential impacts need to be balanced against the wider benefits the proposals would provide such as the recovery of minerals which would otherwise be sterilised and the ecological benefits derived from the development. The benefits are considered to outweigh any residual harm.
- Sustainability and the Environment: The report sets out that the development enables coal deposits currently disposed in a colliery tip to be beneficially re-used thus supporting the long term conservation of mineral resources in the wider area as well providing enhanced restoration of the wider former Rufford Colliery area.

109. There are no implications in respect of service users, financial implications, safeguarding of children, human resources.

Statement of Positive and Proactive Engagement

110. In determining this application the Mineral Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussion; assessing the proposals against relevant Development Plan policies; all material considerations; consultation responses and any valid representations that may have been received. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

RECOMMENDATIONS

Recommendation 1

111. It is RECOMMENDED that planning permission be granted for Planning Application 3/15/01797/CMA subject to the conditions set out in Appendix 1. Members need to consider the issues, including the Human Rights Act issues, set out in the report and resolve accordingly.

Recommendation 2

112. It is RECOMMENDED that planning permission be granted for Planning Application 3/15/01799/CMA subject to the conditions set out in Appendix 2. Members need to consider the issues, including the Human Rights Act issues, set out in the report and resolve accordingly.

Recommendation 3

113. It is RECOMMENDED that planning permission be granted for Planning Application 3/15/01798/CMA subject to the conditions set out in Appendix 3. Members need to consider the issues, including the Human Rights Act issues, set out in the report and resolve accordingly.

TIM GREGORY

Corporate Director – Place

Constitutional Comments (RC 3/02/2016)

The Planning and Licensing Committee is the appropriate body to consider the report

Comments of the Service Director - Finance (SES 15/01/16)

There are no specific financial implications arising directly from this report.

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

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W001514.doc – DLGS REFERENCE

7th January 2016 – Date Report Completed by WP Operators