

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/14/00519/MIN
FULL APPLICATION DESCRIPTION:	Reclamation of former colliery spoil mound to extract coal spoil, reprofiling of mound on completion of works and landscaping works.
NAME OF APPLICANT:	Hargreaves Surface Mining Ltd
ADDRESS:	Former Colliery Spoil Heap, Hesleden, Durham
ELECTORAL DIVISION:	Blackhalls
CASE OFFICER:	Chris Shields, Senior Planning Officer 03000 261394, chris.shields@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The village of Hesleden is located south of the B1281 Road between the A19 to the west and the A1086 Road to the east. The former Castle Eden Colliery and associated spoil heap lie adjacent to the village, immediately south of the Haswell to Hart Railway Path, now part of the Sustrans National Cycle Network. This was once a mineral railway line serving various collieries in East Durham and finally closed in 1980. The site is on the northern edge of Hesleden Dene, which links with Nesbitt Dene to become Crimdon Dene, on the northern outskirts of Hartlepool.
2. The village of Castle Eden lies approximately 1 kilometre to the west; the A19 is approximately 1 kilometre further west again and the settlement of Blackhall Rocks lies three kilometres to the north east.
3. The application site is accessed via Gray Avenue, which in turn, leads to the B1281 Road. At the corner of Gray Avenue, where it becomes Front Street, an unmetalled track leads to the site. This track, which forms part of Footpath No.24 (Monk Hesleden Parish), also serves a number of smallholdings, allotments and associated buildings in different ownerships in close proximity to the site. The track turns south east near the site entrance and runs along the north eastern edge of the site where it then terminates. A number of business owners have access rights along this track, including the owners of the application site. Footpath No.16 (Sheraton with Hulam Parish) runs to the south of the site, approximately 100m from the application boundary and would not be affected by the proposed development.
4. The application site is approximately 5 hectares and comprises the colliery spoil heap resulting from mining activities conducted in the 19th Century. The site is

surrounded by woodland including the Hesleden Dene Ancient Woodland that lies immediately to the south and forms a dense barrier on three sides. The north east boundary, facing towards Hesleden, forms a less dense boundary comprising low quality scrub woodland. The land rises up to the centre of the mound and falls away sharply down to the Hesleden beck on the south and south western sides of the site.

5. There is a recent history on the site of the material combusting and requiring attendance by the fire service to extinguish the fire. Burning material was excavated from the site and deposited in stockpiles to be extinguished and cool. As a result of this and unauthorised offroad motorcycling the site has been significantly disturbed.
6. The site is within the designated Hesleden Dene Local Wildlife Site (LWS) designated mainly for its former importance to dingy skipper butterflies. Hulam Fen Site of Special Scientific Interest (SSSI) is located approximately 400m to the south of the site and Castle Eden Dene SSSI is located approximately 1km to the north.
7. The site lies in an area identified in the Easington Local Plan as an Area of High Landscape Value. Woodlands to the west, south and east are covered by a Tree Preservation Order.
8. At the southern edge of the site, at the foot of the spoil heap, is the Hesleden Beck. The steep slopes of the Hesleden Dene at this point in its course limit the spread of the flood plain, nevertheless, a very small area of the site is within Flood Zones 2 and 3.
9. There are no listed buildings, Scheduled Ancient Monuments or Conservation Areas designations within the site. There are twenty five designated heritage assets within 2km of the site comprising one Scheduled Monument, one Grade II* listed building and twenty two Grade II listed buildings. Castle Eden Conservation Area lies 1km to the west. The registered Grade II parklands of Castle Eden lie around 1km to the north.

The Proposal

10. The proposed development is for the removal of combustible and/or potentially combustible material comprising of low grade coal, shale and spoil from the Hesleden Colliery spoil heap. It is estimated that within the heap there is approximately 278,000 tonnes (173,000m³) of combustible material. It is proposed to remove this material over 20 months. Once the combustible material has been removed the site would be restored to nature conservation with the reinstatement of Footpath No.24 (Monk Hesleden Parish). Operations at the site would last for 24 months from commencement to completion and during this period there would be 20 months in which combustible material would be exported from the site by road. The material would be exported from site at a rate of approximately 14,000 tonnes per month. The remaining material would be left on site and will form part of the restoration.

Preparatory works

11. Prior to the commencement of extraction a site compound would be created. The site would have temporary offices, welfare block, security cabin and wheelwash to be located at the site entrance. Perimeter fencing, cut off drains and water treatment areas would be established. Details of the buildings and wheelwash would be secured through planning condition should planning permission be granted.

Working method

12. The combustible material to be removed from site would be selectively dug from the areas identified from the site investigation data and subsequently confirmed within the excavations and such material would be excavated and stockpiled locally for subsequent loading out to road vehicles. Stockpiles on site would contain up to a 1 week supply for export, or approximately 3,500 tonnes and would have a height of up to 5m. The stockpiles would be located on the northern side of the site, close to the site access. There would be no processing carried out on site. The remaining non-combustible material would be kept on site for use in the restoration. The plateau of the spoil heap at present has a level of approximately 114m Above Ordnance Datum (AOD) but has a very steep southern slope. The restoration of the site would not reduce the overall height of the spoil heap but the gradient of the southern slope would be significantly reduced to improve safety and stability.
13. Material would be excavated from the stockpile using a single 360 excavator and two dump trucks. A single dozer would be used for grading the site and a tractor and bowser would be available for dust suppression. HGV's would be loaded using a single loading shovel.
14. The sequence of extraction phases, 14 in total, would begin in the centre of the site and work outward toward the north-west corner and then progress in an anti-clockwise direction around the initial area of excavation before working back toward the site access. The scheme has been designed in this way to deliver a progressive reduction in tip height in order to maintain maximum stability, in particular to the southern facing slope and to minimise surface water runoff.

Working hours

15. The proposed working hours for site operations, including coal haulage, are 07:00 – 19:00 Monday to Friday, 07:00 – 12:00 Saturday with no working on Sundays or Public/Bank Holidays save in cases of emergency. Operations outside of these hours would be restricted to maintenance and pumping.
16. Some illumination of the site would be required, especially in the winter months, but this would primarily be in association with plant working in the void area which would be below ground level. Illumination within the stockpile areas and site office area would be lit during the hours of darkness for security purposes. All lighting would be directional. Details of lighting would be submitted through condition should planning permission be granted.

Traffic and access

17. An average of 44 (22 in and 22 out) HGV movements per working day are anticipated during the working period with a pro-rata amount on Saturdays. Based on a 5.5 day working week (and maximum vehicle movements) it is anticipated that an average of 2 laden HGV's would leave the site every hour (4 movements per hour). Vehicles would enter and leave the site via an existing track onto Gray Avenue, approximately 380m from the junction with the B1281. The applicant has proposed to improve the visibility splays of the junction of the B1281 with Gray Avenue through a Grampian condition. The site access road would link with the site office and car parking area. Wheelwash facilities would also be located in this area. Details of the site office, car park and wheelwash would be submitted through condition should planning permission be granted.

18. All HGV lorries leaving the site would turn left onto Gray Avenue then left onto the B1281 then onto the A19. Coal would be sent to power stations for electricity generation and potentially local markets within the region. On return to site HGVs would turn right from the B1281 to Gray Avenue then right turn into the site.
19. Additional site traffic would include vehicles moving excavation plant and other items for a short period during the commencement and final restoration phases.

Restoration

20. The purpose of the development is to remediate a colliery waste heap and therefore all works are essentially restorative in their nature. The proposal would involve removing only materials that are combustible as the remaining spoil and burnt shale can be left in place to form part of the restoration. The site would not be fully reinstated until 4 months following cessation of works. The land would be restored to woodland on the southern slope and northern boundary with a mix of predominantly gorse scrub and wildflower sward interspersed with large magnesian limestone blocks across the centre of the site. A new paddock area would be created at the site entrance and the footpath reinstated with a public bench to encourage access.
21. The site would be subject to the statutory 5 year aftercare requirement. The aftercare period would commence following the completion of remediation works.
22. 16 full time jobs would be created for the duration of the scheme plus 4 part time jobs. The applicant has proposed a community fund equivalent to 10p per tonne of combustible material (this could provide around £27,800 during the life of the site) to help fund local projects and activities. This would be administered through a site liaison committee that would also provide a forum for the operator and community representatives to engage with each other about site related issues, activities and concerns.
23. The application is accompanied by an Environmental Statement (ES). This report has taken into account the information contained in the ES and amended details and that arising from statutory consultations and other responses.
24. This planning application is being reported to the County Planning Committee because it involves major minerals development.

PLANNING HISTORY

25. The application site has no planning history but was used as the spoil heap for the adjacent colliery in the 19th Century. Some reclamation works have been previously carried out on land to the north of the site.

PLANNING POLICY

NATIONAL POLICY

26. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in

achieving sustainable development under three topic headings – economic, social, and environmental, each mutually dependent. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’. The following elements of the NPPF are considered relevant to this proposal:

27. *NPPF Part 1 – Building a strong, competitive economy* – The NPPF outlines in paragraph 19 that significant weight should be placed on the need to support economic growth through the planning system. Paragraph 22 specifically states that; planning policies should avoid long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.
28. *NPPF Part 3 – Supporting a prosperous rural economy* – States that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. This to include the support of sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings; the promotion of the development and diversification of agricultural and other land-based rural businesses; and the promotion of the retention and development of local services and community services in villages.
29. *NPPF Part 4 – Promoting Sustainable Transport* – States that the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. It is recognised that different policies and measures will be required in different communities and opportunities to maximize sustainable transport solutions which will vary from urban to rural areas. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.
30. *NPPF Part 7 – Requiring Good Design* – The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning. Planning policies and decisions must aim to ensure developments; function well and add to the overall quality of an area over the lifetime of the development, establish a strong sense of place, create and sustain an appropriate mix of uses, respond to local character and history, create safe and accessible environments and be visually attractive.
31. *NPPF Part 8 – Promoting Healthy Communities* – The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities and planning policies and decisions should achieve places which promote safe and accessible environments.
32. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change* – Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy.

33. *NPPF Part 11 – Conserving and Enhancing the Natural Environment* – The planning system should contribute to, and enhance the natural environment by; protecting and enhancing valued landscapes, recognising the benefits of ecosystem services, minimising impacts on biodiversity and providing net gains in biodiversity where possible, preventing new and existing development being put at risk from unacceptable levels of soil, air, water or noise pollution or land instability, and remediating contaminated and unstable land.
34. *NPPF Part 12 – Conserving and Enhancing the Historic Environment* – Local Planning Authorities should have a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets, recognising that these are an irreplaceable resource and conserving them in a manner appropriate to their significance.
35. *NPPF Part 13 – Facilitating the sustainable use of minerals* – Minerals are recognised as being essential to support sustainable economic growth and our quality of life noting that it is therefore important that there is a sufficient supply of material to provide the infrastructure, buildings, energy and goods that the country needs. However, since minerals are a finite natural resource, and can only be worked where they are found, it is important to make best use of them to secure their long-term conservation. In determining planning applications for minerals development there are a number of matters to take into account. These include giving great weight to the benefits of the mineral extraction, including to the economy ensuring that there are no unacceptable adverse impacts on the natural environment and human health, taking into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality, and providing through condition for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards. Bonds or other financial guarantees to underpin planning conditions should only be sought in exceptional circumstances.
36. Paragraph 149 states that permission should not be given for the extraction of coal unless the proposal is environmentally acceptable, or can be made so through conditions or obligations, or if not, it provided national, local or community benefits which clearly outweigh the likely impacts to justify the grant of planning permission.

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/2116950.pdf> (*National Planning Policy Framework*)

37. The Government has recently cancelled a number of planning practice guidance notes, circulars and other guidance documents and replaced them with National Planning Practice Guidance (NPPG). The NPPG contains guidance on a number of issues including air quality, climate change, EIA, flood risk, health and wellbeing, light pollution, minerals, noise, transport assessments and statements, use of planning conditions and water quality. Of particular relevance to this development proposal is the practice guidance with regards to mineral development and their working and restoration and the principal environmental issues of minerals working that should be addressed by mineral planning authorities. Paragraph 147 states that the environmental impacts of coal extraction should be considered in the same way as for other minerals. However, both coal operators and mineral planning authorities must have regard to the environmental duty placed on them under Section 53 of the Coal Industry Act 1994 when preparing and determining planning applications.

<http://planningguidance.planningportal.gov.uk/>

LOCAL PLAN POLICY:

COUNTY DURHAM MINERALS LOCAL PLAN (DECEMBER 2000) [MLP] POLICY:

38. *Policy M4 – Waste and recycled materials* – permits the extraction of material from a mineral waste deposit where this can be achieved consistent with environmental protection objectives.
39. *Policy M23 – Areas of High Landscape Value* – States that proposals for mineral working in Areas of High Landscape Value will be given the most careful consideration. Proposals will only be allowed where the environmental impact on the special character and quality of the landscape is acceptable, or can be made so by planning conditions or obligations and, in the case of dimension stone, that there is a need for the mineral which cannot be met from alternative sources elsewhere.
40. *Policy M24 – Local landscapes* – requires that the scale of any adverse effects on local landscape character from minerals development is kept to an acceptable minimum and conserves as far as possible important features of the local landscape. It also requires that restoration schemes have regard to the quality of the local landscape and provide landscape improvements where appropriate.
41. *Policy M27 - Locally important nature conservation sites* – states that minerals development affecting regional or locally identified sites of nature conservation interest, including LNRs, RIGs, SNCIs and Ancient Semi Natural Woodlands, which may have an adverse effect will not be permitted unless the Mineral Planning Authority is satisfied that the developer has demonstrated there are reasons for the proposal which clearly outweigh the need to safeguard the intrinsic qualities of the site.
42. *Policy M28 – Wildlife Corridors* – states that minerals development should seek to preserve the nature conservation value of defined wildlife corridors. Policy M28 also advises that minerals development should contribute to their nature conservation interest through appropriate restoration and management.
43. *Policy M29 – Conservation of nature conservation value* – requires all proposals for minerals development to incorporate appropriate measures to ensure any adverse impact on the nature conservation interest of the area is minimised.
44. *Policy M35 – Recreational Areas and Public Rights of Way* – Mineral development that would have an unacceptable impact upon the recreational value of the countryside, and in particular facilities such as paths and other public rights of way will not be permitted unless there is a need for the mineral which cannot be met from suitable alternative sites or sources.
45. *Policy M36 – Protecting local amenity* – requires the incorporation of suitable mitigation measures to ensure potentially harmful impacts from pollution by noise, vibration, dust and mud, visual intrusion, traffic and transport, subsidence, landslip and gaseous emissions are reduced to an acceptable level.
46. *Policy M37 – Stand off distances* - states that unless it can be demonstrated that the amenity of local communities can otherwise be protected from the adverse impacts of mineral working, mineral development will not be permitted where the extraction or associated activities are within 250 metres of a group of 10 or more dwellings.

47. *Policy M38 – Water Resources* - states that if a proposal for mineral development would affect the supply of, or cause Yes contamination to, underground, or surface waters, it should not be permitted unless measures are carried out as part of the development to mitigate those impacts throughout the working life of the site and following final restoration.
48. *Policy M42 – Road traffic* – states that mineral development will only be permitted where the traffic generated can be accommodated safely and conveniently on the highway network and the impact of traffic generated by the development on local and recreational amenity is otherwise acceptable.
49. *Policy M43 – Minimising traffic impacts* – requires that planning conditions should be imposed, and planning obligations or other legal agreements sought, to cover a range of matters such as routeing of traffic to and from the site, highway improvements or maintenance, prevention of the transfer of mud and dirt onto the public highway and operating hours of lorry traffic to and from the site.
50. *Policy M45 – Cumulative impact* – requires that when considering proposals for mineral development the cumulative impact of past, present and future workings must be considered and states that planning permission will not be granted where the cumulative impact exceeds that which would be acceptable if produced from a single site under the relevant policies of the Plan.
51. *Policy M46 – Restoration conditions* – indicates that conditions will be imposed, planning obligations or other legal agreements sought as necessary to cover a range of issues relating to the satisfactory restoration of minerals sites.
52. *Policy M47 – After uses* – provides advice in relation to proposals for the after use of mineral sites.
53. *Policy M52 – Site management* – states the ability and commitment of the intended operator to operate and reclaim the site in accordance with the agreed scheme will be taken into account.

District of Easington Local Plan (2001) (DELP)

54. *Policy 7 – Protection of Areas of High Landscape Value* – States that the special character, quality and appearance of such areas will be maintained and enhanced. Any development likely to have an adverse impact shall only be permitted if it fulfills a need that outweighs the value of the landscape.
55. *Policy 15 – Protection of Sites of Special Scientific Interest, and National Nature Reserves* – States that development that is likely to adversely impact on a site of special scientific interest will only be approved where there is no alternative solution or the development is in the national interest.
56. *Policy 38 – Designing Out Crime – Requires* due regard to be given to personal safety and the security of the property, particularly during the hours of darkness.

RELEVANT EMERGING POLICY:

57. Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The County Durham Plan was submitted for Examination in Public and a stage 1

Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that report was quashed by the High Court following a successful Judicial Review challenge by the Council. As part of the High Court Order, the Council has withdrawn the CDP from examination. In the light of this, policies of the CDP can no longer carry any weight at the present time.

*The above represents a summary of those policies considered relevant. The full text, criteria, and justifications can be accessed at: <http://www.durham.gov.uk/article/3274/Minerals-Local-Plan>
<http://content.durham.gov.uk/PDFRepository/EasingtonLocalPlan.pdf>
<http://www.durham.gov.uk/article/2486/County-Durham-Plan> (County Durham Plan)*

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

58. *Castle Eden Parish Council* – has objected to the proposal due to the loss of residential amenity, traffic generation and road safety, noise, nuisance and no clear benefits to the community.
59. *Monk Hesleden Parish Council* – has objected to the proposal due to the impact upon residential amenity of those living in Hesleden and surrounding villages, traffic movements and highway safety, concerns that the operator has a poor track record of restoration and that the only beneficiary of the scheme is the applicant.
60. *Highway Authority* – initially objected to the proposal due inadequate visibility being available at the junction of Gray Avenue and the B1281, however, it is considered that this issue can be overcome with a Grampian condition requiring the submission of a scheme of works to improve visibility with the works to be carried out prior to the commencement of development. In order to mitigate impacts upon local residents it is recommended that a further condition be imposed requiring the submission of a Traffic Management Plan that should incorporate an advisory speed limit of 20mph on Gray Avenue, temporary signs advising warning road users of HGV's turning at the junction from Gray Avenue to the B1281 and measures to ensure that vehicles exiting the site are cleaned to prevent any detritus being deposited on Gray Avenue and beyond.
61. *Environment Agency* – has raised no objections to the proposal subject to conditions being imposed in respect of surface water discharge and ground contamination in order to meet the requirements of the NPPF. Advice is also provided in respect of contaminated land.
62. *Natural England* – has raised no objections to the proposal and has not requested any conditions be imposed. It is noted that the Hulam Fen SSSI is located in close proximity to the site. However, it is considered that provided the development is carried out in accordance with the details as submitted it will not damage or destroy the interest features of the SSSI. Further advice is also provided in relation to protected species, soils and reclamation, biodiversity enhancements and green infrastructure potential.
63. *Coal Authority* – has raised no objections to the proposal subject to the imposition of a condition requiring investigations to be undertaken to establish the precise location of a historic mine entry and install appropriate fencing around it.
64. *Drainage and Coastal Protection* – Officers have raised no objections to the proposals but have stated that the proposed works should not allow surface water to discharge onto adjacent land, a suitable land drainage / infiltration system should be

installed. Any surface water discharge from the drainage system to an outfall should be restricted to greenfield run-off in accordance with the ICP QBAR rural calculation. It is requested that a condition be imposed requiring details of all surface water drainage proposals to be submitted for approval.

INTERNAL CONSULTEE RESPONSES:

65. *Spatial Policy* – The proposed development needs to be determined in accordance with the saved policies of the statutory development plan, principally the relevant saved policies of the County Durham Minerals Local Plan. The principle MLP policy which is relevant is policy M4 ‘Waste and recycled materials’ which permits the extraction of material from a mineral waste deposit where this can be achieved consistent with environmental protection objectives. The NPPF is also relevant as a material consideration. In particular great weight should be given to the proposed benefits of the mineral extraction including to the economy. As the proposed development involves the recovery of combustible and potentially combustible material including coal the national policy test relating to coal extraction needs also to be considered. It is also important to ensure that the site is fully restored and in aftercare at the earliest opportunity and that this should be carried out to high environmental standards.
66. *Design and Conservation* – Officers have raised concerns in respect of the vehicle movements through Castle Eden and consider that the ambience and sense of place of the conservation area would be affected. Officers have also noted that the Landscape and Visual Impact Assessment (LVIA) has not included photomontages from the main part of Castle Eden village or Hardwick Hall and therefore is not sufficient to make an informed assessment of the impact.
67. *Landscape* – Officers have stated that the proposals would have some adverse effects on the character of the local landscape that would be significant locally but would be of a temporary nature and would not have a substantial effect on the wider landscape. The restoration proposals are considered to be appropriate. The proposals would have some adverse effects on the visual amenity of nearby residents, however, none of the impacts are predicted to be high or long term and the working method has been designed to minimise them as far as possible. The proposals would have some adverse effects on the visual amenity of footpath users, which would be high on some short sections of nearby paths but there would not be a significant effect on the wider network.
68. *Ecology* – Officers have raised no objections to the proposals on the understanding the restoration scheme is carried out in accordance with the submitted plans and that the site will be subject to an aftercare period.
69. *Environmental Health and Consumer Protection* – Officers have raised no objections to the proposals in respect of noise and dust subject to conditions being imposed to ensure noise mitigation measures are carried out, the submission of a noise monitoring scheme for the period of the works and a dust suppression/mitigation scheme that would be implemented for the period of the works.
70. *Air Quality* - Officers have commented that although the proposal represents a considerable increase in the number of HGV movements on Grey Avenue in comparison to the existing situation the increase will not exceed the threshold detailed in the IAQM/EP(UK) Guidance (>100 HDV on the existing AADT) and therefore this indicates the proposals will not have a significant impact on air quality pollutants. The background levels of pollutants (Particulates and Nitrogen Dioxide) are well below the national air quality objectives at this location for both of these

pollutants. The assessment showed that the change in concentrations of both particulates (PM₁₀ and NO₂) will not be significant and negligible if considered in relation to the air quality objectives.

71. *Contaminated Land* – Officers have raised no objections to the proposals and commented that the risk identified in the conceptual site model is that surface water management. It is advised that appropriate Discharge Consents should be obtained from the Drainage and Coastal Protection Team to discharge all polluted water into the Hesleden Dene. Officers note the proposal to catch surface water runoff within a 1.5m perimeter bund in order for it to be transported to the proposed water treatment area in the south eastern part of the site. It is recommended that a condition be imposed to require details and appropriate mitigation of any contamination or water treatment issues that arise during the operations at the site that have not been anticipated as part of the assessment work.
72. *Access & Rights of Way* – Officers have raised no objections to the proposal but have noted that Footpath No.24 (Hesleden Parish) would be directly affected by the proposal. The section of the footpath within the proposed site will be required to be temporarily stopped up for the duration of the works under Section 261 of the Town and Country Planning Act 1990. Officers are satisfied that the temporary closure and the proposed diversion are acceptable.
73. *Countryside* – has raised no objections to the proposal. Officers have requested that various works be carried out to protect and improve the Haswell to Hart Railway Path, improve access to the path and improve local biodiversity.

PUBLIC RESPONSES:

74. The application has been advertised in the press and by site notices, and all residents of Castle Eden and Hesleden have been individually consulted. 359 representations have been received from individuals in response to the application from the local area. A further letter providing comments that neither support nor object to the scheme has also been submitted.

Objection

75. 23 individual letters, 42 standard letters (2 types) and 2 petitions containing a total of 212 signatures (192 and 20) have been submitted in objection to the proposal from local residents.
76. The main point of objection shared by all objectors is the increase in vehicle movements and reduction in road safety. References are specifically made to the impact upon the residential amenity of roadside communities, particularly Gray Avenue in Hesleden, the limited eastbound visibility at the junction of Gray Avenue and the B1281 and the narrowness of the roads from Hesleden to the A19. Concerns have also been raised in relation to mud being deposited on the highway from vehicles exiting the site that may cause accidents.
77. The impacts from the development upon the flora and fauna present on the site, particularly the loss of mature trees and the resultant change to the landscape has been raised as an issue.
78. The impact of HGV's accessing and exiting the site across the Haswell to Hart Railway Path has been raised by many objectors as it is considered that the path would be damaged by this activity. There is also concern that vehicles crossing the path would cause disruption to users including walkers, cyclists and horse riders.

79. It has been suggested that the evidence of danger from the spoil heap combusting have not been substantiated and that the reported incidents of fires are not conclusive that there is an ongoing risk. It is also suggested that an alternative restoration scheme not involving removal of any material from the site could be achieved.
80. Air quality and noise from the development have been raised as issues, particular in relation to health risks from PM2.5 particles released from vehicle emissions and noise from vehicles disturbing residents, as mentioned above. Concern has also been raised that noise assessment is not an accurate representation of what site noise levels will actually be like.
81. Other issues that have been raised include impact upon Human Rights, devaluation of residential properties and an objection to the proposal if the Council is not able to secure financial compensation from the developer that can be put towards supporting community activities in Hesleden. Finally, it is stated that the site has been subject to fly tipping and reassurances are sought that this will not continue to occur.
82. *Local Members* – Councillors Rob Crute and Lynn Pounder have jointly objected to the proposal due mainly to the impact upon residential amenity to the residents of Hesleden and Castle Eden but also to traffic generation, road safety and have suggested that there are alternative ways to mitigate the anti-social behaviour that has been associated with the site.
83. *Grahame Morris MP* – has objected to the proposal due to impacts upon highway safety, residential amenity including noise, dust and air quality, particularly for the residents of Gray Avenue but also the wider community. Concerns are also raised in relation to the natural environment by damaging trees and disturbing wildlife in the area.

Support

84. 34 individual letters and a petition containing 48 signatures have been submitted in support of the scheme. The individual letters received in support of the proposal were all from pupils of Hesleden Primary School (Durham County Council). Pupils support the removal of the spoil heap in order to make the site safer and so that it can be put into community use following the completion of the works. Requests have been made by the school pupils for the site to incorporate a 'dirt bike track' and for a community building and graffiti wall to be erected at the school.
85. The petition submitted in support of the proposal to restore the site states that signatories would like to see the spoil heap removed and restored to alleviate the danger and visual impact that it currently poses.

Comments

86. *Hesleden Primary School (Durham County Council)* has written in relation to the scheme with a view to making beneficial community use of any financial gains should the development and also to use the development as a source educational material.

APPLICANT'S STATEMENT:

87. Hargreaves Surface Mining Limited (HSML) is seeking to remediate a former Colliery Spoil Heap at Hesleden, County Durham and to restore the site as an area of ecological interest.
88. Remediation is required as the site has a history of spontaneous burning of the highly combustible material which is present. The site is also experiencing ongoing slope stability problems with a potential for further large scale slope failure that could affect the integrity of Hesleden Burn.
89. The site is renowned for episodes of trespass and anti-social behaviour relating to the abuse of drink and drugs and represents great concern to local residents and surrounding landowners.
90. During January 2014 further trespass occurred and an unofficial motor cross track was constructed. The landowner has undertaken all reasonable measures to make the site safe. However the site has once again been vandalised and instances of unsociable behaviour continue.
91. The remediation scheme provides for the recovery of an estimated 278,000 tonnes of highly combustible material, located on site, together with ancillary site operations. The site will be progressively restored to include ecological enhancements over a two year period which will be followed by appropriate aftercare.
92. The scheme has been subject to a full and rigorous independent Environmental Impact Assessment (EIA) which has resulted in the production of a comprehensive Environmental Statement (ES).
93. The results of the EIA together with the views of statutory consultees, many of whom support this application, demonstrate that the scheme is acceptable in environmental terms.
94. The principle (*sic*) objectives and benefits of the site remediation are as follows:
 - Remove the current health, safety and environmental risk posed by the spontaneous burning of the combustible material within the site and the risk posed by slope instability, which threatens Hesleden burn.
 - Recovery of an estimated 278,000 tonnes of combustible material, for use in the energy sector, assisting with both balance of payments and with the security of energy supply.
 - Remediation and improvement of the local environment
 - Provision of an area of conservation and ecological interest with the creation of habitat suited to the Dingy Skipper butterfly.
 - Provision of local jobs directly, and also indirectly through the provision of goods and services.
 - Provision of a community trust fund.
 - Improved visibility at the junction of Gray Avenue and the B1281.
95. HSML note that there has been a level of objection from certain local residents (which is normal with such schemes). However it is pleasing to note that the proposals have also generated significant levels of support given that the proposal will provide a once and for all solution to the environmental and safety issues associated with the Colliery Spoil Heap. No statutory consultee has objected to the scheme.

96. Taking all the above matters into account, it is concluded that the scheme with the proposed mitigation accords with planning policies, offers benefits to the local community and the environment and is acceptable in environmental terms. HSML respectfully request that the application is approved.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at: <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=N2D7KSGDFWS00&documentOrdering.orderBy=date&documentOrdering.orderDirection=descending>

PLANNING CONSIDERATIONS AND ASSESSMENT

97. Having regard to the requirements of section 38(6) of the Planning and Compulsory Purchase act 2004, the relevant Development Plan policies, relevant guidance and all other material considerations, including representations received, it is considered that the main planning issues in this instance relate to: the principle of the development, residential amenity (including noise, air quality and dust), access and traffic, landscape and visual impact, cultural heritage and design and conservation, ecology and nature conservation, flood risk and drainage, public rights of way, soils and agriculture, cumulative impact and other matters.

Principle of the development

Land Remediation

98. The proposed development would the removal of combustible material from a historic colliery spoil heap with subsequent restoration to nature conservation and amenity use. The combustible material, or coal, has been previously mined and discarded as it was presumably deemed unsuitable for purpose at the time of extraction. However, it is now possible to use this material for energy production in coal fired power stations. As the coal has already been extracted and is effectively stored in a waste heap the proposed development is not considered to be surface coal mining and therefore should not be assessed as such. MLP Policy M7 is therefore not applicable as this is specific to the opencast mining of coal within the exposed coalfield.
99. It is considered that the key policy for determining the principle of this application is MLP Policy M4. This Policy encourages and supports the use of recycled and waste materials in place of newly won minerals through the extraction of material from mineral waste deposits subject to environmental acceptability. Policy M4 is considered to be fully consistent with the NPPF which makes it clear that Mineral Planning Authorities (MPAs) should facilitate the sustainable use of minerals and making use of recycled and waste materials is consistent with achieving this objective. Notwithstanding this, paragraph 149 of the NPPF states that permission should not be granted for the extraction of coal unless the proposal is environmentally acceptable, or can be made so through conditions or obligations, or if not, it provided national, local or community benefits which clearly outweigh the likely impacts to justify the grant of planning permission. This paragraph is considered to be a relevant consideration for this proposal.
100. The proposal would involve the recovery of up to 278,000 tonnes of combustible material from a mineral waste deposit, thereby reducing the need to mine newly won mineral. It is considered that proposal fully accords with objectives of MLP Policy M4 subject to environmental acceptability, which is discussed later in this report.

Government Energy policy

101. In the July 2011 Energy White Paper 'Planning our Electric commitment Future: a White Paper for Secure, Affordable and Low Carbon Electricity', the Government sets out its intention to transform the UK's electricity system to ensure that our future electricity supply is secure, low-carbon and affordable. The White Paper notes, that traditional fossil fuels leave the Country open to volatile prices, deepens our dependence on imported energy and lead to the emission of too much carbon. Also in July 2011, six energy National Policy Statements for Energy were approved. The Overarching National Policy Statement for Energy (EN-1) re-affirms the Government's commitment to meet EU and prevailing national targets. EN-1 states the UK economy is reliant on fossil fuels, and they are likely to play a significant role for some time to come. However, the UK needs to wean itself off such a high carbon energy mix: to reduce greenhouse gas emissions, and to improve the security, availability and affordability of energy through diversification.
102. The Government has announced an intention to close the UK's remaining 15 coal fired power stations by 2025 with significant restrictions placed upon existing power stations on the approach to this deadline. In Quarter 2 of 2015 coal fired power stations provided 20.5% of electricity generation for the UK, a drop of almost 8% for the same period in 2015. This drop in dependence upon coal coincides with a reduction in indigenous production from both deep mined and surface mined coal. UK coal production dropped to approximately 12 million tonnes in 2014, down from approximately 16 million tonnes in 2013. UK imports of coal dropped to 42 million tonnes in 2014 from 49 million tonnes in 2013.
103. There are constraints which are coming into force which will affect the use of coal. These being the EU Large Combustion Plant Directive which imposes an emission limit for sulphur dioxide. There is also the domestic Carbon Price Floor that acts as a tax on carbon and alters the price of coal compared to gas, as coal has higher carbon emissions than gas for each unit of electricity generated.
104. In January 2016 the Industrial Emissions Directive (IED) will come into effect which tightens emissions limits on fossil fuel power stations. The Directive sets a number of options for coal fired power stations. They can opt-out of the Directive and instead run for up to 17,500 hours between January 2016 and the end of 2023 and then close, or enter the Transitional National Plant (TNP), which gives time, between 2016 and 2020, to fit equipment needed to meet the IED limits. If operators do not do so they must either close or operate for a maximum of 1,500-hours per year. As a result it is expected that there will be very few coal power stations to be operational beyond the early 2020s. This coincides with the Government's intention to close all coal fired power stations by 2025.
105. Coal from the site would be sent to power stations for electricity generation. In this respect, it is envisaged that the principal market for the coal from the site would involve the energy supply industry market based in Yorkshire and the Midlands.
106. It is clear that coal is being phased out for energy generation within the next 10 years, however, there is a still a short term requirement for coal. The proposed development would provide an immediate source of coal for a short term period that would assist in meeting current demand from an indigenous source thereby reducing the reliance on imports.

Consideration of the environmental acceptability of the proposals

107. In order to pass the first test of paragraph 149 of the NPPF, proposals for the extraction of coal are required to be environmentally acceptable or can be made so by planning conditions or obligations. This report will assess each identified likely environmental impact against the relevant Development Plan policy and NPPF.

Residential amenity

108. The spoil heap lies immediately to the south west of the village of Hesleden. The closest properties along High Road are approximately 220m from the excavation area. MLP Policy M37 seeks to protect groups of 10 or more residential properties from the effects of mineral development by setting a stand-off distance of 250 metres. There are 12 properties in Hesleden that are within 250 metres of the nearest area of working within the site. It must therefore be demonstrated that residential amenity can be protected from the adverse impacts of mineral working. In the case of this site the main impacts to consider in relation to residential amenity are noise and dust. Notwithstanding this, MLP Policy M37 is only partially compliant with the NPPF as the NPPF does not identify thresholds for stand-off distances.

Noise

109. Government guidance (as contained in the PPG, which reaffirms advice contained in the now withdrawn Technical Guidance to the NPPF) advises that during normal working hours (0700 – 1900) and subject to a maximum of 55dB(A) $L_{Aeq}1h$ (free field), mineral planning authorities should aim to establish a noise limit, through a planning condition, at noise sensitive properties that does not exceed the background level by more than 10dB(A). It is recognised, however, that where this will be difficult to achieve without imposing unreasonable burdens on the mineral operator, the limit set should be as near to that level as practicable. During the evening (1900 – 2200) limits should not exceed background level by 10dB(A). During the night limits should be set to reduce to a minimum any adverse impacts, without imposing any unreasonable burdens on the mineral operator, but should not exceed 42dB(A) $L_{Aeq}1h$ (free field) at noise sensitive properties.
110. A noise assessment has been carried out as part of the proposals the results of which are contained in the ES. The assessment has identified the types of plant to be used on site, the operations that would be carried out and the predicted noise levels associated. The assessment has also identified that the nearest sensitive properties are at Hillcrest Place to the north-east, Southfield Farm to the north-west and The Bleachery to the west.
111. The recorded background noise level for Hillcrest Place was 48dB, 46dB for Southfield Farm and 49dB at The Bleachery. Noise generated from the development would vary as operations progress across the site. Predictions have therefore been made at the three proposed working phases. Predicted noise levels (based on a 'worst case scenario') indicate that normal site operations would not exceed the nominal limits of 55dB(A) $L_{Aeq}1h$ and would not be 10dB(A) above measured background levels.
112. The predicted maximum level for normal operations at Hillcrest Place is 50dB (potential increase in noise levels of 2dB), 48dB for Southfield Farm (potential increase in noise levels of 2dB) and 40dB at The Bleachery (0dB potential increase).

113. The Environmental Health and Consumer Protection Team has viewed the submitted noise assessment and consider the predicted levels, monitoring points and mitigation measures to be acceptable. It is recommended that a condition be imposed requiring that noise emitted from on-site operations shall not result in ambient noise levels greater than 55dB LAeq 1hour as measured at the noise monitoring locations identified. Additionally, restrictions would continue to be imposed on working hours to ensure that operations are only carried out during daytime hours of 7am to 7pm Monday to Friday and 7am to 12pm on Saturdays.
114. The NPPG does not provide guidance on appropriate noise levels for recreation areas. Previous Government Guidance (MPG11) recommended a noise level of 65dB Leq,1hr during the working day. The submitted noise assessment has not compared noise levels on the footpaths and bridleway around the site to this limit. However, given there is no limit specified in the NPPG and measures would be put in place to mitigate noise levels from the site, it has not therefore considered necessary for such an assessment to be undertaken. It is therefore considered that the impact of noise from the proposed development would not have an unacceptable impact upon the recreational value of the countryside, and the proposal would not conflict with MLP Policy M35. This Policy is considered to be consistent with the NPPF.
115. It is considered that the proposed noise predictions are reasonable and the recommended conditions afford a good level of protection to neighbouring residents in relation to both the extension and the existing site in accordance with the requirements of MLP Policy M36. This Policy is considered to be consistent with the NPPF.

Dust

116. Mineral sites give rise to dust issues and it is accepted that the generation of dust can only be minimised and controlled rather than eradicated. The impact would depend on wind speed, the degree of rainfall and surface topography. The National Planning Practice Guidance sets out 5 stages for carrying out a dust assessment that would provide useful ways of mitigating dust from mineral development. These are to establish baseline conditions, identify activities that could lead to dust emissions, identify site parameters that may increase potential impacts.
117. A dust assessment has been carried out as part of the proposals the results of which are contained in the ES. The assessment has identified baseline conditions including potentially sensitive receptors, existing dust sources, typical dust levels, topography of the site and meteorological conditions; the potential impacts including mineral extraction and haulage, erosion from bare ground and stockpiles and loading and off site haulage; evaluation of the impacts on upon the nearest receptors, and; mitigation proposals.
118. Those objecting to the proposal have raised health concerns. Environment, Health & Consumer Protection officers recognise the health impacts associated with emissions of PM10 and PM2.5 and that there is potential for emissions of both of these air quality pollutants from mineral extraction activities. The submitted air quality assessment shows that the background levels of pollutants (Particulates and Nitrogen Dioxide) are well below the national air quality objectives at this location for both of these pollutants. The assessment shows that the change in concentrations of both particulates (PM₁₀ and NO₂) will not be significant and negligible if considered in relation to the air quality objectives.

119. Mitigation measures that include the use of water sprays/bowsers and dampening down of the haul road, use of wheelwash facilities and sheeting of laden HGVs, and the temporary suspension of operations giving rise to fugitive dust in dry windy weather until additional equipment is provided or conditions improve. Monitoring of dust deposition levels around the site would also take place and results would be made available to the Authority upon request.
120. It is noted that objectors to the submission have referred to concerns relating to dust. However, having considered the impact of the proposed site on residential amenity in terms of dust it is considered that the impacts could be controlled through requirements to mitigate any adverse effects on the nearest properties as the proposed conditions do thus according with MLP Policy M36.

Summary

121. There would be some disturbance to residential properties for the duration of the proposed development and there would be operational development within 250m of a group of 10 dwellings. However, having considered the impact of the proposed development on residential amenity in terms of noise it is considered that the impacts could be controlled through condition setting limits and requirements to mitigate any adverse effects on the nearest properties thus according with MLP Policy M36 and with paragraph 123 of the NPPF and advice contained within the Planning Practice Guidance. In terms of air quality and dust, given the mitigation measures proposed it is also considered that the proposal would accord with MLP Policies M36 and M37, NPPF paragraph 123 and advice contained within the PPG.

Access and traffic

122. Access to the site would be via the existing private track from the spoil heap to Gray Avenue in Hesleden. From Gray Avenue vehicles would head north to the B1281. HGV traffic would be routed to and from the A19 using the Wellfield Junction via a 3km stretch of the B1281 to Gray Avenue in Hesleden.
123. The development is expected to create 22 light vehicle (cars and vans) movements (11 in and 11 out) per day and 44 HGV movements (22 in and 22 out) per day. The majority of light vehicle movements would be concentrated in the morning and evening reflecting the arrival and departure of site operatives. HGV movements would be dispersed across the day to avoid congestion and minimise the impact to roadside communities. Based on the working day there would be an HGV arriving or leaving the site approximately every 15 minutes.
124. A Transport Statement has been submitted and is included within the ES. The statement identifies baseline conditions and existing traffic flows and assesses this against the proposed extension. The statement also considers highway safety in relation to the existing quarry and proposed extension. The statement concludes that the surrounding highway infrastructure can accommodate the predicted development traffic with no material impact on highway safety or the operational capacity of the road network.
125. The main issue in terms of access and traffic that has been raised by the Highways Authority and the public is the limited visibility afforded to drivers exiting Gray Avenue on to the B1281. The existing site visibility splay to the east at this junction is limited to 2.4 x 75m, well below the 2.4 x 215m splay required for a 60mph road. In order to overcome this issue the applicant has proposed a Grampian condition (that is a condition requiring the completion of offsite works before the development can commence) requiring visibility improvements at the junction. The improvements

would involve the realignment of the hedgerow in order to increase the visibility splay. The Highways Authority is satisfied that this condition would be acceptable.

126. The Highways Authority has highlighted the need for pre and post development surveys along part of Gray Avenue and for repair on completion of the proposed development. In order to protect the amenity and safety of local residents the Highways Authority has also requested the imposition of a condition requiring the submission of a traffic management plan that should include an advisory 20mph speed limit for the applicants HGVs on Gray Avenue, warning signs on the B1281 approaches to Gray Avenue advising of HGV's turning and wheel wash facilities.
127. Concerns have also been raised in relation to HGV's travelling from Gray Avenue to the A19 through Castle Eden. Objectors have suggested that vehicles represent a safety risk to other road users due the carriageway being narrow in places and the speed of the vehicles relatively slow speed. The Highways Authority has considered the full length of the haulage route to the A19 and reviewed the objections from local residents. Officers consider that the proposed haulage route is capable of carrying the proposed type and number of HGV's without impacting upon highway safety.
128. Paragraph 32 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts of development are severe. Traffic generated by the proposal could be accommodated safely and conveniently on the highway network with the impact of traffic generated by the development on local and recreational amenity would be acceptable. Provision and maintenance of a wheel wash facility, measures to ensure that the highway is kept clear of mud or debris and the sheeting of vehicles, recording vehicle movements, would also be a highways requirement but these and related matters can be covered by planning condition. The Highways Authority has raised no objections to the proposal subject to conditions. The proposed development would accord with MLP Policies M36, M42 and M43 and Part 4 of the NPPF.

Landscape and visual impact

129. The site lies in the East Durham Limestone Plateau County Character Area which forms part of the wider Durham Magnesian Limestone Plateau National Character Area (NCA 59). It lies in the Coastal East Durham Plateau character area which belongs to the Coastal Limestone Plateau landscape type.
130. The site lies within Hesleden Dene, a narrow incised wooded valley. The woodland is made up largely of ancient semi-natural woodland together with some areas of planted or secondary woodlands. To the north and south lie areas of gently rolling open farmland. The former Ferryhill and East Hartlepool Railway runs parallel with the dene to the north. The village of Hesleden lies around 200m to the north-east.
131. The site is a former colliery tip which locally modifies the natural topography of the dene standing up around 6m above surrounding levels in the north and falling steeply to the Hesleden Burn in the south. The outer flanks of the heap are clothed in young mature plantation and naturally regenerated woodland and scrub of mixed species (spruce, pine, sycamore, ash, elder and hawthorn). The central part of the site is disturbed bare shale.
132. The site is visible in views from greater distances to the south; as a small part of visually complex panoramas from properties on higher ground on the northern edge of Hutton Henry and in shallow views from properties in Hulam and footpath 14 in that area.

133. There would be some significant effects in views from properties and public vantage points in the south-west of Hesleden and in views from some sections of footpaths in the immediate locality. The effects in other views would not be significant.
134. In open views from properties on the south-western edge of Hesleden and public open space in that area the loss of vegetation on the southern horizon would be notable. Vehicle movements, plant operations and stockpiles would be prominent during the working of phases in the north of the site. The impact of this would reduce substantially as operations moved onto lower ground although the visual impacts of haulage vehicle movements would remain relatively constant. The site facilities area would be filtered by vegetation. The impact is assessed as being of a moderate magnitude. The effect on properties further to the west would be progressively lower due to the screening effects of vegetation.
135. There would be some substantial adverse effects in views from sections of footpaths in the immediate locality during the operational period – including the immediately adjacent section of Footpath No. 24, a short adjacent section of the Haswell to Hart, and sections of Footpath No. 16 to the south. There would not be a significant effect on the visual amenity of the wider network.
136. The proposals would have some adverse impacts on the special character and quality of the AHLV but this would be temporary and localised. Upon completion of the development there would be a net improvement to the landscape and it is therefore considered that the proposal would not conflict with MLP Policy M23 and ELP Policy 7 in respect of AHLV. These Policies are considered to be only partially consistent with the NPPF as local landscape designations are not recommended, however, the importance of protecting valued landscapes is acknowledged.
137. The proposals would entail the loss of woodland which forms part of an important landscape feature but would provide for its restoration and the remediation of disturbed / derelict land. The impact would be kept to a minimum consistent with the remediation objectives and provides for some improvements upon restoration in accordance with MLP Policy M24. This Policy is considered to be consistent with the NPPF.
138. It is considered that none of the visual impacts on residential amenity are predicted to be high or long term and that the working method has been designed to minimise them as far as possible. Impacts on the wider visual environment of the local community include impacts on the footpath network and railway path south of the village where the main focus of countryside access lies. Considerable parts of the railway path in particular would remain unaffected and the village would still have good access to attractive countryside during the operational period. It is therefore considered that the proposal would not conflict with MLP Policy M36 in respect of visual amenity. This policy is considered to be consistent with the NPPF.

Cultural Heritage

139. There are no listed buildings, Scheduled Ancient Monuments or Conservation Areas designations within the site. There are twenty five designated heritage assets within 2km of the site comprising one Scheduled Monument, one Grade II* listed building and twenty two Grade II listed buildings. Castle Eden Conservation Area lies 1km to the west.
140. A heritage assessment has been submitted with the application as part of the Environmental Statement. The assessment considers the impact on the designated and non-designated heritage assets located within 2km of the application site

including visual impact, noise, dust and vibration. The assessment concludes that no significant environmental effects in relation to archaeology and cultural heritage associated with the proposed works have been identified and the effects of the proposed works are deemed to be negligible.

141. Design and Historic Environment officers have not objected to the proposals but consider that further information is required in order to demonstrate the validity of conclusions made in the submitted heritage assessment. Officers have raised concerns in respect of the vehicle movements through Castle Eden and consider that the ambience and sense of place of the conservation area would be affected. Officers have also noted that the Landscape and Visual Impact Assessment (LVIA) has not included photomontages from the main part of Castle Eden village or Hardwick Hall. Notwithstanding the views of the Design and Historic Environment officers, whilst the information contained in the Heritage Assessment may be considered to be lacking in certain areas the actual physical development in terms of heritage impact would not be significant; Castle Eden is a roadside community on a B classified road and it would not be incongruent for HGV's to be present in this setting.
142. Overall it is considered that there would be no harm to designated heritage assets given the proposed development is not within the setting of a designated heritage asset and it does not affect the significance of a heritage asset given the given the distance from the application site and intervening topography, planting and built development. Although the haulage route would pass through the Castle Eden Conservation Area it is considered that the ambience of this settlement would not be detrimentally affected by this activity and the impact would also amount to no harm being caused. It is considered that the proposal would accord with MLP Policy M30 and advice contained in Part 12 of the NPPF. Policy M30 is considered to be consistent with the NPPF.

Ecology and nature conservation

143. The proposed site is not affected by statutory nature conservation designations. However, the Hulam Fen SSSI is approximately 400m to the south. Castle Eden Dene SSSI is located approximately 1.1km to the north. The Durham Coast Special Area of Conservation (SAC) is located approximately 1.1km to the north of the site. The application site is located entirely within the Hesleden Dene Local Wildlife Site.
144. A Phase 1 habitat survey including surveys for protected / notable species has been submitted with the application and is contained within the ES. The surveys and submitted assessment conclude that no significant residual effects on the ecological receptors were identified. It is proposed to development habitat enhancement through the proposed restoration of the site.
145. Whilst there would be some localised nature conservation effects from the loss of open land and hedgerows, the proposal would provide, in the longer term, a more varied and sustainable habitat for wildlife and one that is appropriate to the ecology of the area.
146. The Council's Ecologist is satisfied with the level of survey work submitted with the application and the restoration proposals for the site. Mitigation works would be secured through condition. Officers have raised no objections in relation to the Local Wildlife Site or the Special Area of Conservation. Natural England is satisfied that there is not likely to be an adverse effect on the SSSIs and that they do not represent a constraint in determining the application.

147. Ancient and Semi-natural woodlands located within 2km of the site are also not considered to be sensitive to potential dust impacts. No concerns have been raised by Ecology Officers or Natural England in this respect.
148. On the balance of biodiversity issues, it is considered that there would be no overall adverse impacts. The proposed benefits within a comprehensive programme of restoration and management would be beneficial in the long term. Natural England and the Council's Ecologist have no objection to the proposed development. The proposal would be in accordance with ELP Policy 15, MLP Policies M27, M29, M46 and M47 and paragraphs 109 and 118 of the NPPF. ELP Policy 15 and MLP Policies M27, M29, M46 and M47 are all considered to be consistent with the NPPF.

Flood risk and drainage

149. A water resources assessment has been carried out as part of the proposals the results of which are contained in the ES. The assessment has identified baseline conditions for the site in relation to hydrogeology, hydrology, flood risk, groundwater levels and flow and groundwater quality. The assessment concludes that the working and restoration of the site would, through appropriate management and mitigation, present a negligible or minor impact upon the surface and groundwater environment.
150. In order to ensure that the risks to groundwater resources remain low the Environment Agency has recommended conditions in respect of surface water runoff and contamination, which are supported by the Contaminated Land Team. Due to changes in responsibility for surface water drainage it is now the case that the Councils Drainage and Coastal Protection Team would consider submission of details required by the surface water discharge condition.
151. Provided that the above conditions are complied with it is considered that the proposed development would not cause or contribute to any pollution of groundwater resources in accordance with MLP Policy M38 and Paragraph 109 of the NPPF. Policy M38 is considered to be consistent with the NPPF.

Public Rights of Way

152. Footpath No.24 (Monk Hesleden Parish) shares the access track to the spoil heap and also the allotments to the north of the site. The section of this footpath south of the Haswell to Hart Walkway extends into the site. In order to maintain safe operation of the site it is proposed to temporarily divert Footpath No.24 to a route through Hesleden that would lead users to the Haswell to Hart Walkway at a more easterly point. Footpath No.16 (Sheraton with Hulam Parish) runs to the south of the site and would not be affected by the proposed development. It is proposed to reinstate Footpath No.24 as part of the restoration of the site.
153. The Haswell to Hart Walkway does not have status as a Public Right of Way but is a popular walking, cycling and horse riding route. The proposed site access would cross over the Haswell to Hart Walkway at a point where there is already a gated intersection. It is not proposed to close the Walkway but to implement measures to ensure that vehicles may cross without impacting upon users. Mitigation measures include signage for both users of the Walkway and drivers accessing the site of the crossing point and including physical measures to prevent drivers from crossing the Walkway without stopping.
154. The Access and Rights of Way Team have considered the proposals and have raised no objections. Although Footpath No.24 would need to be temporarily

diverted, users would still be able to access the Haswell to Hart Walkway. Any adverse impact on users of the routes would be for the duration which they use the route and measures would be put in place to ensure that any potential impacts would be minimised. Impacts such as noise, dust and visual impact are addressed elsewhere in the report. It is therefore considered that the development would not have an unacceptable impact upon the recreational value of the countryside. The proposals would therefore accord with MLP Policy M35. This policy is considered to be compliant with the NPPF.

Soils and agriculture

155. The application site was the subject of a very low level reclamation project in the late 1960's or early 1970's but this focused mainly on land to north of and including the Haswell to Hart Railway Path. The site has therefore seen very limited improvement since the placement of the colliery waste. Only a small portion of the site was overlain with any soils at all and in these areas the soils have already been stripped and stored in stockpiles.
156. The proposed restoration of the site is for non-agricultural nature conservation use where minimal soil is of benefit to encourage a more diverse range of species, particularly those that have historically inhabited the site. Due to this Natural England has not commented in relation to soils and reclamation.
157. As the site is less than 20 hectares and would not lead to the loss of any best and most versatile agricultural land it is considered that there would not be a conflict with any relevant policies of the MLP or the NPPF.

Cumulative Impact

158. Paragraphs 143 and 144 of the NPPF and Paragraph 17 of the National Planning Practice Guidance recognises that some areas may have been subject to successive mineral development over a number of years. It is recommended that when producing development plans and when determining planning applications local planning authorities should take into account the cumulative effects of multiple impacts from individual sites and/or a number of sites in a locality. It is stated that the cumulative impact of mineral development is capable of being a material consideration when determining individual planning applications.
159. The applicant has submitted an assessment of cumulative impact as part of the Environmental Statement. The assessment sets out the methodology and scope for considering cumulative impact and concludes that the effect would be negligible.
160. Although the assessment submitted by the applicant has considered the potential cumulative impacts from other sources in relation to the proposed development it does not consider the individual effects of the proposal. The primary impacts of the proposal being traffic and highway safety, noise, dust and air quality. These impacts have been assessed individually earlier in this report and considered to be acceptable. The operational area of the site is sufficiently distant from sensitive receptors that the impacts of noise and dust from extraction would not be perceived in conjunction with the traffic and highway safety impacts.
161. It is therefore considered that although the cumulative impacts of landscape, noise, dust and traffic are of some significance they do not constitute a degree of harm that would substantiate a refusal under the criteria set out in any of the relevant policies from the MLP. It is therefore considered that the proposal would accord with MLP

Policy M45 and Paragraph 144 of the NPPF. This Policy is considered to be consistent with the NPPF.

Legal Agreement

162. The provision of a community fund would be covered in a proposed legal agreement under the provisions of Section 106 of the Town and Country Planning Act 1990. This would be provided at a rate of 10p for each tonne of combustible material extracted and is therefore estimated to be £27,800. The applicant would also make provision of a financial guarantee for the restoration of the site. The legal agreement would also make provision for the formation of liaison committee. However, the proposed Community Fund, financial guarantee and liaison committee are not necessary to make the development acceptable in planning terms and therefore it cannot be considered to be compliant with regulation 122 of the Community Infrastructure Levy Regulations 2010. Consequently, no weight can be afforded to this issue in the determination of the application
163. The National Planning Practice Guidance (NPPG) provides guidance on financial guarantees and considers that a financial guarantee to cover restoration and aftercare costs will normally only be justified in exceptional cases. These being very long-term new projects where progressive reclamation is not practicable, such as an extremely large limestone quarry; where a novel approach or technique is to be used, but the minerals planning authority considers it is justifiable to give permission for the development; and where there is reliable evidence of the likelihood of either financial or technical failure, but these concerns are not such as to justify refusal of permission. The NPPG advises that Mineral planning authorities should address any concerns about the funding of site restoration principally through appropriately worded planning conditions.
164. The applicant has been asked to provide a financial guarantee because there is no track record of sites being worked and restored within the County, although it is acknowledged that the applicant has experience of mining elsewhere in the country. Also issues have arisen in Scotland regarding the restoration of sites and it is understandable that concerns have been raised by those objecting to the proposal. In addition recent announcements regarding other surface mine companies have further caused concern. The applicant has highlighted experience and track record and although considering that such an undertaking is not necessary has proposed to provide a guarantee for the restoration of the site. It is proposed that that this covered through legal agreement.
165. In accordance with MLP Policy M52 the ability and commitment of the intended operator to operate and reclaim the site in accordance with the agreed scheme have been taken into account. Given advice in the NPPF and recognising the likely concerns of members of the public and the Committee it is considered that the proposal for a parent company guarantee is reasonable on this occasion. MLP Policy M52 is considered to be only partially consistent with the NPPF as it is emphasised within the NPPF that financial guarantees should only be sought in exceptional circumstances.

Summary

166. The environmental impacts of the proposed development in terms of residential amenity (including noise, air quality and dust), access and traffic, landscape and visual impact, cultural heritage and design and conservation, ecology and nature conservation, flood risk and drainage, public rights of way, soils and agriculture, cumulative impact have been considered. It is concluded that as a whole the

proposal would be environmentally acceptable with the application of appropriate planning conditions and obligations and would accord with MLP Policy M4 and the first part of paragraph 149 of the NPPF.

Provision of national, local and community benefits

167. Officers consider the proposed development meets the requirements of MLP Policy M4 and the first part of paragraph 149 of the NPPF. The national, local and community benefits are assessed in this section of the report for completeness and in the event that the Committee takes a different view from officers on the environmental acceptability of the proposed development.
168. In terms of national, local and community benefits the site would contribute to economic growth through the supply of domestically produced coal, provide direct and indirect employment for the life of the site, generate direct and indirect expenditure.
169. Community benefits proposed are long term environmental enhancements to the site by restoring it to a habitat that would be supportive of the locally significant species, including Dinghy Skipper butterflies, and reinstating Footpath No. 24 with a seating area to encourage access. The restoration would remove the risk of spontaneous combustion from the site and limit the potential for anti-social behaviour through unauthorised use. There would also be a community fund provided at a rate of 10p per tonne of combustible material transported off site. This would provide around £27,800 during the life of the site to help fund local projects and activities. The fund would be administered by the site liaison committee made up of local residents, Parish Councils and County Councillors. It is evident from the representations received that there would be considerable scope for such funds to be deployed amongst groups within the local community. Although the community benefit fund has been offered as a unilateral contribution it is considered that this represents a community benefit. The Inspector for the 'Bradley' surface mine appeal (APP/X1355/A/11/2150277) assessed this type of contribution in the same way.
170. A socio-economic assessment accompanies the application that considers the impact of the proposal. It concludes that for the life of the site there would be a positive impact upon the national local economy and help to meet the Government's national planning policy objectives for economic growth. It is not considered that that the proposal would present a threat to local third party businesses, environmental improvement or inward investment.
171. One objective of the MLP in relation to the provision of minerals is to assist in employment retention where this is consistent with resource conservation and environmental protection. It is predicted that 16 full time jobs for the duration of the scheme would be created plus 4 part time jobs.
172. The coal from the site would contribute to the provision of domestically produced coal for power generation reducing the demand for imports. The NPPF recognises the economic benefits of such a contribution and give great weight to the benefits of mineral extraction. The need for the coal is not required to be demonstrated nor is there a threshold on the amount of coal to be produced to be considered to be a national benefit.
173. There is still a requirement for coal use in the energy mix as alternative technologies to seek to ensure a secure, low carbon energy supply and to maintain high and stable levels of growth have yet to be developed. This is likely to be the case for some time to come and there would still be a requirement for the coal from

application site, and other sites in the Country, for the foreseeable future. Other countries have developed alternative technologies and as a result are able to export coal at competitive prices but this in itself raises concerns over security of supply. In addition there would be a greater generation of CO² emissions to transport the coal over great distances.

174. Recently published DECC figures illustrate the continuing demand for coal and demand for imports due to a short fall in domestic provision, although this demand is diminishing. In Quarter 2 of 2015 coal fired power stations provided 20.5% of electricity generation for the UK, a drop of almost 8% for the same period in 2015. This drop in dependence upon coal coincides with a reduction in indigenous production from both deep mined and surface mined coal. UK coal production dropped to approximately 12 million tonnes in 2014, down from approximately 16 million tonnes in 2013. UK imports of coal dropped to 42 million tonnes in 2014 from 49 million tonnes in 2013. Although the need for coal in the UK is diminishing there is still, at least, a short term need.
175. The proposal would also have indirect effects on the local economy arising from the purchase of goods and services by the workforce and the Company. Although the proposal would not provide long term job opportunities it would make a contribution to the local economy for the life of the proposed development in a period of economic uncertainty and difficulty.
176. The payment of mineral rates, taxes, coal royalties and the contribution of the development to the balance of payments would also be economic benefits of the proposed development. These are matters that are common to all mineral developments, but are national benefits.

Conclusion of the provision of national, local and community benefits

177. Should the Committee consider that the proposals are not environmentally acceptable, or cannot be made so by planning conditions or obligations then, officers consider that there are national, local and community benefits associated with the proposal which would outweigh the likely impacts (as set out above) to justify the grant of planning permission.

Other Matters

178. Objectors to the proposal have raised concern that the value of their property would be reduced as a direct result of the development. Impact of development on property values is not considered to be a material consideration in the determination of planning application. However, the effects of the proposal have been thoroughly assessed in relation to residential amenity and considered to be acceptable.
179. Objectors have also suggested that their human rights to the quiet enjoyment of their possessions (Article 1 of the First Protocol) would be breached by the proposed development. A detailed noise assessment has been submitted with the application and assessed earlier in this report. Noise levels from the proposed development would not exceed the limits set out in the PPG and it is therefore considered that the proposal would not lead to a breach of human rights.
180. The issue of anti-social behaviour has been raised in relation to the use of the site for offroad motorcycling. The proposed development would remove the unauthorised track that has been created and the proposed restoration would create a landform that would be less inviting to this activity. It is therefore considered that the proposal would accord with ELP Policy 38 in respect of designing out crime.

181. It has been stated that the risk of the spoil heap spontaneously combusting has not been substantiated within the application and that it is not necessary to remove the combustible material. However, it is documented that spoil heap has caught fire within the past 5 years and it is possible that this could reoccur. Notwithstanding this, it is considered that the benefits of the scheme in terms of restoration of the site and production of coal for power station fuel are sufficient justification for the proposed development.
182. It has been noted that there has been a degree of fly tipping at the entrance to the site. It is unlikely that this would occur during the life of the development as there would be permanent security. Whilst it cannot be guaranteed that fly tipping would not occur following the completion of the development, the improvements to the site and footpath would hopefully encourage greater use and make the site a less secluded target.
183. The Coal Authority has raised no objections to the proposal subject to the imposition of a condition requiring investigations to be undertaken to establish the precise location of a historic mine entry and install appropriate fencing around it. The mine entry point is located to the east of the spoil heap, near to where Footpath No. 24 terminates. The imposition of this condition is considered reasonable as part of the proposed development and would contribute towards making the site safe for users.

CONCLUSION

184. Paragraph 149 of the NPPF provides the national planning framework for opencast coal. This states that permission should not be given for the extraction of coal unless the proposal is environmentally acceptable, or can be made so through conditions or obligations, or if not, it provided national, local or community benefits which clearly outweigh the likely impacts to justify the grant of planning permission. This guidance is similar to MLP Policy M4. To meet the first test of paragraph 149 of the NPPF and comply with MLP Policy M4(b) proposals are required to be either environmentally acceptable or in a position to be made so by planning conditions or obligations.
185. Having assessed the likely impacts of the proposed development it is not considered that the scheme would have significant environmental effects of an adverse nature sufficient to justify a recommendation of refusal having regard to the proposed planning conditions and legal agreement.
186. Although concerns have been raised relating to access and traffic, the Highways Authority has raised no objections subject to certain matters being secured through condition. Consideration has been given to the impacts of the development upon residential amenity, hydrology and contamination and cumulative impact and the impacts are considered to be acceptable with the imposition of conditions where appropriate.
187. Assessments have been made of the impact upon designated and non-designated heritage assets and it has been concluded that there would be no adverse impact including upon the ambience of the Castle Eden Conservation Area, with suitable mitigation. Although there are concerns from the Council's Design and Historic Environment officer as to the adequacy of the submitted heritage assessment the actual physical development in terms of heritage impact would be limited and therefore considered to be acceptable.

188. On the balance of planning considerations it is considered that the proposed development meets the tests for acceptability of mineral recovery as set out in MLP Policy M4 and the NPPF and the proposed benefits of the scheme would outweigh the limited short term environmental damage and loss of amenity that would be caused.
189. The proposal has generated much public interest with representations reflecting the issues and concerns of local residents affected by the proposed development. Whilst there would be some impacts upon local amenity associated with noise, dust, visual impact and traffic at certain stages of the development these would be at acceptable levels and can be controlled through the implementation of appropriate mitigation measures and planning conditions. These representations have been weighed along with other responses including those of statutory consultees that have raised no overriding objections to the scheme based on the submitted details and assessments. Whilst mindful of the nature and weight of public concerns it is not considered that these are sufficient to outweigh the planning judgement in favour of the proposed scheme.
190. The proposed development is considered accord with the relevant policies of the County Durham Minerals Local Plan, the Easington Local Plan, and relevant sections of the NPPF.

RECOMMENDATION

That the application be **APPROVED** subject to the following conditions:

APPROVED DOCUMENTS

1. The development hereby approved shall only be carried out in accordance with the following documents and any detailed matters subsequently approved under Condition 3:
 - a. Description of the working method as contained within Appendix 1 of the Environmental Statement for the Remediation of former Colliery Spoil Heap at Hesleden dated March 2014.
 - b. Drawings:
 - Drawing No. HT WP1A3 rev.A 'Working Proposals Drawing'
 - Drawing No. 2290.R1 rev.B 'Restoration Proposals'
 - Drawing No. HT3 rev.A 'Restoration Contours and Section Locations'
 - Drawing No. HT3 rev.A 'Sections 1-3'
 - Drawing No. HT3 rev.A 'Sections 4-6'
 - Drawing No. HT3 rev.A 'Sections 7-10'
 - Drawing No. HT3 rev.A 'Sections 11-13'
 - Drawing No. JN0684-Dwg-0004 'PROW Network (Proposed Temporary Diversion)'
2. From the commencement of development to the completion of restoration in accordance with Drawing No. 2290.R1 rev.B 'Restoration Proposals' a copy of this permission, including all documents hereby approved and any other documents subsequently approved in accordance with this permission and legal agreements,

Reason: *To ensure the development is carried out in accordance with the approved documents.*

shall always be on display in the site offices and subsequently, shall be made available to all persons with responsibility for the site's aftercare and management.

Reason: *To ensure the development is carried out in accordance with the approved documents.*

MATTERS REQUIRING SUBSEQUENT APPROVAL

3. The development hereby permitted shall also only be carried out in accordance with a scheme or schemes to be approved, in writing, by the Mineral Planning Authority, which shall, amongst other matters, include provision for the matters listed below. Those details required by Condition 3(a) through to Condition 3(k) shall be submitted to and approved, in writing, by the Mineral Planning Authority prior to the commencement of the development and before any of the operations specified in those conditions commence.
 - (a) A Noise Action Plan including the exact locations of noise monitoring points and proposed monitoring frequency. The locations of noise monitoring points shall be approved by the Mineral Planning Authority and should be chosen so as to ensure that the possibility of off-site noise affecting measurements is reduced to a minimum.
 - (b) A Dust Action Plan shall be approved by the Mineral Planning Authority and include:
 - i. Exact locations of monitoring points.
 - ii. Proposed monitoring frequency and methodology to be used for assessing monitoring results.
 - iii. Utilise the baseline Real Time and Passive Dust Monitoring information.
 - iv. Arrangements for the monitoring of wind direction and speed.
 - v. A strategy identifying normal, extreme and critical conditions.
 - vi. The measures to be triggered during periods of extreme and critical conditions.
 - vii. Arrangements for reporting to the Mineral Planning Authority and for recording and review.
 - viii. Details of all measures to minimise and control dust, including dust control equipment. Dust suppression measures to be employed at the site that may include:
 - provision of mobile water bowsers;
 - use of dust filters on all fixed plant and machinery;
 - a speed limit of 15 mph on all internal haul roads, with no plant having exhausts pointing downwards;
 - all haul roads and areas used for the storage of soils and overburden, in the absence of grassland sward, shall be watered during dry, windy weather conditions;
 - areas which will be untouched for more than three months shall be seeded with a quick growing cover crop.
 - (c) Details of a surface water drainage scheme for the Site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development. The drainage strategy shall demonstrate the surface water run-off generated up to and including the critical storm shall not exceed the run-off from the undeveloped Site following a corresponding rainfall event.
 - (d) Details of drainage arrangements during site preparation and working life of the site.

- (e) Details of the water treatment systems to be installed in the 'Water Treatment Areas' shown on Drawing No. FH02 'Site Layout' including the positioning within the area and construction of them, their dimensions and of the pipes connecting and discharging from them, and facilities for the removal of suspended solids from surface water run-off.
- (f) Details of the off-site highway surveys and works involving:
 - i. The improvement to the visibility splays at the junction of Gray Avenue and the B1281
 - ii. provision for the completion of pre-commencement and post-completion of development condition surveys of that part of the highway between the site access and the southbound ;
 - iii. provision for monitoring the condition of this length of the highway during the development; ,
 - iv. details of warning signs and their location along the B1281
- (g) Details of wheel cleaning equipment to be installed at the access.
Details of the design and location of the site compound including buildings, fixed plant and machinery to be used on the site and of the proposed coal processing and fireclay stocking area and plant yard as shown on Drawing No. HT WP1A3 rev.A 'Working Proposals Drawing'
- (h) Layout and details of the illumination to be used on site.
- (i) Details of the notice boards required by Condition 9.
- (j) Details of the restoration of the site, which shall include:
 - i) the final contours for the site (at 2 metre intervals), indicating how such contours tie in with the existing contours on adjacent land;
 - ii) the drainage of the restored site;
 - iii) the erection of fences;
 - iv) the planting of trees and hedges;
 - a. the species to be planted, and the percentage of the total to be accounted for by each species;
 - b. the size of each plant and the spacing between them;
 - c. the preparations to be made to the ground before planting;
 - d. a subsequent maintenance and management programme during the aftercare period once the hedgerow, tree, shrub planting and seeding has been carried out, which shall include the weeding of the planted area, repairing of any damaged fencing, and the replacement of any plants which die or are seriously affected by disease and a detailed schedule as to when the aftercare period commences for each area.
- (k) The aftercare of the land for five years, from the date of final topsoil replacement for the whole site as confirmed in writing with the Mineral Planning Authority in accordance with Condition 41. The scheme shall also include provision for aftercare meetings.

Reason: To ensure that the land is satisfactorily treated for an appropriate period after the initial restoration to bring it to a satisfactory standard as required by Schedule 5 of the Town and Country Planning Act 1990.

COMMENCEMENT

4. The development hereby permitted shall begin not later than three years from the date of this decision.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 which places a time limit on when any permitted development may start by as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 to ensure that the development is carried out within a reasonable period of time.

5. The Minerals Planning Authority shall be notified, in writing, of the date of the commencement of the development and of the following at least seven days prior to their commencement:
 - (a) The commencement of site preparation works;
 - (b) The commencement of combustible material being exported from the site

Reason: To ensure the development is carried out in accordance with the approved documents.

COMPLETION

6. All mineral extraction shall cease by no later than 24 months from the date of commencement of the winning and working of minerals, as notified to the Mineral Planning Authority under Condition 5.

Reason: To avoid unnecessary delay in the restoration of the site. (*Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions*).

7. In the event of extraction ceasing the Mineral Planning Authority shall be notified in writing within one month of the date of such cessation. Within one month of that date, a revised scheme for the restoration of the site, including timescales for completion, shall be submitted to the Mineral Planning Authority for its written approval. The revised scheme shall be implemented as approved.

Reason: To ensure the site is satisfactorily restored. (*Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions*).

WORKS REQUIRED FOR SITE PREPARATION

8. Before extraction commences, the following works shall be carried out, where relevant in accordance with the relevant schemes approved under Condition 3. The Mineral Planning Authority shall be notified, in writing, within two working days of each of the specified works being carried out.
 - a. the construction of the approved site drainage cut-off ditches, water treatment areas, and other drainage facilities shall be completed; (8)
 - b. the formation of the site offices and compound with surface formed with tarmacadam, concrete, or consolidated clean stone, levelled to preclude ponding of water; (1, 2, 9)

- c. the formation of the site access, with surface formed with tar-macadam or concrete levelled to preclude ponding of water; (1, 9)
- d. perimeter fencing and fencing alongside definitive rights of way (1, 17)
- e. the installation of wheel cleaning equipment to prevent the transfer of mud to the public highway; (5, 9)
- f. the provision of notice boards of durable material and finish: (5)
 - i. to be placed at the site entrance, indicating the name, address, and telephone number of the company responsible for the operation of the site, and details of where any complaint can be made;
 - ii. to be placed so as to be clearly visible to all drivers of heavy goods vehicles exiting the site access, instructing them to use the approved traffic route;
- g. the provision within the site of a water supply as appropriate for the approved dust suppression measures and sufficient number of water bowsers and/or dust suppression equipment. (5)

Reason: In the interests of residential amenity. (*Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting Local Amenity, M43 Minimising Traffic Impacts*).

WORKING PERIOD

9. All site operations including extraction and haulage authorised by this planning permission shall be restricted to the following periods:

07.00 hours to 19.00 hours Monday to Friday
07.00 hours to 12.00 hours Saturday

With the exception of pumping, no operations including the maintenance of vehicles and plant or working shall take place outside these hours or at any time on Bank, or other public holidays, save in cases of emergency. The Mineral Planning Authority shall be notified as soon as is practicable after the occurrence of any such operations or working.

Reason: In the interests of residential amenity. (*Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting Local Amenity, M43 Minimising Traffic Impacts*).

ACCESS AND PROTECTION OF THE PUBLIC HIGHWAY

10. Vehicular access for all vehicles to and from the site shall only be via the access as shown on Drawing No. HT WP1A3 rev.A 'Working Proposals Drawing'.

Reason: In the interests of highway safety. (*Adopted County Durham Minerals Local Plan (December 2000) Policies M35 Recreational areas and PROW, M43 Minimising Traffic Impacts*).

11. No development shall take place at the site until the following highway works have been undertaken in accordance with the details approved by the Minerals Planning Authority under Condition 3f:

- a. The improvement to the visibility splays at the junction of Gray Avenue and the B1281
- b. provision for the completion of pre-commencement and post-completion of development condition surveys of that part of the highway between the site access and the southbound ;
- c. provision for monitoring the condition of this length of the highway during the development; ,
- d. details of warning signs and their location along the B1281

Reason: In the interests of highway safety. (*Adopted County Durham Minerals Local Plan (December 2000) Policies M35 Recreational areas and PROW, M43 Minimising Traffic Impacts*).

12. The wheel cleaning equipment installed in accordance with the details approved under Condition 3 shall be used to ensure all vehicles leaving the site access as indicated on Drawing No. HT WP1A3 rev.A 'Working Proposals Drawing' are cleaned of mud before entering the public highway.

Reason: In the interests of highway safety. (*Adopted County Durham Minerals Local Plan (December 2000) Policies M35 Recreational areas and PROW, M43 Minimising Traffic Impacts*).

13. The total number of heavy goods vehicles entering and leaving the site shall not exceed 44 (22 in and 22 out) per operational day Monday to Friday and 22 (11 in and 11 out) on Saturdays. A record of all heavy goods vehicles leaving the site shall be maintained by the operator and a certified copy of this record shall be afforded to the Mineral Planning Authority within 2 working days of such a request.

Reason: In the interests of residential amenity and highway safety. (*Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting Local Amenity, M43 Minimising Traffic Impacts*).

14. The loads of all laden heavy goods vehicles leaving the site access as indicated on Drawing No. HT WP1A3 rev.A 'Working Proposals Drawing' shall be fully covered by sheeting to prevent any mineral from leaving the loads of that vehicle.

Reason: In the interests of residential amenity and highway safety. (*Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting Local Amenity, M43 Minimising Traffic Impacts*).

SOIL HANDLING

15. No topsoil, subsoil or soil making materials shall be removed from the site or imported to the site.

Reason: To ensure the site is satisfactorily restored. (*Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions*).

SITE WORKING

16. No site clearance works or development affecting trees, scrub, ground vegetation or other semi-natural vegetation shall take place between March and August inclusive unless survey work immediately prior to the start of works confirms that breeding

birds are absent. This is particularly relevant to the works to remove areas used by birds such as trees and scrub. If nesting birds are found then work in that area must be avoided until the birds have fledged. (15)

Reason: To avoid any impacts on nesting birds. *(Requested by Natural England.) (Adopted County Durham Minerals Local Plan (December 2000) Policy M29 Conservation of Nature Conservation Value).*

SITE MAINTENANCE

17. From the commencement of the development, until restoration of the site, the following site maintenance operations shall be carried out:
- a. the maintenance of fences in a stockproof and secure condition, between any areas used for development, and adjoining agricultural land;
 - b. the care, maintenance and fencing of trees and hedgerows to be retained within the site boundary and treatment of those affected by disease, in accordance with accepted principles of good woodland management and good arboricultural practice (including the provision of protective fencing);
 - c. the maintenance of all the hard surfaced access roads within the site, over which licensed road vehicles operate, clean from mud;
 - d. the maintenance of drainage ditches, water treatment areas, and the clearance of mud and silt from water treatment areas to avoid reducing their capacity for intercepting sediment;
 - e. all areas of the site, including undisturbed areas and all topsoil, subsoil and overburden mounds, shall be managed to minimise erosion and shall be kept free from injurious weeds (as defined by The Weeds Act 1959). Cutting, grazing or spraying shall be undertaken, as necessary and appropriate to the approved after-use of the land where the materials in mound are to be replaced, to control plant growth and prevent the build-up of a seed bank of such weeds, or their dispersal onto adjoining land.

Reason: To ensure the site is satisfactorily restored and in the interests of visual amenity. *(Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions).*

BUILDINGS, PLANT AND MACHINERY

18. Notwithstanding the provisions of Part 17 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, no buildings, plant, or machinery, other than approved under Condition 3 above, shall be erected or placed on the site other than with the prior written approval of the Minerals Planning Authority.

Reason: To ensure the development is carried out in an orderly manner and in the interests of residential amenity. *(Adopted County Durham Minerals Local Plan (December 2000) Policy M36 Protecting Local Amenity).*

19. Plant and machinery on the site shall not be used to process, treat, or otherwise refine materials other than those extracted from the site. (5)

Reason: In the interests of residential amenity. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting Local Amenity, M43 Minimising Traffic Impacts).

20. No mineral processing shall take place at the site.

Reason: In the interests of residential amenity. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting Local Amenity, M43 Minimising Traffic Impacts).

ENVIRONMENTAL PROTECTION

NOISE

21. The noise emitted from operations on the site shall not result in noise levels greater than those listed below at the properties/locations listed below and identified in the Noise Action Plan approved in writing with the Mineral Planning Authority under Condition 3, between the hours set out in Condition 9.

Hillcrest Place	55dB LAeq, 1Hr (free field)
Southfield Farm	55dB LAeq, 1Hr (free field)
The Bleachery	55dB LAeq, 1Hr (free field)

Reason: In the interests of residential amenity. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting Local Amenity, M43 Minimising Traffic Impacts).

22. Noise monitoring shall be carried out in accordance with the scheme approved under Condition 3. On request, the operator shall, within 2 working days furnish the Mineral Planning Authority with the particulars of the measurements recorded and the plant and equipment operating on the site at the time.

Reason: To ensure the development is carried out in an orderly manner and in the interests of residential amenity. (Adopted County Durham Minerals Local Plan (December 2000) Policy M36 Protecting Local Amenity).

23. All plant and machinery used on site shall be fitted with an effective silencer and operate with the doors or cowls of its engine(s) in the closed position.

Reason: In the interests of residential amenity. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting Local Amenity, M43 Minimising Traffic Impacts).

24. The details of reversing warning devices to be fitted to plant and machinery shall be approved in writing in advance with the Mineral Planning Authority and only the approved devices shall be used.

Reason: In the interests of residential amenity. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting Local Amenity, M43 Minimising Traffic Impacts).

BLASTING

25. No blasting shall take place at the site.

Reason: In the interests of residential amenity. (*Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting Local Amenity, M43 Minimising Traffic Impacts*).

DUST

26. The Dust Action Plan approved in accordance with Condition 3 shall be implemented for the duration of the development and is intended to minimise and control dust arising from and leaving the site during the hours set out in Condition 9 from all operations, including vehicular movements, excavation operations, mineral, soils and overburden stockpiling arrangements and soil spreading operations. The Dust Action Plan shall be reviewed at six-monthly intervals and the latest version adhered to at all times.

Reason: To ensure the development is carried out in an orderly manner and in the interests of residential amenity. (*Adopted County Durham Minerals Local Plan (December 2000) Policy M36 Protecting Local Amenity*).

27. At such times when the equipment provided and the provisions in the Dust Action Plan approved under Condition 3 are not sufficient to minimise and control dust arising from and leaving the site, operations shall temporarily cease until additional dust suppression equipment is provided in order to minimise and control dust from leaving the site.

Reason: To ensure the development is carried out in an orderly manner and in the interests of residential amenity. (*Adopted County Durham Minerals Local Plan (December 2000) Policy M36 Protecting Local Amenity*).

28. Monitoring of dust levels shall be carried out by the operator in accordance with the Dust Action Plan approved in accordance with Condition 3. On written request the operator shall, within two working days, furnish the Mineral Planning Authority with the particulars of the measurements recorded.

Reason: To ensure the development is carried out in an orderly manner and in the interests of residential amenity. (*Adopted County Durham Minerals Local Plan (December 2000) Policy M36 Protecting Local Amenity*).

SURFACE WATER DRAINAGE AND POLLUTION CONTROL

29. The surface water drainage scheme shall be implemented in accordance with the approved details under Condition 3 during the development and all water from the operational part of the site shall be discharged into the approved water treatment area prior to discharge into any ditch, stream, watercourse, or culvert outside the site.

Reason: To prevent adversely affecting watercourses passing through or outside the site. (*Adopted County Durham Minerals Local Plan (December 2000) Policy M38 Water Resources*).

30. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank it contains plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. Associated pipework shall be located above ground and protected from

accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund. The bund shall be sealed with no drain for removal of contained liquids. Any bund contents shall be bailed or pumped out under manual control and disposed of safely.

Reason: To prevent adversely affecting watercourses passing through or outside the site. (*Adopted County Durham Minerals Local Plan (December 2000) Policy M38 Water Resources*).

31. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason: To prevent adversely affecting watercourses passing through or outside the site. (*Adopted County Durham Minerals Local Plan (December 2000) Policy M38 Water Resources*).

RESTORATION

32. Restoration of the site shall be in complete accordance with the approved documents in Condition 1 and schemes subsequently approved in accordance with Condition 3.

Reason: To ensure the development is carried out in accordance with the approved documents.

33. In accordance with the restoration requirements, all areas of hardstanding, including site compounds, access road other than that part to be retained as shown on the approved Drawing No. 2290.R1 rev.B 'Restoration Proposals' and restoration details approved under Condition 3, and haul roads, shall be broken up and removed from the site or buried at sufficient depth not to affect the final restoration of the site.

Reason: To ensure the site is satisfactorily restored. (*Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions*).

34. In accordance with the restoration requirements, all water treatment areas shall, unless to be retained in accordance with the approved plans, be emptied of slurry, filled with dry inert material, and restored to levels shown on the approved restoration plan.

Reason: To ensure the site is satisfactorily restored. (*Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions*).

35. In accordance with the restoration requirements, all fixed equipment, machinery, and buildings shall be removed from the site.

Reason: To ensure the site is satisfactorily restored. (*Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions*).

AFTERCARE

36. The Aftercare Period shall extend for a period of 5 years effective management from the date of final restoration of the site in accordance with Drawing No. 2290.R1 rev.B 'Restoration Proposals' as confirmed in writing with the Mineral Planning Authority.

Reason: To ensure that the land is satisfactorily treated for an appropriate period after the initial restoration to bring it to a satisfactory standard as required by Schedule 5 of the Town and Country Planning Act 1990.

37. Effective aftercare management, following on from the final restoration of the site shall take place in accordance with the following Aftercare Conditions, the approved documents in Condition 1, and schemes subsequently approved in accordance with Condition 3.

Reason: To ensure that the land is satisfactorily treated for an appropriate period after the initial restoration to bring it to a satisfactory standard as required by Schedule 5 of the Town and Country Planning Act 1990.

ANNUAL REVIEW

38. Before 30 September of every year, or such other date approved in writing with the Mineral Planning Authority, during the aftercare period not less than 4 weeks prior to the annual review meeting held in accordance with Condition 37, a report conforming to the requirements of the Planning Practice Guidance for Minerals (refer to paragraphs 050 – 058) shall be submitted by the developer to the Mineral Planning Authority and Natural England or successor), recording the operations carried out on the land since the date of soil replacement operations were completed, or previous aftercare meeting, and setting out the intended operations for the next 12 months (including works to rectify failures, and identified as necessary by the Mineral Planning Authority as a consequence of preceding site meeting, held in accordance with Condition 37.

Reason: To ensure that the land is satisfactorily treated for an appropriate period after the initial restoration to bring it to a satisfactory standard as required by Schedule 5 of the Town and Country Planning Act 1990.

39. Every year during the aftercare period the developer shall arrange to attend a site meeting to be held before 30th November, to discuss the report prepared in accordance with Condition 38, to which the following parties shall be invited:
- a. the Mineral Planning Authority;
 - b. Natural England (or successor);
 - c. all owners of land within the site;
 - d. all occupiers of land within the site;
 - e. representatives of other statutory and non-statutory bodies as appropriate.

Reason: To ensure that the land is satisfactorily treated for an appropriate period after the initial restoration to bring it to a satisfactory standard as required by Schedule 5 of the Town and Country Planning Act 1990.

MAINTENANCE OF HEDGES AND TREES

40. Hedges and trees planted in accordance with Condition 33 shall be maintained during the aftercare period in accordance with the schemes approved under Condition 3, in accordance with good woodland and/or agricultural practice, such maintenance to include the following:

- a. the early replacement of all dead, damaged or diseased plants;
- b. weeding early in each growing season, and as necessary thereafter to prevent the growth of plants being retarded;
- c. maintaining any fences around planted areas in a stock proof condition;
- d. appropriate measures to combat all pests and/or diseases which significantly reduce the viability of the planting scheme.

Reason: To ensure that the land is satisfactorily treated for an appropriate period after the initial restoration to bring it to a satisfactory standard as required by Schedule 5 of the Town and Country Planning Act 1990.

COMPLETION AND AFTERCARE

41. No later than 6 months prior to the target date for the completion of aftercare on any part of the site, the developer shall prepare a report on the physical characteristics of the restored land, and in respect of the agricultural land shown on Drawing No. 2290.R1 rev.B 'Restoration Proposals' and on restoration details approved under Condition 3 for such after use, incorporating proposals to demonstrate to the Mineral Planning Authority, that by the end of the aftercare period, this will be restored, so far as it is practicable to do so.

Reason: To ensure that the land is satisfactorily treated for an appropriate period after the initial restoration to bring it to a satisfactory standard as required by Schedule 5 of the Town and Country Planning Act 1990.

42. The period of aftercare shall be deemed to have been successfully completed following a period of 5 years effective management of those parts of the site to be restored to agriculture as identified on Drawing No. 2290.R1 rev.B 'Restoration Proposals' and on restoration details approved under Condition 3 for such after use as confirmed in writing by the Mineral Planning Authority.

Reason: To ensure that the land is satisfactorily treated for an appropriate period after the initial restoration to bring it to a satisfactory standard as required by Schedule 5 of the Town and Country Planning Act 1990.

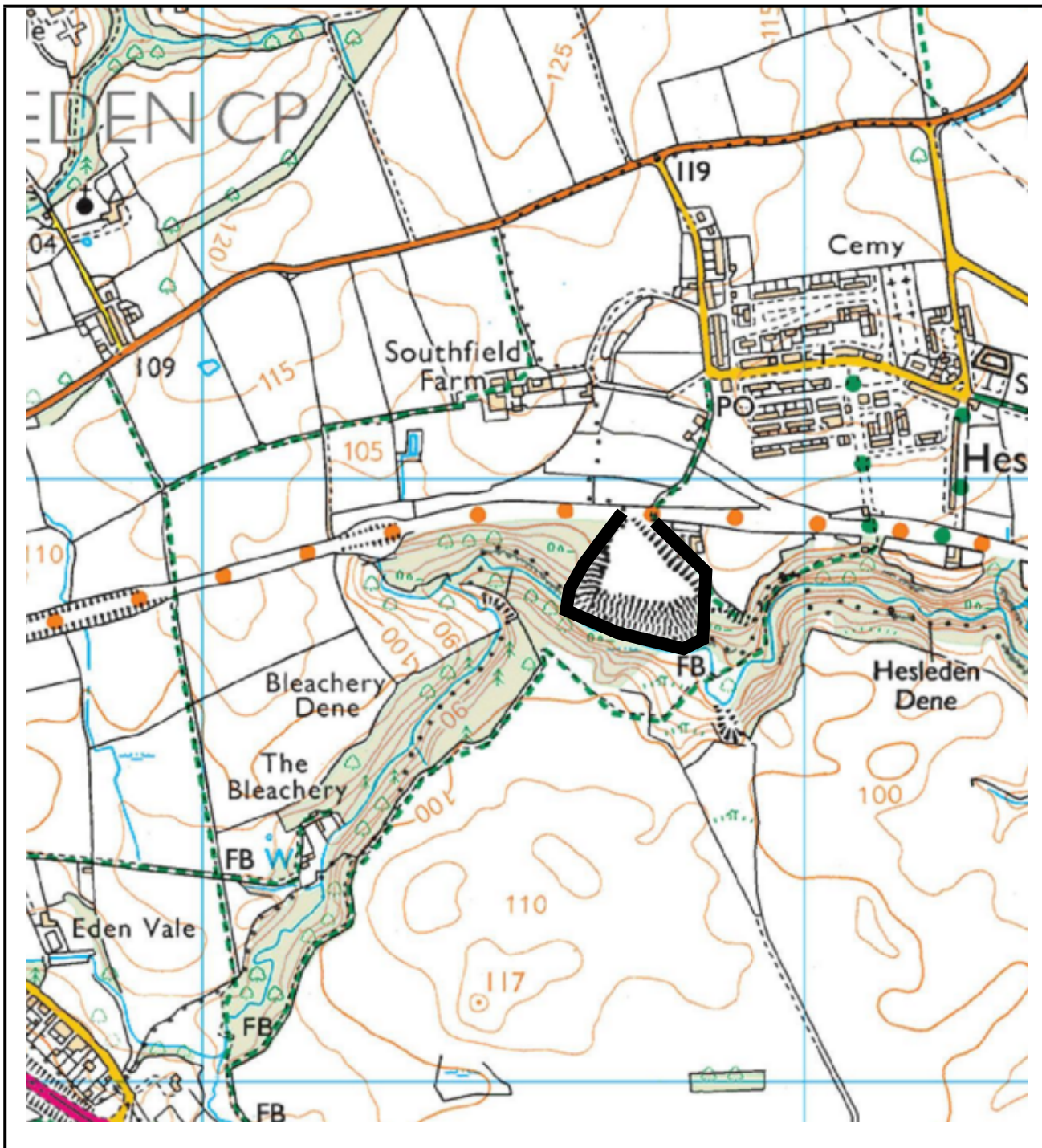
STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. *(Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)*

BACKGROUND PAPERS

- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2012)

- National Planning Practice Guidance notes.
- County Durham Minerals Local Plan (2000)
- District of Easington Local Plan 2001.
- Statutory, internal and public consultation responses.



Planning Services

Reclamation of former colliery spoil mound to extract coal spoil, reprofiling of mound on completion of works and landscaping works, Former Colliery Spoil Heap, Hesleden, Durham (DM/14/00519/MIN)

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Comments

Date December 2015

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