



28 April 2015

Agenda Item:5

**REPORT OF CORPORATE DIRECTOR POLICY, PLANNING AND
CORPORATE SERVICES**

NEWARK AND SHERWOOD DISTRICT REF. NO.: 3/14/00976/CMA

**PROPOSAL: REMOVAL AND TEMPORARY STORAGE OF 75,000 CUBIC METRES
OF COLLIERY SPOIL FROM LAGOON 4 PRIOR TO THE REMOVAL OFF SITE OF
APPROXIMATELY 40,000 CUBIC METRES OF COAL MATERIAL; WITH ANY RED SHALE
ARISING FROM THE WORKS TO BE EITHER USED ON SITE OR EXPORTED**

LOCATION: BILSTHORPE DISUSED COLLIERY, EAKRING ROAD, BILSTHORPE

APPLICANT: HARWORTH ESTATES

Purpose of Report

1. To consider a planning application for the excavation of approximately 40,000 cubic metres of coal material and red shale from a colliery lagoon at the former Bilsthorpe Colliery. The key issues relate to HGV traffic and ecological impacts. The recommendation is to grant planning permission subject to conditions and a legal agreement.

The Site and Surroundings

2. The application site, the core of which is approximately 500 metres to the north east of the closest residential properties in Bilsthorpe, forms part of the former Bilsthorpe Colliery site which, since the colliery closed in 1997, has been partly redeveloped as a business park. This redevelopment includes a new highways depot to the west of the application site which was granted planning permission in 2008, with a variation to that permission granted in 2011. On land between the highways depot and the application site is land for which Members recently resolved to grant planning permission for the Bilsthorpe Energy Centre, although the application has been called in by the Secretary of State. To the immediate north of the application site is a facility which generates electricity from mine gas and there are other industrial units to the north west of the application site. There are also five wind turbines close to the application site and Newark and Sherwood District Council has granted planning permission for a solar farm to the south of the application site, although the permission has yet to be implemented. All of these features are detailed in Plan 1.

3. To the west of the mine gas site, and to the north west of the application site, is another area of land which, in 2012, was subject to works to excavate approximately 60,000 cubic metres of coal material and 20,000 cubic metres of red shale (planning permission reference 3/12/00503/CMA) as part of wider works to address safety issues on one of the tips on the site.
4. The whole area is accessed via an access road off Eakring Road approximately 550 metres to the west (see Plan 1). This access road also forms part of the application site which extends to 5.2 hectares in total. The main part of the application site comprises an area of the former colliery site which appears to have naturally regenerated on colliery spoil and largely consists of grassland with some pockets of shrubs and trees. The site is at its lowest in its north west corner at around 70 metres AOD but a steep ridge running across the centre of the site from south west to north east results in ground levels rising to around 82 metres AOD on the eastern boundary of the site.
5. The application site forms part of a wider area, covering around 23 hectares, which is designated as the Bilsthorpe Colliery Local Wildlife Site (see Plan 1), identified as being an important site for breeding waders. A large pond is to the north of the site immediately east of the mine gas compound whilst there is another pond to the south of the site.

Proposed Development

6. The planning application seeks permission to excavate approximately 40,000 cubic metres of coal fines from a former colliery lagoon in the south eastern half of the site. Operations would commence through the removal of vegetation and soils, with soil bunds being created in the north east corner of the site and also across the centre of the site adjacent to an area of land in the north west corner of the site which extends to around a hectare and which, having been determined to be of ecological interest due to the presence of two species of orchid – bee orchid and common spotted/marsh orchid – would remain undisturbed throughout the development (see Plan 2).
7. The colliery spoil forming the cap on the colliery lagoon would then be removed in phases to facilitate the removal of the coal fines and it is proposed to store 30,000 cubic metres of spoil from the initial box cut in a temporary storage area in the south west corner of the site (see Plan 2). Excavation of the coal fines would begin in the south west corner of the lagoon and would progress in a north easterly direction. This would allow for the creation of a temporary drainage sump in the south west corner of the lagoon whilst there would also be a temporary settlement pond to the north west of this (see Plan 2). The remaining 45,000 cubic metres of spoil would be removed as works progress and would be directly placed in the previously worked void.
8. The coal fines would be excavated and removed from site via the existing access road onto Eakring Road and an internal haul road through the site. The application states that an average of 20 and a maximum of thirty 30-tonne HGVs would remove the coal fines from the site per day using a route that would involve HGVs leaving the site along the access road, turning right onto Eakring Road, left onto Deerdale Lane and onto the A614 (see Plan 1). The

coal fines would then be transported to a power station (understood to be Rugeley in Staffordshire) where it would be blended with higher quality coal to produce a product which meets the power station's requirements.

9. The site would operate between 7am and 7pm Mondays to Saturdays and it is anticipated that the development would take 12 months to complete. The proposed development is anticipated to generate employment for 13 people: two supervisors; two surveyors; three machine drivers; four HGV drivers; and two labourers. Close to where the access road enters the site on the western boundary, a site compound would be set up including a car park and offices (see Plan 2).
10. Following the removal of the coal fines, the colliery spoil previously removed would be replaced to form the final landform on site. This would result in a slackening of the existing landform with slopes no steeper than one in six and would see final levels rise on the replaced colliery spoil heap to a maximum height of around 76 metres AOD on the eastern boundary of the site. The applicant has stated that, due to the amount of coal fines to be extracted and the density of the colliery spoil to be replaced not being precisely known, exact details of some of the features being proposed in the restoration scheme cannot be confirmed but would be submitted towards the end of the development and would accord with the concept restoration plan submitted.
11. The concept restoration plan confirms that it is proposed to restore the site to a mixture of species-rich grassland and wetland habitats (see Plan 3). Running through the centre of the site in a roughly north to south direction on the western toe of the newly formed spoil heap, it is proposed to construct a linear wetland feature interspersed with small wetland ponds. This linear feature would link the existing ponds to the south and north of the site. In addition to this, it is also proposed to create a further two ponds on top of the spoil heap, although the applicant has indicated that these would be designed to be seasonally wet, as permanently wet areas on top of the spoil tip could cause stability issues.
12. It is proposed to use Emorsgate Seed's EM2 seed mix which contains 80% grasses, predominately crested dogstail and slender-creeping red fescue, and 20% wild flowers including common knapweed, yarrow, oxeye daisy and meadow buttercup. The mix is described as being characteristic of traditional meadows and is suitable for a wide range of soil types. The wetland areas would be planted with species agreed with the planning authority and locally sourced plant material would be used where available and appropriate.

Consultations

13. ***Newark and Sherwood District Council*** has no objection to the application provided the County Council is satisfied that the proposed development complies with the relevant development plan policies and that no neighbours are detrimentally impacted upon through noise, nuisance and increased traffic generation. Advice should be sought from Natural England, Nottinghamshire Wildlife Trust and the County Council's Ecologist regarding the Ecological Appraisal to assist consideration of the application against development plan policies which seek to protect ecological assets. The restoration of the site

should ensure an increase in biodiversity, controlled through a management or scheduling plan.

14. **Bilsthorpe Parish Council** objects to the application as the road infrastructure would not cope with the additional HGV movements and the proposal would have a detrimental impact on local wildlife, trees and the landscape. In summary, the proposal would have a significant negative impact on the area.
15. **Eakring Parish Council** objects to the application as it understands that the site owners were given millions of pounds to regenerate the site in an ecologically friendly manner and the proposed development would undo all of this work and affect all the wildlife that has become established. Dust and noise from the scheme would have health and safety implications whilst the additional HGVs would have a safety impact on the A614 junction which is already considered to be problematic by many locals who already avoid it at busy times, and the A614 itself. The cumulative impacts on this site should also be considered as a five turbine wind farm has recently been built, a huge solar farm has been granted planning permission, the highways depot has become operational and there is a planning application for an incinerator. The site and the surrounding infrastructure can only take so much. If the development takes place, all that would be left would be a wasteland denuded of all wildlife. A full scheme of restoration work should be costed and agreed, otherwise the land would only be fit for an industrial plant base.

[Comment: the reference made to an 'incinerator' above relates to the Bilsthorpe Energy Centre which committee has resolved to grant planning permission for, but has subsequently been called in by the Secretary of State, as confirmed in paragraph 2 of this report.]

16. **NCC (Planning Policy)** confirms that Policy M12.6 of the Nottinghamshire Minerals Local Plan (MLP) is the key policy for consideration and that this policy is broadly consistent with paragraph 149 of the National Planning Policy Framework. If the criteria in the MLP cannot be met, benefits should be considered and weighed against the likely impacts. If these benefits exist, this would provide policy support for the proposal.
17. With respect to Policy MP11 of the emerging MLP, it is considered that the criteria in this policy could be used as a material consideration as the only objections received on this policy were an expression of concern that the policy did not allow for the economic benefits of the coal recovery and a questioning of the necessity/suitability of the word 'substantial' in the policy.
18. **The Coal Authority** has no objection to the application and confirms that the application site does not fall within the defined Development High Risk Area. The two recorded mine entries associated with the former colliery are located outside the application boundary and there are no other coal mining hazards affecting the site.
19. **The Environment Agency** has no objection to the application subject to conditions regarding the remediation of any contamination not previously identified at the site and a scheme for the disposal of surface water. An environmental permit would be required for the site.

20. **Natural England** advises that their standing advice is applied to the application with respect to protected species as it is a material consideration in the determination of applications. The proposed development is unlikely to affect any statutorily protected sites or landscapes and no comments are provided regarding soils, land use and reclamation.
21. **NCC (Nature Conservation)** notes that the application site forms part of Bilsthorpe Colliery Local Wildlife Site, designated for its breeding bird interest. The proposals would result in the temporary and short-term loss of habitat used by breeding birds but provides opportunities to deliver enhancements to benefit breeding waders. Whilst the site is also within the five kilometre buffer zone around the 'prospective' Sherwood Special Protection Area, it is considered that the proposed development would not have any significant impact on relevant species.
22. The site supports relatively species-rich grassland as a result of the seeding of the site when it was restored and also through the natural colonisation of two species of orchid, Dyer's greenweed, and lesser centaury, although the precise location of the latter is not clarified. The applicant has agreed to retain and protect an area of existing habitat that includes the location of the two orchids and a condition should secure the temporary fencing of this area. A mitigation strategy for lesser centaury and Dyer's greenweed, which would likely involve translocation, should be secured by condition, although this would not be required for the lesser centaury if it can be confirmed that it is situated in the habitat protection area.
23. NCC (Nature Conservation) considers that great crested newts are not a constraint to the development. No breeding bird surveys have been carried out but survey work in relation to other nearby developments has resulted in the wildlife in the area being well documented. Little ringed plover and oystercatcher have been recorded elsewhere on the former colliery site, lapwing has been recorded foraging within the application site, and other red-listed bird species have been recorded within the wider area. Given the short-term nature of the proposals, any impacts on these bird species is unlikely to be significant but a condition controlling vegetation clearance during the bird nesting season would be required along with a pre-commencement check for ground nesting waders in the event that works commence during the bird breeding season.
24. Parts of the site appear to have the potential to support reptiles and so a condition is recommended requiring the production of a Precautionary Method of Working which would require details to be submitted regarding the passive displacement of reptiles through progressive strimming of grass to make the habitat unfavourable for any reptiles present, along with hand searching.
25. The retention of suitable breeding habitat for dingy skipper butterfly would mitigate against any potential impacts to that species which has been recorded in the wider area in the past.
26. The concept restoration scheme is generally supported with the additional areas of wetland/ponds and species-rich grassland offering the potential to deliver a biodiversity gain at the site by improving the existing habitat and providing enhanced habitat for breeding waders in particular. However, a condition

should secure the submission of a detailed landscaping scheme, including details of species mixes, establishment methods and maintenance regimes; the provision of additional micro-topographical features to benefit butterflies; a soil-handling methodology to include the stripping and storage of the top 100mm of topsoil, separate from the remainder of the topsoil, with its subsequent reinstatement during restoration to maintain the existing seed source; and the submission of a habitat management plan to guide ongoing management and to maximise the biodiversity value of the site. Furthermore, to ensure that the scheme delivers an environmental benefit, an additional five years of aftercare should be secured in addition to the statutory five year period.

27. **Nottinghamshire Wildlife Trust** would be able to support the scheme subject to a number of conditions and undertakings. Whilst a Phase 1 survey and habitat suitability index assessment has been undertaken, a breeding bird survey has not been carried out and so it is not possible to at least partially assess the likely impacts of the proposed scheme on protected species and to properly evaluate the likely effectiveness of the proposed mitigation.
28. The surveys undertaken show the site to be dominated by species-rich grassland with a diverse range of herb species which are a result of the previous restoration scheme for the colliery tip. In addition to this, at least two orchid species have colonised the site naturally and so the sward has developed botanical value and become well established. The scheme has been amended to retain and protect one of the more botanically diverse areas which NWT welcomes but a substantial area of botanically diverse grassland would still be lost. NWT considers that the translocation of turfs in which the orchids are located should be conditioned and details submitted to show the depths of turfs that would be moved, where they would be moved to, and how they would be managed to ensure they survive. Dyer's greenweed, an uncommon species in the county, also occurs on the site and this should also be translocated within the site to an area with suitable substrate conditions, as should the lesser centaury.
29. Great crested newts are not present on site but there are ponds in close proximity that are known to host other amphibians and the application site could be used for terrestrial activity by these species. The restoration scheme should establish suitable foraging habitat for these species and the inclusion of new ponds in the restoration scheme is welcomed by NWT.
30. A reptile survey has not been undertaken and there are habitats present that might host reptiles, particularly common lizard. In order to ensure reptiles are not affected by the scheme, a reptile protection plan should be submitted prior to works on site, including details of how harm to reptiles would be avoided (through manual searching etc) and what mitigation would be provided if they were to be found, including the provision of receptor habitat in a protected area.
31. NWT considers that there are no existing features suitable for use as a bat roost although there is an abundance of suitable foraging habitat. The short term nature of the scheme would have a minimal impact on this species and the restoration proposals have the potential to recreate good foraging habitat within five years. There would be no impacts on water voles or badgers, whilst the

short duration of the scheme and the proposed restoration would result in limited impacts on hares.

32. *The lack of a breeding bird survey is disappointing to NWT given the site's designation as a local wildlife site notable for its population of waders. The scheme would result in the loss of habitat potentially used by grey partridge, lapwing, skylark and possibly scrub nesting birds such as turtle dove. The lack of survey means that it is not possible to determine which of these species, if any, breed on the site and could therefore be impacted by the proposed development. The retention of part of the site would help to mitigate some of the habitat losses.*
33. *In the absence of the bird survey NWT has assumed that red list Birds of Conservation Concern are present and so it is essential that, if planning permission is granted, the site is restored at the earliest opportunity and that the lost habitats are replicated as far as possible in the restoration scheme. The proposed wetlands and grassland would be beneficial in this regard but must be managed appropriately in order to develop suitable interest for wading birds and to retain this interest in the long term.*
34. *NWT considers that the proposed development would not result in 'pollution or deterioration of habitat' used by nightjar or woodlark.*
35. *Dingy skipper butterfly has been known to be historically present on the site and its food plant is still present. The habitat protection area would conserve some of this food plant but provision should be made to ensure that it persists through the restoration scheme.*
36. *The restoration concept contains suitable habitats to replace those that would be lost and the creation of new ponds and shallow wetlands is welcomed by NWT and could increase the biodiversity of the site in the long term to ensure a net gain for biodiversity in accordance with the NPPF and the Minerals Local Plan. NWT considers that the restoration scheme should maximise the quality of the restored habitats and ensure that they persist in the long term through the submission of a detailed restoration scheme, a long term management plan, and a commitment to an additional five years of aftercare over and above the statutory five year period. Subject to these conditions being met, NWT would be able to support the scheme.*
37. **The Highways Agency** *considers that the proposed development would not have a material impact on the closest strategic route, the A1. Therefore, no objection is raised.*
38. **NCC (Highways)** *has no objection to the application based on the works taking 12 months to complete, resulting in 30 HGVs per day, using a proposed route via the A614, Deerdale Lane and Eakring Road into the site, and the hours of operation being 7am to 7pm Monday to Saturday.*
39. **NCC (Landscape)** *has no objection in principle to the application but a method statement for the restoration of the site should be provided along with details of seeding and planting, including specification and details of establishment and maintenance.*

40. **NCC (Reclamation)** supports the application as it would result in an environmental improvement. A potential contamination source would be removed and drainage in the area would be improved.
41. The proposed excavation and subsequent exposure of underlying spoil and coal fines has the potential to result in sedimentation run-off during storm events and prolonged seepage of mobile contaminants from within the deposited spoil material. Controls would need to be in place to ensure that local water bodies are not contaminated. The proposed drainage ditch should take into consideration the potential for contaminants from the spoil material leaching into the water course.
42. The excavation and removal of coal fines would improve the environmental situation by removing a combustion risk and potential contamination source. It would also allow the slope of the tip to be re-engineered to an acceptable gradient and the drainage requirements for the spoil tip at higher elevation to be incorporated within the restoration proposals. Further details of the final restoration levels and gradients are required.
43. Soils stripped, stockpiled and re-used should be done so in accordance with good practice guidelines. Issues such as noise, dust and discharges to water courses should be controlled to minimise adverse environmental impacts.
44. **NCC (Noise Engineer)** has no objection to the application and notes that a similar operation in Bilsthorpe took place in 2012, with similar quantities of material exported, using the same operating hours and HGV numbers, without any complaints being made to the County Council. Given this, it is not anticipated that the proposed development would give rise to adverse noise impacts on noise sensitive receptors as the nearest receptor is around 600 metres away.
45. Conditions are recommended regarding the maximum number of HGVs per day, the hours of working, HGV routeing, the regular servicing and maintenance of all plant and machinery, and the fitting of broadband reversing alarms on vehicles and plant under the operator's control.
46. **NCC (Countryside Access)** has no objection as there are no public rights of way affected by the proposals.
47. **National Grid (Gas) and National Grid Company PLC** have apparatus in the vicinity of the site which might be affected by the proposed development.
48. **Severn Trent Water Limited, Western Power Distribution and NCC (Archaeology)** have not responded on the application. Any response received will be orally reported.

Publicity

49. The application has been advertised by a press notice in the Newark Advertiser and site notices on the site itself, on the corner of the access road and Eakring Road and further south on Eakring Road next to a footpath which leads to

residential properties closest to the site. Neighbour notification letters have been sent to 11 businesses on the business park and eight residential properties off Deerdale Lane in accordance with the County Council's Adopted Statement of Community Involvement Review.

50. A letter of objection has been received from a local resident in Bilsthorpe who considers that the area is already established with wildlife, including little ringed plovers, whilst the 30 HGVs per day would create noise and air pollution for residents on Eakring Road and create more traffic at the junction with the A614 which is already dangerous.
51. An action group called Residents Against Gasification Experiment (RAGE) has submitted an objection to the application. Concerns have been raised regarding the increase in HGVs and the impact of these on the Deerdale Lane junction when accessing the site. The junction is also used by residents of the village who would have their journey times affected and face increased risk to their safety. There is also concern that HGVs would accidentally come through the village, despite restrictions being in place, and impact upon the safety of school children who use the road as a route to school. The additional HGVs need to be considered alongside those associated with the maintenance of the wind farm and traffic to construct the permitted solar farm if it is implemented. Reference is made to RAGE's objection to the Bilsthorpe Energy Centre application which contains more detailed objections regarding HGVs entering the site.
52. RAGE is also concerned about the impact on wildlife as the site is designated as a local wildlife site and little ringed plovers and oystercatchers have been observed at the site, which need to be protected. If planning permission is granted, the site should be monitored to ensure that all impacts are confined to the application site and not surrounding areas. It is felt that this was not the case during the construction of the wind farm and more areas of wildlife were destroyed than had been permitted.
53. The application would also impact on the £2 million spent on landscaping the area. Even if the site is restored to how it was previously, the wildlife and horticulture would take a long time to regenerate to its present state.
54. Councillor Roger Jackson and Councillor John Peck have been notified of the application.
55. The issues raised are considered in the Observations Section of this report.

Observations

Planning policy context for the reworking of colliery spoil tips

56. The assessment of applications for the reworking of former colliery spoil tips has been established in the adopted Minerals Local Plan (MLP) and continues in the emerging Minerals Local Plan (Preferred Approach) (MLPPA).
57. Policy M12.6 (Reworking of Colliery Spoil Tips) of the MLP states that:

“Planning permission will only be granted for the reworking of spoil tips 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.”*

58. Policy MP11 of the MLPPA states that:

“Permission for the extraction of coal will only be granted where:

- (a) The proposal is environmentally acceptable, or can be made so by mitigation; or*
- (b) The proposal provides national, local or community benefits which clearly outweigh the likely adverse impacts.”*

59. In addition to this, and in particular in relation to applications for the reworking of colliery spoil tips, Policy MP11 states that:

“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.”

60. There is an interesting distinction between the two policies insofar as Policy M12.6 in effect does not allow for the reworking of colliery spoil tips if the site has become an established, attractive landscape or wildlife feature, irrespective of whether the other three criteria in the policy can be met or not. Policy MP11 meanwhile provides for the potential offsetting of the loss of an established landscape and wildlife feature through the benefits of the development, such as substantial environmental improvements to the site.

61. The site is designated as a Local Wildlife Site and so it is considered that it is already an established wildlife feature. There would therefore appear to be a clear policy objection to the application when assessing it against Policy M12.6. However, given the direction that the emerging Policy MP11 is taking insofar as requiring all material considerations to be taken into account as a whole, it is considered reasonable to also assess the first criteria in Policy M12.6 within the context of the entire policy. In this respect, it is therefore considered essential that any impacts on the designated Local Wildlife Site are minimised, along with other environmental impacts and impacts on amenity, whilst it is also considered imperative that the restoration scheme is designed to maximise environmental and biodiversity benefits. This is all the more relevant given that both Bilsthorpe and Eakring Parish Councils, along with a local action group and a local resident, have raised concerns that that the proposed development would impact on the local area in terms of wildlife and landscape impacts, in addition to the impacts of HGVs on local roads.

62. Revisions to how the site would be worked now ensure that an area in the north west corner of the site, extending to over a hectare, would remain undisturbed throughout the life of the development and would not be subject to any additional treatment as part of the restoration of the site. The County Council's Ecologist considers this area to be the most sensitive area of habitat on the site as it contains the two species of orchids identified in the ecological surveys and could potentially support the dingy skipper butterfly, a species protected under Section 41 of the Natural Environment and Rural Communities Act. This matter is considered in greater detail in the ecological observations below but it is considered that the protection of this area is an important policy consideration.
63. No objection has been raised by the County Council's Landscape Team and it is considered that, whilst the site is not an unattractive feature on the local landscape, the wider area is one that comprises a number of incoherent features including arable land, industrial units, wind turbines, mine gas equipment and former colliery workings. It is considered that improvements could be made to the landscape through the proposed development. The extent of these improvements is considered in detail below.
64. The reworking of colliery spoil tips has the potential to cause unacceptable environmental impacts and impacts to local communities through issues such as noise, dust and traffic impacts. Consideration of all these matters is detailed below and again would determine the acceptability of the proposed development against Policy M12.6 and Policy MP11.

Highways

65. Policy M3.13 of the MLP only allows for minerals development where the traffic to be generated can be satisfactorily accommodated by the highway network and would not cause unacceptable impact upon the environment and disturbance to local amenity. Policy M3.14 seeks to secure specified agreed vehicular routes for HGVs and require instructions to be issued to drivers in relation to these routes, in addition to securing highways improvements. Policy M3.12 requires measures to be put in place, such as wheel cleaning facilities and the sheeting of lorries, to prevent mud from being carried onto the public highway. Concerns regarding HGVs associated with the proposed development have been raised by Bilsthorpe and Eakring Parish Councils, a local resident and the local action group.
66. No objection has been raised from either the Highways Agency or the Highways Authority. The proposed development would generate a maximum of 30 HGVs per day and the route being proposed for these HGVs, along Eakring Road and Deerdale Lane onto the A614, is a long established HGV route into and out of the former colliery area, with signposts already in place directing HGVs to Bilsthorpe Business Park and the former landfill site. This route passes very few residential properties with only four fronting Deerdale Lane with seven more close by on a narrow lane off Deerdale Lane.
67. Given the proposed hours of operation at the site (7am to 7pm), the proposed development would result in an average of five HGVs travelling along the proposed route per hour; three in one direction and two in the other. This level

of traffic is similar to that generated by the scheme to remove coal material and red shale from another area of the former colliery site in 2012 with Condition 11 of that permission restricting the number of HGVs leaving that site to 30 per day. These HGVs followed the same route as is being proposed in this application and the site operated between the hours of 7am and 7pm, although the anticipated timeframe for that development was only 22 weeks, around half the time proposed for the development under consideration in this application. However, it can be confirmed that this development proceeded without any complaints regarding HGV movements.

68. It is considered that the local highways network could accommodate the level of HGV traffic proposed for the proposed 12 month period, although it is considered prudent to allow for an 18 month extraction period in case inclement weather conditions result in delays to operations on site. It is therefore considered that the application accords with Policy M3.13 of the MLP. A legal agreement would need to be secured to ensure that the HGV route is observed, a concern raised by the action group, in accordance with Policy M3.14. The legal agreement would also need to set out how the HGV route would be observed, through the issuing of instructions to HGV drivers etc, also as required by Policy M3.14. Conditions requiring details of the measures to be provided to prevent mud from being trafficked onto the highway and to require all HGVs leaving the site to be sheeted, are also considered reasonable and would accord with Policy M3.12.

Ecology

69. Policy M3.17 of the MLP protects habitats or features identified as priorities in the UK or Nottinghamshire Local Biodiversity Action Plan unless an overriding need for the development is demonstrated which outweighs the nature conservation importance of the feature. If the loss of habitat cannot be avoided, provision is required, where practicable, for the creation of equivalent habitat either on site or at a suitable alternative location. Policy M3.20 only allows for minerals development in areas designated as Local Wildlife Sites where the importance of the development outweighs the value of the site, taking into account measures to mitigate or compensate against any adverse impact. Policy M3.21 safeguards protected species or their habitats from minerals development.
70. The ecological impact of the proposed development on the site is an important consideration as the site is designated as a Local Wildlife Site on account of its interest for wading birds. There are two lakes to the north and to the south of the application site and the site itself is considered suitable habitat for a number of bird species, including grey partridge, lapwing, skylark and turtle dove. Other species that have been recorded in the area in the recent past include little ringed plover and oystercatcher. Despite the proposed development seeking to retain and protect an area of around a hectare which has been identified as being the area of most diverse grassland on the site, including bee orchids and common spotted/marsh orchids, other areas of species-rich grassland suitable for these bird species would be lost to facilitate the proposed development.

71. In order to mitigate against this loss and meet the tests in Policies M3.17 and M3.20, a number of matters have been identified by consultees as requiring suitable mitigation prior to and during the development. Prior to the commencement of the development, it would be necessary to fence off the area of existing habitat which has been identified as being retained and protected throughout the development, given the species-rich nature of this area which is good habitat for dingy skipper butterflies, a rare species in the county. Furthermore, a scheme to transplant Dyer's greenweed and possibly lesser centaury (once its precise location on site has been established, another matter which would be secured by condition) would need to be submitted, approved and implemented prior to any works commencing on site. This would ensure the protection of these rare species. Contrary to the consultation response from Nottinghamshire Wildlife Trust, it would not be necessary to translocate turf containing the orchid species as these are already located within the area to be retained and protected.
72. A condition is also recommended to ensure that vegetation clearance does not take place during the bird breeding season, unless preceded by pre-commencement checks by a suitably qualified ecologist. These checks would also search for reptiles, with the vegetation having been previously strimmed to make it unfavourable for any reptiles present, a matter which would also be secured by condition. A recent site visit observed that vegetation on site, but outside the proposed habitat protection area, has recently been cut.
73. It is also considered vital that the restoration scheme delivers not only replacement habitat equal to that which would be lost, but also provides, where possible, improved habitat. Regarding the requirement in Policy M3.17 to provide equivalent habitat either on or off site, this is not considered necessary in this instance given the short term nature of the proposals.
74. The restoration proposals seek to provide areas of restored grassland, a linear wetland feature linking the two existing ponds to the north and south of the site, and two further seasonal wetland areas on the top of the restored colliery spoil tip. The County Council's Ecologist considers that the concept scheme provided through the application has the potential to deliver biodiversity gains and it is considered that a condition requiring the submission of greater details, including species mixes, establishment methods, maintenance regimes, micro-topographical features, a soil handling methodology, a habitat management plan, and a total of ten years of aftercare, five of which would need to be secured by a legal agreement, would ensure that the site would be restored to a condition of greater benefit than it provides at present and would ensure that the proposals accord with Policy M3.20 of the MLP.

Landscape

75. Policy M3.3 of the MLP requires the visual impact of developments to be kept to acceptable levels with any plant, buildings and storage areas located so as to minimise their impact. Policy M3.4 seeks to reduce visual impacts through screening and landscape proposals. Policy M4.4 requires the submission of landscaping proposals and Policy M4.9 allows for the provision of aftercare conditions for minerals planning permissions.

76. No objection has been raised by the County Council's Landscape Officer and the site benefits from being relatively remote from residential properties in Bilsthorpe to the south and the nearest public right of way is around 500 metres to the east. It is therefore considered that the proposed development would not result in any adverse visual impact. A condition regarding any floodlighting to be installed is considered appropriate as, given the proposed hours of working (7am to 7pm), floodlighting would be required at certain times. The condition would require details to be provided confirming that light spill from any floodlighting would be restricted to the working areas only and that lights would not be left on outside operating hours.
77. The Landscape Officer has recommended that the restoration of the site is subject to a suitable method statement providing details of seeding and planting, including establishment and maintenance methods. This is considered acceptable, albeit only with respect to the seeding of the site given that no tree, shrub or hedgerow planting is proposed, and would accord with Policy M4.4 and Policy M4.9 of the MLP.

Noise

78. Policy M3.5 of the MLP requires noise levels generated by minerals development to not exceed acceptable levels and conditions regarding matters such as the hours of operation and the soundproofing of fixed and mobile plant should be considered. The reworking of colliery spoil tips has the potential to generate noise complaints, although the County Council's Noise Engineer has noted that no such complaints were received regarding the previous scheme on a nearby site in 2012. The closest noise sensitive receptors from the application site are around 600 metres away and no adverse noise impacts are anticipated as a result.
79. The Noise Engineer has recommended conditions restricting the number of HGVs entering and leaving the site; providing for the specified HGV route so that Bilsthorpe village is avoided; restricting the hours of operation; ensuring that all plant and machinery is regularly serviced and maintained; and the fitting of broadband reversing alarms on all vehicles and mobile plant under the operator's control. All these measures are considered appropriate and, with them in place, it is considered that the proposed development would accord with Policy M3.5 of the MLP, in addition to Policy M12.6 of the MLP and Policy MP11 of the MLPPA.

Dust

80. Policy M3.7 of the MLP seeks to control the generation of dust at minerals sites and identifies a number of ways in which this can be achieved, such as through the use of water bowsers, limiting on-site vehicle speeds, and soil handling strategies. It is considered important to not only control dust for the benefit of local residents but also in light of the surrounding flora which could be adversely affected by the deposit of dust. The application proposes to control dust through the use of water bowsers, road sweepers and sprays, in addition to the sheeting of all vehicles leaving the site. There is no indication that a wheelwash

would be provided, although HGVs leaving the site would travel approximately 650 metres along hard surfaced roads within the business park before turning onto Eakring Road.

81. In the absence of any advice from the district council's environmental health officer, it is considered reasonable to attach a condition to any planning permission granted requiring a dust management plan to be provided prior to the commencement of the development setting out in detail the measures that would be incorporated into the working of the site, with the suggested measures reflecting those detailed in Policy M3.7 where relevant to this proposal. Reference would also be included to the need for the measures to protect not only local amenity but also nearby habitats. With such measures in place it is considered that the proposed development would also accord with Policy M12.6 of the MLP and Policy MP11 of the MLPPA by minimising the impacts of the development on local communities and the local environment. The proposed development would also accord with the National Planning Policy Framework (NPPF) which, at paragraph 118, requires significant harm to biodiversity to be avoided or adequately mitigated.

Ground and water contamination issues

82. Policy M3.8 of the MLP requires surface water flows and groundwater levels not to be affected, and ground and surface waters not to be polluted. The Environment Agency raises no objection to the application subject to a condition requiring any unforeseen contamination not previously identified to be remediated in accordance with an approved strategy, and a condition requiring a scheme for the disposal of surface water to be submitted to prevent the deposit of suspended solids into Gallow Hole Dyke which runs to the north east of the site.
83. The County Council's Reclamation Officer has also raised concerns about the potential for sediments and contaminants to enter local water bodies if not properly controlled. The Site Working Arrangements Plan submitted with the application does show a temporary drainage sump in the south west corner of the lagoon to be excavated, along with a temporary settlement pond to the north west of this. However, the plan is quite schematic in nature with little detail of how these features would work together and ensure that no nearby waterbodies are polluted. The need for the recommended condition is accepted but it is considered that what it is seeking to achieve is similar to the Environment Agency's recommended condition on the disposal of surface water and so does not need repeating. With these conditions in place, it is considered that the proposed development would accord with Policy M3.8 of the MLP.

Cumulative impact with other developments nearby

84. Eakring Parish Council has raised concerns regarding the cumulative impact the proposed development would have in conjunction with a number of other developments nearby, including the construction of five wind turbines, the granting of planning permission for a solar farm, the recently constructed highways depot and the planning application for the Bilsthorpe Energy Centre.

In response to this, the five wind turbines highlighted are already operational so any disturbance through their construction has taken place. However, they clearly have a lasting impact on the landscape and the Inspector presiding over the appeal inquiry for that application considered that the proposal would have an adverse impact on the rural landscape but that the impact would be 'limited in extent'. The Inspector considered that the benefits of the proposed development in terms of the generation of energy from renewable sources, the contribution it would make to tackling climate change, and the contribution to meeting regional renewable energy targets were sufficient to outweigh the harm identified.

85. Regarding the solar farm, the site covers an extensive area to the south of the application site under consideration in this report, although the solar farm permission has yet to be implemented. Similarly, with respect to the Bilsthorpe Energy Centre, this application has been called in by the Secretary of State for determination and so there is no certainty that this is going to be developed. Even if it is, there is the possibility that the coal recovery proposal could have been worked by the time the Bilsthorpe Energy Centre, and the solar farm, have even become operational.
86. Regarding cumulative impact, it is considered that the biggest matter to take into account is the fact that the proposed development would be a temporary operation, with the applicant anticipating that the excavation of coal would last for only around 12 months, although it is considered acceptable to condition the length of the extraction period to 18 months to allow for any delays in operations due to bad weather. Following this, the site would be restored and it would have no lasting impact cumulatively with other developments in the area. For this reason, whilst it is accepted that there are a number of developments in the immediate surrounding area, it is considered that the proposed development would not result in a significant cumulative impact.

Legal Agreement

87. As detailed in the highways observations above, it is considered appropriate to require a legal agreement to be attached to any planning permission granted detailing the HGV route to be used and measures to be undertaken to ensure that it is complied with by all hauliers. As the HGV route is outside the application area, this matter cannot be secured by a condition, hence the need for the legal agreement.
88. A condition requiring the restored site to be subject to five years of aftercare is recommended by consultees but they have also recommended that a further five years of aftercare be provided to ensure the establishment of the habitats proposed in the restoration scheme. This additional five year period can only be secured through a legal agreement.

Other Options Considered

89. 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

90. 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.

Human Rights Implications

91. 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 (Right to a Fair Trial) are those to be considered. In this case, however, there are no impacts of any substance on individuals and therefore no interference with rights safeguarded under these articles.

Implications for Sustainability and the Environment

92. These are considered in the Observations section of this report.
93. There are no service user, financial, equalities, crime and disorder, safeguarding of children, or human resource implications.

Statement of Positive and Proactive Engagement

94. In determining this application the Minerals Planning Authority has worked positively and proactively with the applicant by assessing the proposals against relevant Development Plan policies and the National Planning Policy Framework, including the accompanying technical guidance. The Minerals Planning Authority has identified all material considerations; forwarding consultation responses that may have been received in a timely manner; considering any valid representations received; liaising with consultees to resolve issues and progressing towards a timely determination of the application. Issues of concern have been raised with the applicant, such as the working of the site and the restoration proposals, and these have been addressed through negotiation and acceptable amendments to the proposals. The applicant has been given advance sight of the draft planning conditions. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

RECOMMENDATIONS

95. 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 to secure a lorry routeing agreement requiring HGVs to avoid passing through Bilsthorpe village and measures to ensure the route is complied with, and an additional five years of aftercare.
96. It is FURTHER RECOMMENDED that subject to the completion of the legal agreement within three months of the date of this report, the 28th July 2015, or another date which may be agreed by the Team Manager Development Management in consultation with the Chairman, 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 1 of this report. In the event that the legal agreement is not signed by the 28th July 2015, or within any subsequent extension of decision time agreed with the Minerals Planning Authority, it is RECOMMENDED that the Corporate Director for Policy, Planning and Corporate Services be authorised to refuse planning permission on the grounds that the development fails to provide for the measures identified in the Heads of Terms of the Section 106 legal agreement within a reasonable period of time.

JAYNE FRANCIS-WARD

Corporate Director Policy, Planning and Corporate Services

Constitutional Comments [SLB 09/04/2015]

Planning and Licensing Committee is the appropriate body to consider the content of this report.

Comments of the Service Director - Finance [SES 9/04/15]

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 Divisions and Members Affected

Farnsfield and Lowdham
Rufford

Councillor Roger Jackson
Councillor John Peck

Report Author/Case Officer

Jonathan Smith

0115 9932580

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

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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 stripping of soils and the setting up of on-site facilities;

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

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

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

3. The extraction of coal and red shale from the site shall be completed no later than 18 months from the date of the commencement of the winning and working of coal or red shale 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 soil replacement operations required in accordance with Conditions 27 – 29 below shall be completed no later than 12 months from the date of the cessation of mineral extraction, as notified under the requirements of Condition 3 above, during which time all on-site facilities shall be removed from the site.

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

Approved plans

5. From the completion of the installation of the on-site facilities 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.

6. 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:

- (a) Planning application forms received by the MPA on 6 May 2014;
- (b) Document entitled 'Ref. Policy M3.1 – Information in Support of Planning Application – Lagoon 4' received by the MPA on 18 February 2015;
- (c) Drawing entitled 'Site Working Arrangements' received by the MPA on 18 February 2015;
- (d) Drawing entitled 'Site Plan Showing Section' received by the MPA on 18 February 2015;
- (e) Drawing entitled 'Concept Restoration Plan' received by the MPA on 18 February 2015;

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

Site compound area

7. No development on site shall commence until details of the site car park and office compound area, as indicated on the drawing entitled 'Site Working Arrangements' received by the MPA on 18 February 2015, have been submitted to, and been approved in writing by, the MPA. The site car park and office compound area shall thereafter be installed in accordance with the approved details.

Reason: The development cannot commence until the contractors' compound and site car park are in place and any potential impacts associated with them require consideration in the interest of visual amenity to ensure compliance with Policy M3.3 of the Nottinghamshire Minerals Local Plan.

8. No floodlighting shall be used at the site until their details have 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 floodlighting shall not be used outside the operating hours detailed in Condition 9 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.

Hours of working

9. 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), the development hereby permitted shall only take place between the hours of 7am and 7pm Monday to Saturday. There shall be no working on Sundays, Public and Bank Holidays.

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

Noise

10. 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 broadband reversing warning devices, be fitted with silencers maintained in accordance with the manufacturers' recommendations and specifications, and shall be serviced and maintained to ensure that noise emissions do not exceed the manufacturers' specifications.

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.

Highways

11. No HGVs movements associated with the haulage of coal or red shale shall enter or leave the site until measures to prevent the deposit of mud or other deleterious material on the public highway have been provided on the site in accordance with details previously submitted to, and approved in writing by, the MPA. The approved measures shall be implemented 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.

12. There shall be no more than 60 HGV movements to and from the site in any one working day (30 in, 30 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 site and minimise the noise impacts on local residents in accordance with Policy M3.13 and Policy M3.5 of the Nottinghamshire Minerals Local Plan.

Dust

13. 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, including adjacent habitats of ecological importance, to acceptable levels 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:
- (a) The use of water bowsers, sprays and vapour masts to dampen haul roads, coal and colliery spoil stockpiles, and other operational areas of the site;
 - (b) The sweeping of access and haul roads, where necessary;
 - (c) The minimisation of drop heights during loading and unloading of coal and red shale;
 - (d) Limiting on-site vehicle speeds;
 - (e) Provisions for the temporary suspension of mineral extraction, soil movements or vehicle movements during periods of unfavourably dry or windy weather conditions;
 - (f) 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: The development cannot commence until full consideration of detailed dust mitigation measures have been considered to ensure any impacts associated with the operation of the development are minimised in accordance with Policy M3.7 of the Nottinghamshire Minerals Local Plan.

14. All HGVs leaving the site with coal or red shale 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

15. If, during the course of the development hereby permitted, contamination not previously identified is found to be present at the site, then no further

development shall be carried out until a remediation strategy has been submitted to, and approved in writing by, the MPA detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented in accordance with the approved details prior to the recommencement of the development.

Reason: To reduce the risk of groundwater pollution in accordance with Policy M3.8 of the Nottinghamshire Minerals Local Plan.

16. No development shall commence until a scheme to dispose of surface water has been submitted to, and approved in writing by, the MPA. The scheme shall set out measures to prevent any deterioration to the quality of Gallow Hole Dyke through the discharge of suspended solids and shall include a surface water drainage schematic, a scheme to manage silty run-off from exposed surfaces and dewatering operations and the subsequent treatment of this water prior to discharge from the site, and pollution prevention measures to deal with any spillages. The scheme shall be implemented in accordance with the approved details.

Reason: The development cannot commence until full drainage details have been submitted which ensure that there is no risk of surface water pollution in accordance with Policy M3.8 of the Nottinghamshire Minerals Local Plan.

Protection of features of ecological importance

17. No development shall commence until the area identified as the 'Habitat Protection Area' on Drawing Number BC5 – Site Working Arrangements received by the MPA on 18 February 2015 has been fenced off in accordance with details previously submitted to, and approved in writing by, the MPA. The details shall include a plan showing where the fencing would be located and details of the type of fencing to be used. The fencing shall be erected in accordance with the approved details and shall be maintained throughout the life of the development until the protected area needs to be accessed as part of the restoration of the site.

Reason: The development cannot commence until an area of species-rich grassland and rare plant species on the site which form part of a designated Local Wildlife Site have been protected in accordance with Policy M3.20 of the Nottinghamshire Minerals Local Plan.

18. No development shall commence until a Precautionary Method of Working in Relation to Reptiles has been submitted to, and approved in writing by, the MPA. The submitted method of working shall set out measures to be implemented to make any potential reptile habitat unsuitable for these species, including passive displacement through the progressive strimming of grassland in areas with the potential to support reptiles, along with the hand searching of vegetation prior to any vegetation clearance, and details of the provision of receptor habitat in the Habitat Protection Area should reptiles be discovered. The method of working shall be implemented in accordance with the approved details.

Reason: The development cannot commence until it has been confirmed that the protection and conservation of any reptiles on the site has been secured in accordance with Policy M3.21 of the Nottinghamshire Minerals Local Plan.

19. No development shall commence until a Mitigation and Translocation Strategy for Lesser Centaury and Dyer's Greenweed has been submitted to, and approved in writing by, the MPA. The strategy shall include:
- (a) A map identifying the location of these plant species which are within the site but outside the 'Habitat Protection Area' on Drawing Number BC5 – Site Working Arrangements received by the MPA on 18 February 2015;
 - (b) Identify the locations within the Habitat Protection Area where it is proposed to translocate these species, which should take account of the substrate, aspect and drainage conditions of the species' existing locations;
 - (c) Details of the method of translocation, including the depths of turfs to be moved;
 - (d) The management of the translocated species to ensure they survive.

The plant species shall be translocated and subsequently managed in accordance with the approved details.

Reason: The development cannot commence until rare plant species on the site which form part of a designated Local Wildlife Site have been translocated and protected in accordance with Policy M3.20 of the Nottinghamshire Minerals Local Plan.

20. Operations that involve the removal and/or destruction of vegetation shall not be undertaken during the months of March to August inclusive except with the prior written approval of the MPA which shall only follow the submission and approval of a report to the MPA confirming that the vegetation to be removed and/or destroyed has been checked for nesting birds by a suitably qualified ecologist and that any necessary mitigation measures to protect active nests have been (or shall be) put in place, and provides for a further check immediately prior to the vegetation being removed and/or destroyed following the MPA's approval in writing.

Reason: To avoid disturbance to breeding birds in accordance with Policy M3.21 of the Nottinghamshire Minerals Local Plan.

Soil stripping, handling and storage

21. 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.

22. No development shall commence until a detailed soil handling scheme has been submitted to, and approved in writing by, the MPA. Such a scheme shall include the following details:
- (a) A methodology statement for the stripping and storage of soils, including the depths of topsoil and subsoil to be stripped and which shall provide for the separate stripping of the top 100mm of soil from the site and its storage in separation from the remaining topsoils on site in order to maintain the existing seed source;
 - (b) The types of machinery to be used;
 - (c) The routes to be taken by plant and machinery involved in soil handling operations;
 - (d) The size, location, volume and composition of soil storage mounds, taking into account the separate stripping and storage of the top 100mm of topsoil as detailed in (a) above.

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

Reason: The development cannot commence until it has been demonstrated that all available soil resources on site can be managed and conserved to ensure the proper restoration of the site in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

23. 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.

24. 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.

25. 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:
- (a) When all soil above a depth of 300mm is in a suitably dry and friable condition so that it is not subject to smearing;
 - (b) When topsoil is sufficiently dry so that it can be separated from subsoil without difficulty;
 - (c) 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.

26. The topsoil and subsoil mounds identified on the drawing entitled 'Site Working Arrangements' received by the MPA on 18 February 2015, taking into account any additional storage mounds required for the top 100mm of topsoil to be separately stripped in accordance with the details in Condition 22 above, 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 or subsoil mound in accordance with details which have been previously agreed in writing by the MPA and which shall include details of the seed mix to be used and a schedule of maintenance. The mounds shall thereafter be maintained in accordance with the approved details 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.

Soil replacement

27. The MPA shall be notified in writing at least 5 working days before each of the following:
- (a) The final post-excavation landform has been prepared ready for soil replacement to allow inspection of the area before further restoration of this part is carried out; and
 - (b) 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
 - (c) 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.

28. 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:

- (a) When it is raining; or
- (b) 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.

29. 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.

Restoration

30. The site shall be restored broadly in accordance with the drawing entitled 'Concept Restoration Plan received by the MPA on 18 February 2015 and, furthermore, in accordance with a detailed restoration plan which shall have been submitted to the MPA for its approval in writing within six months of the date of commencement of the development, as notified under Condition 2 above. The detailed restoration plan shall provide details of the following:

- (a) The final topography of the site;
- (b) The provision of additional micro-topographical features to benefit butterflies (particularly Dingy Skipper), such as the provision of 'butterfly banks' constructed from low-nutrient colliery shale left in low banks running in an east-west direction, or constructed from piles of granite ballast or limestone chippings;
- (c) Ensuring that the restored habitats provide feeding and breeding habitat for wading birds;
- (d) Seed mixes to be used in the species-rich grassland areas, which should be Emorsgate Seed's EM2 seed mix, including details of ground preparation; seed sources (which should be of local provenance); sowing

rates; establishment methods; and the provision of areas left for natural regeneration;

- (e) Establishment of wetland areas, including cross-sections of the linear water feature and all the ponds to be provided; proposed planting and seeding; planting and sowing rates; establishment methods; and the replacement of any planting which fails during the first five years following planting.

The site shall be restored in accordance with the approved details.

Reason: To accord with Policy M4.4 of the Nottinghamshire Minerals Local Plan and to ensure that the restoration of the site retains and enhances its local wildlife site status in accordance with Policy M3.20 of the Nottinghamshire Minerals Local Plan.

- 31. The seeding and establishment of the species-rich grassland and wetland areas shall be undertaken during the first seeding season following replacement of topsoils. 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 accord with Policy M4.4 of the Nottinghamshire Minerals Local Plan and to ensure that the restoration of the site retains and enhances its local wildlife site status in accordance with Policy M3.20 of the Nottinghamshire Minerals Local Plan.

Aftercare

- 32. Following the restoration of the site, it shall undergo aftercare management for a 5 year period.

Reason: To provide for the aftercare of the restored site, in accordance with Policy M4.9 of the Nottinghamshire Minerals Local Plan and to ensure that the site retains and enhances its local wildlife site status in accordance with Policy M3.20 of the Nottinghamshire Minerals Local Plan.

- 33. The site shall be managed during the five year aftercare period in accordance with a Habitat Management Plan which shall have been submitted for the written approval of the MPA at the same time as restoration details are submitted under Condition 30 above. The Habitat Management Plan 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 and maximises the biodiversity value of the site. The aftercare scheme shall include but not be restricted to details of the following:

- (a) Cultivations;

- (b) Weed control;
- (c) 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;
- (d) Drainage amendments;
- (e) Management practices such as the cutting of vegetation;
- (f) Remedial treatments;
- (g) Irrigation;
- (h) Proposals for a survey visit by a suitably qualified ecologist, to be undertaken in year 5, to assess the ecological interest of the site in order to inform management practices for the additional periods of aftercare secured through the legal agreement attached to this planning permission; and
- (i) A report detailing the findings of the survey visit referred to in (h) 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 and to ensure that the site retains and enhances its local wildlife site status in accordance with Policy M3.20 of the Nottinghamshire Minerals Local Plan.

34. 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 33 (c) 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 and to ensure that the site retains and enhances its local wildlife site status in accordance with Policy M3.20 of the Nottinghamshire Minerals Local Plan.

35. The aftercare programme shall be implemented in accordance with the details approved under Condition 33 above, as amended following the annual site meeting carried out in accordance with Condition 33 (c) 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

36. Should, for any reason, the excavation of coal fines and red shale 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, seeding and drainage in a similar manner to the 'Concept Restoration Plan received by the MPA on 18 February 2015, as 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.

37. The revised restoration scheme approved under Condition 36 above shall be implemented within 12 months of its approval by the MPA, and shall be subject to the aftercare provisions in Conditions 32 – 35 above.

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

Informative

1. The applicant is advised that an Environmental Permit would be required for the site.