



County Planning Committee

Date Wednesday 1 July 2020
Time 9.30 am
Venue Remote Meeting - This meeting is being held remotely via Microsoft Teams

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Declarations of Interest
4. Minutes of the meeting held on 4 February 2020 (Pages 3 - 6)
5. Applications to be determined
 - a) DM/19/03209/FPA - Eddis Business Park, Finchale Road, Framwellgate Moor, DH1 5HE (Pages 7 - 48)

Demolition of existing buildings and erection of new buildings for uses within Use Classes A1 (shops) and Class A3 (food and drink) with new vehicular access, parking, servicing areas and landscaping (revised description 18/12/2019).

- b) DM/19/03567/MIN and DM/19/03569/VOCMW (Pages 49 - 220)

DM/19/03567/MIN - Land to the west of Bradley Surface Mine, Leadgate, Consett, DH8 6RS

Proposed surface mining for the extraction of up to 90,000 tonnes of coal and 20,000 tonnes of fireclay with restoration of the site to include woodland, species rich grassland and haymeadow, scrub, water features and agriculture.

DM/19/03569/VOCMW - Bradley Surface Mine, Leadgate, Consett, DH8 6RS

Variation of Conditions 1 (Approved documents), 5 (Matters requiring subsequent approval), 7 (Extraction date), 8 (Restoration date), 11 (Working period) and 15 (Number of HGV numbers) pursuant to Appeal Decision AAP/X1355/A/11/2150277 (DCC Ref. CMA/1/37) to facilitate an extension to the existing Bradley surface mine

6. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration
7. Any resolution relating to the exclusion of the public during the discussion of items containing exempt information

Part B

Items during which it is considered the meeting will not be open to the public (consideration of exempt or confidential information)

8. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration

Helen Lynch

Head of Legal and Democratic Services

County Hall
Durham
23 June 2020

To: **The Members of the County Planning Committee**

Councillor J Robinson (Chair)
Councillor F Tinsley (Vice-Chair)

Councillors J Atkinson, A Bell, J Clare, K Corrigan, K Hawley, I Jewell, C Kay, A Laing, G Richardson, A Shield, J Shuttleworth, A Simpson, M Wilkes and S Wilson

DURHAM COUNTY COUNCIL

At a Meeting of **County Planning Committee** held in Council Chamber, County Hall, Durham on **Tuesday 4 February 2020 at 1.00 pm**

Present:

Councillor J Robinson (Chair)

Members of the Committee:

Councillors J Atkinson, A Bell, J Clare, I Jewell, C Kay, G Richardson, A Shield, J Shuttleworth, A Simpson, F Tinsley (Vice-Chair) and S Wilson

1 Apologies for absence

Apologies for absence were received from Councillors K Corrigan, K Hawley and A Laing.

2 Substitute Members

Councillor L Marshall as substitute Member for Councillor Laing.

3 Declarations of Interest

Councillor A Shield declared a non-pecuniary interest as a Member of the Shotley Bridge Reference Group and informed the Committee that he had been advised to leave the meeting and take no part in the decision on the application for consideration. Councillor Shield expressed his disappointment that he had received this advice at such short notice

Councillor I Jewell also expressed the same interest and Councillor Shield and expressed his disappointment that he had received the advice at such short notice, meaning that he was unable to arrange a substitute Member to attend in his place.

Councillors I Jewell and A Shield left the meeting.

4 Minutes

The Minutes of the meeting held on 7 January 2020 were confirmed as a correct record and signed by the Chair.

5 Applications to be determined

a DM/19/01987/OUT - Land to the south of Puddlers Corner Roundabout, Genesis Way, Consett

The Committee considered a report of the Senior Planning Officer regarding an outline application (with means of access) for a mixed-use scheme comprising a community hospital (C2) and pharmacy (A1), sheltered care unit (C2), residential care unit (C2), gym and wellbeing centre (D2), hotel (C1), public house (C1), micro-brewery (B2/A4) and vets practice (D1) on land to the south of Puddles Corner Roundabout, Genesis Way, Consett (for copy see file of Minutes).

G Blakey, Senior Planning Officer provided a detailed presentation of the application which included a site location plan, aerial photograph, indicative layout plan, proposed site access arrangements, view of the site and the A692, view of the site and nearby C2C and development and view of the site from Terris Novalis. The Senior Planning Officer informed the Committee that an amendment to Condition 6 was proposed to reference the proposed multi-user path to link across the site from the Consett and Sunderland Railway Path to the A692 to the north east close to Puddlers Corner Roundabout.

Councillor M Clarke, Member for the Delves Lane Electoral Division informed the Committee that he supported the application. Although a link had been made about the proposed community hospital being a replacement for Shotley Bridge hospital this application it should be remembered that this was an outline application only. A campaign for a replacement for Shotley Bridge hospital had been ongoing for a number of years but the final decision lay with the CCG who were assessing a number of possible sites. This application proposed a range of related services, was large enough and had good highway links. Councillor Clarke informed the Committee that he supported this application and would support other applications on suitable alternative sites.

Mr M Clarke of Project Genesis thanked Councillor Clarke for his support for the application. In supporting the application Councillor Clarke had outlined the benefits of the site.

Project Genesis had put this site forward at some risk regarding the hospital development, but the site was well located for the proposed purposes and would not conflict with town centre uses. Project Genesis had been heartened by the level of public support for the proposal and Mr Clarke thanked Council officers who had been involved in the application which he asked the Committee to approve.

Councillor Shuttleworth presented to Committee a statement which had been prepared by Councillor Shield. Although in outline only, this was a significant development and the officer report was comprehensive. No statutory or internal consultees had raised objection to it and the proposed development would have little town centre impact. This was not a finely balanced application and would increase job creation and improve social benefits. Councillor Shield asked that the application be approved.

Councillor Shuttleworth **moved** approval of the application, subject to the Conditions contained in the report as amended at Condition 6.

Councillor Tinsley welcomed the application, which presented one site option for improved health facilities in the area. The site had good access, good public transport access and proposed free car parking. Councillor Tinsley **seconded** approval of the application.

Councillor Clare asked about site levels of the development site. The Senior Planning Officer informed the Committee that the field was generally level but appeared elevated from views along the A692 and further north. Councillor Clare asked whether the development might deprive the woodland to the west of the site of water catchment areas. The Senior Planning Officer replied that the use of SUDS would be part of the reserved matters stage.

Councillor Clare commented that he could not see the proposed old people's houses on the indicative plan. The Senior Planning Officer replied that a residential home was being proposed which would be more akin to a care home. In response to a request from Councillor Clare the Senior Planning Officer then indicated the location of the proposed hospital on the indicative plan.

Councillor A Bell informed the Committee that he was fully supportive of the application. He referred to the proposed public house and hospital and asked whether any pedestrian road crossing was proposed. The Senior Planning Officer replied that access only was for agreement in the application and the internal layout of the site was not fixed at this stage.

Upon a vote being taken it was

Resolved:

That the application be approved subject to the Conditions contained in the report with an amended Condition 6 to reference the proposed multi-user path to link across the site from the Consett and Sunderland Railway Path to the A692 to the north east close to Puddlers Corner Roundabout.

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/19/03209/FPA
FULL APPLICATION DESCRIPTION:	Demolition of existing buildings and erection of new buildings for uses within Use Classes A1 (shops) and Class A3 (food and drink) with new vehicular access, parking, servicing areas and landscaping (revised description 18/12/2019)
NAME OF APPLICANT:	Wyngrove Ltd
ADDRESS:	Elddis Business Park, Finchale Road, Framwellgate Moor DH1 5HE
ELECTORAL DIVISION:	Framwellgate and Newton Hall
CASE OFFICER:	Laura Eden, Senior Planning Officer, 03000 263980, laura.eden@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site extends to approximately 2.25 hectares and comprises of land and buildings occupied by a number of businesses. Elddis, the site owner, use the site for warehousing and run a car service and MOT facility. The other businesses that operate from the site include a motorcycle training facility, some small offices and vehicle storage associated within an adjacent car dealership. There are two telecommunication masts situated within the northwest corner of the site in addition to a large grouping of trees adjacent to the western and southwestern boundaries.
2. The site is accessed off Pit Lane. A public right of way (Footpath no. 16 (Framwellgate Moor)) runs alongside but outside the site's western boundary. Immediately to the north and west of the site lies Abbey Road Industrial Estate including a number of businesses such as Northumbrian Water Ltd in addition to Bells Fish and Chip establishment and a car dealership. Further north of this and on the other side of Abbey Road lies the Arnison/Mercia District Centre. Pity Me Carrs Local Nature Reserve (LNR) and Framwellgate Moor Carrs Local Wildlife Site (LWS) lie 40m to the south west of the site. To the south the site is bounded by Healthlands a fitness and slimming club and Low Carrs Residential Park comprising of park style homes. To the east, on the opposite side of Pit Lane, lies a residential housing estate.

The Proposal

3. This planning application seeks full planning permission for the demolition of the existing buildings within the site and the erection of new buildings for uses within Use Classes A1 (shops) and Class A3 (food and drink) along with a new vehicular access, parking,

servicing areas and landscaping. Whilst a hot food takeaway unit (use class A5) was initially proposed, this was later removed from the scheme. Whilst no end operators have been named, it is understood that contract negotiations are well advanced in relation to all four units.

4. The proposed discount A1 use class food store (Unit 3) building would measure 1,805sqm gross internal area (GIA), 65m in length by 35m in width and have a mono pitched roof at a maximum height of approximately 8m. The unit would be set back from Pit Lane and would be situated on the southern boundary of the site.
5. The terrace of two additional A1 use class retail units (units 1 and 2), comprising of 1,115sqm and 2,044sqm (GIA) respectively, would be located to the western edge of the site. The units would have a combined width of approximately 72.5m, a maximum depth of 51m and height of 10.5m. In terms of occupation, the smaller unit is likely to be a frozen food store whereas the larger of the units is intended to be a further retailer selling household and other bulky goods.
6. A drive thru restaurant/coffee shop (Unit 4), is proposed to be located to the north east corner of the site. The building would measure 170 sqm (GIA) in area, 18m long by 11.3m in width and would have a monopitched roof at a maximum height of 4.3m. It would incorporate a higher signage blade and this feature would have a maximum height of 7.3m.
7. A commonality in the external appearance and materiality of each unit is proposed, though with necessary variations reflecting the differing scale and proportions of the units. Elevations would comprise of a mixture of brickwork, both horizontal metal and timber effect cladding panels and powder coated aluminium framed glazing.
8. Vehicular access into the site will be provided from a new signalised (for both pedestrian and traffic) T-junction on Pit Lane including a dedicated right turn entry lane. The existing accesses/egresses would be closed-off and the footway reinstated. There would be 267 parking spaces including staff parking, disabled persons, electric vehicle and electric vehicle enabled car parking spaces. Cycle parking provision is also included. The submitted plans also propose other ancillary elements to serve the development with servicing and trolley store areas depicted whilst an existing substation currently on site is shown to be retained.
9. To facilitate the development, existing trees central to the site and a small number along the southern boundary would need to be removed and pruned back. A landscaping scheme has been submitted showing the proposed landscaping works for the development and this includes planting along the site frontage with Pit Lane and planting on sections of the southern boundary.
10. This planning application is being reported to the Strategic Planning Committee because it relates to a major retail development and the site area exceeds 2 ha.

PLANNING HISTORY

11. There have been a number of applications for relatively minor works on the site including the erection of signage, a mobile phone mast and various alterations and extensions to buildings.
12. Planning permission was granted in in June 2002 for the change of use of existing workshop and stores to car sales, valet, repairs, storage and M.O.T. Centre (4/02/00307/FPA). In 2007, planning permission was granted for the change of use of

car park and part buildings, for use for a motorcycle training business, including erection of fencing and hardstanding areas.

PLANNING POLICY

NATIONAL POLICY

13. A revised National Planning Policy Framework (NPPF) was published in July 2018 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
14. In accordance with Paragraph 213 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
15. *NPPF Part 2 Achieving Sustainable Development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
16. *NPPF Part 4 Decision-Making* - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
17. *NPPF Part 6 Building a Strong, Competitive Economy* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
18. *NPPF Part 7 Ensuring the Vitality of Town Centres* - Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation
19. *NPPF Part 8 Promoting Healthy and Safe Communities* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.

20. *NPPF Part 9 Promoting Sustainable Transport* - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
21. *NPPF Part 11 Making Effective Use of Land* - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
22. *NPPF Part 12 Achieving Well-Designed Places* – 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.
23. *NPPF Part 14 Meeting the Challenge of Climate Change, Flooding and Coastal Change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
24. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
25. *NPPF Part 16 Conserving and Enhancing the Historic Environment* - Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

<https://www.gov.uk/guidance/national-planning-policy-framework>

26. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality; historic environment; design: process and tools; determining a planning application; flood risk; health and wellbeing; land stability; housing and economic development needs assessments; economic land availability assessment; light pollution; natural environment; noise; planning obligations; travel plans, transport assessments and statements; town centres and retail; use of planning conditions and; water supply, wastewater and water quality.

<https://www.gov.uk/government/collections/planning-practice-guidance>

LOCAL PLAN POLICY:

City of Durham Local Plan (2004) (CDLP)

27. *Policy E6 - Durham City Conservation Area.* Sets out the Council's aim to preserve the character, appearance and setting of the Durham City Conservation Area by ensuring high quality design.
28. *Policy E14 - Trees and Hedgerows.* Sets out the Council's requirements for considering proposals which would affect trees and hedgerows. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.
29. *Policy E15 – Provision of New Trees and Hedgerow.* Encourages tree and hedgerow planting including in urban fringe areas.
30. *Policy E16 – Protection and Promotion of Nature Conservation.* Seeks to protect and promote nature conservation.
31. *Policy E18 – Sites of Nature Conservation Importance.* Seeks to safeguard sites of nature conservation importance including regionally important sites.
32. *Policy E21 – Conservation and Enhancement of the Historic Environment.* States that the historic environment will be preserved and enhanced by minimising adverse impacts by development proposals.
33. *Policy E22 – Conservation Areas.* Seeks to preserve or enhance the character or appearance of conservation areas, by not permitting development which would detract from its setting, while ensuring that proposals are sensitive in terms of scale, design and materials reflective of existing architectural details.
34. *Policy E23 – Listed Buildings.* The Council will seek to safeguard listed buildings by not permitting development which detracts from their setting.
35. *Policy E24 – Ancient Monuments and Archaeological Remains.* Seeks to protect such heritage assets by precluding development that would damage them. Pre-application evaluation or an archaeological assessment should be carried out, and where present such assets should be either preserved in situ or investigated and recorded.
36. *Policy H13 – Residential Areas - Impact upon Character and Amenity.* Protects residential areas from development that would have a significant adverse effect on their character or appearance, or the amenities of residents within them.
37. *Policy EMP8.e – General Industrial Sites.* Designates general industrial sites, and identifies the site of Abbey Road, Pity Me Industrial Estate as being suitable for B1, B2 and B8 development.
38. *Policy T1 – Transport – General.* States that developments that would generate traffic which would be detrimental to highway safety or amenity of adjoining occupiers will be resisted.

39. *Policy T5 – Public Transport.* The council will encourage improvements to assist public transport services including the provision of suitable facilities and ensuring new development can be conveniently and efficiently served by public transport.
40. *Policy T10 – Parking.* States that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
41. *Policy T20 - Cycle Facilities.* Seeks to encourage appropriately located, secure parking provision for cyclists
42. *Policy T21 – Walking.* States that existing footpaths and public rights of way should be protected.
43. *Policy S1A – Retail Hierarchy.* Seeks to protect and promote the vitality and viability of all centres within the local retail hierarchy.
44. *Policy S9B – Major Out of Centre Proposals.* States that where there is an identified need for large-scale retail and leisure development that cannot be met through existing allocations, preference should be for sites within the city centre, followed by edge of city centre locations, district centres locations, local shopping centre locations and only when the development cannot be accommodated in these locations, then elsewhere within the built up area of Durham City provided certain criteria are met.
45. *Policy S10 – Food and Drink.* Within settlement boundaries development for Class A3 (food and drink) provided there are no adverse effects on the amenities of nearby occupants, there is sufficient parking and it is in scale with its surroundings.
46. *Policy R11 – Public Rights of Way and Other Paths.* Public access to the countryside will be safeguarded by protecting the existing network of PROW's and other paths from the development which would result in their destruction or diversion.
47. *Policy CC1 – Vitality and Viability.* States that the Council will seek to protect and enhance the vitality and viability of the city centre by promoting a mix of uses and sustaining the city centre shopping centre in accordance with other retail policies.
48. *Policy Q1 – General Principles Designing for People.* Requires the layouts of developments to take into account the requirements of users including: personal safety and security; the access needs of people with disabilities and the elderly; and the provision of toilets and seating where appropriate.
49. *Policy Q2 – General Principles Designing for Accessibility.* The layout and design of all new development should take into account the requirements of users and embody the principle of sustainability.
50. *Policy Q3 – External Parking Areas.* Requires that external parking areas provided as part of a new development should be landscaped, adequately surfaced, demarcated, lit and signed. Large surface car parks should be sub-divided into small units. Large exposed areas of surface, street and rooftop parking are not considered appropriate.
51. *Policy Q4 - Pedestrian Areas.* Requires public spaces and such areas to be well designed and constructed with quality materials. Public realm and lighting to ensure community safety are referred to.
52. *Policy Q5 – Landscaping – General.* Requires all new development which has an impact on the visual amenity of the area in which it is located to incorporate a high level of landscaping in its overall design and layout.

53. *Policy Q15 – Art in Design.* Seeks to encourage the provision of artistic elements in the design and layout of development.
54. *Policy U5 – Pollution Prevention.* States that planning permission will not be granted for development that may generate pollution that will have an unacceptably adverse impact upon the local environment, the amenity of nearby and adjoining land and property or that would unnecessarily constrain the development of neighbouring land.
55. *Policy U8a – Disposal of Foul and Surface Water.* Requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.
56. *Policy U10 – Natural Flood Plains.* Proposals shall not be permitted in flood risk areas or where development may increase the risk of flooding elsewhere unless it can be demonstrated by way of sequential test that there is no alternative option available at lower risk, there will be no unacceptable risk of flooding, there will be no unacceptable increase in risk of flooding elsewhere and appropriate mitigation measures can be put in place to minimise the risk of flooding which can be controlled by planning condition.
57. *Policy U11 – Development on Contaminated Land.* Sets out the criteria against which schemes for the redevelopment of sites which are known or suspected to be contaminated. Before development takes place it is important that the nature and extent of contamination should be fully understood.
58. *Policy U14 – Energy Conservation - General.* The council will encourage the effective use of passive solar energy and the reduction of wind-chill in the layout, design and orientation of buildings, and the use of energy efficient materials and construction techniques.

RELEVANT EMERGING POLICY:

The County Durham Plan

59. The County Durham Plan (CDP) which in time will replace the existing saved Local Plans in County Durham commenced its Examination in Public (EiP) in Winter 2019. The programmed hearing sessions subsequently closed on 6th February 2020, and the Inspector's issued his post hearing advice on 20th February 2020. An amended CDP has been prepared to take account of the specific instructions from the Inspector, and all the minor/main modifications which the Council proposed following the hearing sessions and in response to the action points issued by the Inspector. Consultation on the CDP (Main Modifications) commenced on Tuesday 26th May and will last until 21st July 2020 (an eight-week period). All comments that are received during this consultation period will be sent to the Inspector to inform his final report. Paragraph 48 of the NPPF states 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. Although the CDP is now at an advanced stage of preparation, it is considered that it should not be afforded any weight in the decision-making process until the Inspector's final report has been received.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.durham.gov.uk/article/3266/Whats-inplace-to-support-planning-and-development-decision-making-at-the-moment> (*City of Durham Local Plan*)

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

60. *Framwellgate Moor Parish Council* – Have concerns in relation to the following points and supports refusal if these cannot be adequately addressed.
- Access and egress onto Finchale Road is not considered safe given the increased traffic levels and the type of traffic leading to obstruction.
 - There should be a separate access for cyclists and pedestrians.
 - Internal traffic will become blocked by the drive thru traffic which is a problem at McDonalds at the Arnison Centre.
 - Staff parking is inadequate and will overflow into surrounding residential areas.
 - Overall levels of car parking are not considered to be sufficient.
 - Two drive thru's are too many. The site is being overdeveloped.
 - Concerns about retail capacity at the Arnison Centre having empty shops similar to Framwellgate Moor. Funding should be secured to improve Front Street/shops in Framwellgate Moor.
 - Pedestrian links to the surrounding area should be secured and walkways improved.
 - Development should include sustainability measures.
61. *Highways Authority* – It is considered that the proposal would be served by an appropriate means of access and would not have an unacceptable impact on the wider highway following updates to the Transport Assessment, updates to the traffic signal design and amendments to the internal layout. Conditions are required to secure the full engineering details of the access and its completion prior to occupation in addition to a car park management strategy. Informatives in relation to Section 278 works and DCC highway permits are also advised.
62. *Drainage and Coastal Protection* – No objections on the basis that a condition is imposed to secure a detailed scheme in accordance with the principles outlined within the Flood Risk Assessment and Drainage Strategy reports and addendum.

INTERNAL CONSULTEE RESPONSES:

63. *Planning Policy* – Principally provide advice in regard to the submitted sequential test and impact assessment submissions made under the application given the proposal seeks planning permission for a major town centre use development outwith of a town centre location, together with analysis of the impacts of the loss of the existing employment uses located on the site. Comments have been updated during the course of the determination of the application to reflect adjustments to the floorspace of development proposed and the impacts of the development upon existing centres in turn.
64. The submitted sequential test identifies and discounts a range of potential alternative sites within Durham City Centre and other sites deemed sequentially equal (to the application site) in edge of district centre locations. The conclusions that these alternative sites are not suitable for the development is accepted and thereby the sequential test is considered to have been passed. The submitted impact assessment has also been reviewed in respect to both the potential impact on investment in existing centres and secondly their vitality and viability. No significant adverse impacts are identified on the range of existing centres potentially likely to be impacted upon by the development.

65. The application site is identified as a general industrial site under CDLP Policy EMP8 under which the development of use classes B1 (business), B2 (general industry) and B8 (warehousing) are acceptable in principle. The application does not propose such uses on the site and there is therefore conflict with this policy. Eddis are the main but not sole occupier of the site and the application details that their intentions as a result of this development would be to consolidate their existing site at Consett and establish a new site in Nottinghamshire. Five other businesses currently located on the site would be affected and would need to seek relocation. The relocation or potential loss of this existing employment on the site is a matter to be considered in the overall planning balance so too is the proposed job creation as a result of the development sought and in this regard the application states that the proposed full time equivalent job creation would be 95 in comparison to the existing 25 jobs currently on the site.
66. It is advised that policies within the CDLP most important for the determination of the application are out of date and as a result the application should be considered in the context of paragraph 11(d) of the NPPF.
67. *Arboriculture* – Concern expressed over degree of tree loss. All retained trees must be protected by fencing outlined within the tree report and comply with BS 5837 2012. Additional information provided in relation to tree pits is now considered to be acceptable.
68. *Archaeology* – Advise that there are no archaeological objections to the scheme.
69. *Compliance and Monitoring* – Having reviewed the submitted Construction Management Plan no objections are raised provided a footnote is added to ensure it is reviewed on a 6 monthly basis, a condition is added with regards to hours of construction and a plan is provided indicating the route for construction.
70. *Design and Conservation* – Whilst the proposed units have some level of architectural consideration and active frontage to the most publicly visible elevations, the site layout, particularly at Old Pit Lane, is questionable. Development has been pushed back from the site frontage and proposed pedestrian access points, resulting in an area dominated by parked cars. It is understood that this has done to avoid existing services within the area adjacent to Pit Lane.
71. *Ecology* – Raise no objection subject to conditions relating to the provision of bat and bird boxes and adherence to the recommendations outlined within the ecology report and the amphibian method statement.
72. *Environmental Health and Consumer Protection (Air Quality)* – Air quality impact assessments have been submitted assessing the impact of the development. Whilst the further air quality note does not fully answer the comments raised within the original submission it is not considered that these points are likely to significantly alter the conclusion of the assessment. The assessment, in relation to the operational phase, advises that the development will not exceed the local air quality objectives. In relation to the impact during the construction phase, a dust management plan is shown to be required. A condition is therefore required to secure the implementation of a construction management plan to mitigate construction related impacts including dust.
73. *Environmental Health and Consumer Protection (Contaminated Land)* – Advise a conditional approach in relation to land contamination.
74. *Environmental Health and Consumer Protection (Pollution Control)* – Advise that the submitted Noise Impact Assessment and additional note has identified all expected noise sources and assessed these against appropriate methodologies to demonstrate

the potential outcome. Conditions to secure mitigation measures include limiting hours of operation in addition to schemes to secure the erection of an acoustic fence, plant, delivery and service management and construction management are recommended.

75. *Landscape* – The landscape officer notes that the reduction of the soft landscaping content within parts of the scheme is regretful. Whilst this has been done to satisfy highway requirements there is now significant areas of tarmac without acceptable separation and mitigating planting beds which would add visual amenity value.
76. *Public Rights of Way* – Public Footpath no.16 Framwellgate Moor Parish abuts the west boundary of the site and it does not appear to be affected by the proposals.
77. *Sustainable Transport* – The site is within suitable walking distance to frequent services on Old Pit Lane. Measures to improve pedestrian movements both within the site and within Old Pit Lane are encouraged and that secure cycle storage is made available for staff. The Travel Plan Officer confirms the submitted Interim Travel Plan meets DCC requirements.
78. *Business Durham* – No response received.

EXTERNAL CONSULTEE RESPONSES:

79. *Durham Bid* – Representing the businesses of Durham City, Durham Business Improvement District (Durham Bid) objects to the development. The City Centre is currently performing well with increased footfall, it has low vacancy rates and has benefitted from significant public and private investment. The pressure to maintain a vibrant city centre retail economy is challenging due to changing consumer habits and the development of out of town retail opportunities in such close proximity to the city. The latter offers consumers with free parking and retailers larger and bespoke units. Landlords within the city find retail tenants entering into aggressive rent reviews and where deals cannot be agreed they leave. The gaps created are often filled but we are seeing the emergence of a local economy dominated by leisure providers. The development of further out of town offer will have wide-ranging impacts on Durham City.
80. *Highway Agency* – Offer no objection
81. *Police Architectural Liaison Officer* – Request that car parks are barriered when the shop units are not in operation to prevent anti-social use of the car parks, that the construction management plan looks to avoid construction traffic movements at busy rush hour times and that measures are put in place to avoid mud debris on the highway.
82. *Northumbrian Water* – No objections on the basis that a condition is imposed to ensure the development is carried out in accordance with the agreed scheme.
83. *The Ramblers Association* - No response received.

PUBLIC RESPONSES:

84. The application has been publicised by way of press notice, site notice, and individual notification letters to neighbouring residents.

Objection

85. 19 letters of objection have been received from local residents. The main concerns are summarised as follows;

Principle of development

- There is no need for this development as there is ample retail and café/takeaway provision in the surrounding area most notably at the Arnison Centre.
- There are empty units within Durham, including at the Arnison Centre, which can accommodate the individual elements of the development. In the current economic climate more units are likely to become vacant. These units do not necessarily all have to be delivered on the same site.
- The site lies outside of and is physically detached from the Arnison Centre. It cannot be described as edge of centre due to the distances between the two sites.
- The retail impact assessment focuses primarily on Durham City Centre, the Arnison and Dragonville. The proposals will also have an impact on local centres too and it is not sufficient to say such areas only meet the day to day demands of residents.
- The proposals would lead to the loss of designated employment land without adequate justification for doing so. There is no evidence to back up that there is limited likelihood of the site being redeveloped for new employment/industrial use such as through marketing the site.
- There are existing jobs on the site which will be lost through this proposal which serve a local need. These are specialist and skilled jobs whereas the jobs to be created will predominantly be low(er) skilled.
- Consider that the site more suitable for alternative uses such as housing development, family orientated businesses promoting community and wellbeing activities, a DIY store and/or units to accommodate local businesses.

Access/Highways

- The development would result in additional traffic on an already busy, single carriage way road with multiple pedestrian crossing points causing further congestion that that which is already experienced. This would be dangerous to both road users and pedestrians.
- Query the transport assessment and what are considered peak hours as impact and disruption occurs outside these times too.
- The surrounding area has seen significant development cover recent years including several housing developments along with the Arnison Retail Centre & Mercia Retail Centre however local infrastructure has not been addressed/changed in this time.
- Disagree with the proposed signalised solution to traffic management at the site and think other options such as no right turn option would be better.
- There are not enough staff car parking spaces given the site will likely employ many more and they are most likely to travel to work by car.
- Consider the delivery and management service plan needs to be agreed as part of the application not by condition.

Residential Amenity

- The development would result in noise and disturbance to existing residents through their operation and additional traffic movements.
- Additional concerns as some units are likely to benefit from late night opening and the potential anti-social impacts arising from this which may place pressure on police services. If these units are to proceed they should be well set back within the site and have reasonable hours of operation, not permit late night alcohol sales etc.
- The site will need to be served by large vehicles which are banned from using this stretch of road therefore query whether the access could be served off Abbey Road. Servicing could take place during unsocial hours and large wagons make more noise causing disturbance.
- The existing businesses are long established and don't cause an adverse impact to their residential neighbours as they don't operate unsocial hours. New businesses should not be permitted to either.

- The boundary treatment between the site and adjacent residential development to the south must be at a height which affords privacy and security.
- How will the demolition and construction process be managed to mitigate adverse impacts?
- Concerns about smells and odours arising from the food uses.
- Lighting has the potential to disturb local residents.

Other issues

- The site is not considered to be accessible by sustainable modes of transport. Distances to bus stops and the frequency of the services which operate from these is not appealing. There is a public footpath adjacent to the development however no connection to this is proposed.
 - Retail offer in the surrounding area is dispersed meaning increased trips often by car. This proposal will exacerbate this issue.
 - A DIY store on this side of town would be a benefit as it would reduce trips. This alone is not sufficient to generate support for the proposal in light of the adverse impacts.
 - There is sufficient retail choice in the area and there is no requirement for anymore.
 - Drive-thru's encourage air pollution as drivers leave their engines on whilst queuing and don't promote sustainability.
 - Existing businesses should be accommodated in the new premises at the developers expense.
 - The redevelopment would not result in a significant improvement to visual amenity. Whilst the existing buildings are of no particular merit, they are an established part of the street scene and do not detract from the local environment. They are to be replaced by standard pre-fabricated sheds around a periphery, significant amounts of tarmac and limited landscaped.
 - Query how the buildings will be removed as it is believed they contain asbestos.
 - Concerned about litter which may arise from the takeaways.
 - Additional traffic congestion will cause air pollution.
 - Property devaluation.
 - Query the developer's community consultation report which despite acknowledging 267 objections only references the positive aspects of the development. Was the scheme amended to take account of areas of concern?
 - Note that the application has been pending for 6 months and that the proposals have changed quite a lot during this time. Residents should have been consulted on the changes like other consultees.
86. *Cllr Amanda Hopgood* advised that herself and fellow Members *Cllr Mamie Simmons* and *Cllr Mark Wilkes* (all Framwellgate and Newton Hall) would like to attend the planning committee to speak against the application in its current form. *Cllr Hopgood's* second correspondence, whilst acknowledging some positive amendments to the scheme does not consider that they have went far enough to address the lack of staff parking, highway alterations or the provision of a second entrance/exit.
87. An objection has been received from an existing business on the site which currently employs five local people. They advise re-location would heavily impact on the growth of their business as well as potentially jeopardizing existing jobs through the costs associated with moving and higher rents which are cited as being more than double that which they currently pay. Whilst alternative premises may be available they are often larger than required which increases the rent sought. The proposal will heavily impact on the business and no compensation has been offered to cover the unwanted re-location costs.

88. *Pegasus Group* have objected to the scheme on behalf of the Co-operative Group which operate food stores in the Newton Hall and Framwellgate Moor local centres for the following reasons;
- The site is allocated for industrial and warehousing in the CDLP, it is operating as such and is protected employment land in the emerging County Durham Plan.
 - The expansion of convenience goods at the Arnison Centre has been associated with significant adverse impacts on trading in the local centres based on the experience of the Co-operative Group and evidence of the planned closure of McColls at Newton Hall.
 - The occupiers of the proposed floorspace are unknown therefore any forecasts of trading characteristics are necessarily speculative.
 - The Planning and Retail Statement acknowledges that proposals are contrary to local plan policies for economic development and potentially contrary to national and local plan policies for retail development, subject to a sequential sites assessment and retail impact assessment.
 - The sequential assessment claims there are no sequentially preferable sites but did not apply any flexibility in the definition of site requirements or disaggregating the proposals. No retailer has committed to the development. The usefulness of the exercise is questioned and in any event passing this particular test does not imply a presumption in favour of planning permission in any event.
 - The retail impact assessment is fundamentally flawed as it is based on the household survey for a strategic retail study and does not provide accurate guidance on shopping patterns within the primary catchment area of the proposed retail floorspace, or accurate estimates of the turnovers of existing stores. It fails to take account of the potential impacts on nearby local centres at Newton Hall and Framwellgate Moor. The Co-operative Group has analysed the potential trade diversion from its stores resulting from the application proposals and believes that it would be some 15% on its store at Newton Hall.
 - The development is contrary to national planning policies in paragraphs 85 to 90 of the National Planning Policy Framework. The accompanying Planning and Retail Statement fails to demonstrate that the proposals comply with the sequential site assessment and retail impact assessment tests of the NPPF. The scheme is also in conflict with Saved Local Plan Policy S1A which seeks '*to protect and promote the vitality and viability of all centres within the local retail hierarchy of the City of Durham area*' including the local centres of Newton Hall and Framwellgate Moor which are identified on the proposals map.
89. *The City of Durham Trust* - Welcome the removal of one of the drive-thru restaurants and the clearer pedestrian access route to the development from the north, however, maintain their objection to the scheme due to the following concerns.
- The adverse impact on the city centre retail and local shops in Newton Hall and Framwellgate Moor.
 - The increasing car dependency on the retail offer.
 - The high number of crossings of the car park access road required for pedestrians to access the proposed shops.
 - The desirability of promoting pedestrian access by reconfiguring the site to bring the buildings closer to Pit Lane and thereby also achieving a stronger street frontage.
 - The inadequacy of the Transport Assessment in respect of the impact on pedestrians crossing at neighbouring junctions.
 - Access to the site fails to take up the opportunities for sustainable transport particularly walking and cycling.
 - The Travel Plan does not propose adequate measures to maximise sustainable transport and mitigate the effects of increased motor traffic.

Support

90. 1 letter of support has been received outlining;

- The development would provide a welcome alternative to the Arnison Centre by offering more consumer choice, healthy competition and removes the need to drive to other parts of the city to access these new retailers.
- Whilst there may be some vacant units at the Arnison Centre many of the units have been split up/reduced in size so that they are now unsuitable for some retailers.
- The development will create much needed employment opportunities both during the demolition, construction and once operational. Whilst existing businesses would need to relocate there are plenty of suitable units in the surrounding area.
- This is a brownfield site therefore is more suitable for redevelopment compared to a greenfield site.
- Acknowledge that traffic on Finchale Road needs to be addressed however this development is not the only contributing factor to this.

APPLICANTS STATEMENT:

91. The application proposes a new discount foodstore, a frozen foodstore, a home store and a drive-through coffee-shop on the Elddis site, at Pit Lane. The developer (Premcor) is in advanced discussions with operators for these units, details of which have been shared with Officers on a confidential basis. The site is significantly under-utilised, supporting only around 20-25 jobs and redevelopment for B Class uses is not viable.

92. The granting of planning permission for this development would provide funds which allow the current owner of the application site (County Durham-based Elddis) to invest in other parts of their operations. This will include bringing into operational use a new site they have purchased in Retford – which will help the business better serve Yorkshire-based customers and those seeking national coverage – as well as allowing them to make further investment in their head office at Consett.

93. A Planning and Retail Statement has been prepared to address national and local planning policy relevant to the proposals. This has demonstrated that there are no sites within existing centres which are suitable and available to accommodate the development. It has also demonstrated that the proposals would not result in any significant adverse impact upon the vitality and viability of existing centres. This reflects the fact that:

- the main facilities against which the proposed foodstores would compete – including Lidl, Sainsburys' and M&S at the Arnison Centre - are performing strongly;
- facilities within Durham City Centre are focused upon meeting top-up and specialist food shopping needs and, whilst there is an Aldi store at Dragonville, this is also performing strongly;
- the comparison goods trade diversions resulting from the proposed development are all low (around or below 2%), as the impact would be spread across a range of different facilities; and
- both Durham City Centre and Arnison/Mercia District Centre have experienced significant recent investment.

94. Whilst the site is currently allocated as a general industrial site in the adopted Local Plan, the recent employment land review has identified a significant over-supply of employment land across the County. There is no prospect of the site being redeveloped for B Class purposes, nor are the majority of the buildings on the site suitable for continued occupation. Whilst the number of jobs currently supported by the site is

relatively limited, and no firm decisions can be made regarding the potential relocation of existing tenants until/unless planning permission is granted, assistance has been provided to these tenants and potential alternative premises identified for those willing to engage.

95. The proposed development would result in a range of benefits, to which significant weight should be attached in the determination of the application. These benefits include the creation of a significant number of new, locally accessible employment opportunities, and the generation of funds which allow the Eddis to invest in other parts of their business. They also include enhancing the range of retail facilities serving local residents on the western side of the Durham, relieving pressure on existing foodstores in the local area, generating linked trips for the Arnison Centre. Finally, the development would provide an improved vehicular and pedestrian accesses into the site, replace existing, outdated industrial buildings with an attractive modern new development.

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/search.do?action=simple&searchType=Application>

PLANNING CONSIDERATIONS AND ASSESSMENT

96. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise, the NPPF is a material planning consideration. In accordance with advice within the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to: the principle of the development; employment land, town centre use impact and issues, locational sustainability of the site, highway safety and access, residential amenity, layout and design, ecology, flooding and drainage, heritage and archaeology. Other issues are also considered.
97. The City of Durham Local Plan (CDLP) remains the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. The CDLP was adopted in 2004 and was intended to cover the period to 2006. However, NPPF Paragraph 213 advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. Notwithstanding this, it is considered that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired depending on the circumstances. Paragraph 213 also sets out that due weight should be given to existing policies, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
98. Paragraph 11 of the NPPF advises that a presumption in favour of sustainable development should apply and for decision making that means:
- (11(c)) - approving development proposals that accord with an up-to-date development plan without delay; or
- (11(d)) - where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The Principle of the Development

Employment Land

99. The application site forms a part of a larger designated general industrial estate (Abbey Road) to which CDLP Policy EMP8 applies. This policy advises that classes B1 (business use), B2 (general industry) and B8 (warehousing) are acceptable forms of development in principle at the site. As the development does not propose industrial uses but rather A use class retail development, the proposal is considered to be in conflict with this policy as a result.
100. Employment sites and allocations across the County have been reviewed through the Employment Land Review 2018 (ELR). This considers existing allocations and provides evidence for future employment land allocations and policies. The ELR concluded that the application site was in use and therefore there was no justification for removing its designation. The site is therefore recommended for protection within the ELR and this is reflected in the emerging County Durham Plan (CDP) Policy 2. CDLP Policy EMP8 is considered to have much resonance with the content of Part 6 of the NPPF, however, its wording does lack flexibility to accommodate needs not anticipated in the plan and so as to enable a rapid response to changes in economic circumstances which NPPF paragraph 81 advises a policy should. As a result, the policy is considered partly consistent with the NPPF but can still be attributed a significant amount of weight in the decision-making process.
101. As well as considering the implications of the non-industrial estate uses proposed at the site there is also the need to consider the impact of the relocation or loss of the existing uses. The application documentation has sought to articulate the reasoning behind the movement of the main site occupier Eddis and provide some information on the future of the other site occupiers.
102. In respects to Eddis, this site occupier has submitted their intentions to expand as a business and has purchased a site in Retford, Nottinghamshire in order to do this though further investment in that site will be necessary to make it fully operational and funds from the sale of the application site would permit this and potentially other operational investment in the business. The application submits that this growth will strengthen Eddis Transport as a whole, including having regards to its other sites within County Durham. Only limited weight can be afforded to this as a benefit given the LPA have no controls over the future investment strategy of the company. In addition to the application site and that recently purchased in Retford, Eddis also have operational sites at Consett (x2), Newton Aycliffe, Gateshead, Prudhoe, Haltwhistle, Heywood (Greater Manchester) and Mansfield/Worksop (Nottinghamshire). The application submits that the application site no longer meets the operational requirements of Eddis and that these operational requirements will be focused upon the other sites. The application submits that all staff currently at the application site are to be offered new positions within the company and that the intention is that Consett will remain the headquarters of the business. The application also submits that the existing site and buildings are not well suited for modern warehousing requirements, principally because of the low eaves height and that this would make the premises less attractive to re-

occupation by a similar operator and this is cited as another factor for the redevelopment proposing a differing use. Officers acknowledge the condition of the buildings however no evidence has been submitted with regards to the inability to successfully market the site. Furthermore, this wouldn't prohibit redeveloping the site for employment purposes although noting that the Council's ELR identifies that there is a significant over supply of employment land across the County.

103. The other site occupiers are; two car garage and storage operations; a graphic design business; an accountancy and; a motorcycle training company. The application submits that several of the occupiers are looking for alternative accommodation and the extent to which this has advanced varies. The applicant has highlighted the terms of the tenancy which site occupiers signed and that under those the site owners are permitted to give notice to said tenants. One of the site occupiers has objected to the development on the grounds of the impact upon their business (see paragraph 88).
104. It is understood from that existing businesses on site provide employment for approximately 25 employees. The proposed redevelopment of the site would result in the closure of those premises at that site, each business and employee may be relocated and retained at an alternative site but there are uncertainties in this regard and it must be considered that some loss of the current employment on site may occur. This is a matter for the planning balance of all considerations under the application.
105. Equally, however, consideration must also be had to the potential employment generation that the proposed development could deliver and upon full occupation this is estimated to be approximately 95 full time equivalent jobs which would be a significant increase in number.

Town Centre Uses and Impacts

106. CDLP Policy S1(A) defines a retail hierarchy of centres within the Durham City area, placing Durham City Centre first, District Centres (including the Arnison/Mercia Centre) second and Local Centres third. Its aim is to protect and promote the vitality and viability of all centres within the local hierarchy. The approach to defining a retail hierarchy is consistent with the guidance within the NPPF which states a need to define a network and hierarchy of centres that is resilient to anticipated future economic changes (Paragraph 23), the Policy is therefore up to date in this respect and can be given full weight in the planning process.
107. Policy CC1 of the CDLP seeks to protect and enhance the vitality and viability of the city centre. It sets out that this will be achieved by promoting a mixture of uses, sustaining the shopping area, promoting new residential development, introducing environmental improvements, enhancing access to the city by sustainable means and promoting development which seeks to enhance the area. The development site lies outside the city centre boundary area (as defined on inset 15 of the City of Durham Local Plan Proposals Map). Whilst parts of the policy are consistent with the NPPF, the NPPF provides more up to date guidance in terms of applying the sequential test which is referenced within this policy. Furthermore, CDLP Policy CC1 was partially informed by a retail study dating back to 1997. As a result, Policy CC1 is considered to be out of date. There is now more recent retail evidence which supersedes this study particularly in relation to defining boundaries and frontages. The Council undertook a Retail and Town Centre Study in 2009 which was updated in 2013 and again in 2018. Part of this work provides recommendations on a retail hierarchy for the Council which updates the one outlined in Policy S1A although the status of centres within Durham City remains largely unchanged. The study also provided a review of defined town centre boundaries across the County, which have since been further reviewed through later studies and annual monitoring. The application site does not fall within a defined centre.

108. Policy S9B states that where there is an identified need for large scale retail and leisure proposals that cannot be met through existing allocations, that a sequential approach to site selection should be adhered. Where development cannot be accommodated in these locations, alternative sites can be considered provided that the impact of the development, including cumulative impacts with other developments, do not adversely affect the vitality and viability of any existing centres and be acceptable in regards to a range of other material planning considerations relating to highways and locational sustainability. This policy is considered partially consistent with the NPPF given the reference to the sequential approach and the need to consider impacts on the vitality and viability of existing centres. It also however requires an identified need to be established which is not reflected in the NPPF. Policy S9B can be afforded moderate weight.
109. Policy S10 relates specifically to food and drink development noting that these will be permitted within settlement limits provided there are no adverse effects on the amenity of residents, adequate provision is provided for parking, it is in scale and character with its surroundings and does not compromise the level of provision identified in other policies within the plan. This policy is only considered to be partially consistent with the NPPF which lists drive-thru restaurants as main town centre uses. Policy S9B can be afforded moderate weight.
110. The NPPF, which post-dates the CDLP, provides more up to date advice in respects to the sequential and impact tests and guidance on the assessment of retail development of the type proposed.

The Sequential Test

111. Paragraph 86 of the NPPF sets out the order of preference in applying the sequential approach. The first preference is for main town centre use developments to locate in town centres, followed then by edge of centre locations, and only if no other suitable sites are available should out of centre sites be considered. As required in Paragraph 87 of the NPPF and in the NPPG it is important to consider the potential for flexibility on issues such as format and scale to be demonstrated for the purposes of the sequential test, whilst recognising that neither the NPPF or NPPG specifically refer to disaggregation (breaking up elements of the proposal). The NPPG provides a 'checklist' for the application of the sequential test in decision taking. It indicates the following considerations:
- With due regard to the requirement to demonstrate flexibility, has the suitability of more central sites to accommodate the proposal been considered? Where the proposal would be located in an edge of centre or out of centre location, preference should be given to accessible sites that are well connected to the town centre. Any associated reasoning should be set out clearly.
 - Is there scope for flexibility in the format and/or scale of the proposal? It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.
 - If there are no suitable sequentially preferable locations, the sequential test is passed.
112. There has been a number of appeal decisions and case law which provide guidance on the correct approach for the application and assessment of the sequential test

including in regard to what degree of flexibility an applicant must demonstrate in regards to site suitability and what adjustments to the scale and form of development proposed could reasonably be undertaken. There is no specific requirement within the NPPF to consider disaggregating developments or that in properly considering flexibility disaggregation must form a part of this. However, disaggregation may still in some instances be an appropriate consideration particularly where the proposal is large-phased, open-ended and more speculative in nature. In many instances, to have properly considered flexibility, alternative sites, in order to be considered as suitable, should be capable of accommodating development which is recognisably closely similar to that which is proposed.

113. The site is within 300m of the defined Arnison Centre. In that regard, the site is seen as 'edge of centre' as per the definition within the NPPF. A sequential test has been submitted by the applicant in support of this application which considers the potential to locate the development elsewhere within Durham City. Sites were considered in and around the city centre namely The Riverwalk, the former Millburngate House site, Elvet Waterside, 13-15 North Road and vacant units within the city centre. All sites were discounted for a variety of reasons including that the available units were not of a sufficient size to accommodate the proposed retail elements therefore were not suitable in sequential terms to accommodate the scheme, the sites are now proposed for uses other than retail (e.g. the redevelopment of Durham Bus Station) and/or are in active use and are therefore not available.
114. Alternative sites have also been considered at Arnison District Centre, the Former Mono Containers site, the Alexage Site, St Andrews Park and Durham City Retail Park. The application submits that there are limited vacant units within the Arnison Centre itself and none are of a size to accommodate the proposals. The other sites listed are sites located on the edge of the defined Sherburn Road/Dragonville District Centre. In that regard, it is submitted that they are all sequentially equal to that of the application site. These are located on the eastern edge of the town away from the proposed catchment area of the proposed development. With regards to the Alexage site, this has now been developed and is currently occupied by a Lidl and The Range.
115. Pegagus Group, on behalf of the Co-operative Group, have raised an objection to the sequential test suggesting that no weight should be attached to the assessment as it is 'wholly speculative.' However, officers conclude that given the detailed layout, it is evident that despite there being no end users named, the scheme has been designed with the requirements of the end users in mind. In this respect the Council's Planning Policy Officers have assessed the sequential test considering the detailed scheme and it is considered that the applicants have demonstrated sufficient flexibility when considering alternative sites. The applicant's conclusion that none of the alternative sites assessed are both suitable or/and available to support the proposed development is accepted.
116. Overall, it is considered that the applicant has provided a comprehensive sequential assessment and the conclusions reached that there are no sequentially preferable sites in the city centre or district centre locations are accepted. In this regard it is concluded that the sequential test is passed.

The Impact Test

117. Given the levels of proposed floorspace an impact test is required to determine whether the proposal will have a detrimental impact upon the city centre or other retail centres in the vicinity. Paragraphs 89 and 90 of the NPPF indicate that application proposals for retail and leisure development should be refused planning permission where a significant adverse impact is likely to arise from the proposed development. It should be

recognised that impacts will arise with all retail developments, but that these will not always be unacceptable, not least because development often enhances choice, competition and innovation. It is therefore necessary to differentiate between those developments that will have an impact, and those that will undermine the future vitality and viability of established centres, i.e. have a 'significant adverse' impact.

118. The two key impact tests identified by Paragraph 89 of the NPPF are considered below. The tests relate to:

- the impact of the proposal on existing, committed and planned public and private sector investment in a centre or centres in the catchment area of the proposal; and
- the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider retail catchment (as applicable to the scale and nature of the scheme).

Impact on Investment

119. The application submissions consider the impact that the proposal would have on any plans for public and private investment in Durham City Centre, with sites at The Riverwalk, the former Millburngate House site and also other city centre sites at Claypath and North Road being considered. It was concluded that the proposal would not give rise to any significant adverse impact on planned public or private investment in these locations due to these committed schemes not providing retail units of a size or type to directly compete, not being directly comparable and seeking to capture different markets (e.g. leisure, offices).

120. Whilst a masterplan has recently been approved for Chester-le-Street it is not considered directly comparable to the proposed scheme. Furthermore, there are no schemes with permission or planned schemes which would be directly impacted upon by the proposals.

121. The Council's Planning Policy Officers accepts these findings. It is therefore concluded that the proposal would not have a significant adverse impact on investment within defined centres in Durham City or Chester-le-Street.

Impact on Vitality and Viability

122. In order to consider the impact on town centre vitality and viability the applicants have provided a quantitative impact assessment. Upon reviewing this, the Council's Spatial Policy Officer agrees with the applicant's approach which bases the assessment on data from the Council's most recent Retail and Town Centre study.

123. The scheme has been designed to accommodate a discount foodstore, a frozen foodstore and a retailer selling DIY/garden, household and other bulky goods described by the applicant as a home store in addition to a drive thru coffee shop. Whilst no end operators have been named it is understood that the developer is in advanced discussions with operators for each of these units. The consideration of the potential impact is based on this specific mix of retailers.

124. It is important to consider the performance and vulnerability of centres within the catchment which will be affected by the proposed development. Each of the centres are analysed within the application and stated to be healthy and viable and these findings are considered acceptable.

125. The report assesses the convenience retail impacts across a range of centres in terms of likely levels of trade diversion and the spread of trade diversion. Given its proximity, the application submits that the greatest impact in terms of trade diversion will fall upon existing retailers (Lidl (27.4%), Sainsburys (11.5%) and M&S Foodhall (5.3%)) within the Arnison Centre with an overall impact upon that centre of 13%, rising to 15.2% taking into account cumulative impacts (factoring in committed and recently implemented developments). The Council's Town Centre and Retail Study notes that all these foodstores perform strongly and above their company average therefore despite the high level of trade diversion it would not lead to a significant adverse impact. The application presents that the impact on stores at Dragonville (Tesco, Aldi and Iceland) and the wider district centre would not be as great given the different geographical locations they serve. The trade diversion impact upon the city centre is presented as being 6.4% with a cumulative impact of 9.2% recognising that existing convenience retailers (e.g. Tesco, Sainsbury's and Iceland) are small in scale and perform more of a top up role. Local centres are considered to perform a similar role in the immediate neighbourhoods they serve and similarly the impacts are not considered to be significant. Any convenience impacts outside of the city would be very minimal.
126. The application presents the forecast impacts upon comparison goods (other household items) and considers them to be low, suggesting the impact will be felt across a number of different stores in different centres. The greatest levels of trade diversion are anticipated at the Arnison Centre (2.2% rising to 9.3% factoring in all cumulative impacts) given its close proximity to the development site. Whilst the proposed home store would have overlap with some existing retailers including Wilko and Asda Living, given how well this centre performs and the low vacancy levels it is not considered the impacts would be significantly adverse. Low levels of trade diversion are expected from the city centre (less than 1% and cumulative impact of less than 9%). An objection has been received from Durham Bid expressing concern in relation to the impact of the development on the city centre and recent trends which have shown a decline in retail uses within the city centre as it transitions to a more mixed retail and leisure destination. Overall the city centre performs generally well, with vacancy rates around the national average. The Council's Planning Policy Officer considered that whilst trade diversion is likely to be greater than that identified by the applicant, they agree that the impact would not be significantly adverse. The applicants predict a trade diversion of 14.1% (16.6% cumulative impact) from the Sherburn Road District Centre and Durham City Retail Park. Many of the retailers most likely to be affected by the proposal are not within the defined centre therefore do not benefit from any policy protection. Furthermore, they serve a different catchment geographically.
127. The proposed drive thru coffee shop would be considered to have a negligible impact on any similar existing in centre facilities.
128. Considering these key points, it was ultimately concluded by the Council's Planning Policy Officer that while there would be some impact on existing retail trade, this is considered to be less than significant and would not result in a significant adverse impact upon the vitality and viability of existing centres. As a result, there are no grounds to resist the application on the basis of NPPF paragraph 90. These conclusions are based on the assumption that any planning permission would be subject to a planning condition that would restrict the quantum of floorspace within the proposed stores which could be used for the sale of specific types of goods.

Conclusions on the Principle of Development

129. Overall, officers consider that the sequential and impact tests have been passed. Whilst there would be some impact on existing trade this would be less than significant therefore there are no grounds to resist the application on the basis of paragraph 90 of

the NPPF. The proposal would provide new shopping provision that would enhance consumer choice. The proposed redevelopment of the site would result in loss of employment land and existing businesses. Whilst each business and employee may be relocated and retained at an alternative site there are uncertainties in this regard and some loss of the current employment on site may occur. Equally the redevelopment of the site has the potential to deliver approximately 95 full time equivalent jobs which would be a significant increase in number compared to the existing businesses on site which provide employment for approximately 25 employees. The funds released from the sale of the site would allow Eddis, a strategic employer within the County, to expand their business into other areas of the country and potentially make other operational investment in the business. Only limited weight can be afforded to this as a benefit given the Council have no control over the reinvestment strategy of Eddis.

130. However, as the CDLP policies most important for determining the application are considered out of date, the assessment of the application would be required under Paragraph 11(d) of the NPPF to ascertain if the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits, or whether the application of policies in the NPPF that protect areas or assets of particular importance provide a clear reason for refusal. Clearly, this former assessment can only be considered following an examination of all of the issues within the planning balance.

Locational Sustainability of the Site

131. CDLP Policies Q2 and T5 advises that the council encourage improvements to assist public transport services including the provision of suitable facilities and ensuring new development can be conveniently and efficiently served by public transport. These policies are considered consistent with the NPPF, which also seeks to promote accessibility by a range of methods, and accordingly, they can be given full weight in considering the application. Specifically, the NPPF at Paragraph 103, sets out that the planning system should actively manage patterns of growth including, to promote walking, cycling and public transport use. Significant development should be focused in locations which are, or can be made, sustainable, through limiting the need to travel and offering a genuine choice of transport modes. Further to this, Paragraph 110 of the NPPF sets out that applications for development should give priority to pedestrian and cycle movements and facilitate access to high quality public transport. Decisions should address the connections between people and places and the integration of new development into the natural and built environment.
132. The application is accompanied by a Transport Assessment, which assesses the accessibility of the site to local services and facilities, by foot and bicycle, as well as impacts upon the highway network in terms of vehicular traffic. A Travel Plan, a method for enabling and encouraging travel by modes other than driving alone, has also been provided in support of the application.
133. Bus stops lie within close proximity of the site on Pit Lane which provide a regular service between Durham, more local surrounding areas and places further afield including Brasside, Sherburn Village, Wheatley Hill, Washington and South Shields. All areas of the site would lie within the recommended 400m walking distance criteria to bus stops. The site is considered to be well connected in terms of public transport links.
134. Paragraph 98 of the NPPF outlines that decisions should protect and enhance public rights of way and access including taking opportunities to provide better facilities for users. Policies R11 and T21 of the CDLP set out that public rights and other paths will be protected therefore are considered consistent with the NPPF.

135. In this regard a public right of way (Footpath No.16 (Framwellgate Moor)) runs adjacent to, albeit outside, the site's western boundary. The Council's Public Rights of Way Officer (PROW) has raised no objection to the scheme as there would be no impact on the footpath given it lies outside the site boundary and no connection is proposed. An informative is, however, recommended to be imposed relating to the protection of public rights of way. As such, the proposal would be in compliance with CDLP Policies R11 and T21.
136. Part 9 of the NPPF sets out transport issues should be considered from the earliest stages of plan making so that opportunities to promote walking and cycling (amongst others) are identified and pursued. The lack of a connection onto FP16 has been raised as a concern especially as it would give a more direct and convenient access to Pity Me to the west. The developer has advised that it is not possible to provide a link into the site at the north-western corner, for either pedestrians or vehicles. This is due to reasons of land ownership and the lack of available space to create connections. Concerns have also been raised in relation to health and safety and the need to avoid any potential conflict between pedestrians and service vehicles.
137. The proposal and supporting documents have been considered by the Council's Sustainable Travel Team. Overall no objection is raised to the scheme. The Travel Planning Officer confirms that the submitted Travel Plan meets DCC requirements and adherence to this can be secured by condition.
138. Overall, whilst recognising the development fails to fully pursue opportunities for improving accessibility given the lack of a direct access link to FP16 the site performs well in all other regards. The locational sustainability of the site is considered acceptable. The development would, therefore, accord with Policies Q2, R11, T5 and T21 of the CDLP and Part 9 of the NPPF.

Highway Safety and Access

139. Policy T1 precludes development proposals that would result in a level of traffic detrimental to highway safety or which would have a significant effect on the amenity of occupiers of neighbouring property. Policy T1 is considered consistent with the NPPF, which also seeks to ensure that a safe and suitable access can be achieved and, therefore, it can be given full weight in considering the application. The NPPF, at Paragraphs 108 and 109, also sets out that when considering development proposals, it should be ensured any significant impacts from the development on the transport network (in terms of capacity and congestion), can be cost effectively mitigated to an acceptable degree. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Concerns over highway safety including the capacity of the road network to accommodate additional flows have been raised by local residents.
140. Paragraph 111 sets out that all developments that would generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed. In this respect, the application is accompanied by a Transport Assessment (TA) and a Travel Plan (TP). Collectively the submitted documentation considers the potential impacts of the development and the adequacy of the site for the development with respect to a range of highways and transport related issues.
141. CDLP Policy Q2 outlines that the layout and design of all new development should take account the requirements of all users including ensuring a satisfactory means of access

and manoeuvring of vehicles. Policy Q2 is considered consistent with the NPPF and can be afforded weight. Policy T10 seeks to minimise the level of provision within new development including setting maximum parking guidelines for residential development. Policy S10 sets out that new food and drink establishments should have adequate parking provision in accordance with Policy T10. However, this is considered contrary to the more up to date advice within NPPF Part 9, which advocates a more flexible approach and advises against maximum parking standards unless there are compelling reasons for doing so. As a result, very little weight is attributed to Policy T10 and S10 3). Car parking standards are now outlined in the Council's Parking and Accessibility Standards. Policy Q3 relates to the design of external parking areas and is addressed in another section of the report.

142. Vehicular access into the site will be provided from a new signalised (for both pedestrian and traffic) T-junction on Pit Lane including a dedicated right turn entry lane. The existing roads into the site will be closed-off and the footway reinstated. Pedestrian access to the site would be provided from minimum 1.8m wide footways along both sides of the access roads which will tie into existing provision. Internal to the development pedestrian walkways will be signed, step free, with raised zebra crossing provision and tactile paving at appropriate points to help ease of movement throughout the site.
143. An assessment of the scheme against the Council's parking and accessibility standards would require that the development provides 277 car parking spaces. The actual number proposed is 267, which includes staff parking, therefore falls some 10 spaces short of what normally be accepted. Adequate provision is made for disabled persons, electric vehicle and electric vehicle enabled car parking spaces. Given that most parking will be shared and for cross visitation use across more than one unit, the Highway Authority have confirmed that they are prepared to accept the slight reduction in parking supply.
144. CDLP Policy T20 requires new development to accommodate cycle parking facilities to promote this sustainable mode of transport and is consistent with the aims of the NPPF. Whilst cycle shelters have been included within the scheme, it would have been preferable for them to be located to the front of units, where they benefit from natural surveillance, rather than to the rear of buildings.
145. The Highway Authority are now satisfied with the layout as well as the TA including the modelling undertaken, assumptions and conclusions reached by the transport consultant following amendments which widened the scope of the junctions assessed, changes to the traffic lights design and access arrangements to the site. The proposed development will not result in severe residual cumulative impacts on the operation of the current and proposed highway network. Conditions are recommended to secure full engineering details of the access and its implementation prior to occupation in addition to a car park management strategy. Informatives in relation to Section 278 works and DCC highway permits are also advised.
146. Overall, based on the advice of the Highway Authority, it is considered that the proposal would be served by an appropriate means of access and would not have an unacceptable impact on the wider highway following updates to the Transport Assessment, updates to the traffic signal design and amendments to the internal layout. The slight reduction in car parking provision and location of cycle parking provision are matters to be considered in the planning balance for this application. The scheme is considered acceptable with regards to CDLP Policies Q2, S10, T1, T10 and T20 and Part 9 of the NPPF in this respect.

147. CDLP Policy H13 requires new development to protect the amenities of neighbouring occupiers and land users in the vicinity of the development site. CDLP Policy S10 imposes similar requirements for new food and drink establishments. CDLP Policy U5 states that planning permission will not be granted for development that may generate pollution that will have an unacceptably adverse impact upon the local environment, the amenity of nearby and adjoining land and property or that would unnecessarily constrain the development of neighbouring land. These policies are considered consistent with Parts 12 and 15 of the NPPF which require that developments ensure a high standard of amenity for existing and future users, whilst seeking to prevent both new and existing development from contributing to or being put at unacceptable risk from unacceptable levels of pollution. Policies H13, S10 and U5 should be afforded full weight in the decision-making process in this respect.
148. There are a number of sensitive receptors in proximity of the site, namely the park homes to the south of the site within Low Carrs Park and residential properties on Old Pit Lane. The residential properties to the south are particularly sensitive, being park homes they do not benefit from the level of acoustic protection provide by conventional residential builds. These properties are also single storey.
149. Various amendments have been made to the scheme throughout the course of the application in response to concerns raised and in order to limit potential adverse impacts to adjacent occupiers. The main amendments in this regard can be summarised as follows;
- Units 1 and 2 have been positioned further away from the southern boundary in order to increase the separation distance between the units and the park homes to the south. These units have also been reduced in height by approximately a metre.
 - Existing vegetation along the southern boundary to be partially retained and strengthened in areas so as to create a buffer to help screen the development from adjacent residential properties.
 - The removal of the western-most drive-thru café (A5 – hot food takeaway) and a slight reduction in size to the remaining unit (A3 – food and drink).
 - Repositioning the acoustic fence.
150. The current site arrangements comprise of built development to the east with more open areas to the west accommodating vehicle storage. Properties within Low Carrs Park have varying degrees of outlook to the north. Some have built development within 4.8m of their properties whereas others look out onto the tree grouping to the south west of the site.
151. The Local Plan does not contain specific guidance on appropriate separation distances between these uses, therefore a judgement has to be made on whether the arrangements would be acceptable or not in terms of impact upon amenity. With regards to Unit 1 (discount food retailer) a minimum distance of approximately 8.5m would be achievable between the park home properties within Low Carr Park, although further reduced for Low Carrs Lodge with separation distances in the region of 5m. The eaves height at this location would be 5.4m and site levels would be raised by approximately 0.6m. Screen planting is proposed to help mitigate the impact and soften views of the development. The existing timber fence would be retained.
152. With regards to Unit 2 (home store) a minimum distance of approximately 16m would be achievable between the properties in Low Carrs Park in comparison to the 12.8m originally proposed. The height of the eaves has also been reduced down to 8.35m with

site levels being largely unaffected. The existing screening and timber fence would also be retained.

153. On the one hand in some instances, there would be a reduction in the level of amenity currently experienced by residents, however not to an unacceptable degree. The proposed redevelopment would have benefits for some occupiers at Low Carr Park in comparison to the existing site layout. The existing vegetation and timber fence along this boundary in addition to proposed planting would provide varying levels of screening to the development. Given the development lies to the north of these properties overshadowing is not a concern.
154. A Noise Impact Assessment has been submitted in support of the application, assessing the development in the context of the existing noise climate. The Council's Environmental Health and Consumer Protection Officer advises that the assessment has identified all expected noise sources and assessed these against appropriate methodologies to demonstrate the potential outcome. A further note on noise has been received to clarify queries raised within their initial consultation response.
155. During the day, the dominant noise source within the development relates to car movements. The Council's Environmental Health and Consumer Protection Officer recommends a condition to restrict the hours of operation so that they do not exceed 07.00-23.00. The Police Architectural Liaison Officer recommends that car parks are barriered when the shop units are not in operation to prevent anti-social use of the car parks. This matter can be considered and controlled through a car parking management strategy condition.
156. The noise assessment also considers noise associated with deliveries and plant. Initial indications demonstrate that noise from the plant both during the day and night falls within acceptable levels, however, as no final details have been provided a condition will be required to ensure this is the case. Whilst the noise arising from deliveries would be acceptable during the day, given the proximity of residential properties it would not be suitable during night-time hours. As such a condition is required to agree a suitable scheme for deliveries and servicing. The noise levels stated in the southern part of the site rely on an acoustic fence which is proposed to sit between Units 1 and 2. A condition is required to secure the specific details of the fence and its construction to ensure it can achieve the reduction stated. Noise arising from the drive-thru is not shown to be significant when considered against the existing noise levels provided hours of operation are limited.
157. Whilst some drive-thru food and drink outlets have the potential to be odour generating, the agent has confirmed that the intended operator will not need any fume extraction facilities.
158. The applicant has provided a lighting plan to demonstrate the light spill from the proposed car park lighting. Whilst this demonstrates that light spill at the nearest sensitive receptors will fall within an acceptable level the plan does not extend to the delivery and plant areas as the strategy is yet to be determined. The Council's Environmental Health and Consumer Protection Officer recommends a conditional approach to ensure that any other external lighting also falls within acceptable levels. Furthermore, the condition would also require lighting to be switched off between certain hours when the site is closed.
159. In order to limit the potential disturbance for existing residents during the demolition and construction phase, Environmental Health and Consumer Protection Officers recommend that a construction management plan is secured to deal with construction related impacts. A separate condition is also proposed to control the hours of

construction work. Subject to the imposition of such conditions, construction related impacts could be adequately managed and mitigated.

160. An air quality impact assessment has been submitted assessing the impact of the development which has been revised during the course of the application. In reviewing the assessment, the Council's Environmental Health and Consumer Protection Officer (Air Quality) advises that the further air quality note does not fully address the comments previously made, however, it is not considered that this is likely to significantly alter the conclusions of the assessment. The assessment, in relation to the operational phase, advises that the development will not exceed the local air quality objectives. In relation to the impact during the construction phase, a dust management plan is shown to be required. This matter can be addressed via condition as part of a requirement to agree a construction management to mitigate construction-related impacts including dust.
161. Overall, the development would not lead to a significant reduction in residential amenity subject to appropriate conditions. The scheme would therefore comply with CDLP Policies H13, S10 and U5 and Parts 12 and 15 of the NPPF.

Layout and Design

162. CDLP Policies Q1, Q2, Q3, Q4 and Q5 together require safe, inclusive, accessible and good quality, well landscaped developments. Policy S10 sets out that new food and drink premises should be in scale and character with their surroundings. CDLP Policies E14 and E15 seek to safeguard existing trees and hedges and provide new trees and hedgerows as part of new development proposals. These policies are considered to be consistent with Part 12 of the NPPF, which sets out that good design is indivisible from good planning. The policies can, therefore, be afforded significant weight.
163. The western side of Pit Lane currently benefits from a strong built frontage from existing and commercial uses. The proposed layout does not positively address Pit Lane to fullest potential with units set within the site resulting in an area dominated by parked cars. The developer has advised that layout has been carefully considered, reflecting end operators' preferences and also site constraints including existing service runs.
164. The scale and massing of the buildings is typical of retail development of this nature and responds well to the surrounding area. The form of each building differs slightly, and architectural detailing ensures that elevations are broken up with horizontal timber effect cladding, plinth level brick and large areas of glazing to the most publicly visible elevations. The design and conservation officer, whilst noting there were some opportunities for improvement, raised no overall objection to the scheme. A condition would be required to ensure that suitable materials are proposed to both the units and hardsurfaces in addition to securing means of enclosures.
165. A detailed indicative landscape scheme has been submitted for consideration which has altered to reflect the various amendments to the scheme. It shows various areas of landscaping, most notably a strip of landscaping is proposed adjacent to Pit Lane which would help to soften the frontage of the development in addition to some planting on the southern boundary to help screen the development and smaller areas internal to the development. The landscape officer notes that the reduction of the soft landscaping content within parts of the scheme is regretful. Whilst this has been done to satisfy highway requirements there is now significant areas of tarmac without separation and mitigating planting beds which would add visual amenity value. Given that the site has been extensively developed out there is little scope to amend this. Conditions are required to secure the implementation of the detailed landscape scheme and its management and maintenance thereafter.

166. The majority of trees within the site lie in large groupings (Groups 2 and 3) to the western and southwestern boundaries of the site. There are also some individual trees located adjacent to the access road (trees 1-9). The submitted arboricultural report outlines that the proposed design would necessitate the removal of trees 1-9, a small selection of Group 2 (only including one small Cherry and cutting back overhanging foliage) and that trees in Group 3 are removed as inappropriate for retention (some young, self-seeded trees which are densely packed and have poor form). The landscaping scheme does include a number of new trees which will help to mitigate this loss including some additional planting along the southern boundary to help screen the development from the adjacent residential development.
167. The Council's Arboricultural Officer advises that all retained trees must be protected by fencing outlined within the tree report and comply with BS 5837 2012. He also confirms that the additional information provided in relation to tree pits is now considered to be acceptable. Whilst he has no objection to the removal of trees 1-9 he considers that the removal of parts of Group 2 & 3 are unacceptable due to the valuable screening they provide. In terms of the loss of the existing trees on the site, although the concerns of the are noted, it is considered that there are no trees on the site that are of significant arboricultural or amenity value. The landscaping scheme also proposes additional planting.
168. Policy Q15 sets out that the Council will encourage the provision of artistic elements in the design and layout of the development. Although the NPPF is silent on public art, it is supportive of ensuring that development makes places better for people and the policy can be afforded some weight as a result. However, areas of landscaping are limited and it is not considered there would be sufficient space within the scheme to accommodate this. It is considered that it would not be reasonable or necessary to impose a condition in this regard.
169. Whilst recognising improvements could have been made, on balance, it is considered that the scheme achieves a suitable layout and design. Therefore, subject to conditions outlined within the report the proposal would comply with Policies Q1, Q2, Q3, Q4, Q5, S10, E14 and E15 of the CDLP and Part 12 of the NPPF in this respect.

Ecology

170. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them. Policy E16 of the CDLP states that development proposals should take account of any nature conservation interest within the site by providing appropriate surveys, avoid any unacceptable harm and provide mitigation measures where appropriate. The advice contained within Policy E16 is considered consistent with that within the NPPF and can be afforded weight.
171. The lies within 40m of Pity Me Carrs Local Nature Reserve (LNR) and Framwellgate Moor Carrs Local Wildlife Site (LWS). An ecological appraisal and bat survey has been submitted in support of the planning application. This outlines that the site predominantly comprises of buildings and hardstandings, all of low ecological value. There are some areas of woodland, scrub, grassland and tall ruderal vegetation of local habitat value which link into a wider network of habitats in the adjacent LNR and are of county value. CDLP Policies E18 applies to locally designated sites of nature conservation and advises that harmful development will not be permitted, unless the benefits from the development outweigh the harm, there are no alternatives sites for the development and measures are undertaken to minimise adverse effects associated with the scheme including as necessary compensatory measures. The policy is considered consistent with the NPPF.

172. The surveys undertaken recorded a number of birds nesting within the existing buildings. The site was concluded to be of negligible to low suitability for roosting bats. The habitats on site are generally of low suitability for foraging and commuting bats with the exception of the woodland and scrub areas in the southwest of the site which is well connected to higher value habitat within Pity Me Carrs LNR. As a precautionary measure, works to some of the existing buildings on site should be completed to a bat method statement.
173. Localised areas of site (the coarse grassland, scrub, tall ruderal vegetation and woodland) would provide some suitable habitat for great crested newts due to the area holding shallow ephemeral water and that it is well connected to Pity Me Carrs LNR, with known breeding populations of great crested newts. The suitable great crested newt habitat in the southwest of the site has been excluded from the development area and works to the other areas of the site will be completed to a detailed amphibian method statement which has been submitted and agreed. No interference is identified and this issue is expanded in paragraph 178.
174. Both hedgehog and common toad are considered likely to be present on site on occasion. Toad welfare on the development site is included within the Amphibian Method Statement and hedgehogs are to be protected from harm during construction through precautionary working methods.
175. These species are all afforded special legal protection under the Conservation of Habitats and Species Regulations 2017 and/or the Wildlife and Countryside Act 1981 (as amended).
176. In order to mitigate the impact of the development, the ecological appraisal outlines a series of mitigation and enhancement measures that are proposed. These include, but are not restricted to, site design, the restriction of works from bird nesting season (unless a checking survey is carried out), working methods and best practice, a compensation strategy, enhancement proposals and further survey work to be undertaken if the development does not proceed within 12 months of the report (by December 2020).
177. A biodiversity calculation report has been undertaken. The site is predominately developed with only small areas of relatively poor quality habitat. It is considered that compensation and enhancement can be secured through the detailed landscaping and management scheme and the provision of bat and bird boxes which would ensure that there is no net loss of biodiversity in regard to Paragraph 175 of the NPPF.
178. No interference with protected species is identified as a result of the development. A European Protected Species Licence is therefore not considered to be required as a result of the development having regards to the requirements of the Habitats Directive brought into effect by the Conservation of Habitats and Species Regulations 2017. Therefore, subject to conditions relating to the provision of bat and bird boxes and adherence to the recommendations outlined within the ecology report and adherence to the amphibian method statement the proposal would comply with CDLP Policies E16 and E18 and Part 15 of the NPPF in this respect. The Council's Ecologist offers no objection to the scheme on this basis.

Flooding and Drainage

179. National advice within the NPPF and PPG with regard to flood risk advises that a sequential approach to the location of development should be taken with the objective of steering new development to flood zone 1 (areas with the lowest probability of river or sea flooding). When determining planning applications, local planning authorities

should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment. CDLP Policy U10 seeks to prevent increases in flood risk occurring due to development whilst Policy U8A requires satisfactory arrangements to be made for the disposing of foul and surface water discharges. These policies are considered consistent with the content of the NPPF and can be attributed weight in the decision making process.

180. The application is accompanied by a flood risk assessment (FRA), which highlights that the application site is within flood zone 1 with a low flood risk probability. The FRA also sets out a drainage strategy whereby the development will be discharged to a nearby Northumbrian Water Limited (NWL) surface water sewer system in a managed and controlled manner. The strategy demonstrates that surface water from the proposed development will be restricted and surface water storage provided to ensure no flood risk impact occurs on or off the site. As part of this strategy, sustainable drainage systems will be included as appropriate. In relation to foul water, it is proposed to connect to the existing sewerage network.
181. NWL have raised no objection to the development on the basis a conditional approach is applied to secure that the development takes place in accordance with the agreed scheme. Drainage and Coastal Protection officers have recommended a conditional approach to secure a detailed scheme in accordance with the principles outlined within the Flood Risk Assessment and Drainage Strategy reports and the addendum to these.
182. On this basis no objections to the development on the grounds of flood risk or drainage are raised having regards to CDLP Policies U8A and U10 and Part 14 of the NPPF.

Heritage and Archaeology

183. The Archaeology Officer offers no objection on archaeological grounds given the land has been previously developed in the recent past and the area is not one of archaeological sensitivity. There is no requirement for the applicant to undertake any archaeological work. The proposal is therefore considered to comply with CDLP Policies E21 and E24 and Paragraph 128 of the NPPF. These Policies are considered either consistent (E21) or partially consistent (E24) with the content of the NPPF and can be attributed weight in the decision making process.
184. There are no designated or non-designated heritage assets within close proximity of the development site. The nearest listed buildings to the site, a Grade II listed public house, lies approximately 1km to the south west. Durham (City Centre) Conservation Area, containing a number of listed buildings scheduled monuments and World Heritage Site is located approximately 2km to the south of the proposed built development. Plawsworth Conservation Area lies approximately 2.3km to the north. The Planning (Listed Buildings and Conservation Areas) Act imposes a statutory duty that, when considering whether to grant planning permission for a development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Any such harm must be given considerable importance and weight by the decision maker.
185. It is considered that there would be no intervisibility between the site and the aforementioned designated heritage assets due to the distances involved, intervening buildings, topography and landscaping. Design and Conservation officers have raised no objections to the proposal on heritage grounds. Paragraph 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the

public benefits of the proposal, including securing its optimum viable use. In this case it is considered that there would be no harm either in terms of the impact upon listed buildings or the conservation area & WHS. The proposals would, therefore, accord with Part 16 of the NPPF and the requirements of CDLP Policies E6, E21, E22 and E23. These Policies are considered either consistent (E21) or partially consistent (E6, E22 and E23) with the content of the NPPF and can be attributed weight in the decision-making process.

Other Issues

186. In relation to land contamination the applicant has submitted a Phase 1 Preliminary Risk Assessment. Environmental Health and Consumer Protection Officers agree with the conclusions within the report and that intrusive site investigations are required. They advise that conditions securing Phase 2 works onwards and an informative relating to unforeseen contamination are applied to ensure that the site is suitable for its intended use taking account of any risks arising from contamination. On this basis of the aforementioned the proposed development therefore complies with Policy U11 of the CDLP and Paragraph 178 of the NPPF which. This policy is considered fully consistent with the content of the NPPF and can be attributed weight in the decision-making process.
187. The application submission makes reference to the separate, subsequent planning application for a garden centre to the south west corner of the site which would be associated with the larger of the two retail units lying adjacent to it. Should a planning application for a garden centre be forthcoming it would be considered on its merits at that stage.
188. The Police Architectural Liaison Officer requests that car parks are barriered when the shop units are not in operation to prevent anti-social use of the car parks, that the construction management plan looks to avoid construction traffic movements at busy rush hour times and that measures are put in place to avoid mud debris on the highway. Conditions are recommended to secure a construction management plan and car park strategy.
189. The proposal has generated some public interest. Property devaluation is not a material planning consideration. Further neighbour notification letters were sent when more significant amendments to the scheme were made, whilst noting the reduction from five units to four was seen as an improvement to the scheme. Whilst the Local Planning Authority endeavour to reach a recommendation within 13 weeks this is not always possible. The delays in determining the application have been in part due to the Covid 19 situation in addition to ensuring all material planning considerations were fully investigated. The objections and concerns raised have been taken into account and addressed within the report. On balance the concerns raised were not felt to be of sufficient weight to justify refusal of this application in light of the benefits of the scheme and the ability to impose conditions.

Planning Balance

190. The acceptability of the application should be considered under the planning balance test contained within Paragraph 11 (d) of the NPPF. No NPPF policies that protect areas or assets of particular importance provide a clear reason to refuse the application and therefore planning permission must be granted unless any adverse impacts of the proposed development significantly and demonstrably outweigh any benefits.

Benefits

191. The development would provide direct and indirect economic benefits within the locality and from further afield in the form of expenditure in the local economy. This would include the creation of construction jobs, as well as an estimated 95 full time equivalent jobs and also indirect jobs over the lifetime of the development. An economic uplift would be expected to result from the development and expenditure benefits to the area. This is considered to be a significant benefit.
192. Potentially, the sale of the site would help Eddis, a strategic employer within the County, to expand their business into other areas of the country and potentially make other operational investment in the business more locally. However, the weight to be attributed to this as a benefit is limited given the Council has no control over the company's future investment strategy.
193. The development would enhance consumer choice in both the food and non-food retail sectors within the area. This is considered to be of some limited benefit.

Adverse Impacts

194. The development would have an impact on existing convenience and comparison retail trade in existing centres however these levels of impact are not considered to be significant. Both the sequential and impact tests have been passed.
195. The redevelopment of the site would result in the closure of existing businesses which provide employment for approximately 25 employees. Whilst each business and employee may be relocated and retained at an alternative site there are uncertainties in this regard and it must be considered that some loss of the current employment on site may occur.
196. The development would have some impact on the levels of amenity experienced by local residents, particularly those at Lows Carrs Park. However, this level of impact is not considered to result in policy conflict and is not considered significant especially in light of the ability to impose planning conditions.
197. Overall, whilst recognising the development fails to fully pursue opportunities for improving accessibility given the lack of a direct access link to FP16 the site performs well in all other regards and the locational sustainability of the site is considered acceptable.
198. It is considered improvements could have been made to the overall layout and design of the scheme. It is recognised that the developer has asserted this is not possible due to site constraints, needing to achieve levels of floorspace to meet retailers demands and highway requirements. Amendments have been made where possible including removing a unit from the scheme and incorporating landscaping where possible. On balance it is considered the layout and design is acceptable.
199. The Highway Authority note that slightly less than the requisite number of visitor car parking spaces have been provided and that some of the cycle parking provision would have benefitted from being located in areas of natural surveillance. Overall, whilst it is acknowledged that some limited harm may arise as a result of the aforementioned, this harm would not, it is considered, be significantly adverse and no highway objection has been raised.

CONCLUSION

200. As the CDLP policies most important for determining the application are considered out of date and there are no policies within the framework that protect assets of particular importance the acceptability of the application should be considered in the context of the planning balance test contained within Paragraph 11d of the NPPF. Permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
201. The proposals would result in the development of a major retail scheme in an edge of centre location. In this respect, the sequential test relevant to retail development outside an existing centre is considered to have been passed, whilst the impact of the development upon existing centres has been assessed as acceptable, with no significant adverse impact identified having regard to key advice within Part 7 of the NPPF. The identified benefits of the scheme include direct and indirect job creation, strengthening the business operation of Eddis a major employer within the County and increased consumer choice. It is acknowledged within the report that the application is in conflict with the CDLP given the application site is allocated as a general industrial estate and it is also recognised that some loss of this employment may occur.
202. Overall whilst it is acknowledged that some harm would arise, this harm would not be considered significantly adverse nor would it significantly and demonstrably outweigh the benefits associated with the development. Therefore, in accordance with Paragraph 11 of the NPPF, the proposed development should be granted planning permission.
203. The proposal has generated some public interest, with letters of objection and one letter of support having been received. Concerns expressed regarding the proposal have been taken into account, and carefully balanced against the scheme's wider social, economic and community benefits.
204. As the development consists of a major retail/leisure development in an out of town centre location with a floorspace in excess of 5,000m² the application must be referred to the Secretary of State via the National Planning Casework Unit for their consideration on whether to call in the application for their determination. Any resolution to approve must therefore be subject to this requirement.

RECOMMENDATION

That the Committee are **MINDED TO APPROVE** the application subject to;

The referral of the application to the Secretary of State via the National Planning Casework Unit; and in the event of the application not being called in, the Head of Planning be authorised to approve the application subject to;

the following conditions:

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

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

Plans

2. The development shall be carried out in strict accordance with the following approved plans/documents: -
- Drg. No. 15802-(PL)100 Location Plan received 27/09/2019
 - Drg. No. 15802-VL_L01 Rev. L Landscape Plan received 28/05/2020
 - Drg. No. 15802-VL_SK01 Rev. D Landscape Boundary Plan received 28/05/2020
 - Drg. No. 15802-(PL) 151 Rev. E Site Section A received 11/06/2020
 - Drg. No. 15802-(PL) 152 Rev. D Site Section B received 28/05/2020
 - Drg. No. 15802-(PL) 153 Rev. E Site Section C received 11/06/2020
 - Drg. No. 15802-VL_D01 Car park Tree Planting Detail – Arborraft received 25/11/2019
 - Drg. No. 15802-(PL)120 Rev. C Proposed Retail Terrace – GA Floor Plan received 19/12/2019
 - Drg. No. 15802-(PL)121 Rev. B Proposed Retail Terrace – Roof Plan received 19/12/2019
 - Drg. No. 15802-(PL)122 Rev. C Proposed Retail Terrace – Elevations received 19/12/2019
 - Drg. No. 15802-(PL)140 Rev. C – Proposed Unit 4 – GA Floor Plan received 19/12/2019
 - Drg. No. 15802-(PL)141 Rev. B – Proposed Unit 4 – Roof Plan received 19/12/2019
 - Drg. No. 15802-(PL)142 Rev. C Proposed Unit 4 – Elevations received 19/12/2019
 - Drg. No. 2019061-Z-96-L001 Rev. P03 External Lighting Layout received 19/12/2019
 - Drg. No. 15802-(PL)110 Rev. C Proposed Unit 3 – GA Plan received 08/01/2020
 - Drg. No. 15802-(PL)111 Rev. B Proposed Unit 3 – Roof Plan received 08/01/2020
 - Drg. No. 15802-(PL)112 Rev. C Proposed Unit 3 – Elevations received 08/01/2020
 - Drg. No. 15802-105 Rev. T Proposed Site Plan received 11/06/2020
 - Drg. No. 15802-(PL)150 Rev. E Proposed Site Sections received 25/05/2020

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies S1A, S9B, EMP8.a, H13, Q1, Q2, Q3, Q4, Q5, T1, T21, CC1, U8a and U11 of the City of Durham Local Plan and Parts 1, 2, 4, 7, 8, 10, 11 and 12 of the National Planning Policy Framework and the NPPF.

Floor Space

3. The total development hereby approved shall not exceed 5,134 sqm gross internal floorspace. Within this total, the maximum amount of commercial floorspace shall not exceed the following gross internal floorspace for each of the units shown on Drg. no. 15802-105 Rev T:

Unit 1 – 1115 sqm (within Use Class A1)
Unit 2 – 2,044 sqm (within Use Class A1)
Unit 3 – 1,805 sqm (within Use Class A1)
Unit 4 – 170 sqm (within Use Classes A1 and A3)

The total net sales area of Unit 1 shall not exceed 950 sqm, of which no more than 855 sqm net shall be used for the sale of convenience goods.

The total net sales area of Unit 2 shall not exceed 1,635 sqm. Notwithstanding the provisions of Class A1 of the Town and Country Planning (Use Classes) Order 1987 (as amended) or any Order revoking, amending or re-enacting that Order with or without modification, Unit 2 shall be used only for the sale of carpets, furnishings, electrical

goods, pets and pet supplies, office equipment, DIY products for the maintenance and improvement of the home, garden, motor vehicle goods, and for the following:

- Food and drink from an area extending to no more than 491 sqm
- Health and beauty products, pharmaceutical goods and toiletries from an area extending to no more than 164 sqm
- Household goods from an area extending to no more than 245 sqm
- Toys and games from an area extending to no more than 164 sqm
- Other miscellaneous ranges (including but not limited to seasonal goods and clothing and footwear) extending to no more than 164 sqm, with clothing and footwear extending to no more than 49 sqm

The net sales area of Unit 3 shall not exceed 1,315sqm of which no more than 80% shall be used for the sale of convenience goods.

Reason: To enable the Local Planning Authority to maintain control over the range of goods sold from within the development, and to ensure that the proposal does not detract from the vitality and viability of Durham City Centre, and other nearby District and Local Centres in accordance with City of Durham Local Plan Policies S1A, S9B and CC1 and Part 7 of the NPPF.

Tree Retention and Protection

4. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges to be retained, are protected in accordance with the details contained within in Arboricultural Impact Assessment, Arboricultural Method Statement and Tree Protection Plan Report ref: ARB/AE/2183 dated May 2020 by Elliott Consultancy Ltd and in accordance with BS.5837:2010.

No operations whatsoever, no alterations of ground levels, and no storage of any materials are to take place inside the fences, and no work is to be done such as to affect any tree which is protected by these fences.

No removal of limbs of trees or other tree work shall be carried out, other than those trees shown for removal on Tree Impact Plan ref. ARB/AE/2183/TIP (May 2020) prepared by Elliott Consultancy Ltd.

No underground services trenches or service runs shall be laid out in root protection areas, as defined on the Tree Constraints Plan.

Reason: In order to ensure effective screening of the development and in the interests of visual amenity, in accordance with Policy E14 of the City of Durham Local Plan and Parts 12 and 15 of the NPPF.

Contaminated Land

Contaminated Land (Phase 2-3)

5. Excluding demolition of existing buildings, and other than any measures required in order to comply with this condition, no development shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be compliant with the YALPAG guidance and include a Phase 2 site investigation, which shall include a sampling and analysis plan. If the Phase 2 identifies any unacceptable risks, a Phase 3 remediation strategy shall be produced and where necessary include gas protection measures and method of verification.

Reason: To ensure that the presence of contamination is identified, risk assessed and proposed remediation works are agreed in order to ensure the site is suitable for use, in accordance with Part 15 of the National Planning Policy Framework. Required to be pre-commencement to ensure that the development can be carried out safely.

Contaminated Land (Phase 4)

6. Remediation works shall be carried out in accordance with the approved remediation strategy. The development shall not be brought into use until such time a Phase 4 verification report related to that part of the development has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the remediation works are fully implemented as agreed and the site is suitable for use, in accordance with Part 15 of the National Planning Policy Framework.

Construction Management Plan

7. No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:
 1. A Dust Action Plan including measures to control the emission of dust and dirt during construction.
 2. Details of methods and means of noise reduction/suppression.
 3. Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
 4. Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.
 5. Designation, layout and design of construction access and egress points.
 6. Details for the provision of directional signage (on and off site).
 7. Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure.
 8. Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.
 9. Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period.
 10. Routing agreements for construction traffic.
 11. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.

12. Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
13. Management measures for the control of pest species as a result of demolition and/or construction works.
14. Detail of measures for liaison with the local community and procedures to deal with any complaints received.

The management strategy shall have regard to BS 5228 "Noise and Vibration Control on Construction and Open Sites" during the planning and implementation of site activities and operations.

The approved Construction Management Plan shall also be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

Reason: To protect the residential amenity of existing from the development to comply with Policy H13 of the City of Durham Local Plan and Part 15 of the National Planning Policy Framework. Required to be pre commencement to ensure that the whole construction phase is undertaken in an acceptable way.

Drainage

8. No development, other than demolition and site remediation works, shall commence until a detailed scheme for the provision of foul and surface water drainage following the principles outlined within the Flood Risk Assessment and Drainage Strategy report number 001 Issue 5 dated December 2019 by Wardell Armstrong LLP and Addendum to Flood Risk Assessment report ref. P19-315-RP-C-9000 dated March 2020 by 3E Consult has been submitted to and approved in writing by the Local Planning Authority. The scheme for surface water drainage shall include details of the management and maintenance regime for those drainage systems. The drainage scheme shall be completed, managed/maintained in accordance with the details agreed.

Reason: In the interests of the adequate disposal of foul and surface water in accordance with Policy U8A of the City of Durham and Part 14 of the NPPF.

Materials

9. Notwithstanding the submitted information, prior to the erection of the external walls of the development hereby approved, details of the external materials used in the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: In the interests of visual amenity of the surrounding area in accordance with Part 12 of the NPPF.

10. Notwithstanding the submitted information, prior to their construction, details of the surface treatment and construction of all hardsurfaced areas used in the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: In the interests of visual amenity of the surrounding area in accordance with Policy Q3 and Part 12 of the NPPF.

Landscape Implementation

11. Prior to first occupation or in the first planting season following completion of the development, whichever is later, the landscaping scheme hereby approved (plan ref: 15802-VL_L01 Rev. L) shall be fully undertaken/carried out. The scheme shall be subject to the following requirements: -
- o Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of existing trees and hedges.
 - o Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species.
 - o Replacements will be subject to the same conditions.

Reason: In the interests of the visual amenity of the area and to comply with Policy Q5 of the City of Durham Local Plan and Parts 7 and 11 of the National Planning Policy Framework.

Landscape Maintenance

12. No unit shall be occupied until a scheme for the ongoing maintenance of the areas of landscaping within the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include, but not be limited to, irrigation systems to aid with successful establishment and life expectancy.

Reason: In the interests of the visual amenity of the area and to comply with Policy Q5 of the City of Durham Local Plan and Parts 7 and 11 of the National Planning Policy Framework.

Highways Mitigation and Access

13. No unit shall be occupied until full engineering details of the site access in accordance with drg. no. 15802-105 Rev. T have been submitted to and approved in writing by the Local Planning Authority. The works shall be completed in accordance with the agreed details prior to the first occupation of the site.

Reason: In the interests of highway safety in accordance with Policies T1 and Q2 of the City of Durham Local Plan and Part 9 of the National Planning Policy Framework. Required to be pre-commencement to ensure that the proposed development is served by a safe access.

Enclosures

14. No unit shall be occupied until details of all means of enclosure related to that unit, including bin stores and retaining walls, have been submitted to and approved in writing by the Local Planning Authority. The enclosures shall be constructed in accordance with the approved details thereafter.

Reason: In the interests of the visual amenity of the area and to comply with Parts 12 and 15 of the National Planning Policy Framework.

External Site Lighting

15. All lighting shall be orientated and shielded or otherwise designed and positioned such that they meet the requirements of the Guidance Notes for the Reduction of Obtrusive Light GN01:2011. All external lighting within the site shall be switched off between the hours of 23.00 and 07.00.

Reason: To protect the residential amenity of existing from the development to comply with Policy H13 of the City of Durham Local Plan and Part 15 of the National Planning Policy Framework.

Car Park Management Plan

16. No unit shall be occupied until a car park management plan has been submitted to and approved in writing by the Local Planning Authority. The management plan should detail the provision of car park barriers and/or systems to ensure their closure when the units are not in use. Thereafter the approved Car Park Management Plan shall be adhered to for the lifetime of the development.

Reason: To ensure that a suitable management arrangements for the car park, to maintain highway safety and to discourage anti-social use in accordance Policies H13 and T1 of the City of Durham Local Plan and Parts 9 and 15 of the National Planning Policy Framework.

Acoustic Fence

17. Unit 3, as shown on drg. no. 15802-105 Rev. T, shall not be brought into use until the acoustic fence proposed in the Wardell Armstrong noise note (MC/NT14441/003) has been erected in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority. Thereafter the acoustic fence shall be maintained in accordance with the approved details for the lifetime of the development.

Reason: To protect the residential amenity of existing from the development to comply with Policy H13 of the City of Durham Local Plan and Part 15 of the National Planning Policy Framework.

Deliveries and Servicing

18. The development shall only be serviced (deliveries and waste collections) between 07.00 - 23:00 Mondays to Saturdays (including Bank Holidays) and 09:00 – 19:00 on Sundays.

Each individual unit shall not be brought into use until a scheme for the management of servicing and deliveries, to and from that unit has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include measures to limit the noise impact of delivery and servicing activity associated with the unit. Deliveries and servicing for the unit shall thereafter be adhered to in accordance with the approved details for the lifetime of the development.

Reason: To protect the residential amenity of existing from the development to comply with Policy H13 of the City of Durham Local Plan and Part 15 of the National Planning Policy Framework.

Opening Hours

19. The units shall not be open to customers outside the hours of 07.00 to 23.00 on any day of the week.

Reason: To protect the residential amenity of existing from the development to comply with Policy H13 of the City of Durham Local Plan and Part 15 of the National Planning Policy Framework.

Travel Plan

20. The Travel Plan as detailed in JN1888-Rep-0002.3 Interim Travel Plan by SAJ Transport Consultants dated December 2019 shall be implemented, monitored and reviewed in accordance with the approved details.

Reason: To reduce reliance on the private motor car and to promote sustainable transport methods in accordance with Policies Q2, R11, T5 and T11 of the City of Durham Local Plan and Parts 9 and 15 of the National Planning Policy Framework.

Ecology

21. Prior to the commencement of development, a scheme comprising of a minimum of 10 bird and 10 bat nesting boxes/bricks shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the exact location, specification, design and timetable for installation of the nesting boxes/bricks. The approved scheme shall be completed in accordance with the approved details and timescales.

Reason: In the interests of ecological mitigation having regards to City of Durham Local Plan Policy E16 and Part 15 of the NPPF. Required to be pre-commencement as the proposals to mitigate the impacts of the development and construction works must be resolved at the earliest juncture.

22. The development shall be carried out in accordance with the mitigation outlined within the Ecological Appraisal and Bat Survey, Version R02, by E3 Ecology Ltd, dated December 2019.

Reason: To mitigate the ecological impact of the development, in accordance with Policy E16 of the City of Durham Local Plan and Part 15 of the National Planning Policy Framework.

23. The development shall be carried out in accordance with the mitigation outlined within the Amphibian Method Statement, Version R02, by E3 Ecology Ltd, received 10/03/2020.

Reason: To conserve protected species and their habitat in accordance with Policy E16 of the City of Durham Local Plan and Part 15 of the National Planning Policy Framework.

Plant

24. The rating level of noise emitted from the development at the nearest sensitive receptor shall not exceed 40dB LAeq (1 hour) between 07.00-23.00 and 30dB LAeq (15mins) between 23.00-07.00 with all mitigation in place.

The measurement and assessment shall be made in accordance with BS 4142:2014.

Within 28 days of each individual occupier/each unit being operational a noise validation assessment shall be carried out and a report submitted in writing to the Planning Authority to demonstrate adherence with the above rating level.

Reason: To protect the residential amenity of existing from the development to comply with Policy H13 of the City of Durham Local Plan and Part 15 of the National Planning Policy Framework.

Construction Working Hours

25. No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1300 on Saturday.

No internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 on Saturday.

No construction works or works of demolition whatsoever, including deliveries, external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays.

For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

Reason: To protect the residential amenity of existing from the development to comply with Policy H13 of the City of Durham Local Plan and Part 15 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its recommendation to approve this 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) (CC) 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.

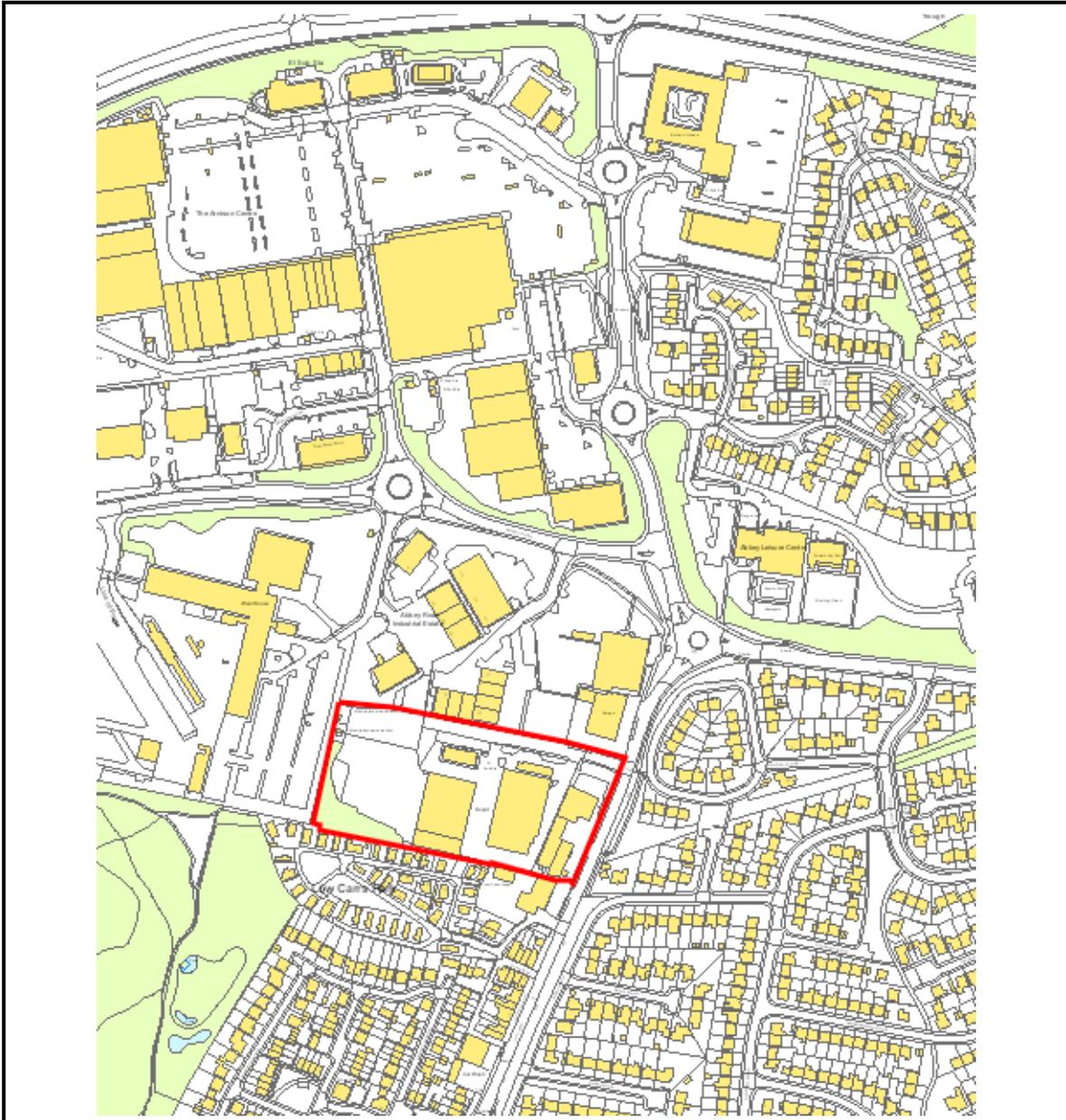
The National Planning Policy Framework (2018)

National Planning Practice Guidance Notes

City of Durham Local Plan

Retail and Town Centre Study – June 2018

Statutory, internal and public consultation responses



Planning Services

Ref: DM/19/03209/FPA
 Demolition of existing buildings and erection of new buildings for uses within Use Classes A1 (shops) and Class A3 (food and drink) with new vehicular access, parking, servicing areas and landscaping (revised description 18/12/2019)
 Wyngrove Ltd
 Elddis Business Park, Finchale Road, Framwellgate Moor, DH1 5HE

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Date 1st July 2020

Scale Not to scale

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	1) DM/19/03567/MIN
FULL APPLICATION DESCRIPTION:	Proposed surface mining for the extraction of up to 90,000 tonnes of coal and 20,000 tonnes of fireclay with restoration of the site to include woodland, species rich grassland and haymeadow, scrub, water features and agriculture
NAME OF APPLICANT:	H J Banks & Co Ltd
ADDRESS:	Land to the west of Bradley Surface Mine, Leadgate, Consett, DH8 6RS
APPLICATION No:	2) DM/19/03569/VOCMW
FULL APPLICATION DESCRIPTION:	Variation of Conditions 1 (Approved documents), 5 (Matters requiring subsequent approval), 7 (Extraction date), 8 (Restoration date), 11 (Working period) and 15 (Number of HGV numbers) pursuant to Appeal Decision AAP/X1355/A/11/2150277 (DCC Ref. CMA/1/37) to facilitate an extension to the existing Bradley surface mine
NAME OF APPLICANT:	H J Banks & Co Ltd
ADDRESS:	Bradley Surface Mine Leadgate Consett DH8 6RS
ELECTORAL DIVISION:	Leadgate and Medomsley
CASE OFFICER:	Claire Teasdale, Principal Planning Officer, 03000 261390, claire.teasdale@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

SITE:

- 1 The Bradley surface coal mine site (the Bradley site) (70.9 hectares (ha)) was granted planning permission on Appeal by a Planning Inspector in June 2015. The Appeal decision allowed the extraction by surface mining methods of some 520,000 tonnes of coal, of which around 75,000 tonnes was expected to be suitable coking coal. The site would be worked from west to east and backfilled to allow it to be progressively restored over a period of 3 years 6 months, including a coaling period of 2 years 3 months. The land would be restored to a mix of woodland, grassland and agriculture. The planning history of the site and the surrounding area is set out below.

- 2 The existing operational Bradley site is located in the countryside to the north of the A692 Consett to Dipton Road some 3km to the east of Consett, 550m from Leadgate and 750m from Dipton. The site is bordered by the Road A692 to the south east and is enclosed by woodland on its north western and north east boundaries including Pontop Springpit Wood and Billingside Wood (both ancient woodland). The south western boundary lies adjacent to Billingside Plantation and agricultural land.
- 3 The land falls away to the west and north west into the valley of the Pont Burn. There are a number of public rights of way cross the site, but these have now been diverted for the duration of the permitted works and alternative routes are in place. Douglas Terrace and Hedley Terrace, the closest residential properties lie to the north east of the site along with two other properties (the closest being some 60m north east of Douglas Terrace) referred to as High stables. To the south of the A692 are Brooms Farm and Our Lady and St Joseph Roman Catholic Church. Properties on Pont Road are further away to the south west. Low Bradley Farm lies to the north west. The site lies partly within an Area of High Landscape Value (AHLV) as identified in the Derwentside Local Plan and includes the Brooms Pond Local Wildlife Site (LWS) (although now consumed within the existing Bradley site) and part of the former West Billingside Meadow Site of Nature Conservation Importance (SNCI). There are designated heritage assets close to the existing site, these being the Grade II Listed Church of Our Lady and St Joseph some 150m to the south east of the site, and the Grade II Listed Church of St Ives, Leadgate some 644m from the site to the south west. The Grade II Listed Leadgate War Memorial is some 1.1km to the south east within the centre of Leadgate.
- 4 The proposed extension site (18.5ha) is located immediately to the west of the existing Bradley surface coal mine. The proposed extension occupies an elevated location on the upper southern flanks of the Pont Valley just below the ridge between the Pont Valley and the Iveston/Newhouse Burn Valley to the south. The land falls to the north-west, moderately sloping in the west and steeply sloping to the east. The site is largely made up of open rough, semi-improved or rushy pasture which is crossed by a regular grid of very gappy relict hedges and wire fences, originating in late 18th Century. They were Parliamentary enclosures but have now been rationalised and subdivided in the mid 20th Century. There are localised patches of gorse scrub in the north-east, some developed on small drift mine spoil heaps, others following the course of the former South Medomsley Branch Railway.
- 5 The proposed extension site is bounded by the Road A692 to the south and the C10 Pont Lane to the west. It abuts the existing Bradley site to the east and Billingside Plantation to the north. The site comprises agricultural land (12ha) and 6.5ha of commercial woodland, part of the Billingside Plantation, 4ha of which would be retained during operations. Billingside Plantation has been the subject of active thinning and felling operations under an approved felling licence. The Plantation is at various stages of the felling cycle, with areas to the south having been heavily thinned, the central area having been clear felled, and the north being selectively felled to leave mature broadleaves underplanted with young broadleaves. A line of trees is retained along the southern edge of the compartments. The course of the former Western Way wagonway is believed to cross the area in the north. A small number of young trees (predominantly Ash) are found along the western boundary, and two mature Ash trees are situated on the southern boundary. None of the trees within the site are covered by a Tree Preservation Order.
- 6 A number of properties to the south west of the proposed extension site lie within 100m at Pont Road (although the C10 is named Pont Lane), Tweed Avenue, Tyne Avenue, Derwent Crescent and Eden Avenue. The Jolly Drivers Public House is

located some 27m to the south separated from the site by Pont Lane and is not currently occupied. The closest occupied residential property being at Pont Road is some 33m from the site boundary at its closest point. Properties at Annaside Mews are more distant, some 280m to the west of the site boundary. There are a number of properties along St Ives Road leading into Leadgate within close proximity to the site with the closest being Redwell Hill Farm at approximately 110m from the site boundary at its closest point. Drovers Forge lies some 60m to the south of the proposed extension and is separated by the A692 and roundabout. There are a number of properties more distant to the south east at Brooms Farm and Selly Park House and to the north east at Douglas and Hedley Terraces and to the north west at Low Bradley and High Bradley.

- 7 The north western part of the site, the plantation area, lies within the AHLV. There are no designated ecological sites within the application site. The closest designated heritage assets to the site are the Grade II Listed Church of Our Lady and St Joseph some 155m to the south east of the site, and the Grade II Listed Church of St Ives, Leadgate some 230m to the south west of the proposed site. The Grade II Listed Leadgate War Memorial is some 700m to the south east within the centre of Leadgate. Footpath Nos. 27 (Consett Parish) and 28 (Consett Parish) cross through the proposed extension area.

PROPOSAL:

Proposed extension

- 8 The extension proposal relates to the extraction of approximately 90,000 tonnes of coal and 20,000 tonnes of fireclay by surface mining methods, from agricultural land and woodland over a 14 month progressive working and restoration period. The coal and fireclay would be taken from an area of 11ha. The remaining area (7.5ha) would not be disturbed but a topsoil mound would be constructed around the perimeter of the site adjacent to Pont Lane and the A692. It is proposed that preliminary operations and coaling would commence in July/August 2020 and the site be restored by 17 August 2021, this being the same end date permitted for the existing site.

Preparatory works

- 9 Preparatory works would commence with the temporary closure of Footpath Nos. 27 (Consett Parish) and 28 (Consett Parish), the creation of a new diversion route (Alternative Way 4) that would run adjacent to Pont Lane and the A692 to join with the existing Alternative Way No. 2, the erection of fencing and construction of cut off ditches. The existing site access, site compound comprising plant yard and site offices, workshops, parking, HGV loading and dispatch facilities, wheel wash and security cabin would continue to be utilised, no new facilities would need to be provided. The existing water treatment areas and approved discharge point into the Pont Burn would also continue to be used. If additional temporary lagoon capacity was required, then this would be provided on a temporary basis within the excavation area. Cut off ditches would be installed in tandem with the erection of perimeter fencing.
- 10 A disused gas main runs through the centre of the extension site and would be removed as it was part of the section which ran through the existing site and formerly served the demolished West Billingside Farm. An active gas main is located within the northern part of the existing site and would continue to be unaffected by the proposal. A foul sewer runs within the south western corner of the extension site and would not be disturbed. A storm drain relating to highway

drainage runs north to south in the south western part of the site and would be replaced prior to the commencement of the extension. No diversions, beyond those which have already taken place, would be required as part of the variation of conditions application for the existing site (the S73 application).

Soil stripping and overburden movement

- 11 Although the extension area is 18.5ha the excavation area would be approximately 11ha. Soil stripping to facilitate the removal of overburden and coaling in the excavation area would take place over two months commencing in July/August 2020. Overburden (including sandstone and glacial drift) above the Top Brass Thill in the proposed extension area varies in depth at between 24m to less than 1m where the excavation area extends to the outcrop. The resultant topsoil would be stored in a mound around the perimeter of the extension site alongside Pont Lane and the A692 and the subsoil stored in a new mound to be created within the existing Bradley site. The topsoil height would vary between 4m and 3m being at its highest alongside Pont Lane and tapering off to 3m along the A692 to join with the 3m high mound of the existing site. The mounds would perform a screening function for part of Pont Road and along the A692. Due to their location topsoil stripped from the woodland area would be stored in the same mound but separated to the agricultural soils using a geotextile partition. The subsoil mound would be located upon part of the restored Area A excavation area within the existing site at a height of 5m. Following their creation, the mounds would be in place for 8 months and would be seeded following formation to provide a grass sward. The mounds would be removed over a 3 month period thereafter.
- 12 The amount of overburden generated from the extension area would be 1,380,000m³ over an 8 month period. Overburden required to fill the extension area would be taken from the overburden storage mound in the existing site. There is no requirement to store additional volumes of overburden above ground apart from that to be used in a mound to be created along the north western perimeter of the extension area, this would be to a height of 11m.

Coaling

- 13 The working programme identifies coaling over an 8 month period. Extraction would commence with a first box cut in the north west of the site and a small area of coal and fireclay would be removed from the edge of Billingside Plantation. This area would then be backfilled to enable the construction of the mound constructed of overburden along the north western perimeter. A second box cut would then commence in the north east of the site with operations then generally progress from the north east towards the south west. Coaling would then take place in a series of 6 cuts. The depth of working would range between 5m and 31m.
- 14 The proposal would take coal from the Top Brass Thill and Bottom Brass Thill seams. The seams have been subject to deep mine working in the past. Once exposed the coal would be cleaned by small hydraulic excavators and site workers to remove overlying overburden. It would then be excavated and taken to the stocking area and stored in separate stockpiles not exceeding 5m in height. The coal would then be transported off site by road to the applicant's Shotton Surface Coal Mine site in Northumberland for processing as per the existing situation. Like with extraction in Area B of the existing site, blasting may be required to loosen overlying sandstone. This would be restricted to 2 blasts per day as required.
- 15 Coaling would not take place within the existing site and proposed extension at the same time. The last coal would be being extracted in Area B of the existing site

when overburden is being removed in the proposed extension. While the extension is being worked Area B would continue to be progressively restored to level, using overburden from the extension area, and soil from the existing soil mounds.

Fireclay

- 16 Exploratory drilling has proven that up to 20,000 tonnes of recoverable fireclay reserve underlie the Top Brass Thill and Bottom Brass Thill coal seams which is suitable for brick making. Following coal cleaning operations fireclay would be extracted and transported to the stocking area for transportation off site by road to a brickmaking facility. Todhills Brickworks in County Durham is the intended market for the fireclay. Stockpiles would not exceed 5m in height. Small fireclay stockpiles may be erected within the void to maximise handling efficiency. The existing permission does not permit the extraction of fireclay and nor is its extraction being requested through the variation of condition application.
- 17 Retrieved cores from the drilling have proven that no other mineral deposits are of a sufficient quality or quantity to be extracted on a commercial basis.

Working hours

- 18 The proposed working hours for site operations are 07:00 – 19:00 Monday to Friday, 07:00 – 12:00 Saturday with no working on Sundays or Public/Bank Holidays. Operations outside of these hours would be restricted to essential repairs, maintenance and pumping. Coal haulage would take place between 07:00 – 18:00 Monday to Friday and 07:00 – 12:00 on Saturday. No mineral extraction, overburden or soil handling operations within 200m of Douglas Terrace, Hedley Terrace, Brooms Farm and Our Lady and St Joseph's Church would commence prior to 08:00 hours Monday to Saturday. Maintenance hours would be 07:00 – 19:00 Monday to Friday, 07:00 – 16:00 Saturday in order to ensure that the 'down time' for the plant and vehicles is minimised and the site runs to schedule. The proposed working hours reflect those for the existing site. A 06:30am Monday to Friday start for maintenance had originally been proposed but this request was withdrawn during consideration of the application.
- 19 Like with the existing site some illumination of the extension site would be required, especially in the winter months comprising of a maximum of four mobile lighting columns with a maximum height of 5m, in association with plant working in the void area which would be below ground level. No additional lighting is proposed in the existing site.

Traffic and access

- 20 Approximately 3,400 tonnes of coal and fireclay per week would be produced from the extension area over approximately 32 weeks. An average of 44 (22 in and 22 out) HGV movements per working day are anticipated during the coaling period for the extension. The same number of permitted vehicle movements for the existing site are proposed for the extension for coal and fireclay. These being an average of no more than 96 movements (48 in and 48 out) Monday to Friday when calculated over any four week period (Monday to Fridays) and 30 (15 in and 15 out) on Saturdays. The number of vehicle numbers would not be doubled. Through condition the total numbers would be combined. Based on a 5.5 day working week it is anticipated that an average of 2 laden HGV's would leave the site every hour (4 movements per hour). HGV movements may however be planned flexibly to respond to traffic conditions and stockpile levels.

- 21 As they do for the existing site vehicles would enter and leave the site via the access off the A692. All vehicles would travel on the A693 to the A1(M) on Junction 63 at Chester-le-Street with vehicles carrying coal being heading north to the Shotton site near Cramlington in Northumberland and vehicles carrying fireclay being taken direct to market via the road network.
- 22 The coal haulage route would, as per the existing site, be secured through legal agreement and would apply to all laden and unladen HGVs, the requirement would also apply to vehicles carrying fireclay. No additional site traffic would be created during the commissioning stage as the required plant and equipment are on site, there would be vehicles moving excavation plant during the de-commissioning phases.

Employment

- 23 39 full time jobs for the duration of the scheme would be retained, 5 of which being HGV drivers based full time at the site. No additional jobs would be created as a result of the proposed extension but gaining consent for the extension would enable more skilled site jobs to be sustained for a longer period of time.

Restoration

- 24 Progressive restoration currently takes place and would continue to take place during the working of the proposed extension site. Overburden from the extension site would be used to fill the void in Area B of the existing site. Soil from the existing mounds would then be used to complete the restoration of the site. Within the extension, overburden currently stockpiled over ground in the existing site would be used to restore the area to approved restoration levels. At the start of the soils handling season in 2021 soils previously stripped and stockpiled would be used to complete the reinstatement of the area taking place in April to June. By May 2021 it is estimated that the remaining operations to take place would be the restoration of the overburden mound footprint, water treatment areas and the compound area. Site clearance would take place in June and July 2021. It is proposed that the extension would be worked and fully restored by August 2021, the same end date as currently permitted for the existing site.
- 25 The extension area would be restored to a range of afteruses including woodland, species rich grassland and haymeadow, scrub, water features and agriculture It has been designed to integrate with the approved restoration details for the existing site. The detailed proposals involve the creation of 7.4ha of new and retained (4.27ha being retained) native species woodland, 1.3km of hedgerows, 0.75ha of marshy grassland, 1.35ha of retained and enhanced species rich grassland, 0.04ha field pond, 8.96ha of agricultural pasture and 1.1km of footpaths (permissive and statutory).
- 26 Approved afteruses for the existing site involve the creation of 9.69ha woodland, 33.95ha agriculture, 13.77ha species rich grassland/hay meadow, 3.98ha acidic grassland, 0.6ha restored grassland, 0.34ha wetland/marsh, 1.15ha scrub planting and 0.59ha of areas between footpaths. 4.83 a is made up of the existing ponds and 2ha of preserved grassland and foliage. 3,985m of new hedgerows and 15 individual mature holly trees have been translocated (into the ponds area). 2,901m of new footpaths including 785m as part of the Western Way. 501m of new dry stone wall would be provided and 201m of existing stone walling would be repaired and refurbished. Appropriate site interpretation material based on the results of the archaeological works would also be provided upon restoration.

- 27 The entire extension site would be subject to the statutory 5 year aftercare requirement, as is the existing site. An additional 10 years of management is proposed for those areas not to be restored to agriculture. The existing site is similar with the additional 10 years management being in place for the areas covered by the four habitat ponds in the former SNCI located in the north west corner of the site and new nature conservation areas. Planting that has taken place within the existing site is subject to a 15 year management period. Due to the progressive nature of the restoration proposals various areas would be eligible to go into aftercare before others however it has been agreed with the applicant that the entire site would enter aftercare at the same time meaning that certain areas would benefit from a longer management period.
- 28 Upon restoration of the existing site 21ha of land will be gifted to a wildlife/conservation body to be managed for wildlife and the community in the long term. The proposed extension proposes an additional 8.3ha of Gifted Land comprising the areas of woodland and new woodland edge planting and this will enable this habitat to be managed for biodiversity, landscape and amenity value in the long term.

Section 73 variation of conditions

- 29 An application (DM/19/03569/VOCMW) under Section 73 of the Town and Country Planning Act 1995 (as amended) (S73 application) has been submitted for the variation of a number of conditions imposed on the existing permission in order to facilitate the extension to the site. The conditions specified are: 1 (Approved documents); 5 (Matters requiring subsequent approval); 7 (Extraction date); 8 (Restoration date); 11 (Working period); and, 15 (Number of HGV numbers).
- 30 Condition 1 of the appeal decision specifies a number of approved plans relating to the phasing of the development. These were subsequently amended through a non-material amendment (DM/18/03296/NMA). The proposed replacement phasing plans relate to the remaining stages of the operational period for the existing site with the new plans incorporating the proposed extension. The submitted working programme plan illustrate how the operation of the proposed extension site would fit into the existing site's approved working programme.
- 31 The proposed replacement phasing plans show the existing site being worked slightly quicker than envisaged in the approved phasing plans enabling earlier soil replacement and restoration of a large area of Area B within the 2020 soils handling season. This would involve the removal of perimeter topsoil mounds on the eastern site boundary in the vicinity of High Stables, and one of the mounds along the A692. The mound which runs along the A692 adjacent to the site compound would be retained for ongoing screening of the site compound entrance. Subsoil stripped from the extension site would be transported to the existing site for storage resulting in a new mound which has been designed to provide screening of the internal haul road running from the site compound to the coaling area in the existing site and the proposed extension. This would be in place prior to the removal of the topsoil perimeter mounds. The remaining soil mounds, overburden storage mound, water treatment areas and site compound infrastructure would remain in place throughout the operation of the proposed extension, with the overburden mound and soil mounds being progressively reduced during its working. The extension proposal does not involve the disturbance of any new areas of land within the existing site.
- 32 No change is proposed to the date for completion of restoration of the existing site and it is envisaged that restoration will commence earlier than as envisaged under the Appeal decision. No change is proposed to the approved restoration and

aftercare details for the existing site, but a composite restoration plan has been submitted which details the restoration proposals for the existing site and proposed extension area.

- 33 The changes to the matters that required subsequent approval under Condition 5 would be required due to the current stage of the development, in that the requirements of the condition have been approved.
- 34 The application refers to varying Condition 7 to extend the extraction period from 27 to 33 months. However, the extended period of coal extraction refers to the coaling period for the extension area only. The current permission requires the cessation of extraction by 17 August 2020 and it is not proposed that this be altered.
- 35 The proposed variation to Condition 8 would specify the date by which restoration would be required to be completed by, this being 17 August 2021. This would be in line with the current requirements of Condition 8 which states that the site shall be restored within 12 months of the cessation of extraction or, if this period extends beyond the end of September, by the end of July the following year.
- 36 The application had proposed to vary Condition 11 to allow maintenance to commence at 06:30 as opposed to 07:00 Monday to Friday. This element of the application has subsequently been withdrawn.
- 37 Through a Non-Material Amendment (NMA) application (DM/19/00111/NMA) an increase to the vehicle movements permitted through the Appeal decision in respect of Condition 15 were approved. The permitted numbers in the Appeal decision were increased to an average of no more than 96 movements (48 in and 48 out) Monday to Friday when calculated over any four week period (Monday to Fridays) and 30 (15 in and 15 out) on Saturdays. The original permitted levels being no more than 64 movements (32 in and 32 out) Monday to Friday when calculated over any four week period (Monday to Fridays) and 30 (15 in and 15 out) on Saturdays. The proposed change to Condition 15 merely reflects the current permitted levels.
- 38 Although only certain conditions are identified as part of the application, due to the current stage of the development there are others which are no longer required or require alteration due to cross referencing to other conditions. Those which are still applicable to the working and restoration of the site and requisite environmental protection would be retained. Details of the approved working hours and vehicle movements are set out above.
- 39 The two applications are accompanied by an Environmental Statement (ES) as they are considered Environment Impact Assessment (EIA) developments having regard to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations). This report has taken into account the information contained in the ES, further environmental information and information arising from statutory consultations and other responses.
- 40 The current applications and ES have considered the predicted effects that would occur as a result of the proposal against the baseline of the existing site.
- 41 The application for the proposed extension to the existing site is being reported to the County Planning Committee because it involves major minerals development. The S73 application variation of conditions application is being reported to the County Planning Committee because it is intrinsically linked to the extension application.

PLANNING HISTORY

- 42 The existing site, the proposed extension site and surrounding area has a history of surface coal mine working. The Billingside site operated between 1952 and 1953 and incorporated land partly within the current application boundary. To the north west of the application site were the Medomsley (1954) and Pont Lane (1964) sites. Bantling Castle site around Brooms Farm operated between 1952 and 1954. To the south of the Jolly Drovers Public House were the Leadgate (1957 and 1962) and Low Brooms (1955 and 1959) sites. The Brooms Dene site and Burnhouse site to the south west operated between 1993 and 1995. The Stony Heap reclamation and minewater remediation scheme (operated by UK Coal Mining Ltd.) located to the south east was worked for coal during 2006 – 2007. This latter site was restored in October 2007 and released from the statutory 5 year aftercare period in October 2012. An extended aftercare period for areas restored to conservation/amenity is in place through a planning obligation under Section 106 of the Town and Country Planning Act 1990 (as amended) until October 2022.
- 43 The existing Bradley site is incorporated almost entirely within the area of the former Billingside surface coal mining site proposed by the National Coal Board Opencast Executive during the 1980's. Small areas of the proposed extension site are within the boundary of the former Billingside site. The Billingside proposal was refused planning permission by the County Council in July 1986 and subsequently dismissed on appeal by the Secretary of State in January 1988. That scheme involved the extraction of 550,000 tonnes of coal and an undisclosed amount of fireclay from an area of 87ha over 4½ years.
- 44 The reasons that were given for the refusal of the Billingside site related to the perceived lack of a market for coal, unacceptable visual intrusion on the Derwent Valley landscape (including Area of Great Landscape Value), adverse environmental impact on the occupiers of Douglas and Hedley Terraces, unacceptable restoration proposals and inadequate reclamation benefits.
- 45 The Billingside appeal Inspector's recommendation, accepted by the Secretary of State, referred particularly to the possible adverse effects on inward investment, employment, visual amenity and that it could be detrimental to the amenities enjoyed by local residents, particularly those living in Douglas and Hedley Terrace. He noted that the Billingside site lay within a designated No-Go area which was operative at that time in the County, that the disruption to the landscape by opencasting would be conspicuous for a prolonged period, and that such disruption could only be justified if there were a strong market requirement for the coal in the site. Whilst accepting that part of the land could be improved as a result of opencasting, he concluded that neither the then market requirement for the coal nor the need for the site to be approved was sufficiently strong to outweigh the amenity and environmental objections to the proposal. He thought it inappropriate to permit the opencasting of the Billingside site at that time.
- 46 In November 2001 the County Council refused a further application referred to as Jolly Drovers by North East Land Developments Ltd. This application included part of the proposed extension site excluding that part of the proposed site that is within the Billingside Plantation. The Jolly Drovers site also encompassed part of the existing Bradley site and ran alongside the A692. The Jolly Drovers application was smaller than the Billingside proposal and involved the extraction of 130,000 tonnes of coal and associated brickmaking materials from 27ha of land over 18 months including approximately 15.4ha of the current Bradley site. In refusing the

application the Council considered that the adverse landscape impacts of the proposal were significant, and the scheme as a whole provided little by way of clear local or community benefits which materially outweighed the likely impacts, or justified departing from adopted policy. A subsequent appeal was withdrawn. The reasons for refusal were:

1. The proposed development will be close to and visually prominent in views from communities, public roads and footpaths in the vicinity of the site. The impact of the site would not be adequately mitigated by the proposed screening measures during working. The proposal is not environmentally acceptable and conflicts with Policy M7, and moreover does not accord with Policy M36 of the County Durham Minerals Local Plan (MLP).
2. Any local or community benefits offered by the development are insufficient to outweigh the adverse environmental impacts of the proposed operations. The proposal is contrary to Policy M7 of the MLP.
3. The proposed development constitutes piecemeal working of opencast coal resources around the application site. The proposal is contrary to Policy M8 of the MLP.

- 47 In December 2009 the County Council granted planning permission to UK Coal Mining Ltd. for the creation of four habitat ponds, and associated wetland and landscaping on land adjacent to the existing Bradley site. The area covered by this planning permission was subsequently incorporated into the planning application boundary for the Bradley site and the ponds created. This was a stand-alone proposal although UK Coal hoped to be able to use the ponds for translocated newts if planning permission was granted for the Bradley scheme. At the Planning Committee in December 2009 it was noted that a decision on the application for the ponds would not prejudice the Committee's views on the coal scheme which was a separate matter.
- 48 In February 2011 the Committee refused planning permission for a proposed surface coal mining scheme at a site to be known as Bradley, near Leadgate, Consett, County Durham on the grounds that it would have an unacceptable impact on the environment and amenity of local communities, and the proposed community benefits did not outweigh the unacceptable impact on the environment and amenity of local communities. The decision was contrary to officer recommendation.
- 49 UK Coal Mining Ltd. (UKC), lodged an appeal against the Council's decision which was heard at a local Inquiry between 25 October 2011 and 11 November 2011, with the Planning Inspector's decision letter issued in February 2012. The Inspector dismissed the appeal.
- 50 In April 2012 UKC mounted a legal challenge against the Inspector's appeal decision. A High Court judgement was handed down in July 2013 which quashed the Planning Inspector's decision. As a result, a new Inquiry was required to be held and another Inspector appointed to consider the appeal.
- 51 A further appeal before a new Inspector was heard at a local Inquiry during October and November 2014. There was a considerable amount of local interest evidenced by the daily attendance at the inquiry by local residents.
- 52 The Planning Inspector's decision letter was issued on 3 June 2015. References to the Appeal decision within this report are to this 2015 decision. The Inspector allowed the appeal subject to conditions and planning obligations which amongst other matters seeks to secure the restoration of the site. In addition, a partial award of costs was made to the County Council as a result of UKC's unreasonable behaviour in progressing the Section 106 agreement.

53 In the Appeal decision the Planning Inspector considered there to be three main issues. First, the effects of the proposal on the environment, with particular reference to landscape character and visual impact; levels of amenity in the locality (for residents and others), and other environmental effects. Secondly, whether the proposal could be made environmentally acceptable by way of planning conditions or obligations. Thirdly, if the proposal could not be made environmentally acceptable by such means, whether it would provide national, local or community benefits which would clearly outweigh the remaining adverse impacts. It is important to note that the references in the 2015 Appeal decision are to a previous version of the National Planning Policy Framework (NPPF) published in March 2012.

Issue 1: Effects of the proposal on the environment

54 With regard landscape effects the Inspector considered that although the initial adverse effects in relation to both landscape character and visual impact would be substantial during the operational phase, their length and severity would be greatly mitigated through the use of a progressive approach to restoration. In her judgement, the adverse visual impact would move from major adverse to moderate-minor adverse within the short to medium term and would be barely noticeable beyond the point of about 15 years post-restoration. With regard to character, even though the scheme takes up the recommendations of the county landscape strategy and incorporates many valuable measures to improve the landscape, these would not be sufficient to outweigh the remaining longer term harm associated with the loss of so many historic features which contribute to time-depth.

55 In relation to dust, noise and blasting, hydrology and hydrogeology, traffic and the agricultural value of the land, the Inspector was satisfied that the mitigation measures proposed would be sufficient to ensure that the proposal was environmentally acceptable.

56 Overall, however, the Inspector concluded that the proposal would, without mitigation, be environmentally unacceptable.

Issue 2: Assessing environmental acceptability with conditions and obligations

57 Despite the mitigation and enhancement measures within the proposal, the Inspector considered there would remain some negative effects in relation to landscape, outlook (from residential properties in Douglas Terrace), ecology and the local economy. The Inspector therefore concluded that the proposed development could not be made environmentally acceptable.

Issue 3: national, local and community benefits

58 Together, the Inspector considered the adverse effects on landscape, outlook, ecology and the local economy meant that the proposal could not be made environmentally acceptable by conditions or obligation. The Inspector considered that these adverse impacts represented the remaining harm to be weighed in the balance against other benefits which the proposal would deliver.

59 The Inspector considered the local and community benefits associated with the proposal would comprise a modest contribution to employment opportunities, a considerable ecological benefit and modest benefits with regard to community liaison and funds for community groups. Although the Inspector considered the balance to be a fine one, she was not persuaded they would be sufficient to clearly outweigh the residual adverse impacts identified. As such, the Inspector was of the view that the proposal failed to satisfy part (b) of MLP Policy M7 so that the negative presumption applies. This, together with the conflicts with other MLP policies, meant that the proposal was contrary to the development plan as a whole.

- 60 However, Paragraph 149 of the NPPF (2012) required that national as well as local and community benefits should be taken into account. Once great weight is accorded to the benefits of mineral extraction, along with modest weight in relation to security of supply, reduced transport-related carbon emissions and contribution to the balance of payments, these would be sufficient, in the Inspector's judgement, to shift the balance so that the benefits would clearly outweigh the residual adverse impacts identified. In this respect therefore, the proposal would satisfy NPPF Paragraph 149 and Policy 57 of the emerging local plan, this being the Pre-Submission Draft Local Plan (October 2013).
- 61 The Inspector considered that whilst the proposal was contrary to the development plan, that plan contains policies which are no longer up to date as a result of more recent national planning guidance. NPPF (2012) Paragraph 215 stated that weight should only be given to such policies according to their degree of consistency with the policies in the NPPF (2012). The Inspector considered that MLP Policy M7 differs particularly with regard to the negative presumption and its failure to allow for national benefits to be taken into account. Also, in the absence of any clear identification of the special character or quality of the landscape within the AHLV and criteria for protection, Policy M23 is not consistent with the approach in NPPF (2012) Paragraph 113. The fact that these considerations had not been carried forward in Policies 39 and 57 of the emerging local plan (this being the Pre-Submission Draft Local Plan (October 2013)) was a further indication of the extent to which MLP M7 and M23 were seen as no longer being up to date.
- 62 The Inspector considered differences in approach between policies in the Local Plan and in NPPF (2012) to be significant. The Inspector was of the view that they greatly reduce the weight which can be attached to the conflict with the adopted development plan. Consequently, the approach within NPPF constitutes an important material consideration in the assessment of the proposal. In her view, it was sufficient to outweigh the conflict with the development plan.

Conclusion

- 63 The Inspector considered that whilst the proposal was contrary to the Development Plan, the most relevant policies of that Plan were not consistent with the NPPF. The differences in approach were of such significance that they greatly reduced the weight which could be attached to the conflict with the adopted plan. The Inspector considered it had been shown that the proposal would provide national as well as local and community benefits which would clearly outweigh the residual harm. The finding that the proposal would satisfy the requirements of NPPF (2012) should therefore prevail. For the reasons given above, the Inspector concluded that the appeal should succeed.
- 64 Through condition the Bradley site was required to begin no later than three years from the date of the decision (by 17 May 2018). Site preparation works commenced on 15 May 2018 with the winning and working of coal commencing on 17 May 2018. The export of coal from the site commenced on 17 August 2018. Mineral extraction is required to cease 2 years 3 months (27 months) from date or commencement of winning and working of minerals (by 17 August 2020) and restored by 17 August 2021.
- 65 A non-material amendment (DM/18/02620/NMA) to Condition 6 of the Appeal decision was approved in September 2018 to allow further time to finalise the restoration scheme for the site. A further non-material amendment (DM/18/03296/NMA) to Condition 1 (Approved plans and working method) & details approved under Conditions 5a (soil handling and management manual), 5f (Drainage

and surface management arrangements), 5g (Water treatment system details) & 5l (Site compound details) was approved in December 2018. A non-material amendment (DM/19/00111/NMA) to Condition 15 (HGV movements) to increase the permitted weekday average HGV movements was approved in January 2019.

PLANNING POLICY

NATIONAL POLICY

- 66 A revised National Planning Policy Framework (NPPF) was published in February 2019. The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
- 67 In accordance with Paragraph 213 of the NPPF (2019), existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
- 68 *NPPF Part 2 - Achieving sustainable development.* The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
- 69 *NPPF Part 4 - Decision-making.* Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
- 70 *NPPF Part 6 - Building a strong, competitive economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
- 71 *NPPF Part 8 - Promoting healthy and safe communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.

- 72 *NPPF Part 9 - Promoting sustainable transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
- 73 *NPPF Part 11 - Making effective use of land.* Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously developed or 'brownfield' land.
- 74 *NPPF Part 14 - Meeting the challenge of climate change, flooding and coastal change.* The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
- 75 *NPPF Part 15 - Conserving and enhancing the natural environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
- 76 *NPPF Part 16 - Conserving and enhancing the historic environment.* Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
- 77 *NPPF Part 17 - Facilitating the sustainable use of minerals.* It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation.

<https://www.gov.uk/guidance/national-planning-policy-framework>

- 78 Accompanying the NPPF the Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance suite. This provides planning guidance on a wide range of matters. 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 and environmental impact assessment. Paragraph 147 of the practice guidance (minerals) 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.

<https://www.gov.uk/government/collections/planning-practice-guidance>

LOCAL PLAN POLICY:

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

- 79 *Policy M3 – Extensions to mineral workings* – specifies that extensions to mineral workings will be allowed under allocations made in specific policies and subject to specific criteria. Extensions to existing workings will be permitted provided that they meet a number of criteria, one of which being they do not involve any further mineral extraction on the Magnesian Limestone Escarpment.
- 80 *Policy M7 – Opencast coal and fireclay* – states that within the exposed coalfield area there will be a presumption against proposals for the opencast mining of coal and/or fireclay unless they are environmentally acceptable, or can be made so by planning conditions or obligations, or they provide local or community benefits which clearly outweigh the adverse impacts of the proposal. In assessing such benefits particular regard will be had to: i) the contribution of the proposal towards the comprehensive reclamation of areas of derelict or contaminated land; ii) the avoidance of sterilisation of mineral resources in advance of development which is either subject to a planning permission or allocated in an adopted development plan (in accordance with Policy M15); iii) their contribution (or otherwise) to the maintenance of high and stable levels of economic growth and employment; iv) the need for supplies of fireclay to serve local brickworks. All proposals should avoid the unnecessary sterilisation of other minerals, particularly fireclays and brickclays.
- 81 *Policy M8 – Piecemeal Working* – states that the piecemeal working of opencast coal deposits will not be allowed.
- 82 *Policy M12 – Proposals outside identified areas* – specifies that outside areas of search and designated landscape areas proposals for mineral extraction will only be permitted where one or more criteria applies including need, extraction in advance of other development and extensions to existing mineral workings.
- 83 *Policy M17 – Exploration outside site boundaries* – requires that when considering proposals for mineral extraction where sufficient information on the extent of workable deposits is not otherwise available; and land outside the proposed boundary is physically capable of being worked as part of the application site; the mineral planning authority may require an applicant to indicate through supporting information their understanding of the location of mineral reserves in surrounding land in order to justify the proposed extent of mineral extraction. Such information may take the form of data from mineral exploration, old mining records and other relevant sources of geological information.
- 84 *Policy M19 – Concurrent working of minerals* – encourages the concurrent working of two or more minerals from the same site where mineral extraction is acceptable in principle with certain provisions.
- 85 *Policy M23 – Designated landscapes* – requires that in Areas of High Landscape Value and Historic Parks and Gardens, proposals for mineral working 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 where certain criteria are met.

- 86 *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.
- 87 *Policy M27 – Locally important conservation sites* – states that minerals development which may have an adverse effect which affects regionally or locally identified sites of nature conservation interest including SNCIs or ancient woodlands will not be permitted unless the MPA is satisfied that there are reasons for the proposal that outweigh the need to protect the site’s intrinsic qualities.
- 88 *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.
- 89 *Policy M30 – Listed buildings/Conservation areas* –states that planning permission for mineral development will not be permitted where this would have an unacceptable adverse effect on listed buildings, conservation areas, or their settings. Where it is justified the permission will only be granted where the working and restoration of the site ensures the retention of important built and landscape features; and final restoration is to at least the original landscape quality, with replacement of any landscape features that it is not possible to retain during working.
- 90 *Policy M31 – Archaeological field evaluation* – relates to archaeology and the need for archaeological field evaluation prior to the determination of planning permission where there is reason to believe that important archaeological remains may exist.
- 91 *Policy M32 – Archaeological remains* – states that where nationally important archaeological remains, whether scheduled or not, and their settings are affected by a proposed mineral development there will be a presumption in favour of their preservation in situ. Proposals for mineral development that would have a significant adverse effect on regionally important remains will only be permitted where no other suitable locations are available; or where there is an overriding need for mineral which outweighs the requirement for physical preservation.
- 92 *Policy M33 – Recording of archaeological remains* – states that where the preservation of archaeological remains in situ is not appropriate planning permission will not be granted unless satisfactory provision has been made for the excavation and recording of the remains.
- 93 *Policy M34 – Agricultural land* – states that mineral development which affects or is likely to lead to the loss of 20 or more hectares of the best and most versatile land (Agricultural Land Classification Grades 2 and 3a) will not be permitted unless there is no overall loss of agricultural land quality following restoration; or there is a need for the mineral which cannot be met from suitable alternative sources on lower quality agricultural land.
- 94 *Policy M35 – Recreational areas and public rights of way* – aims to prevent development that would have an unacceptable impact on the recreational value of the countryside unless there is a need for the mineral which cannot be met from suitable alternative sites or sources. It also requires adequate arrangements for the

continued use of public rights of way both during and after mineral development, either by means of existing or diverted routes.

- 95 *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.
- 96 *Policy M37 – Stand off distances* – seeks to prevent mineral development within 250m (500m where operations involve blasting) of a group of 10 or more dwellings unless it is demonstrated that residential amenity can be protected from the adverse impacts of mineral working.
- 97 *Policy M38 – Water resources* – states that if a proposal for mineral development would affect the supply of, or cause 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.
- 98 *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.
- 99 *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.
- 100 *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.
- 101 *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.
- 102 *Policy M47 – After uses* – provides advice in relation to proposals for the after use of mineral sites.
- 103 *Policy M50 – On site processing* – where planning permission is required, minerals processing and manufacturing plant, and other developments ancillary to mineral extraction, will be permitted within the boundaries of mineral extraction sites subject to certain criteria. Conditions will be imposed, planning obligations or other legal agreements sought as necessary to cover the minimisation of environmental impact, removal of the plant, structure, buildings as soon as extraction has ceased time limits on the storage of materials after working has ceased and preventing the import of materials from elsewhere.
- 104 *Policy M51 – Storage* – in granting planning permission for mineral stocking areas the Policy requires conditions to be imposed or planning obligations or other legal agreements sought, to cover the minimisation of environmental impact, time limits on

the storage of materials after working has ceased and preventing the import of materials from elsewhere.

- 105 *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.

DERWENTSIDE DISTRICT LOCAL PLAN (ADOPTED JANUARY 1997) (DLP) POLICY:

- 106 *Policy EN6 – Development within Areas of High Landscape Value* – indicates that development will only be permitted provided that it pays particular attention to the landscape qualities of the area in the siting and design of buildings and the context of any landscaping proposals.
- 107 *Policy EN22 – Protection of Sites of Nature Conservation Importance* – sets out that development will only be permitted which would not lead to the loss of or cause significant harm to SNCI's. West Billingside Meadow was listed as an SNCI of District Importance as is Brooms Pond, but Brooms Pond is now a Local Wildlife Site, although is no longer there. Pontop Fell (115m to the north east) is listed as being of County importance. Where development is permitted the policy states that the retention of wildlife habitats may be secured through planning conditions or obligations.

RELEVANT EMERGING POLICY:

The County Durham Plan

- 108 The County Durham Plan (CDP) which in time will replace the existing saved Local Plans in County Durham commenced its Examination in Public (EiP) in Winter 2019. The programmed hearing sessions subsequently closed on 6th February 2020, and the Inspector's issued his post hearing advice on 20th February 2020. An amended CDP has been prepared to take account of the specific instructions from the Inspector, and all the minor/main modifications which the Council proposed following the hearing sessions and in response to the action points issued by the Inspector. Consultation on the CDP (Main Modifications) commenced on Tuesday 26th May and will last until 21st July 2020 (an eight-week period). All comments that are received during this consultation period will be sent to the Inspector to inform his final report. Paragraph 48 of the NPPF (2019) states 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 (2019). Although the CDP is now at an advanced stage of preparation, it is considered that it should not be afforded any weight in the decision-making process until the Inspector's final report has been received.

Neighbourhood Plan

- 109 The existing Bradley site and proposed extension do not lie within a designated Neighbourhood Area and there is no neighbourhood planning activity in this area.

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/3266/Whats-in-place-to-support-planning-and-development-decision-making-at-the-moment> (County Durham Minerals Local Plan and Derwentside Local Plan)

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

- 110 *Highway Authority* – raises no objections to the extension proposal. In respect of the variation of condition proposals they advise that it would not give rise to any additional HGV movements and no objections are raised.
- 111 *Environment Agency (EA)* – although originally objecting to the proposals, following submission of additional information the EA raises no objections to the extension proposal considering the proposed development would be acceptable subject to conditions requiring the submission of a habitat management plan and that surface water is managed in accordance with certain submitted documents, are imposed on any grant of planning permission. Advice in relation to groundwater protection, river restoration, biosecurity, woodland and hedgerows, fisheries, herbicides and great crested newts is also provided. The Environment Agency (EA) also advises that the Water Quality Environmental Permit for the site is undergoing review as a variation request has been submitted to the EA.
- 112 With regard to the variation of conditions the EA advises it has no comments to make regarding Conditions 5, 7, 8, 11 and 15. With respect Condition 1, the EA has no objections. However, the EA considers that the proposed development would be acceptable providing conditions are imposed requiring the submission of a habitat management plan and that surface water is managed in accordance with certain submitted documents. General advice given in relation to the proposed extension is also provided on the variation application.
- 113 *Drainage and Coastal Protection* – raise no objection to either application subject to compliance with the control of surface water proposals as set out in the submitted Environmental Statement, the Hydrological and Hydrogeological Assessment as clarified in subsequent correspondence and the Water Management Scheme in the case of the proposed extension.
- 114 *Northumbrian Water* – has no comments to make on either application. In the case of the extension application it has no objection on hydrogeological grounds and no connections to the public sewerage network are proposed in the application documents.
- 115 *Natural England* – has no objection to the extension application. Based on the plans submitted, Natural England considers that the development would not have significant adverse impacts on statutorily protected nature conservation sites or landscapes. General advice on the consideration of protected species and other natural environment issues is provided. Natural England advises that it has no comment to make on the variation of conditions application.
- 116 *Historic England* – advise that there was no need to notify or consult Historic England on either application.
- 117 *Coal Authority* – raises no objection to the proposed extension. It is confirmed that the application site falls within the defined Development High Risk Area; therefore, within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. The Coal Authority records indicate that there are 6 mine entries on the site and a further mine entry within 20m of the site boundary. The site is in an area of recorded and unrecorded coal workings at shallow depth and is also in the

boundary of a site from which coal has been removed by surface mining methods. Having considered the application and supporting documents including the Coal Mining Risk Assessment Report the Coal Authority note that it is clear that the applicant is aware of the coal mining legacy risks present on the site. Shallow coal workings would be removed as part of the excavation works and this would provide a more stable landform that poses less of a risk to members of the public and agricultural workers. The report also notes that some of the mine entries recorded as being present on site would be removed by the excavations whilst others would be treated in accordance with a methodology approved as part of the Coal Authority permitting process. The Coal Authority considers that the risks posed by mine gas are considered to be by the report author to be very low.

- 118 The Coal Authority confirms that it has no specific comments to make in respect of the variation of conditions proposed.
- 119 *Forestry Commission* – does not object to either application. Advice is offered in relation to soil handling, tree establishment and recommendations for a mixture species to enhance the diversity of the woodland, making it more resilient to pests, diseases and climate change. The FC advise that currently there is an active felling licence on the Billingside Plantation in the area of the proposed extension. These felling licences are for clear felling and selective felling with both of the licences having restocking conditions attached and that these areas should continue to be woodland. Advice regarding woodland management is provided and the applicant is encouraged to consider climate change when developing the restoration plan and the need to create and manage woodlands that are more resilient to these threats. In addition, advice in relation to ancient woodlands is also provided.
- 120 *HSE* – in respect of the proposed extension, they advise that the site does not lie within the consultation distance (CD) of a major hazard site or major accident hazard pipeline. With regards to the variation of conditions application the HSE does not advise, on safety grounds, against the granting of planning permission. It is noted that as the proposed development is within the consultation distance of a major hazard pipeline, the applicant should consider contacting the pipeline operator.
- 121 *Northern Gas Networks* – has no objection to the proposed extension application but notes that there may be apparatus in the area that may be at risk during construction works and should the planning application be approved, then it would require the developer to contact them to discuss their requirements in detail. Northern Gas Networks originally objected to the variation of conditions application but following clarification from the applicant subsequently withdrew the objection.
- 122 *Public Health England (PHE)* – raises no objection to either application. PHE notes that from a planning perspective impacts on public health from local air quality, noise and contaminated land fall under the remit of the local authority and it is their responsibility to decide whether or not to comment on these aspects of the planning application. It is identified that with respect to the Bradley West application, the main emissions of potential concern are to air, such as particulate matter (PM) arising from extraction operations, mine gas from old workings and the generation of noise from site operations. It is noted that the developer has supplied air-quality, mine gas and noise assessments which indicate that, with the mitigation proposed that impacts arising from site operations should not be significant. PHE notes that the proposed extension brings operations closer to receptors to the west and that the applicant proposes additional continuous monitoring of smaller particulates with similar action levels and offers additional non-continuous monitoring of larger particulates, such as might be deposited as nuisance dust. PHE welcomes the usage of meteorological data and particulate monitoring action level alarms within the dust management plan

and the setting of conditions, such that the proposed extension if granted does not significantly impact on nearby receptors. Based solely on the information contained in the application provided, PHE has no significant concerns regarding risk to health of the local population from this proposed activity, providing that the applicant takes all appropriate measures to prevent or control pollution, in accordance with the relevant sector technical guidance or industry best practice. It is also noted that in order to operate, this process would require an Environmental Permit and PHE may be consulted on any such application.

INTERNAL CONSULTEE RESPONSES:

- 123 *Spatial Policy* – officers advise that Paragraph 11 of the NPPF 2019 is triggered in this instance on the basis that the most important County Durham Minerals Local Plan policies for determining this application are out-of-date e.g. saved Policy M7 (Opencast Coal and Fireclay) and saved Policy M8 (Piecemeal Working). The provided response outlines key NPPF and PPG paragraphs to which regard must be had in making a decision, in particular Paragraph 211 of the NPPF 2019. Advice on relevant remaining up to date County Durham Minerals Local Plan and Derwentside Local Plan policies have also been provided and it is for the decision taker to determine the level of weight that should be afforded to these policies in accordance with their status. Specific advice on a climate change is also provided. In this regard the NPPFs focus relates to moving to a transition to a low carbon economy and mitigating and adapting to climate change. It is emphasised that the NPPF does not seek to restrict surface mined coal on climate change grounds and does not refer to any requirement to consider carbon dioxide emissions associated with the winning and working of coal or its use by the end user. The PPG provides clear advice that the environmental impacts of coal extraction should be considered in the same way as for other minerals applications. It advises upon the principal environmental issues that mineral planning authorities should address when considering mineral working such as coal and aggregates, which does not include climate change or the climate change implications of the winning and working of minerals or the use of an extracted mineral by its end user.
- 124 *Landscape* – officers raise no objection but provide advice as to the impact of the proposed extension. Officers consider that the effects of the proposals on the character of the site and its immediate context would be high during the operational period of around 14 months. The effect in the longer term would be moderately beneficial, with new hedges, trees and woodland mitigating the short and medium term effects of tree loss. The effect on the character of the wider Pont Valley would be relatively low during the operational period as the physical and visual effects of working would be localised. Although in a visually prominent location, the visual effects would be incremental to the larger effects of the existing Bradley site. Officers consider that there would be some localised adverse effects on the special quality of the AHLV in respect of trees loss. The effect on the special quality of the wider Pont Valley AHLV would be low (both in terms of harm and benefits) due to its localised nature. Access to the AHLV from residential areas would be locally improved. There would be some visual intrusion in views from residential areas although this would be generally low and would entail a small increase in the overall visual impact of the wider site. The highest impact would be in views from adjacent roads. Roadside mounds would screen views of other site operations. They would be notable features in themselves, and particularly intrusive until greened up, but would be temporary; in place up to around 14 months.
- 125 Landscape officers raise no objection to the variation of condition application considering that the minor changes required to the approved scheme to provide for the working of the proposed extension, principally amendments to phasing and the

construction of the proposed subsoil mound within the existing site, would not in themselves give rise to any significant additional landscape or visual effects. In respect of the submitted Habitat Management Plan (HMP) for the site, Landscape officers consider it to be appropriate.

- 126 *Ecology* – has no objection to the application to extend coal mining operations, given that there are no significant predicted impacts on designated sites, Habitats of Principal Importance, or protected species and impacts on habitats are accounted for through the creation and restoration of habitats within the restoration plan.
- 127 Ecology officers advise that the proposed variation of condition application does not appear to affect the restoration proposals or the aftercare and therefore officers have no objections to the application.
- 128 In respect of the submitted Habitat Management Plan (HMP) for both sites, Ecology officers advise that they are happy with the management objective laid out for each habitat type, these will allow monitoring of the habitats and allow a determination as to whether high quality habitats have been created and that long term management is suitable. The HMP acknowledges that management may need to change over time and this flexibility is essential. Officers advise that they would prefer if the proposed permissive route indicated on the Restoration Plan (Bradley west Area) did not run through the gifted land/wetland mosaic; access into this area would create disturbance and displacement of species and reduce the biodiversity value of the area.
- 129 *Design and Conservation* – raise no objection to the extension application. Officers originally considered the heritage impact assessment was too restricted. Notwithstanding previous comments, the applicant has provided justification for not expanding the heritage impact assessment area in-line with general search parameters for EIA developments. Concluding that the location, nature of the development, the intervening topography and landscape features means there would likely be no impact on the setting of any other heritage asset in the wider context. This is not contested as such factors would prevent visual interactions between the site and other heritage assets, the impact on setting being neutral. The existing appraisal would therefore be considered acceptable. Given the above, and that there will be no long-term adverse impacts on the setting or significance of the designated heritage assets closer to the site, as stated in original comments, there are no grounds on which to object from a heritage standpoint.
- 130 In respect of the variation of condition application, officers advise that it does not have any bearing on impact on heritage assets but refers to comments on the proposed extension as set out above.
- 131 *Archaeology* – raise no objection subject to the development taking place in accordance with the submitted Written Scheme of Investigation which it is noted includes timescales for reporting. There is no archaeological objection to the variation of condition application.
- 132 *Environmental, Health and Consumer Protection (Noise)* – raise no objection. Officers have undertaken a technical review of information submitted in relation to the likely impact upon amenity in accordance with the relevant TANs (Technical Advice Notes) and as such offer advice in the consideration of any impact upon amenity. Officers advise that the applicant has provided detail sufficient to satisfy initial queries raised in relation to the proposed change to working hours for maintenance, suggestions for a monitoring point to the Jolly Drivers/St Ives Road location and for a continuous noise monitor to be provided to the south of the

proposed extension site and as such do not raise any further concerns. No concerns are raised regarding the proposed temporary lighting for the extension with officers considering that it would not lead to an adverse impact.

- 133 Environmental, Health and Consumer Protection (Noise) officers advise that it is considered that the variation of condition proposals would not impact on the existing noise climate and existing relevant planning conditions and as such would not raise any concerns in relation to noise impact.
- 134 *Environmental Health and Consumer Protection (Air Quality)* – raise no objection considering that overall, the air quality assessment uses current best practice methods to consider the effects of emissions to air from the proposed scheme. Provided that the development is operated in accordance with the procedures and methods outlined in the ES Chapter and associated Appendices, the proposed scheme would be acceptable in terms of its effect on local air quality and amenity.
- 135 *Environmental Health and Consumer Protection (Air Quality)* – officers advise that it is considered that the variation of condition proposals would not impact on the existing air quality assessment and as such would not raise any concerns in relation to air quality impact.
- 136 *Environmental Health and Consumer Protection (Contaminated Land)* – raise no objection to either application having assessed the historical maps and available information with respect to land contamination. Officers are satisfied with the information provided in relation to potentially contaminated soils and how it would be dealt with during the restoration. Officers advise that there is no requirement for a contaminated land condition.
- 137 *Public Health Durham* – no objection is raised but Public Health Durham considers that there are a number of potential health impacts on the surrounding communities within the proposed site and there should be consideration of the both physical and mental health consequences of approving the application as well as the environmental impacts such as destruction of green space, noise and the impact on climate change. In particular, any community or housing within 1 kilometre of the mine, as per the findings of the Newcastle Study (1999), would be at more of a risk of health issues. According to evidence, the greater the volume coal mined, the greater the risk to health. The proposed amount is currently smaller than the 500,000 tonnes target which the existing site at west of Bradley is planning to mine. The evidence of the impact of increased particle matter in the atmosphere as a result of opencast coal mining has the potential to cause many acute and chronic health issues to the local community. However, in relation to the extension application from the existing surface mining operation on and to the west of Bradley Surface Mine there would be minimal risk to health from increased particle matter in the atmosphere. Following a technical review by the Council's Environmental Health Team of information submitted in relation to the likely impact upon air quality standards, it is considered that the proposal will not impact on the existing air quality assessment and there are no concerns in relation to air quality impact.
- 138 *Access and Rights of Way* – raise no objection to either application following the addressing of queries regarding the intention with regard to the section of alternative way no. 2 that links with Footpath No. 28 following commencement of the west extension. In terms of the extension it is noted that the intended provision of additional registered / permissive footpaths as part of the wider restoration of the site would be subject to further discussion.

- 139 *Travel Plan Team* – raise no objection to either application noting that the existing Travel Plan measures would apply to Bradley West, which would be operated by the same staff as the existing surface mine.
- 140 *Business Durham* – recommends that Members consider these applications for approval; on the basis that the Banks Group demonstrates that it is transitioning as a company away from coal, supporting renewable energy, innovating to develop new renewable energy storage solutions which support the Council’s carbon reduction strategy. In the meantime, there is still a need for coal in the UK economy which can be met from County Durham.

PUBLIC RESPONSES:

- 141 Prior to formal submission the applicant undertook a range of public involvement initiatives including presentations and discussions at the established Bradley Liaison Committee. In addition, the applicant issued press releases, broadcast media interviews, produced and distributed community newsletters and undertook door knocking along Pont Lane and at other closest properties. The community engagement took place between February 2019 and when the planning applications were submitted in November 2019.
- 142 The applications have been advertised by site notice and in the local press as part of the planning procedures. Notification letters were sent to a number of properties in the vicinity of the site including Pont Lane, Tweed Avenue, Tyne Avenue, Annaside Mews, St Ives Road, Hedley Terrace, Douglas Terrace and Our Lady and St Joseph RC Church. The receipt of further information was advertised in accordance with Regulation 25 of the EIA Regulations.
- 143 In total 12,401 representations have been received in response to the applications from individuals and organisations. 6,278 in response to DM/19/03567/MIN (3 of which are representations which neither object or support) and 6,123 to DM/19/03569/VOCMW.

Objection

- 144 11,970 letters of objection have been received in response to both applications. 6,049 in response to DM/19/03567/MIN and 5,921 to DM/19/03569/VOCMW. The majority of letters refer to both application numbers, but many make comments in relation to the proposed extension. Where an objection has been received referring to both application numbers it has been counted as an objection on each application.
- 145 The objections received are from a combination of local residents living in the immediate vicinity of the existing and proposed extension site and from people living elsewhere in the region, the UK and abroad. Most of the objection letters have been sent from people living outside of the local area. The issues raised in the letters are similar. It is noted that the coalaction.org.uk website encourages people to write to the Council objecting to the proposed extension (but to include the two planning application numbers) and lists a number of suggested reasons as to why people may wish to object. It is stated that *“Campaign to Protect Pont Valley have launched a new campaign to oppose this planning application and they need your support. Inspired by Defend Dewley Hill, which this summer garnered over 4,000 objections to Banks Group’s proposal to opencast near Newcastle, we want to raise ‘a mountain’ of objections to the scheme.”*
- 146 The grounds of objection and concern raised in relation to the applications are summarised below.

Climate change

- There is a climate emergency and we should not be extracting or burning coal as the science has proved.
- Of all the fossil fuels, coal is the dirtiest and contributes the most to the climate emergency. Not only does it cause the emission of carbon dioxide, it also causes much more local pollution than other fuels. Instead invest in renewable energy.
- Our children are striking and marching to raise the concern about climate change, air pollution and other harms – additional coal extraction is destructive to their futures.
- This is the only planet we have.
- The scientific community has shown evidence that this is an undeniable fact and that we are at crisis point with not a moment to waste. Listen to the science and the scientists.
- The science is clear - if we do not stay under the 2 degree warming target, our planet - and all of us - will be facing unprecedented changes, sea level rise, extreme weather events such as flooding, and social unrest. We are currently steering towards that future of climate chaos and mass extinction.
- Change in weather and climate due to the burning of fossil fuels. Reference to melting ice caps, sea levels rise, flooding, heat wave, violent weather and fires with adverse impacts on communities including starvation in Africa due to climate change.
- We must take action now to prevent catastrophic climate change.
- Given the world is suffering from severe weather conditions due to global warming it is just madness to consider worsening the situation.
- The IPCC says that all coal must remain in the ground to avoid disastrous and accelerating climate change.
- There are already enough fossil fuel extraction sites to take us significantly past the threshold for a severe climate crisis.
- CO₂ emissions from burning coal are known to add to the climate emergency we are facing, making it more likely that we shall suffer extreme weather events that will cause a lot of suffering as well as economic losses.
- The whole world is facing a climate emergency and coal contributes hugely to it the decision whether or not to extract in Durham impacts upon the future of people around the world.
- Irresponsible to grant planning permission and against the public interest.
- The site could be used for a future carbon capture site.
- For each year of Banks Group's coal burning, the planet will take between 1,000 to 5,000 years to absorb it. Source: NASA.
- Due to climate change we should close mines.
- Reference to comments made by Sir David Attenborough and Professor Sir John Lawton FRS, the former Chair of the Royal Commission on Environmental Pollution against the proposed Highthorn site in Northumberland and how these are also applicable to the Bradley site. It is noted that the Highthorn development was stopped.
- The only way to stop climate change and biodiversity loss is by leaving fossil fuels in the ground, and by stopping the destruction of biodiverse habitat. The UK government has already committed to phasing out coal extraction. That means no new coal mines, and no extensions. We need to invest into alternative, decentralised, community-controlled electricity sources, prioritising ecological health and human health over the profits of a private company with a marginal number of jobs.
- Species are becoming extinct by the day.
- The climate emergency is now present and very dangerous. It has to be acknowledged that tackling the crisis will require sacrifice. That may mean jobs,

standards of living, way of life. It will be meaningful. So, Bradley cannot go ahead. We have to start taking real steps rather than paying lip service.

- The planning issues arising from opencast coal mining are no longer limited to the environmental impact on local communities, devastating though they may be. They are now issues of national importance relating to our response to the climate emergency. Issues that are as important to a resident of London as a resident of the County of Durham.
- By planting trees instead of mining coal we would reduce carbon emissions.
- We can live without more coal. But we cannot live with anything above 1.5 degrees warming in the next century. Continued fossil fuel extraction will mean at least 3-5 degrees warming and a planet where billions will die.
- There are many other methods of providing electricity from wind power to nuclear, so we don't need to rely on coal.
- The Bradley mine will cause far more damage to climate, local natural habitats and local air and noise pollution which harms people's health, than it will ever bring secure local jobs or long-term benefits to our region.

Climate change targets

- Concerns regarding the impact upon meeting climate change targets.
- The UK is meant to be carbon neutral by 2050.
- Extending the use of coal is entirely incompatible with the Paris Accord on Climate Change and is in direct conflict with the declaration of a climate emergency by the last Parliament and by hundreds of local councils including DCC.
- A 2019 UN report said the world must stop building coal-fired power stations by 2020.
- Britain is a signatory to the Paris Climate Change Agreement. The UK already has a 2050 target - to reduce emissions by 80% agreed under the Climate Change Act in 2008, but will now be amended to the new, much tougher, goal. The actual terminology used by the government is "net zero" greenhouse gases by 2050. That means emissions from homes, transport, farming and industry will have to be avoided completely
- Its report said if other countries followed the UK, there was a 50-50 chance of staying below the recommended 1.5C temperature rise by 2100. A 1.5C rise is considered the threshold for dangerous climate change. This is why we, as a nation, cannot continue with fossil fuel production but rather the opposite, it has to be phased out.
- The UK has declared a climate emergency. To comply with this declaration carbon emissions must be reduced to zero by 2050 and by 45% by 2030 (IPCC report 2019). Extending this mine will produce an additional 90,000 tonnes of coal, all of which will end up increasing the carbon emissions. This cannot be allowed if we are to maintain world as it exists today.
- The Climate Change Act 2008 was passed over a decade ago, but CO₂ is still rising.
- UN advise that carbon emissions have to fall extremely rapidly to be reduced by 50% by 2030 if human civilisation is to survive.
- The UN has told us clearly that we need to reduce our CO₂ emissions by 7.6% every year for the next ten years.
- This development would put at risk any progress the UK has made towards meeting climate commitments and undermine ability to meet future targets. It would make a mockery of the UK's strategy of becoming coal free.
- Coal contributes to climate change regardless of where it gets burnt, and the effects of climate change will impact everyone - including us here in the North East.
- Concerns that the claims by Banks with regard to the lower climate change impacts from their coal mine are based on a generic report which does not follow

international standards for Life Cycle Assessment and should be discounted. Even lower CO₂ emissions are not a reason for allowing further coal mining as can be seen with the IPCC 1.5°C report, coal mining must be reduced significantly in all countries not simply moved from one to another. The evidence from Banks ignores the clear significant recommendations of the IPCC in terms of reducing coal mining whilst misusing IPCC figures within a generic report and have not provided evidence of the required expert level. Expert recommendation is that the reports from Wardell Armstrong and all mention of lower CO₂ emissions from the coal mine are removed from the evidence considered within the planning application.

Durham County Council's declaration of a climate emergency

- At a time when the Council has declared a climate emergency, it is wholly inappropriate to agree to an expansion of coal extraction.
- DCC should exercise strong leadership and stewardship which is consistent with its declaration of the climate emergency, in refusing planning permission for the proposed extension.
- The world is watching and waiting for Durham's decision on this issue.
- The scientific evidence is overwhelming, and you will be held responsible by your community for the failure of your legal duty to protect their health and safety, but also your conscious decision to contribute to the overall wider pollution in the UK and further afield. It becomes a hypocrisy when your Council has also declared a Climate Emergency.
- DCC must continue to strive forwards supporting and investing in the correct and safe highest spec insulation of public and private buildings of all types and it must support and invest in the safest renewable power sources - wind, solar, human/gym based and marine sourced energy.
- DCC has declared a climate emergency. The key element in the strategy for responding to this emergency is the rapid reduction in the emission of greenhouse gases. The burning of fossil fuels is by far the main cause of these emissions and coal is the most dangerous fuel. In this context, it is utterly irresponsible to permit the expansion of coal production.
- It contradicts the county's own declared climate emergency because air pollution from coal-fired power plants includes sulfur dioxide, nitrogen oxides, particulate matter (PM), and heavy metals, leading to smog, acid rain, toxins in the environment, and numerous respiratory, cardiovascular, and cerebrovascular effects.
- Objectors will never again trust the Council to have the slightest concern for its residents, nor any of its smaller businesses if planning permission is granted.

Need for coal

- This coal is not needed.
- Banks claim they are saving carbon emissions in transport because the coal is 'local', but they are adding to the UK's huge surplus of coal, which is being increasingly exported abroad and contributes to climate change wherever it is burned.
- The tide has turned against coal. There have been no new opencast approved through the planning system since January 2016.
- There are sufficient stockpiles of coal in the UK and if this goes to export then it just shifts our responsibilities to cut greenhouse gases overseas.
- We hear that Banks Mining have reserves of coal up to 2025 so why should we be producing any more coal at all?
- Coal is a dying, outdated and dirty industry and should have no place in the UK. We should embrace coal's history, its legacy for the region while moving towards something better.

- Granting the extension will be a retrograde step, stepping back into the 20th century
- Fossil fuels are an outdated means of supplying electricity. The north east was at the forefront of the industrial revolution. It's time to move forward and learn from the innovators of the past. Grasp new technologies and not be a fossil like the dinosaurs of the past.
- This country offers the best possible environment for pursuing renewables. We should be putting all our energies into making Britain a world leader with those and going for a green future.
- More use must be made of wind power including on shore and individual wind turbines; solar energy, tidal power, wave power, heat pumps, air pumps, geothermal, biogas, all homes must be properly insulated, thus reducing energy needs. Also use of hydrogen.
- Renewable energy is cheaper, cleaner and money allocated to this project should be spent on renewables.
- Drax power station, which used to be powered exclusively by coal, is focusing more on wood pellets and trying to reduce its carbon emissions. There is simply no place in a modern economy for coal. This also won't be about job creation. More jobs would be created with a focus on a post-carbon future.
- The Paris agreement commits us to first reduce and then eliminate CO₂ emissions as a matter of emergency consequently industry needs to move swiftly to clean steel, whereas an abundance of coal will encourage it to continue with its heavily polluting ways.
- Britain is running on renewable energy at present has been for 67 days and, each month we are getting more and more efficient without coal!
- Enough is Enough! This is the last attempt by Banks to extract coal from British mines so why don't we just say that's it and call it a day from now.

Use of the coal to be extracted

- They claim their coal is essential for steel manufacturing but have provided no evidence that that is where it's going.
- All available evidence indicates that coal from Banks' Bradley site is transported to West Burton coal fired power station.
- Banks coal is going to power stations where there is already a substantial surplus.
- The steel industry already has established suppliers of coal and is not expanding.
- At a time where there is already a surplus of coal to power stations there is also a global surplus of steel. There is no need for the site to be extended.
- Coal for steel should not be required, because we would have enough recycled steel if we stopped exporting it. This would use electric arc production and arch furnaces.
- Almost identical 'Non binding' letters of support for Banks' application have been submitted by Tata Steel. Tata Steel states "no firm commitment for the potential off-take has been agreed" and that they would only be interested if "suitable commercial terms could be agreed". Tata Steel's Port Talbot currently source coal from Russia. 46% of UK imports come from Russia. Production methods at the steel works would require alterations to use coal of a different composition from a different source. This points it being highly unlikely that commercial and logistical conditions would result in Tata Steel purchasing the estimated 80 – 90, 000 tonnes of coal that might be sourced from Banks' 'Bradley West' site.
- Even if Tata Steel did enter into a commercial agreement, this relatively small amount of coal would be insignificant in relation to the ongoing operation of steel production at the Port Talbot works. Is it worth the long term damage to an area of High Landscape Value (AHLV) on the edge of the North Pennines?

- The world demand for coal will decline with the advancement of new technologies. Blast furnaces for recycled steel are being trailed running on hydrogen in Germany.
- The old chestnut that steel is necessary for UK steel production is a red herring. This may have been true at the time of the initial application, but technology has moved on, and the ability to produce steel without burning coal is now widely acknowledged.
- As a country we need to find a way to recycle more metals, like steel, which at the moment is unprofitable. It is cheaper to destroy large areas of the countryside than to process scrap metal. A report by Professor Allwood, Cambridge University this year suggests that recycling steel could make the UK self-sufficient in steel and lead to a new industry. At present, the UK exports 80% of scrap steel abroad.
- The cement industry also traditionally uses coal to fire its product yet more companies are experimenting with renewable energy resources like waste coal, tyres, sewage sludge and biomass to reduce emissions.

Fireclay

- Bricks can be made from other materials that are more energy effective e.g. hemp and cork.
- Queried why fireclay is not extracted from the existing site.

Residential amenity/Quality of life

- Noise, dust and blasting near to homes.
- Homes close to the site will be affected – there are homes 150 metres from the site, even closer than High Stables where people already experience daily noise, regular blasting and dust falling in their gardens, which they are breathing in.
- The proposed new area to be mined is only 40m from homes on Pont Lane and the excavations are only 150m from the homes. This proposed new area of work is much closer to homes than that permitted in the previous application. It is almost half the environmental distance which the applicants themselves proposed to the Inspector at Appeal when asking for permission for surface mining works at Bradley.
- The proximity of the extension to valuable commercial and community facility of the Jolly Drovers renders approval inappropriate. Moreover, the Pont Head residential area, together with housing, church and a school on St Ives Road bring critical mass to the number of residents and activities that would be detrimentally impacted by an extension.
- The extension would be only 80 metres from the local pub, the Jolly Drovers.
- People near the mine already experience daily noise, regular blasting and breathe in harmful dust. The expansion would bring the site nearer to people's homes and make this worse.
- To go within 150 meters of a residential area is out of order and should not be allowed. High Stables is 250 meters and that is far too close. People who are supporting this clearly do not have to live with this every day and should perhaps come and look at the gaping mess that has been left in a beautiful landscape. To look out of your window and see destruction, to be rudely awakened by machinery at 7am and have the constant distress of noise until 7pm. Any plea to turn loud machinery off constantly falls on deaf ears.
- It is noted that the distance between the existing site and the nearest residential properties increased prior to the Appeal and that this was felt this was environmentally appropriate and financially acceptable. It is noted that with the proposed extension, the proposed works are only 40m and the excavations only 150m away from homes at Pont Lane.
- The proposed extension is unacceptably close to the properties on Pont Lane, something which would have scuppered the initial application had the working

been within the same distance of the houses at Douglas terrace, which is probably why it was not included in the original plan.

- The Bradley West site is environmentally more sensitive than the eastern Douglas Terrace 'buffer zone' area incorporated into the Bradley surface mining permission as it significantly extends the area scarred by surface mining, is closer to homes, highly visible from the immediately adjacent highways and as pointed out by the Inspector will take in the region of ten years to be successfully reinstated.
- Residents of High Stables have advised of their experience of living adjacent to the existing site. Impacts of noise, light pollution and rapid accumulation of dust within homes and associated impact on health and mental wellbeing and general disruption it has brought to home and work life. Harassment by site security staff. Turning footpaths in to fenced off cages, cutting down age old trees and hedgerow some for no apparent reason when working is not close to them, loss of landmarks on the site.
- Reasons why residents moved to the area are cited including: the beautiful and raw landscape of the valley and the enjoyment of peaceful walks from the properties across the different terrains and paths: the opportunity for walking, running, foraging, observing wildlife, picnicking and sledging: unspoilt views across the valley and the magnificent sunsets from different viewpoints; wildlife and diverse species - birds, deer, badgers, butterflies etc - that roamed the valley undisturbed, and also visited gardens; Brooms pond with great crested newts.
- Since June 2018 Banks has decimated the Pont Valley and spoiled all of the above pleasures of living there. Residents have stated they have experienced constant issues with: noise caused by machinery and blasting from the Bradley site; dust from the Bradley site; evidence of destruction of habitats at the Bradley site; the utter devastation of a once beautiful valley.
- The proposed extension will bring more misery to the local communities. More dust. More noise. More blasting. More devastation of habitats and landscape. The local pub - The Jolly Drovers – will be affected in many ways, including economically. Residents near the existing mine will continue to suffer poor health.
- Residents in High Stables have been adversely affected by coal dust and noise from the existing mine for 12 hours a day, every day. This will only increase with the further encroachment of the mine onto the countryside. The mental health of local residents will also suffer. New houses have been built withing 150m of the mine. Has no one considered the health implications of this?
- The amenity of Medomsley residents in the summer and autumn of 2019 have detrimentally impacted by the considerable noise of machinery working the present site. Moreover, there has been a regular deposit of fine grey particulate readily identifiable on windows and window ledges which undoubtedly may be sourced to the workings. Whilst the prevailing wind would not tend to carry noise and dust in the direction of Medomsley on all occasions, nevertheless, the activities of the opencast have been noisome.
- The application should be refused as the obviously inseparable environmental and amenity harm to the local community greatly outweigh any economic benefits. The harm would be acute, and the economic benefits would be slight in the context of the national economy. Moreover, any encouragement of piecemeal working as a process of attrition should, as a matter of policy, be resisted.
- The appeal decision concluded that the NPPF policy in favour of mineral extraction was outweighed by the environmental and amenity disbenefits relied upon by objectors but the new application raises afresh in an even more acute form, environmental harm to the community who has had to suffer the obvious problems of living with opencast operations.
- Personal experiences of living next to an opencast site in Wales, Northumberland, the Forest of Dene and Germany and the adverse impacts associated with doing

so especially in terms of noise, dust and visual. The cessation of mine in Wales had an immediate and obvious improvement in air quality.

- Destructive methods of grabbing energy - by blasting, bulldozing, and mechanical digging to get a dirty fuel out of the ground - creates degradation of the environment and makes life unbearable and unhealthy for those who live nearby.
- It goes against the wishes of the local community - it imposes on them in terms of noise, dust, other chemical pollution, and danger on the local roads. There is ample evidence of the harms to health that all these causes.
- Feeling the need to complain in order for things to be addressed is stressful and has had an impact on quality of life.

Noise

- First-hand experience is cited of existing resident of nuisance created by noise from the site which has been at time excruciating. Banks has refused to apologise instead trying to minimise and deny there is an issue.
- The impact of the noise, including blasting, is deleterious to health and well-being.
- Query why every time the sound tester comes out to measure noise from Banks it goes quiet and the machines start again. Stated that there is a lot more noise etc than expected in the beginning and the tipper trucks going past the house to the site are still being seen even though not permitted.
- There are days when there is significant noise from the existing site. If the extension is approved, it would be closer to Leadgate and residents living close to it are likely to suffer significant noise levels on a regular basis as residents have living next to the existing site.
- Resident of High Stables states that they are amazed that when the various dust or noise tests take place there is a quietness and the lack of movement of plant on the site. States that can assume that the dust levels have increased since Banks arrived.

Dust and air quality

- The dust from explosions is harmful to local communities and the habitats of protected species will be destroyed.
- Residents living close to the site raise concerns regarding dust. It is stated that the original planning application stated that the large area of trees nearby would act as some sort of shelter from the dust. The area in question has since been deforested, so this protection no longer exists.
- First-hand experience is cited of existing resident seeing dust rising from machinery on site and cars, houses, windows and gardens are regularly covered in thick dust at this site and at others.
- Dirt and dust that residents will have to ensure is totally unacceptable and could have a detrimental effect on those with breathing problems.
- Dust/particulate matter/noxious gases, atmospheric pollution.
- Our air is bad enough already so why add to the nastiness of what we breath in every day.
- Dust from mining operations and explosions are unacceptable.
- Person living next to another opencast site in County Durham considers it to be a blight and every day has to clean windows and never had to before its opening and queries the health impact on kids in schools if dust is circulating locally.
- Resident of Bradley Cottages notes a huge difference in dirt and dust since the site opened, he used to wash his car every week, now it is caked in dust after a few days, also our house windows are now almost opaque, a few weeks after cleaning again covered in black dust.
- Health concerns are raised. It is stated that human health will suffer too with airborne particles causing respiratory issues.

- Local resident report of reoccurrence of asthma symptoms following commencement of the development and considering this not to be a coincidence.
- Notable decline in air quality (which used to be very good) noted by a resident where he and his wife have experienced more sneezing and dry throats.
- The development is detrimental to health both of those living close by and the mine workers.
- Polluted air is a major cause of lung infections, particularly amongst young children and the elderly, putting more pressure on the NHS.
- There is a mass of evidence that proximity to such workings, exposing local residents to poor air quality, greatly increases the levels of asthma (especially in children) and other debilitating respiratory diseases, all of which have costs, if not to yourselves directly, then to the NHS, and to employers locally because of increase sickness absence.
- Coal is a fossil fuel, and the one which produces the most Carbon Dioxide and the most particulates PM10 & PM2.5 which are known causes of damaging health problems, especially in older people, children, and the unborn child in the womb. The 1952 Clean Air Act which was brought in to tackle the SMOG caused by the burning of coal.
- There is a serious air quality problem in parts of this country and a new coal mine will have a detrimental effect on the air quality for those people living close to the mining area; the dust from explosions will be harmful to local people.
- Dust from explosions at the mine is harmful to local communities. This is a particularly significant point at the moment because we are in the midst of a global pandemic in which the COVID 19 virus attacks the respiratory system. It is believed that many of those who have already died have had pre-existing conditions relating to their lung capacity and their ability to breath normally.

Blasting

- Blasting takes place on a regular basis and can be felt in residential properties close to the existing site and residents have structural concerns as well as concerns that it disturbs children in Tyne Avenue, the area where the proposed extension would extend.
- Poor communication from the site operator regarding blasting and when it will take place.
- Due to geology more frequent and intense blasting will take place only 80m from human habitation.

Hydrology

- Concerns about water safety are raised and that waterways can become polluted with run-off from industrial processes.
- Coal combustion products (CCPs) include fly ash, flue-gas desulphurisation materials, bottom ash and boiler slag - these materials may be used in industrial processes and building materials, but in practice most are not. CCPs contain toxic products including arsenic, beryllium, boron, cadmium, chromium, chromium VI, cobalt, lead, manganese, mercury, molybdenum, selenium, strontium, thallium, and vanadium, along with dioxins and PAH compounds. When fly ash is held in unlined ponds, these metals make their way into the water stream.

Pollution

- Shallow mined coal will contribute both short term and long term widespread pollution disproportionate to its energy value.

Ecology

- Destruction of further habitats.
- Wildlife will be particularly badly affected as it will already be under stress from existing works.
- There are protected species on the land they want to dig up – birds, butterflies, badgers and rare fungus, already under stress from the existing mine.
- This habitat has already been severely damaged by the existing mine and an expansion will put increased stress on the diverse species that remain in the area.
- It permanently affects the migration and nesting sites of birds; swallows, cuckoos, skylarks and curlew which may never return.
- View expressed that there is absolutely no regard for protected species and more habitats will be destroyed if this goes ahead. It should be stopped now.
- The original site impacted upon great crested newts. The mining Company may have committed criminal offences in respect to wildlife preservation when the site was originally started.
- The company did a very rushed and careless job of surveying for great crested newts in 2018, making their whole works actually unlawful and having ignored almost 90,000 signatures of locals and others across the country opposing the mine's go ahead, how could anyone actually trust that they do 'development with care'.
- Concern for future of wildlife and green spaces.
- A climate emergency is about protecting biodiversity and rejecting this planning application will demonstrate that DCC is serious about protecting the climate.
- The proposals contradict the Council's biodiversity master plan.
- A climate emergency is about protecting biodiversity and rejecting this planning application will demonstrate that DCC is serious about protecting the climate.
- Birds listed in the survey include 7 red, 10 amber listed and 14 Durham priority species. If the population of these birds is to recover throughout Europe and beyond then we cannot afford a piecemeal destruction of the habitat where they prosper.
- The site is at the head of the Pont Valley which like the Derwent Valley is an important wildlife corridor, as recognised in the bird survey and leads onto the North Pennine Moors, a crucial SPA/SAC site.
- A number of protected species used the original Bradley site and have now been displaced. If extension goes ahead the few remaining animals would be subject to a further significant loss of foraging.
- Detrimental to the earth worm population which may not recover for 20 years which will affect many species who breed near the site including the Red Kite.
- A further expansion of the opencast coal mine will also mean a further loss of habitat for wildlife. Since 1970 we have lost 40% of wildlife. It is a priority that we start to protect the countryside and encourage biodiversity. The State of Nature 2018 report showed that over half (56%) of the UK's wild species have declined in the past 50 years and continue to do so.

Landscape

- It has destroyed our beautiful Pont Valley.
- The Pont Valley is known nationally and internationally as an area of natural beauty and home to wildlife with at least one projected species endangered by mining there.
- It prolongs and expands the eyesore in this part of the world.
- It ruins the approach to Consett from Gateshead which lessens the appeal and attraction of Consett.
- Noted that Seaham has improved since the 1980s when there were black slag heaps as a result of mining and now tourists are being attracted to the town with the dirt and smell of the coal gone with the mineshafts.

- Hundred old trees cannot just be replaced, hedges do not grow back overnight, naturally occurring bio-diverse habitats cannot just be replaced.
- The extension proposed to the Bradley site is not compatible with Durham County Council landscape strategy.
- After the last mine closed a great effort was put in place to "landscape" these heaps and the result was astounding. The once blighted landscape of County Durham was transformed into a beautiful lush, green county. Don't go back in time and destroy the countryside we all love and enjoy.
- The Pont Valley landscape is formed by all the years that the Pont Valley has existed. The landscape cannot be restored, nor the loss of habitat mitigated. 'Species rich' planting will not compensate for a landscape that has evolved in its own way since the ice retreated. Hundred-year-old hedges shaped by past husbandry, once uprooted, cannot be replaced. Protected species live on this land. Wildlife habitats will be destroyed to dig more of something that will also destroy us.

Archaeology

- There is archaeological and historical evidence of deep mining, drift mining and opencast coal extraction in the Pont Valley over centuries.
- The archaeological remnants on the land might not seem important but they speak of a landscape shaped over the years. The bell pits are gone, and no number of interpretation boards will make up for the vanishing of an authentic landscape.

Agriculture

- The site is a green field site which has the potential to be turned over to food production which will become increasingly important as climate change puts at threat our capacity to both grow and import food in the future.
- As a green field site, it has the capacity to absorb CO₂ out of the atmosphere thereby sowing progress to a climate disaster.

Traffic

- Further traffic would be caused by the proposal.
- It was estimated that at peak times less than fifty loaded lorries would leave the site daily this too will need to be increased to take account of the extension.
- Coal production is noisy, dirty adds congestion to roads and destroys vast areas of otherwise usable land that could be put to better use.
- Resident of Bradley Cottages advises he seems to live on a "rat Run" for site vehicles whose uncovered trucks travel his home in excess of the speed limit. Other traffic has increased in both volume and speed and damage has been caused to neighbours cars. This has also led to parking and passing issues and safety concerns.
- The mine will generate a large amount of disturbance in the local area in terms of pollution and increased traffic, with only minimal impact on local employment and destroy the habitats of protected species.

Cumulative impact

- There is a cumulative impact with the original mine and surrounding deforestation, an extension would add to this – local authorities are meant to protect people from the cumulative impact of 'development'. Local residents complaints about the existing opencast ignored. Banks claim they offer 'development with care' but we feel we have been treated with nothing but contempt.
- Intensive deforestation of land in close proximity to High Stables has added to adverse impacts of residents and concern that so much of the valley has been exploited within the last decade.

Restoration

- Even when the land has been reclaimed, it is never back to the same condition as that before mining began. The grasses are different - often in summer the replacement grasses burn as they are not used to the dry conditions due to a shallow depth of soil that has been returned. This in turn has a noticeable, negative affect on wildlife.
- Concerns expressed at the standard of restoration following a site visit by residents stating that the topsoil was full of rubble and rocks and it remained to be seen whether this issue gets rectified at a later date.
- Restoration of any destroyed habitat would take several generations to recover.
- Areas in Derbyshire have been blighted by opencast mining and although landscaped there is bare ground, dead trees and area is prone to flooding and locals are unhappy with the results.
- Sites in Scotland have not been restored as planned causing problems. East Ayrshire Council has been left to deal, at great cost to the community, of abandoned open cast workings following the insolvency of the company undertaking such work within its boundaries. The attendant habitat loss and pollution issues are very serious and difficult, if not impossible, to readily remedy.
- The destruction caused by opencast mining is massive and will take at least 50 years to return to normal if ever totally.
- The applicant's proposal upon restoration is for the site to be gifted to an 'environmental/community' group. However, it is not clear whether this would be when the site had reached maturity or at an earlier stage after ground and planting works. Unless the site has been fully restored and adequate funds are made available to the said group to ensure full restoration has taken place and can be supported in the future, the impression given is of shifting responsibility away from the company and potentially placing a long term financial liability upon a group.
- What is the point of Durham County Council planting trees if Durham County Council allow Banks Group to extract coal, if this coal is used the tree planting will be null and void? If we use the coal already out of the ground Durham County Council will never reach its Climate Emergency targets.
- The restoration plans are not considered to be appropriate as they include a standardised 'native species' planting plan that could be anywhere in the UK. To replace a diverse space rich in local stories and character. If you allow further extension where will the wildlife come from to re-colonise this simulacrum of a landscape?
- Short term reclamation schemes are no more than a fantasy in terms of restoring the countryside to its previous condition relating to habitat.
- The soil would be degraded for many many years in the future despite restoration efforts.
- For every tonne of coal 17 tonnes of topsoil, subsoil and rock is excavated and the environmental damage is huge, and no amount of cosmetic work can recover the years of biodiversity that thrives there now.

Liaison committee

- A former resident member of the Liaison Committee meetings advises that meetings were tense, and residents' complaints were persistent. The noise and dust were always mentioned as an ongoing problem, and dozens of complaints were constantly brought to the attention of the Banks Group.

Non-compliance with existing planning permission and S106 planning obligation

- There have been complaints regarding the existing site by local residents in relation to noise, dust, drainage and compliance with approved documents.
- At the existing mine Banks have had to be warned as have on a number of occasions failed to keep the stockpile within the permitted 5 meters meaning the

coal is not protected from the strong winds of the area. Over a certain height, newly extracted coal can spontaneously combust. The extension will take the mine to within 150 meters of local homes. It appears that the safety of local people is low on the concerns of Banks.

- There has been uncontrolled run-off from the existing site on a number of occasions discovered by residents near an SNCI and reported to the Council. The area encompassed by the expansion application includes complex hydrology systems including ancient culverts and underground streams above a steeply sloping hillside. What assurances are there that the operator will even notice occurrences of run off into the water course should this expansion be permitted.
- 12 monitoring reports to date have been produced and each reports a non-compliance with the S106 legal agreement relating to the not commencing soil stripping operations until the protected right hand turn works have been completed.
- Non-compliance to approved details in relation to uncontrolled run off from the site yet run off left the site and material was deposited in a Site of Nature Conservation Interest and this was reported to the Council by residents. Concerns in reporting in Council's monitoring report.
- The area encompassed by the expansion application includes complex hydrology systems including ancient culverts and underground streams above a steeply sloping hillside. What assurances are there that the operator will even notice occurrences of run off into the water course should this expansion be permitted?
- Concerns are also raised that the "management" of approved works is not being monitored forcibly enough for the current site and that would only continue if this application is successful.

Site history

- Long history of mining in the Pont Valley over centuries and there has been vigorous opposition to further coal extraction for the past 30 years and applications were refused until the current Bradley site.
- Barely has County Durham recovered from the impact of deep mining industry before this proposal will inflict further damage with mining that runs counter to all serious commitment and action to counter climate change.
- The expiry date of the 2015 planning decision was 3 June 2018. Local people, including those most at risk from the development, were not notified of Banks Mining's intentions to commence coal excavation near their homes until 3 January 2018.
- Undetermined request by local people made in February 2018 for the Secretary of State for Housing and Communities (SoS), asking him to revoke planning permission. Following a High Court decision in October 2018, which overturned the SoS ruling on Highborn in Northumberland the SoS requested that fresh decisions on Bradley and Highborn be aligned. As of December 2019, no new decisions have been issued. This leaves DCC's Planning Committee in the precarious position of being required to make a local Mineral Planning Authority decision on a matter as yet, unresolved at national governmental level.

Tourism and local businesses

- The development will have a knock-on economic effect upon tourism.
- Surely it is time to recognise this area as a growing tourist market area with the scars of previous mining operations gradually being erased.
- The extension would have a negative impact upon the local pub.

Duration of development

- Five more months of coal dust and blasting. Banks say that the expansion can be done within the original time frame and restoration completed in 12 months by

August 2021. The applicant is keeping quiet about coal extraction needing to go on for a further 5 months, to January 2021 instead of finishing in August 2020. This type of dishonesty does not suggest that the proposed extension will be completed on time.

Employment and economy

- The new application doesn't support any additional jobs. Banks say it supports jobs, but workers could move to their wind projects.
- It will never bring secure local jobs or long-term benefits to our region
- There is no real evidence of benefit to the community through jobs.
- It is unlikely to offer much employment opportunity, given the degree of mechanisation such activities employ on new sites.
- It is important to increase jobs in the UK in previous closures in the steel industry existing staff have been found jobs in other industries and blue collar jobs.
- Any short term benefit to the local area in terms of jobs will be overwhelmed by the costs of dealing with flooding and other heating induced severe weather events. Opencast mining is most damaging to the environment at the point of extraction and disruptive to the local community and visitors.
- Any jobs that would be created from this scheme are likely to be short-lived due to our need to reduce our emissions in the very near future. Please instead help support the local community with jobs that they can be proud of, which will sustain them and their families well into the future, and not endanger either our future, or that of future generations.
- There is no long term economic benefit or justification for extraction of a material which will continue to have a negative impact
- We need to move away from fossil fuels so coal is no longer secure work.
- No amount of money is worth wrecking the planet.
- Reference to news articles stating global investment in coal tumbles by 75% in three years, as lenders lose appetite for fossil fuel, climate change and Greenland ice melting and coal power impacts.

Benefits

- Such schemes offer only minimal compensating benefits in terms of employment. Indeed, in most such projects, cost-benefit studies show that the purely local benefits relative to costs are often insufficient to justify the granting of permission. Within the wider - global - context, there is simply no justification at all.
- In the past such negative effects would have arguably been balanced by the energy needs of the country. However, any balanced decision now must now take into account both the climate emergency and the availability of alternative technologies. In these circumstances fail to understand how any planning decision could come down in favour of Bradley Opencast Coal.
- The increase to the community fund is pitiful compared to the profit that would be made. Also, Banks will have additional profit from brickclay.

Planning Policy

- Sustainable development is a cornerstone of the national NPPF framework, which takes precedent in local planning decision making.
- The extension application is contrary to the emerging County Durham Plan Policy 54 in that the applicant did not include proposals for an extension in their original application, therefore the new application contravenes the plan's guidance.
- There is a directive that planning permission should not be granted unless it provides National Local or Community benefits that clearly outweigh the associated adverse environmental impacts (National Planning Policy Framework paragraph 211). In this instance there is no evidence that the value of the coal

that would be realised would outweigh the environmental and social disruption that would be caused.

Future working

- The initial application was a once and for all application, yet Banks come back and reapply given the judicial review of the original decision etc and contempt with which they treated some elements of the planning approval and the complaints of local residents.
- Extension proposal is not a surprise as it was predicted by Pont Valley residents in 2015.
- Granting this application would indicate that the Planning Authority would approve an application to reduce the eastern Douglas Terrace boundary by almost half and therefore allow the applicants to extend their mining both east and west. In fact, there then is a risk of them seeking an extension further north into the Pont Valley.
- If the extension is granted it is inevitable that further mining incursions into the valley and its surroundings will be proposed.
- This is the latest (and possibly not the last) example of them using the 'thin end of the wedge' strategy to get a foothold by underplaying their true intentions and then subsequently re-applying for the motherload.
- Query why the extension was not included in the original proposal and query if they would want to extend again and again in the name of profitability with little regard for the community of the area.
- Please listen to the groundswell of opinion that doesn't want coal to be either mined or burned. Instead, encourage companies to put effort and money into improving renewable, sustainable energy sources. The community has fought valiantly for many years against this mine, first through lobbying, and then through direct action. They occupied the land of the proposed mine, and after being forcefully evicted, they kept on fighting by blockading the entrance to the site. How is it not clear to you that this is a bad, undemocratic, and unsustainable decision?
- The applicant may have proposals for further extensions to the current site to the East. If so, they need to be considered with this application.

The applicant

- Banks makes money for its shareholders and will stop at nothing to achieve their goal as demonstrated by the Druridge Bay situation and the ongoing saga with residents and the Secretary of State and the High Court. In a nutshell the residents have no final say and the decision making process always comes from outsiders.
- Objectors advise that they have had first hand experience of the distress and destruction that the mine has inflicted upon him and their neighbours and wildlife. This is not development with care it is development with no care at all.
- View that the site operator does not action to minimise the risk of issues happening again and if people complain regularly it is viewed by the operator as approval.
- There was no need for the original Bradley open cast site to go ahead. And there is no need for the extension to be approved. The whole 'project' has always been about corporate greed. Banks' company strapline is 'development with care'. They have proved they do not develop with care and that they can't be trusted. They are only in this for the money.
- Sickened by the lack of care in Banks slogan: They don't care about the local residents; They don't care about the local wildlife. They don't care about abiding by planning regulations and break these regulations on a regular basis; They don't care about providing jobs only maximising profits. DCC need to be aware of the

deeply held beliefs of the local people and stop these profiteers causing further damage to our already scarred valley.

- If the applicant has the money to invest in the mine it has the money to invest in climate friendly alternative to fossil fuels.
- It is queried what is the history of the applicant with regards to development works in environmentally sensitive areas. Are they known to be considerate, carrying out the necessary mitigation or do they have they a history of flouting the rules? This should also be taken into account.
- Given the climate emergency, it would be far more sensible for Banks Group to re-wild their existing land and turn it over to wind and solar energy utilisation.
- Banks Group are untrustworthy and misleading on air quality measurements and are disinterested in the views and wellbeing of our local community. They only pay lip service to environmental regulations and residents' concerns as their prime concerns are profit.
- Given the disregard they have shown, the immense legal and security costs they cause and how they broke previous planning regulations they cannot be granted planning permission to expand. Their financial interest should not be allowed to destroy this area.

Other

- It was irresponsible of DCC to let this opencast mine start in the first place. Do Banks control the Council or vice versa?
- DCC opposed the original application but were overruled by a Government Planning Inspector. It is hoped that DCC will once again reject this application.
- Further mining is not supported by Durham County Council or local communities.
- The extension should be rejected on moral and ethical grounds.
- Reference is made to the views of the Coal Action Network as to why the proposal should not be allowed.
- Reference to the consultation disrupting Christmas holidays and in the middle of an election.
- Disagreement with the Council's decision against strong local opposition to grant planning permission for the new HQ on a flood plain and greenfield site and the former council offices could have been used or the refurbishment of the current County Hall which could be refurbished cheaper after the UK left the EU.
- It is queried if appropriate Environmental Assessments been made, and if so where are they published and what has been done on their recommendations.
- This development should have a full Environmental Impact Assessment and a detailed assessment of its climate impacts to be weighed against the so-called economic benefits.
- Secretary of State for Housing, Communities and Local Government has yet to decide, retrospectively, whether planning permission for work on the original site should have been granted in light of his decision not to proceed with the site at Druridge Bay. Granting an extension would seem very premature in these circumstances.
- We in the North were partly responsible for starting the Industrial Revolution in the 19th Century. Can we get the members of Durham County Council to help lead us into a new, clean, regenerating world with a future for our children and grandchildren?

147 *County Durham Badger Group* – object to the extension application as they have received no assurance from the developer to questions and comments raised particularly in relation to the restoration of the site and the protection of wildlife or habitat. The Group is unconvinced that full and effective mitigation has been or will be put in place in relation to resident badgers. If the extension was to be granted permission and badgers were indeed displaced again by this developer the Group

believe conditions on the restoration should be applied – a management plan for 10 years is evidentially not sufficient to restore the soil structures and worm populations and a 50 year plan is suggested to be more appropriate. Also, that this cost is borne by the mine/land developers out of profits and not gifted or otherwise given over to the local council or wildlife trusts to bear that cost.

- 148 *Friends of Red Kites* – cannot support the application. They are seriously concerned as their records indicate that red kites have become established in the area and it has been confirmed that there is now an active red kite territory nearby. Red Kites are listed in Schedule 1 of the Wildlife and Countryside Act 1981 and have full protection at all times. It is an offence to recklessly disturb nesting birds and/or kill red kites. The red kites also use the site as flyway for foraging at the edge of the Durham high moorland and the extension of the opencast would have a detrimental effect on, what is, an already delicately balanced red kite population in the Valley.
- 149 *Derwent Valley Protection Society (DVPS)* – objects. DVPS considers that the application is an incremental expansion of the current surface mining operation carried out by the applicants and is thus in contravention of CDP Policy 54 and it does not satisfy requirements of NPPF 211 (b) as it does not provide 'national, local or community benefits' that 'clearly outweigh' the adverse environmental impacts. It also considers that there is considerable risk that the applicant, or others, will seek to make a further application for surface mining to the east of the current site if the 'buffer zone distance' are approved in this current Bradley West application to the west of the current Bradley site. It is stated that the proposed works are only 40m and the excavations only 150m away from homes at Pont Lane. Almost half the environmental distance that the current Bradley site is from Douglas Terrace which the applicants proposed to the Inspector when obtaining, at Appeal, permission for the Bradley surface mining works. DVPS is of the view that the Bradley West site is environmentally more sensitive than the eastern Douglas Terrace 'buffer zone' area incorporated into the Bradley surface mining permission as it significantly extends the area scarred by surface mining, is closer to homes, highly visible from the immediately adjacent highways and would take in the region of ten years to be successfully reinstated. Furthermore, it is considered that the applicant's proposal for the reinstated site will be a long-term liability as passing it to an 'environmental/community' group will result in long term financial liability to either a 'charity' or local authority. Reference is made to the planning background and context to the application including the Council's declaration of a climate emergency and the Government's intentions with regard to coal fired power stations. DVPS considers that the Highbury decision may establish new guidelines for the assessment of carbon producing activities that will amend the interpretation of NPPF Paras 203-211 and state it is of concern that the current application may be viewed as both premature and opportunistic by the applicants in order to avoid the impact of emerging of new planning policy.
- 150 *The Dipton Community Partnership* – objects on a number of grounds. The Partnership believes that the continuous mining and use of fossil fuels contributes to global warming and the subsequent environmental damage that is becoming more common. It is noted that the Council has produced strong statements regarding the effect of global warming and efforts to combat it, it would be perverse for the Council to deal with this application against those strategic policies. Although noted that the applicant states no coal would go to energy production, it would all go towards the recognised fossil fuel problem and that industries need to find better, more environmental, ways of production and this application does not strategically assist in the effort to get them to do that, the application should be refused on this issue alone. The existing mine is approximately 250m from the nearest housing and it continues to generate many complaints that the noise generated affects the

residents of those houses. The proposed mine would be substantially closer to houses at Leadgate and this closeness cannot be mitigated against. Concerns are raised regarding the total loss of heritage assets in the area eroding the cultural identity of the villages and the communities and total removal of an area's historical identity. The original application has removed many historical and locally important features and although can be recorded it is not the same and not everyone can access this information. Reference is made to an early Victorian adit and waste heap in the NE corner of the proposed site that would be lost, and which UK Coal said would be protected when the original application was in the consultation phase. The Partnership expects this applicant, which markets itself as a local caring company, would honour that commitment and retain some existing heritage features that can be used to educate local children and residents regarding the industrial history of the area.

- 151 The Partnership also makes a number of comments are made in relation to the proposed increased community fund to £100,000 if the extension application is agreed. The existing fund of 10p per tonne is considered to be a laughable level of community compensation and it is stated that all efforts to increase this compensation by the Community liaison Committee have been denied stating that the level was set in the original application and could not be changed. The Partnership has undertaken a recalculation of the community fund which equates to 53.3p per tonne based on £48,000 for 90,000 tonnes of coal extracted. Using the new application figure of 53.3p and the total amount of coal proposed to be extracted across the existing and proposed site the community compensation should be £273,130 and not the paltry £48,000 offered in the application. This then provides a proper compensation for the many years of disruption that the communities will suffer and have suffered and the loss of the cultural assets.
- 152 *Burnopfield Environmental Awareness Movement (BEAM)* – objects. BEAM considers that the accumulation of the effects of open surface mining are detrimental to the ecology of the land. If the application were to be permitted there would be a loss of foraging mating and roosting areas. This would affect birds, mammals, butterflies, invertebrates, fungi, and bats. The main reason why species become rare and endangered is habitat loss, what would be lost at Bradley is habitat. Specific mention is made regarding the adverse impact of the development on earthworms, badgers, red kites, moles, butterflies, food loss and fungi,
- 153 *Council for the Protection of Rural England (CPRE)* – objects to the proposed extension which is, in its opinion, an incremental application which opens the door to further applications in the Derwent Valley. Reference is made to statements within the 1997 MLP with regard to details of proposed working to be included in the original application and that in order to minimise the environmental impact of surface coal extraction and provide certainty, the piecemeal working of surface mine coal will not be permitted. It is noted that since the late 1960's 10 applications to opencast mine in the Derwent Valley have been refused by the Inspectors and where appropriate the Secretaries of State. Sadly the 10th application was allowed after a court ruling resulted in a second inquiry in which the Inspector recommended planning permission. CPRE considers that this decision opens the door to further applications for the 9 sites that were previously refused. The suggested site boundary is substantially closer to the existing houses to the southwest of the proposed extension than it is to High Stables to the north east. This would seem unjust; as it is recalled the decision to approve was partly on condition that the boundary would be set at the agreed distance from the High Stables houses. It is understood that the coal in the site is high quality coking coal, a much prized coal in the days of the production of metallurgical coke, virtually now no longer required. It is considered that it should be preserved as a strategic resource and only extracted

for those purposes. If the Council is minded to give planning permission assurances need to be given that the coal from the site will be used as outlined above.

- 154 CPRE also makes reference to the Highthorn/Druridge Bay application that the Secretary of State accepted evidence given at the Druridge Bay inquiry that to allow the site would not be helpful in combating climatic change and was one of the reasons for refusal. His decision was overturned in the High Court and it now remains for him to decide as he is a member of the government, to resolve the issue. CPRE state that that at the time that his ruling was made on climatic change, the Bradley decision was considered unlawful, but Bradley still proceeded. It is considered that further opencast mining should not proceed until the Secretary of State's decision been resolved.
- 155 *Friends of the Earth England, Wales & Northern Ireland (FoE)* – object to the proposed extension primarily on the grounds of climate change. FoE consider that it is not clear what coal from Bradley West would be used for and claims it would be used in the steel industry appears uncertain. Reference is made to investigations by Coal Action Network which alleged that coal from the existing Bradley site is transported via Banks' Shotton opencast mine to North Blyth, where it is stockpiled and transported by rail to West Burton power station, where it would presumably be used for power generation. If coal from Bradley West is intended for power generation, then FoE consider that it is not needed and analysis of Government data last year by FoE showed that there is already more than enough coal held in stock at power stations to meet projected demand to 2025, when the Government says that coal-fired electricity generation will end. If coal from Bradley West is intended for the steel industry, FoE believes this runs counter to the need to decarbonise the steel industry. FoE refer to a recent report on coal mining for the Green Alliance in relation to the proposed Marchon mine in Cumbria to produce coal for steel production concluding that the carbonisation of the steel industry, and a phase out of coal use, is both necessary and possible and that the new mine would hinder the development of low carbon alternatives to conventional steel production. FoE contends that the same principle applies, although on a much smaller scale, to Bradley West. Furthermore, FoE believes that the application does not meet the criteria in Paragraph 211 of the NPPF considering that the proposal is not environmentally acceptable because it involves adding to stocks of fossil fuels at a time when the Government has committed to moving towards net zero emissions, and has accepted that most fossil fuels need to be kept unused; and it involves major local impacts - these are set out in the submission from Coal Action Network. Nor does FoE believe that there are benefits to outweigh these impacts and refer to the 2012 Planning Inspector Appeal decision that refers to certain benefits which could be achieved without the need to first win coal. It is also considered that the proposal runs counter to MLP Policy M8 in relation to piecemeal development. The Council is urged to wait for the Government decision on the existing site before considering any possible extensions to the mine, and to reject this application.
- 156 *The Dead Canaries of Extinction Rebellion (ER)* – Objects to the extension application. It is noted that DCC declared a *Climate* Emergency, joining 264 other Councils who have also pledged to become carbon neutral and the promises associated with that. In terms of the current applications ER states that it is thankful that DCC voted against the Bradley opencast three times and are angered that the local decision was overturned by central government. In the midst of a climate crisis it is considered reckless and criminal to even consider such a destructive proposal at this pivotal moment in time. It is stated that the science is clear – we are in the sixth mass extinction event and we will face catastrophe if we do not act swiftly and robustly. Impacts upon biodiversity and climatic change are noted. It is stated that coal is killing us, that it is the largest contributor to atmospheric CO₂ emissions,

accelerating the breakdown of our planet's fragile systems. Not only is it deadly for our atmosphere, it has devastating health effects and that it is estimated that 800,000 people die from coal related deaths from around the world. Communities in Durham are suffering from coal dust pollution at this very moment and the land they once loved has been erased forever. When you are in a hole, stop digging. ER demand that the Council: act in line the its declaration of a climate emergency, keep its promise to the people of County Durham and cancel consideration for the illegitimate extension to the opencast at Pont Valley with immediate effect.

157 *Coal Action Network (CAN)* – objects to the applications. It is requested that the extension application be refused because it is non-compliant with the NPPF and policies in the County Durham Local Plan, is counter to the best interests of the people living near to the mine and would be contributing to worsening climate change. Furthermore, CAN requests that the planning applications are not considered until after the decision by the Secretary of State for Communities, Housing and Local Government regarding the legitimacy of the original Bradley opencast, which has been combined with a final decision for the Highthorn site in Northumberland. In addition, it is stated that a criminal prosecution of Banks Group is under way for the destruction of the habitat of protected great crested newts on the Bradley site and it would be prudent for DCC to wait for the conclusion of this court case before deciding whether the company should be allowed to expand operations in the County. Queries are raised as to where the coal from the existing site goes to and that publicly available information shown the coal being transported to a power station and not to other industries as claimed. It is also stated that the letter from TATA Steel does not confirm that coal from Bradley or an extension would necessarily go to it. It is considered that if the coal from Bradley West were to be used in steel production then the emissions from this process also need to be considered and that other sources of heat for steel making exists

158 Further information was submitted in April 2020. This being: evidence from a Professor of Resources and Environmental Policy at University College London refuting Banks Group's assertions on greenhouse gas emissions; correspondence between the SoS and Coal Action Network et al in relation to the request for a revocation of the Appeal decision identifying that a key issue that would influence the SoS decision would be the consideration of whether greenhouse gas emissions resulting from the burning of coal extracted at the existing site are a substitute for the greenhouse gas emissions that would in any event otherwise arise from the burning of imported coal; evidence which seeks to demonstrate that Bradley coal is being sent to West Burton power station in Nottinghamshire further undercutting Banks' argument that the coal is being used solely for steel production or other industrial use. It is stated that there have been significant developments since its original objection that add further weight to the arguments it made to the Secretary of State about Bradley and Highthorn and to the Council about Bradley West. These being: The Green Alliance's report 'The case against new coal mines in the UK'; a Government announcement that it would consult on bringing forward the date of the phase-out of coal for electricity by a year, to 2024, The Court of Appeal ruling on 27 February 2020 that Heathrow airport could not expand because it did not take the Government's emissions commitments into account under the 2015 Paris Accord; on 13 March 2020 a Divisional Court of the Queen's Bench ruled that the criminal prosecution of HJ Banks and Company for breaking the Conservation of Species and Habitats Regulations 2017 should be reinstated; demand for coal is expected to be lower than predicted in both power station and other industrial sectors as a result of the COVID-19 pandemic, and 24 March 2020: 2019 BEIS Provisional coal figures were published finding that coal production had fallen due to further contraction of surface mining along with lower demand for electricity generation along with a reduction in coking coal imports and coal sales to industrial users. CAN considers

that it can be inferred that key factor in how much coal is imported is the demand for that coal, not the productivity of British mines as Banks Group claim and the best way to save GHGs from coal is to stop burning it.

- 159 *Bishop Auckland Climate Action Group* – expresses concern about the proposed expansion of operations. Matters raised include impacts of the existing development on local residents, actions brought against Banks for environmental damage and failure to adequately protect vulnerable natural habitats and species dependant on them. Climate change, the Council's declaration of a climate emergency, the phasing out the use of coal in UK power stations are raised. Reference is also made to the NPPF and that it is hard to see the benefits the mine is bringing. The Council's position on the matter is invited and query asked what if anything is being done to review the situation.
- 160 *Scientists for Global Responsibility* – urges DCC to reject the application in particular, because it would make a large contribution to damaging climate change and hence would be non-compliant with the aims of the National Planning Policy Framework and the UK Climate Change Act. Concerns are raised regarding the greenhouse gas emissions statement accompanying the applications which it considers are misleading along with an underestimate of methane emissions. It is also stated that the coal has been used for energy generation rather than industrial coal use. It is stated that there are further concerns about other environmental impacts of the proposed mine, including local air pollution and habitat damage.
- 161 *Biofuelwatch* – object to the proposed extension. It is stated that some of the coal mined will fuel power stations which co-fire with biomass. Both biomass and coal are high-carbon, polluting forms of power which we urgently need to phase out. Drax Power Station in Yorkshire has reduced its coal use to 2 million tonnes a year - around a quarter of which is sourced from the UK - and is still the UK's single largest emitter of CO₂. There is simply no justification for increasing our coal use at a time when scientists agree that we need to be moving away from burning fossil fuels as quickly as possible. The UK already has more coal stockpiled than it can burn before the projected coal phase out in 2025. This stored coal is being increasingly exported abroad and contributes to climate change wherever it is burned. No new opencast coal mines have been approved through the planning system since January 2016, and there is no plausible reason to approve this one. We are also aware that there has been strong local opposition to both the original mine and the proposed expansion, both because of concerns over climate change and local concerns including noise, coal dust in people's gardens and damage to wildlife habitat including nesting sites of swallows, cuckoos, curlews and skylarks.
- 162 *PCS Trade Union* – objects to the applications with specific comments on the extension. PCS considers that the continued extraction of fossil fuels is incompatible with aims seeking to reduce carbon emissions and the transition needed to do so, and the UK Parliament's and DCC's own declaration of a climate emergency. It is considered that the proposal is contrary to the NPPF (Paragraphs 148 and 211). Concerns in relation to climate change, the use of coal, alternatives to the use of coal in steel production, jobs, just transition and the green economy are raised. PCS state that we have started arguably the most important decade for the future of human and animal life. Decisions taken now should be taken with the climate and environmental crisis at the forefront of everyone's mind. Children are showing courage in taking to the streets to protest about lack of action on climate change. As adults, rejecting proposals such as the Bradley West application will show that they are finally being heard and we are finding our own encourage to reject 'business as usual'. If we agree there is a climate emergency, then we need to act like there is. Otherwise we are merely trading a few economic gains today

against the collective stake we all have for economic, social and environmental just future.

- 163 *Sandbag Climate Change Campaign* – object to the proposed extension considering that it is non-compliant with the NPPF. Its primary concern is that the submission does not fully consider methane emissions from the mine. New science (International Energy Agency's World Energy Outlook (EIA), released in November 2019) suggests that the greenhouse gas emissions from the mine are likely to be significantly higher than the evidence provided to Durham Council. As such, the submission should not be approved until the true emissions from the mine can be determined. It is stated that the IEA estimates that 40MT of methane leaked from global operational coal mines in 2018 - broadly similar to the current level of total annual emissions from international aviation and shipping combined. Given this new research, Sandbag consider it essential that Banks Group provide a full picture of the emissions impact from the mine before permission is granted.

Support

- 164 423 letters have been received from individuals in response to the applications. 223 in respect of DM/19/03567/MIN and 200 in respect of DM/19/03569/VOCMW. In addition, 3 representations have been received offering comments on the application. The majority of letters refer to both application numbers, but many make comments in relation to the proposed extension. Where a representation has been received that refers to both application numbers then it has been counted as a representation on each application.
- 165 The letters of support received are from residents living in the vicinity of the proposed extension site and a few from further afield, Banks employees and suppliers. The majority of the letters are signed proforma letters of support stating that the signatory is writing as a local resident to confirm their support for the proposed changes to Bradley Surface Mine and plans for Bradley West. The proforma letters of support state that the signatory supports the development for the following reasons:
1. Bradley West can be restored by the same end date as the existing Bradley site, with minimal additional impacts.
 2. The coal produced from Bradley West will reduce the need for imports from the likes of Russia, Australia and the USA which will result in greater greenhouse gas emissions.
 3. Bradley West will sustain skilled local jobs and training.
 4. Banks is a local company with a local workforce. Currently half of our Bradley workforce live within 10 miles of the site.
 5. Bradley West will deliver significant local economic benefits (Bradley Surface Mine has generated £3.5 million investment in the economy to date).
 6. Bradley west will deliver additional Gifted Land for the community and wildlife.
 7. Bradley West will provide significant benefits in the local community through the increased Community Fund up to £100,000.
 8. Banks mining has successfully worked and restored 32 sites across Durham alone.
- 166 The matters raised in the other letters of support are summarised below.

Climate change and need for coal

- Coal produced will reduce the need for imports from Russia therefore lowering the emissions which will be produced importing coal which will be more efficient to the environment.

- Coal is an essential product in the manufacture of steel and cement and importing this coal only increases the carbon footprint due to shipping distances and poorer environmental standards in most other countries that produce coal.
- If we do not produce our own coal in the UK we simply import more from countries such as Russia, the USA, Colombia and Australia which produces more CO₂ via its transportation than coal produced in the UK.
- There is absolutely clear justification for mining coal locally and reducing the UK's carbon footprint. In 2018 the total demand for UK coal stood at 11.9 million tonnes and coal itself is a vital raw material for vital sectors in the UK such as steel manufacturing and food production.
- Extracting coal, transporting it and restoring the Bradley site results in less greenhouse gas emissions than transportation alone for the same amount of coal from Australia or Russia. Why should we increase greenhouse gases by importing this nationally important mineral reserve, when mining it locally is far more sustainable. Demand for coal will remain for the foreseeable future why create additional CO₂ by unnecessarily importing coal from abroad.
- The coal produced from Bradley West will reduce the need for imports from the likes of Russia, Australia and the USA which result in greater greenhouse gas emissions.
- This small extension to the existing site will continue to supply high quality coal for industry needs, support the local economy and continue the employment on site through until complete.
- Local coal is less damaging than transporting from overseas, and Fireclay is needed for the building of houses.
- Coal is an essential product in the manufacture of steel and cement.
- There is still a demand for coal by UK steel and cement industries, specialist markets (including large scale greenhouse food production, heritage railways, paper mills) and for domestic heating (over 3 million homes in UK rely on coal/coal products for heating) it makes economic, environmental and social sense that we mine coal for these markets rather than import.
- There is currently no alternative to burning coal for UK industries such as steel manufacturing and cement production the only alternative would be close them and import those goods from abroad and consideration environmental, economic and social cost. The coal at Bradley has a high calorific value making it suitable for coking.
- High quality coal from this country is still required for power generation until other sources can supply the demand required especially in certain conditions.
- There is a grave misconception about how we manufacture goods which are needed in our daily lives. Steel and cement are needed for the building and development of our Country currently needs coal in its manufacturing process. This will continue to be the case for the whole time that Bradley will be operating (even with an extended area as the site would finish within the same timeframe).
- We should use our own resource first before looking internationally for supplies. That way, the significant benefit that having a site of this nature in terms of investments, balance of payments and value all remains within the UK.
- Support for need to reduce use of fossil fuels but we cannot make this transition to a low carbon economy instantly. Whilst working is completed to reduce reliance on fossil fuels overtime need to take opportunities to reduce greenhouse gas emissions without substantially affecting our standard of living and the economic necessities and investment that County Durham so very much needs. By using our own coal it reduces the distances coal needs to travel and resulting greenhouse gas emissions.
- Coal from this country is still required for power generation until other sources can supply the demand required especially in certain conditions.

- High quality coal is still used to heat homes of people who are not connected to the gas networks.
- Reference to protesters outside the Bradley site and that their arguments about why the extension to the Bradley site should be refused are considered to be flawed and if they were seriously interested in stopping the use of coal in the markets supplied by the Bradley site, they should be directing all their efforts to make the steel and cement industries use alternatives to coal. However, there is no sign of the protesters trying to stop steelworks and cement works. Even if the steel and cement industries were to be pressurised into pursuing alternative means of producing their products which did not involve the use of coal, such alternatives would not materialise until after the Bradley West site was finished so there is no case for refusing the Bradley West extension on the grounds that the UK can do without the coal from the site.

Noise

- Objectors say that there will be noise when siting in the newly refurbished beer garden of the Jolly Drovers but walking that road each day a supporter state that at various times all he hears mainly is the road from the tyres of vehicles mainly cars and that you have to stand at the roundabout very early in the morning not to hear anything then as the traffic grows then it is like a constant sound of an aeroplane. It is doubted whether the mine would add to the noise or even be heard over the normal day to day traffic noise.

Duration of the development

- Bradley West can be restored by the same end date as the existing Bradley site, with minimal additional impacts.

Restoration

- The restoration of the site will provide enhanced areas for the local community to use.
- The Banks Group have demonstrated commitment to restoring land, successfully restoring 32 sites across County Durham leaving them in a much better date than they originally were.
- Reference is made to sites Banks having worked and restored in Northumberland having a track record of making significant positive changes to nature and us all when restoring their sites. Specific mention is made to the Banks sites at Shotton and Brenkley.
- The extension would deliver additional gifted land for wildlife and the community. Over 10,000 trees, 30 new bat boxes and 24 new bird boxes have been installed.
- The extension would generate a wide range of environmental and ecological enhancements.
- The extension will deliver additional gifted land which will benefit the community and also wildlife.
- The short term disruption leads to a longer term of the land and area being improved for example by the Eden surface mine a few years ago.
- Once the surface mine has gone and the site landscaped even more wildlife will be attracted to the area.
- Reference to benefits of restoration including significant area of tree planting and creation of wildlife areas.
- There have been press articles as to why the application should be refused but the application is a factual document reliant upon a core of third party reports undertaken by respected consultants within their field of expertise.
- Before application is determined the LPA should undertake a review of the operations undertaken at the existing site and at Brenkley and Shotton Surface

mines and no reports in the press of the Banks Group transgressing their planning obligations.

- Employees advise that they have seen first hand how Banks operate and restore sites to the highest standards and respect their neighbours and the communities surrounding the sites.
- It will make the fields uniform down to the roundabout, get rid of pit falls in lower fields down toward Pont Wood.

Employment and economy

- The site will continue to provide employment to the local community therefore reducing unemployment statistics in the area.
- Help keep jobs in the UK rather than increasing the country's reliance on imported coal.
- The extension will retain skilled local jobs and training.
- The extension will benefit the local economy as over half of the current workforce live within 10 miles of the site. Bradley West will provide more sustainable employment for the workforce and sends a positive message of security.
- This job employs local people and has provided training and qualifications such as NVQ's and Apprenticeships in new skills for younger people.
- Banks is a local company with a local workforce. Currently half of our Bradley workforce live within 10 miles of the site
- The site will help support local businesses in the area.
- Banks is an excellent local company which is headquartered in Durham which has provided excellent wealth creation and employment opportunities for residents of the North East of England for well over 40 years.
- Not encouraging economic activity in the north east will only devalue the area and that will consequently be detrimental to the attraction of inward investment.
- The extension plays an important role in offering local jobs and sustaining a skilled workforce and training in a struggling economy. Delivers a valuable resource required in the UK which supports thousands of jobs at British Steel and Tata Steel. Steel produced in Port Talbot (Tata) which this coal will supply is then returned to the region for car making at a well known car factory.
- The proposal would boost the welfare of businesses who provide services to the opencast coal mining industry, which has declined in recent years. The proposal would continue to boost the welfare of the business, ensuring continuous employment for their employees, allowing investment in their businesses and benefit their suppliers.

Benefits

- The extension will provide significant benefits in the local community through the increased Community Fund up to £100,000.
- The extension will deliver significant local economic benefits (Bradley Surface Mine has generated £3.5 million investment in the economy to date).
- The extension will deliver additional Gifted Land for the community and wildlife.
- Banks Mining support local community improvement projects wherever they work.
- The money that the site generates helps towards our local economy which helps to keep small business running.
- Local shops will benefit from the footfall of the staff from the surface mine.
- The use of fireclay from the site in the brickworks at Todhills is a very strong argument in support of the application. The fireclay is a buff-firing material which will produce high quality bricks which are characteristic of the buildings in our region. NPPF says great weight should be placed upon the benefits of extracting minerals such as fireclay.

The applicant

- Banks Mining are a reputable company who have worked and restored around 114 surface mines throughout the UK.
- Banks Group have a history of development with care and promoting positive community links and have a full restoration policy.

Other matters

- Reference to the history of County Durham opencast coal policies and 'No-Go' area in the Derwent Valley.
- Concerns about the information that protest groups have published and appeared in the local press which do not reflect a balanced opinion of the works to be carried out.
- The professional activists are not a representative of the local community and contrary to what the activist would want the Council to believe there is a great deal of local support for the mining operation.

167 *Tata Steel* – fully supports the application for the extension. It is Tata's understanding that the extension will contain coal which will contain a coal of similar quality as the coal in the current site which could ideally be suited to use as part of the steel making process at Tata Steel's Port Talbot works. Currently Banks supplies approximately 100Kt of coal from its Shotton site to Port Talbot works and Tata Steel foresee a strong, continuing demand for such coal. The ability to source this type locally in the UK would make a major contribution to the company's objective of securing a strong, economic and sustainable future for the steelworks. Furthermore, it reduced the carbon impact of sourcing coal elsewhere in the world. It is stated that coal is a critical (essential) component of steelmaking and the precise range and quality of coal required in the production process has become an increasingly important consideration as technology develops to maximise the productivity and sustainability of the process. At Port Talbot various types of coal are required in different parts of the plant: coal or coke breeze in the sinter plant, coking coal for the coke ovens, and granulated coal for direct injection to the blast furnaces. The coal from Bradley extension would contribute to Port Talbot's requirement as part of the caking coal blend with other coals. It is stated that Tata Steel has for a number of years, had numerous contracts with various UK coal producers, with UK coals now amounting to over 25% of the total consumption at Tata Steel Port Talbot. Comments are made in relation to a sustainable future how the principles of community and sustainability are central to all Tata group businesses as well as continuing engagement with local Welsh and UK coal producers to test the suitability of their coal and assist them to become suppliers is in keeping with this ethos.

168 Tata Steel considers the sustainability benefits of sourcing coal from the UK rather than from abroad are obvious, from both a transport and a carbon emissions perspective. It is stated that these benefits would be compounded, however, if coal could be supplied from the proposed Bradley extension because of its rail and port access into the heart of the Port Talbot works. Tata Steel is committed to sustainable Welsh steel making industry and the substantial recent investment commitment demonstrates the company's commitment to a long term, sustainable future for the Port Talbot works. Tata Steel is also keen to ensure that there remains a sustainable Welsh and UK coal mining business. The company considers that the ability to source metallurgical, steel making coal from the Bradley extension would complement its sustainable business strategy and align directly with the most recent economic, social and environmental policies of the Welsh Government. Tata Steel has expressed interest in pursuing an off-take from the Bradley extension. Commercial terms have been agreed to purchase the Bradley West coal. Offtake is subject to planning approval, and the expectation that the coal is of the same quality as that which has been approved by Tata Steel.

- 169 *Wienerberger* – supports the applications. Wienerberger advise that it has worked with Banks for many years and requires the ready and proximate source of clay supply for its manufacturing facilities. It is stated that there is growing and increasing demand for such material, to keep pace with local development needs. The site is considered sustainably located to meet local demand at its Todhills Brickworks site at Newfield, but it is not just a matter of the type of mineral resource but the way in which it is processed, managed and delivered, in which Wienerberger has the confidence in the applicant to the require specifications. Furthermore, it is stated that without a local replacement for Bradley West Surface Mine and no other alternative sites, supplies of mineral products to the specification Wienerberger require would have to be sources from further afield, potentially increasing haulage distances, associated environmental impacts and costs. Wienerberger is concerned that quarry production across Yorkshire and availability of new and replacement supplies, is not matching growing demand in the region. It is important that there is continuity of supply, requiring a timely transition of the area of the quarry to have clays available, ensuring fulfilment of both short and long term demand and driving delivery of local economic benefits. Wienerberger states it is sure that any environmental concerns can be effectively controlled and managed, with the proposals locally and sustainability placed to meet growing demand. In conclusion it is stated that if permission is granted for clay extraction near Bradley this is would be very reassuring for Wienerberger knowing that it has a strategic raw material available for the foreseeable future.
- 170 *Castle Claysales Ltd.* – supports the applications. Castle Claysales Ltd. advises that it is the major independent supplier of clay raw materials into the UK Brick and Tile Industry. It is stated that coal production has significantly reduced in the UK over the last few years despite an ongoing requirement from various industries (and apart from power generation) and a still high level of coal importation. This gives some grave concerns for the future availability of fireclay, which is inherently associated with coal geology and, therefore, surface mining operations. With particular reference to the proposed Bradley West application, Castle Claysales confirm that there is an ongoing requirement for fireclay into the local brick market (such as Wienerberger’s brick factory at Todhills). Having a local site, supplying materials into the local market, surely has to be a good thing for community employment (at the brickworks, site or associated haulage industry etc.) and, additionally, lessen the environmental impact (less transport/lower CO₂ emissions etc.) involved with having to import fireclays from further afield. The Bradley West development, subject to a successful planning decision of course, should hopefully form a valuable fireclay resource within the North East for some time.
- 171 *Unite the Union* – supports the application for an extension to the site. It is stated that the UK needs a sustainable supply of indigenous UK mined coal for industrial purposes, such as steel and cement manufacturing, noting that coal is part of the chemical process for making steel. The UK requires around five to six million tonnes demand of coal, per annum, to manufacture steel, cement and for other industrial processes such as carbon fibre production, as well as powering heritage railways, traction engines and steam pumping houses. Reference is made to the welcome announcement of a Chinese firm buying British Steel's plants in Scunthorpe and Teesside safeguarding workers jobs. It is stated that the UK Government has been effectively propping up the second and only other blast furnace in the UK, (the other one is at Tata Port Talbot). It is stated that this clearly demonstrates the importance that the Government places on the UK retaining the ability to manufacture its own raw steel, in order to support the building of major national infrastructure projects (eg Thames Tideway, Crossrail, HS2 and R3) along with defence assets like ships, planes and tanks. Unite states similarly, the UK steel industry needs its own

associated indigenous supply chain, creating many more jobs in local communities. Furthermore, it is stated that if we don't mine our own coal in the UK, we simply import it from Russia, Colombia, the USA and Australia in order to meet the demand from UK industry. Unites states that importing coal such huge distances is clearly causing more damage to the environment than using locally (UK) mined coal. The carbon emissions from simply transporting coal from Russia and Australia to the UK is more than the emissions produced from the combined mining and transporting of coal mined at Bradley to Banks Mining's UK customers, such as Tata Steel in Port Talbot and the cement manufacturers in Derbyshire and heritage railways. Additionally, it is stated that around 30, high skilled, high paying, jobs would be sustained if the extension is given the go ahead, as well as significant indirect jobs for the supply chain in the north east. Supply chain contracts are estimated to be worth £0.5m.

- 172 *North East England Chamber of Commerce (NEECC)* – supports both applications which it states would bring economic benefits for the local communities and for the North East generally as well as reducing the environmental impact of importing coal. It is stated that the Chamber is the North East's leading business membership organisation and the only regional Chamber of Commerce in the country. The NEECC represents more than 3,000 businesses located in Northumberland, Tyne and Wear, Durham and Tees Valley, covering both local enterprise partnership areas in North East England. Its members are drawn from all sizes of business across all sectors and employ about 30% of the region's workforce. The NEECC notes that coal is necessary to produce cement and steel which are Key for the UK's economy, in 2017 around 14 million tonnes of coal were used in the UK. As part of the Covid economic recovery work large infrastructure projects such as HS2 and building new homes will mean that the need for coal will remain. The UK still uses coal shipped from abroad, 8.5 million tonnes of coal were imported in 2017. As the need for coal will remain using the coal from the UK would mean that there would be less CO₂ produced through the transportation of coal from abroad, which would have a positive impact on the environment. Having the coal provided locally rather than imported from abroad, which would have a positive impact on the environment. Having the coal produced locally rather than imported from abroad would also benefit the North East's economy, creating new jobs for the local community and supporting a local supply chain.

APPLICANTS STATEMENT:

- 173 Banks Mining is incredibly keen to see the Bradley West extension approved at this crucial time for our local economy, communities and environment. We have operated Bradley Surface Mine since 2018 to high standards, producing exceptional quality coal for use in important UK industries. Bradley West is a small extension that has been carefully designed with consideration for the local community. It can be worked using existing site infrastructure, with minimal additional effects, and will not extend the overall end date for restoration.
- 174 To date Bradley has delivered over £5.2 million investment in the local economy. 49 local business have been supported. Six apprentices have been trained, exceeding the council's target of two, and 18 staff have undertaken NVQ qualifications, upskilling the local workforce. Bradley West provides the opportunity to retain staff for longer and to continue to capture these local benefits. The site will also produce fireclay for use in local brickmaking, creating further economic investment. Unite, the North East England Chamber of Commerce and Business Durham have all expressed support for the scheme.

- 175 The Bradley West proposals have generated many public representations. The majority of objections are on climate change grounds. Banks Mining fully recognises the importance of transitioning to a low carbon economy, and that coal use in power stations has been decreasing for some time. Coal is still needed however for many important industrial processes in the UK, where it supports UK jobs – including steel making, which Bradley West aims to supply. Existing coal stock levels are simply not of the quality or scale to meet this need, and as a result, in 2019 the UK imported equivalent to 86% of the coal it used from countries including Russia, the USA and Australia. While UK industries still require coal, mining it locally is clearly the most sustainable option. Approving Bradley West will reduce the need for imported coal, effectively saving greenhouse gas emissions, and provide a reliable supply to support UK industries.
- 176 In contrast to objections from outside the region, a significant number of local residents living closest to the site have expressed support for the extension, highlighting that the site is operating to high standards. The Bradley community fund has been successful and is currently oversubscribed. Bradley West will deliver further funding directly into the same types of community projects. The restoration scheme will create additional woodland planting, footpaths and enhanced habitats, and will gift a further 8 hectares of land for conservation in perpetuity, ensuring lasting benefits for wildlife and the community.
- 177 In the current Covid-19 crisis, Banks has been able to continue operating its mining sites safely and efficiently. Our new safety protocols have been endorsed by the Health & Safety Executive and are being used as an example for other businesses. At a time of unprecedented economic upheaval, we are continuing to provide employment and investment in the County Durham economy, as well as a secure supply of coal to UK industries when international trade is more challenging than ever.
- 178 The Bradley West site will enable the continued delivery of significant benefits and reduce reliance on coal transported from overseas. Local residents have expressed support for the project, and as a County Durham based business, we are extremely invested in seeing this application approved for the sake of the regional economy, our highly skilled workforce, local communities and the environment.

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/search.do?action=simple&searchType=Application>

PLANNING CONSIDERATIONS AND ASSESSMENT

- 179 Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the NPPF, the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, for the proposed developments, it is considered that the main planning issues in this instance relate to: the principle of the development; the effects of the development on residential amenity (including noise, air quality and dust, blasting and vibration); landscape and visual impact; biodiversity interests; cultural heritage; recreational amenity; agricultural land quality and use; hydrology and hydrogeology; access and traffic; contamination; geotechnical and stability; mine gas; climate change and CO₂/greenhouse gas emissions; cumulative impact and future

development; alternatives, legal agreements and other matters. The planning balance under Paragraph 11 of the NPPF (2019) is also considered.

- 180 Section 73 (S73) of the Town and Country Planning Act 1990 (as amended) applies to the determination of applications to develop land without the compliance with conditions previously attached. S73 states that on such an application the Local Planning Authority (LPA) shall consider only the question of the conditions subject to which planning permission should be granted. However, the LPA must still consider the development plan on a S73 application which remains a relevant consideration. The LPA should decide whether planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted or that it should be granted unconditionally. If the LPA decide that planning permission should not be granted subject to the same conditions as those subject to which the previous permission was granted, they should refuse the application. In considering such an application the Development Plan and any material considerations under Section 38(6) of the Planning and Compulsory Purchase Act are relevant in the determination. LPAs should, in making their decisions, focus their attention on national and development plan policies, and other material considerations which may have changed significantly since the original grant of permission. Therefore, although planning permission already exists for the existing site therefore establishing the principle for the development the proposals must still be assessed against the development plan framework.
- 181 The main planning issues considered by the Planning Inspector at the 2015 Appeal in relation to the existing site related to the effects of the proposal on the environment with particular reference to: landscape character and visual impact; levels of amenity in the locality (for residents and others) especially with regard to outlook, dust, noise and blasting; ecology, hydrology and hydrogeology, traffic movements, agriculture, economy, tourism and recreation. In considering national, local and community benefits the Planning Inspector considered: supply and demand; the environmental benefits of indigenous coal; employment and economic impacts; unstable land; ecological benefits and community liaison as well as other matters and conditions and obligations. As stated above it is important to note that the references in the 2015 Appeal decision are to the NPPF published in March 2012.
- 182 Surface coal mining previously tended to be referred to as opencast mining and the terms are used interchangeably within this report.

Principle of the development

- 183 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF (2019) is a material planning consideration. The County Durham Minerals Local Plan (MLP) remains a statutory component of the development plan for County Durham and is the starting point for determining applications as set out at Paragraph 2 of the NPPF (2019). However, the NPPF (2019) advises at Paragraph 213 that the weight to be afforded to existing Local Plans depends on the degree of consistency with the NPPF (2019).
- 184 The MLP was adopted in 2000 and was intended to cover the period to 2006. However, NPPF (2019) Paragraph 213 advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. Notwithstanding this, it is considered that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired depending on the circumstances or if has been overtaken by events or due to factual circumstances.

- 185 In terms of the statutory development the provisions of the MLP take precedence over those of the Derwentside Local Plan for consideration of the current mineral planning applications on the basis of being both a later plan and a plan which has been prepared specifically to determine minerals planning applications. Only two DLP Policies are considered relevant EN6 (Development Within Areas of High Landscape Value) and EN22 (Protection of Sites of Nature Conservation Importance). The matters addressed by both policies are, however, also addressed by the policies of the MLP.
- 186 Paragraph 11 of the NPPF (2019) establishes a presumption in favour of sustainable development. For decision taking this means:
- c) approving development proposals that accord with an up-to-date development plan without delay; or
 - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 187 NPPF (2019) Paragraph 11d would therefore be engaged when there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date. The most important policies for the determination of these applications are MLP Policies M8 and M7. In this instance, Paragraph 11d is engaged by virtue that the most important and relevant policies within the MLP relating to surface mined coal are both considered to be not consistent with the NPPF (2019) and out of date. There are also a number of applicable environmental protection policies both within the MLP and the NPPF (2019) which are considered below.
- 188 Paragraph 203 of the NPPF (2019) advises that it is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation.

Piecemeal working

- 189 MLP Policy M3 advises that extensions to mineral workings will be allowed under the allocations made within the MLP and under specific criteria set out in MLP Policies M6, M12, M22 and M23. However, the supporting text to Policy M3 (paragraph 4.52 of the MLP) states that extensions to opencast coal or fireclay sites will be considered under Policy M7 and M8. Policy M3 is therefore not applicable to the current planning applications. MLP Policy M12 relating to proposals outside of identified areas states that it does not apply to opencast coal working. MLP Policy M22 relates to Areas of Outstanding Natural Beauty which is also not applicable in relation to either of the current planning applications.

- 190 MLP Policy M8 is relevant to the extension application but not to the variation of conditions application.
- 191 MLP Policy M8 advises that the piecemeal working of opencast coal deposits will not be allowed. It is considered that Policy M8 is not consistent with Paragraph 211 of the NPPF (2019). This is because it is too prohibitive and does not reflect the tests set out in Paragraph 211 of the NPPF (2019) or the requirements of the PPG which requires that the suitability of each proposed site, whether an extension to an existing site or a new site, must be considered on its individual merits. Policy M8 is not a time limited policy but is out-of-date because it is not consistent with Paragraph 211 of the NPPF (2019). The differences in approach between Policy M8 and the NPPF are significant and accordingly, result in a reduction in the weight which can be attached to Policy M8.
- 192 The explanatory text in the MLP in respect of Policy M8 (paragraph 4.73) recognises that extensions to opencast workings, or a series of proposals in the vicinity of particular communities, add to the impacts from sites, and prolong the uncertainty and disruption for those affected. These problems are compounded by the difficulties of achieving the most appropriate restoration for an area in overall terms from a series of fragmented proposals. Given their short life, relative to other kinds of mineral extraction, piecemeal workings of this kind should be avoided, and an outline of any proposed future workings in an area should be included in the original application. In some circumstances, and in consultation with local communities, it may be possible to agree in advance a programme of working sites in an area to achieve their exploitation in an acceptable manner. Where previously unforeseen circumstances, for example unexpected geological faulting, lead to an application for an extension, any such proposal will be considered under MLP Policy M7.
- 193 The justification for the extension application, as set out in documentation submitted with the application, is that it provides the opportunity to recover minerals reserves as efficiently as possible utilising existing infrastructure at an established operational site. The application also claims that it is contained by robust development boundaries, unlike other potential extension options to the north and east of the existing Bradley site, and would not lead to incremental future development.
- 194 MLP Policy M8 seeks to prohibit the piecemeal working of opencast coal sites except in the limited circumstances as set out in the explanatory text of the MLP. The circumstances listed, an agreement of an advance programme of working sites and unforeseen circumstances such as unexpected geological faulting do not apply in the case of the extension application to the existing Bradley site. The proposed extension would therefore be contrary to MLP Policy M8 in this regard, however very limited weight can be given to this Policy due to its inconsistency with the NPPF (2019).
- 195 The Jolly Drovers application included part of the proposed extension site excluding that part of the proposed site that is within the Billingside Plantation and also encompassed part of the existing Bradley site. The Jolly Drovers proposal did not deal comprehensively with the identified resources in the area. It was considered piecemeal and there was insufficient safeguard to prevent future proposals to work further coal in this part of the Derwent Valley.
- 196 The area of the proposed extension to the existing Bradley site is determined by the outcropping of coal seams to the north, the operational existing site to the east, the dip and strike and rising topography to the south east resulting in uneconomic reserves, the A692 to the south and Pont Road to the west. The proposed depth of

working has been designed to recover an economic amount of coal and fireclay whilst also seeking to reduce and limit the amount of material which needs to be stored above ground in mounds. As a result, the proposed extraction area does not encompass the entire extension application area. Although the current proposal does not propose to extract all known reserves in its immediate vicinity there is justification as to why this is the case and it has been demonstrated that further extensions would not be possible. In addition, unlike the Jolly Drivers proposal safeguards to prevent future proposals to extend the existing site are proposed through a planning obligation under the provisions of Section 106 of the Town and Country Planning Act 1990 (as amended) as set out below. Nevertheless, the proposed extension is piecemeal development and, in this regard, would also be contrary to MLP Policy M8.

- 197 The existing site sought to deal comprehensively with identified and viable coal resources in the immediate area. The Planning Inspector did not directly comment on piecemeal development but when considering cumulative impact made a number of comments applicable to future working in the area which are set out below.

Coal extraction

- 198 MLP Policy M7 contains a presumption against proposals for the opencast mining of coal and/or fireclay unless they are environmentally acceptable, or can be made so by planning conditions or obligations, or they provide local or community benefits which clearly outweigh the adverse impacts of the proposal. In assessing such benefits, particular regard is to be had to the contribution of the proposal towards the comprehensive reclamation of areas of derelict or contaminated land, and the avoidance of sterilisation of mineral resources in advance of development which is either subject to a planning permission or allocated in an adopted development plan. Regard is also to be given to the contribution (or otherwise) to the maintenance of high and stable levels of economic growth and employment and the need for supplies of fireclay to serve local brickworks. All proposals should avoid the unnecessary sterilisation of other minerals, particularly fireclays and brickclays.
- 199 Paragraph 211 of the NPPF (2019) contains the Government's policy for coal extraction. Paragraph 211 states that planning permission should not be granted for the extraction of coal unless: the proposal is environmentally acceptable, or can be made so by planning conditions or obligations; or if it is not environmentally acceptable, then it provides national, local or community benefits which clearly outweigh its likely impacts (taking all relevant matters into account, including any residual environmental impacts).
- 200 Appendix 2 of the NPPF (2019) defines minerals resources of local and national importance. These being minerals which are necessary to meet society's needs and include brickclay (especially Etruria Marl and fireclay) and shallow and deep-mined coal.
- 201 MLP Policy M7 is derived from Mineral Planning Guidance Note 3 (March 1999) published 13 years prior to the initial NPPF in March 2012 and 20 years prior to the current version of the NPPF (February 2019). It is considered that MLP Policy M7 is not consistent with the NPPF (2019). Although there are similarities unlike Paragraph 211 of the NPPF (2019) Policy M7 does not include reference to national benefits. In addition, Policy M7 highlights benefits arising from the reclamation of derelict or contaminated land, avoiding sterilisation of mineral resources, the contribution to high and stable levels of economic growth and employment, and the need for fireclay for local brickworks. These criteria are not specified in Paragraph

211 of the NPPF (2019) which is silent on the range of benefits which should be considered. The Planning Inspectors who allowed the second Bradley Appeal and the Field House Appeal considered Policy M7 to be out of date, not being fully consistent with the NPPF (2012) which accordingly was given more weight in determination of the Appeals.

- 202 Officer view is that Policy M7 is not a time limited policy, but it is out-of-date because it is not consistent with the NPPF (2019). However, it can be afforded limited weight in the decision making process given there are similarities. Time limited policies are policies which have been assessed by the Council as being linked to a specific time period or set of forecasts or evidence which is now in the past. Such policies continue like non-time limited policies to be saved under transitional arrangements until they are specifically replaced by new policies within the statutory development plan.
- 203 For the presumption against in MLP Policy M7 to be displaced, and for Paragraph 211 of the NPPF (2019) to be met the proposal has to be environmentally acceptable (or can be made so by planning conditions or obligations) or provides national, local or community benefits which clearly outweigh its likely impacts taking all relevant matters into account, including any residual environmental impacts. Surface mining is an operation which involves the movement of heavy vehicles over open terrain and removes established features in the landscape. Amongst other matters, it is noisy, likely to generate airborne dust and cause disruption over a number of years.
- 204 Paragraph 205 of the NPPF (2019) provides guidance to Mineral Planning Authorities when determining planning applications. It should be noted that by virtue of footnote 65 that 'great weight should be given to the benefits of mineral extraction, including to the economy' does not apply to surface coal applications, where the policy at Paragraph 211 of the Framework applies. Paragraph 205 of the NPPF (2019) does however, advise that in considering proposals for mineral extraction, minerals planning authorities should ensure that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality. Also to ensure that any unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source and establish appropriate noise limits for extraction in proximity to noise sensitive properties; and provide for restoration and aftercare at the earliest opportunity, to be carried out to high environmental standards, through the application of appropriate conditions. Bonds or other financial guarantees to underpin planning conditions should only be sought in exceptional circumstances.
- 205 Consideration of the proposal's environmental effects and national, local or community benefits in relation to MLP Policy M7 and Paragraph 211 of the NPPF (2019) are assessed in the following paragraphs of this report including the scope for control by condition or planning obligation or agreement.

Government energy policy

- 206 The requirements of the NPPF (2019) and PPG provide the relevant national planning policy context for surface mined coal extraction. None of the Government's announcements or white papers issued in recent years in relation to coal generation in the UK seek to restrict or impact in any way upon surface coal mining and have not resulted in a change to the provisions of the NPPF (2019) in relation to surface mined coal extraction. It is important to note that the NPPF was last updated in February 2019.

- 207 Through the Climate Change Act 2008 there is a requirement to ensure that the net United Kingdom (UK) carbon account for all six Kyoto greenhouse gases for the year 2050 is at least 80% lower than the 1990 baseline, toward avoiding dangerous climate change. The Act aims to enable the UK to become a low-carbon economy and gives ministers powers to introduce the measures necessary to achieve a range of greenhouse gas reduction targets.
- 208 According to the Government (Department for Business, Energy & Industrial Strategy) coal is the most carbon intensive fossil fuel and is responsible for harmful air pollution. Consensus is that unabated coal power generation is not consistent with meeting our decarbonisation objectives. The UK is one of the first countries to commit to ending unabated coal power generation. We have cut emissions by more than 40 per cent since 1990, while our economy has grown by two thirds.
- 209 The Government has confirmed its commitment to put an end to unabated coal power generation from 2025. Unabated coal power stations will need to close by 1 October 2025 at the latest unless they invest to reduce their emissions significantly. On 4 February 2020 the Prime Minister announced the intention to consult on bringing forward the closure of unabated coal power stations to 1 October 2024. The consultation has not yet been issued. A closure in 2024 would mean that in 10 years we have reduced our reliance on unabated coal generation from around a third of our electricity supply to zero. Unabated means that the plant has not invested in abating technology, such as carbon capture and storage.
- 210 As a result of the Government's existing policies, including carbon pricing and its support for renewables, it advises that it has already made great headway in reducing our reliance on coal, which fell from 39% in 2012 to less than 3% in 2019. In 2018 the UK went 3,700 hours without using coal for power, nearly 5 times more than the whole of 2017. In May 2019 the UK went without running coal power generation for over two weeks (18 days, 6 hours and 10 minutes), the longest coal-free period in the country since the 1880s. In June 2020 it was reported that the UK had gone two full months without burning coal to generate power. There are currently 4 active coal generators, one of which announced closure in March 2020.
- 211 Objectors refer to a national stockpile of coal, whether this is or is not correct, the quality of the coal is of significance in this case and the purpose for which it is proposed to be used. Notwithstanding this, according to published Department for Business, Energy & Industrial Strategy's statistics total coal stocks were 5.3 million tonnes at the end of 2019, virtually identical to stocks at the end of 2018. Of these stocks the bulk (3.7 million tonnes) were held and committed for use at power stations.
- 212 Laboratory analysis of coal samples taken from the proposed extension site has confirmed that the target seams typically contain very high volatile grade coal, of the type ideally suited for use in steel manufacture. Coal is an essential mineral in steel production, being a key element in the chemical reaction (reduction) and as a heat source for the furnaces. According to the applicant 1 tonne of coal is used in the production of 1.25 tonnes of crude steel and 10,000 tonnes of coal would produce 12,500 tonnes of steel which was required to produce The Shard in London. Within the cement and concrete production coal is needed to generate heat for the production of cement. The applicant has advised that 1 tonne of coal is required to produce 5 tonnes of cement which produces 30 tonnes of concrete and that 1,750 tonnes of coal would produce 53,000 tonnes of concrete which would be needed to build a community hospital.

- 213 At the time the applications were submitted the applicant advised that of the coal currently being produced at the existing site 80% was being supplied for steel manufacture and 20% for other industrial uses (including cement manufacture, large scale industrial warehouses and paper mills). During consideration of the application the applicant advised that 100% of the coal extracted from the existing site is being sold and used by a major steel producer based within the UK. In addition, 100% of the coal from the proposed extension would also be used in steel manufacture. Tata Steel has expressed interest in pursuing an off-take from the proposed extension and has advised in its letter of support that commercial terms have been agreed to purchase the coal. Offtake is subject to planning approval, and the expectation that the coal is of the same quality as that which has been approved by Tata Steel. The applicant's certainty that coal would be sold to Tata Steel for use in the steel industry is due to the short lead in time to extraction, should planning permission be granted, and proven coal quality from the existing site. Notwithstanding this, the applicant has identified that the coal may also be used in other UK manufacturing processes such as cement manufacture as well as ancillary industrial uses, including heritage railways, food manufacture and agriculture.
- 214 The applicant has advised that coal from the existing Bradley site is sold to Tata Steel and transported via the applicant's Shotton site in Northumberland and, following processing, travels via rail from Blyth to Port Talbot. Contrary to the views of objectors the applicant advises that coal is not transported to West Burton Power Station. There is no current restriction on the use of coal from the existing Bradley site therefore there is no breach of planning control.
- 215 Objectors have stated that Newcastle City Council has requested additional information regarding coal use in respect of the application it is considering at Dewley Hill, north of Throckley Brickworks, for the extraction of coal and fireclay. However, officers consider that sufficient information is available to provide certainty that the coal won from the existing and proposed extension would not be used in electricity generation.
- 216 Given the intended use of the coal from the existing and proposed sites, the Government's policy in relation to electricity generation is not relevant to consideration of these planning applications. However, it is notable that the coal would be used before the Government puts to an end to unabated coal power generation from 2025 or the possible earlier date of 2024. To seek to ensure the end use of the remaining coal in the existing site and in the proposed extension area for use in UK industrial manufacturing processes only, should planning permission be granted a commitment through a planning obligation under the provisions of Section 106 of the Town and Country Planning Act 1990 (as amended) would be secured (S106 planning obligation).
- 217 In terms of the use of coal in industries such as steel and cement manufacture according to the Government (Department for Business, Energy & Industrial Strategy), to meet net zero carbon emissions by 2050, the Committee on Climate Change (CCC) has advised industry emissions must fall by around 85% relative to today's levels. This means major changes to how industry makes goods and uses energy. The Government's vision is to lead the world in the green industrial revolution, transforming the high-emission industries of today into the clean sectors of tomorrow. The Government has an ambitious range of policies in place to help industry reduce costs and decarbonise. It launched its second mission under the Clean Growth Grand Challenge in December 2018 to establish the world's first net-zero carbon industrial cluster by 2040 and at least one low-carbon cluster by 2030. The mission is backed by the Industrial Decarbonisation Challenge (IDC) - £170m from the Industrial Strategy Challenge Fund (ISCF). The Government announced at

Budget 2018 an Industrial Energy Transformation Fund backed by up to £315m of investment over 5 years. This will support businesses with high energy use reduce carbon emissions and cut their energy bills through increased energy efficiency. In August 2019, the Government announced the £250m Clean Steel Fund which will help put the steel sector on a pathway towards decarbonisation.

- 218 There is a need to ensure that the UK meets the emissions targets for 2050 as set out in the Climate Change Act 2008 as well as working towards decarbonisation of the steel industry and transforming high emission industries. However, now and in the short term until replacement fuels or methods of manufacture are found, there is a continuing requirement for coal in manufacturing industries. The high-quality coal from the proposed developments would assist in meeting current immediate demand from a reliable indigenous source and reducing the reliance on imports and associated greenhouse gases from with such importation. Objectors have stated that The Court of Appeal ruled in February 2020 that Heathrow airport could not expand because it did not take the Government's emissions commitments into account under the 2015 Paris Accord. However, the nature of these two developments differ as do the timescale of their impacts. As such, it is considered that this is not a constraint to determination of the applications.
- 219 The Government is seeking to move towards a low carbon economy. The NPPF (2019) clearly states this (Paragraph 8) and advises that the planning system should support the transition to a low carbon future in a changing climate (Paragraph 148). It is considered that coal extraction and its use is not inconsistent with advice in the NPPF (2019). There is more than a short term need for coal as an energy mineral which extends beyond the use of coal in coal fired power stations. The Government's targets in relation to the Clean Growth Grand Challenge are medium to long term as opposed to short term and even then, it is proposed there would be one low carbon cluster and one net-zero carbon cluster which is not the entire economy.

Demand for coal

- 220 The demand for coal is not a planning matter, the key issue to be considered is the environmental site-specific acceptability of the proposed development. Given the intended use of the coal from the existing and proposed sites, and the proposed S106 planning obligation which would restrict such use, regard has not been had to the demand for coal in electricity generation. Nevertheless, the quantity of coal in the proposed extension (90,000 tonnes) and that remaining in the existing site are a very small amount compared to that which was used, consumed, production and imported set out below.
- 221 The most up to date information on demand, consumption, production and imports of coal has been published in Energy Trends (March 26th, 2020) which shows provisional results for 2019.
- 222 In 2019 total demand for coal was 7.9 million tonnes. Consumption by electricity generators was 2.9 million tonnes (down by 56 per cent from 2018), coke manufacture at 1.8 million tonnes (up by 2.4% from 2018) and coal used in blast furnaces at 1.1 million tonnes (up by 1.9% from 2018). In terms of final consumption in total 1.9 million tonnes was consumed by the iron and steel industries, other industries, domestic and other final users, 73% which was used for non-domestic uses. Demand for coal-fired electricity generation continued to decline as production favoured gas, nuclear and renewables over coal for a variety of economic reasons, not least of which being the high carbon price floor for coal. Additionally, generation capacity which had fallen in recent years continued to fall. Of electricity generated,

coal accounted for only 2.1 percent of production. In the long-term coal will be phased out in unabated Power Stations but could be used in Power Stations which have the same CO₂ emissions as gas fired power stations.

- 223 In 2019 2.2 million tonnes of coal was produced domestically (16% lower compared to 2018) and the lowest recorded level, of which 99,000 tonnes emanated from deep mined production with the remainder (2.1 million tonnes) being produced by surface mined. In 2019 6.8 million tonnes of coal was imported (33% lower than 2018) and the lowest amount since before the 1984 miners' strike. Imports in 2019 were from Russia (2.56 million tonnes) (37%), USA (1.873 million tonnes) (27%), Columbia (1.135 million tonnes) (17%), with the remainder (1.261 million tonnes) (18%) comprising Australia (6%), the European Union (6%) and other countries (6%). 740,000 tonnes of coal was exported in 2019. It is considered that if coal is not produced domestically it will be imported.
- 224 Objectors to the proposal refer to BEIS Provisional March 2020 coal figures which they consider find that coal production had fallen due to further contraction of surface mining along with lower demand for electricity generation along with a reduction in coking coal imports and coal sales to industrial users. CAN considers that it can be inferred that a key factor in how much coal is imported is the demand for that coal, not the productivity of British mines as Banks Group claim and the best way to save green house gases from coal is to stop burning it.
- 225 It is clear that coal is being phased out for energy generation and also for industrial manufacturing processes albeit the latter is not at as an advanced stage and there is a still a requirement for coal in the steel industry, other industries and for domestic uses. 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.

Fireclay

- 226 Previous planning applications for Jolly Drovers and Billingside proposed the extraction of undisclosed amounts of fireclay. At the time of the original Bradley application it was considered that significant quantities of fireclays and brickshales were not present and those which were would be unlikely to be of suitable quality. If any workable resources were subsequently identified it was thought that they may be removed concurrently with the coal and within the working timescale. This, however, would have required planning permission. Although potentially viable fireclay has been encountered in the existing site, the planning permission does not permit its extraction. The applicant decided to include fireclay in the proposed extension application so the work programme could be planned from the outset of gaining any permission rather than submitting an additional application for the remaining working area in the existing site which is well underway.
- 227 Fireclay is an important mineral for brickmaking producing high quality, off-white, buff and yellow brick. Fireclay deposits are characteristically associated with coal seams due to their low iron oxide content, compared to most brick clays that fire a red colour due to a higher concentration of iron oxide being present. The aesthetic qualities of buff coloured facing brick and pavers produced from fireclay are valued in design terms and are also often blended with red-firing clays to give a range of fired colours. The application states that the estimated 20,000 tonnes of fireclay within the proposed extension area has the main qualities (Carbon content less than 1%, Sulphur content less than 0.1% and shrinkage ability greater than 3%). The application states the fireclay would meet the production requirements of the Todhills County Durham based brickworks operated by Wienerberger.

- 228 Onsite drilling has taken place at the proposed extension area proving that there are up to 20,000 tonnes of high-quality recoverable fireclay reserves underlying the target coal seams (Top Brass Thill JK20 and the Bottom Brass Thill K100). It is proposed that this would be removed concurrently with the coal within the proposed working timescale. Testing has been undertaken on fireclay in the current extraction area of the existing site to help establish the quality of the resource and inform consideration of extraction in the proposed extension area which contains the same seams. Wienerberger's product specific trials have not yet been completed having been delayed due to Covid-19. As a result, Wienerberger has not been able to confirm the product blend or commercial terms at this stage, but the trials are set to continue as soon as possible.
- 229 The avoidance of sterilisation of mineral resources and the contribution (or otherwise) to the maintenance of high and stable levels of economic growth and employment and the need for supplies of fireclay to serve local brickworks would be met if the fireclay is put to beneficial use. MLP Policy M7 indicates that all proposals should avoid the unnecessary sterilisation of other minerals, particularly fireclays and brickclays. The economic benefits of fireclay are also highlighted within the Policy. It should be noted that Paragraph 209(f) of the NPPF (2019) states that minerals planning authorities should provide for coal producers to extract separately and, if necessary, stockpile fireclay so that it remains available for use.
- 230 The application states that should planning permission not be granted it would be likely that fireclay would be imported if not produced in the UK. Also, that the significant increase in brick numbers needed to meet the Government's ambitious house building targets bricks would be met from imported bricks, at potentially greater cost to customers and ultimately increasing the costs of new homes. This may or may not be the case, but bricks would still be produced at other brickworks in the North East regardless of whether or not the extension is granted planning permission, for example at Todhills and Union Brickworks at Birtley and elsewhere in the country.
- 231 The applicant advises that it understands that latest figures show the UK imported 457 million bricks in 2019, a significant increase from the previous year and compared to less than 2 billion bricks UK production. This interim figure includes both red and buff bricks but does help demonstrate demand. The applicant's engagement with industry indicates 30 tonnes of fireclay produces 8,000 bricks, equating to one average UK home. 20,000 tonnes of fireclay would therefore produce approximately 5.3 million bricks, equating to around 660 average UK homes.
- 232 Officers have queried the number of bricks required to build a typical house with two national housebuilders and also the number of bricks produced from 1 tonne of fireclay with a local brickworks. Officers have been informed that the average 3 bed roomed house in the UK is made up of between 8,500 and 5,000 bricks depending on the house type and builder. 4 bedroom houses average around 10,000 and 6,000 – 6,500 bricks for 2 bed house types.
- 233 A national brick producer has confirmed that 1 tonne of fireclay would produce 386 bricks. 20,000 tonnes of fireclay would therefore produce some 7.72 million bricks. The fireclay would be the main source of the brick and other clays would not be added but some sand may be added depending on the product.
- 234 It has been the case with previous surface mines within County Durham that the concurrent working of fireclay was regarded as beneficial, but the material was found

not to be marketable and so was used as backfill as no other suitable use was identified. If planning permission is granted and the fireclay is found to be of beneficial use then it would be sold to Wienerberger or another brickworks, if not then it would be used as backfill. It is therefore not considered appropriate to secure the use of the fireclay through a planning obligation.

- 235 It is noted that letters of support have been received from Wienerberger and Castle Claysales Ltd. in respect of the application. Wienerberger's letter of support indicates its increasing demand and preference to source fireclay as locally as possible. However, should use not be made of the fireclay then it would be inevitable that the demand for bricks would be satisfied from elsewhere either within the UK or imported from abroad. However, should fireclay be available for use the amount of bricks likely to be produced would not be insignificant and along with the design attributes then it can be regarded as an incidental benefit.
- 236 Subject to the requirements of the first part of MLP Policy M19 where mineral extraction is acceptable in principle, the proposal would accord with Policy M19 if the overall proposal remains acceptable in terms of its impacts on the environment or the local community and its duration, and it does not significantly delay site restoration.
- 237 The potential benefits of concurrent working of both important minerals is encouraged and would avoid the unnecessary sterilisation of a valuable resource and allow the concurrent working of two minerals, in accordance with Policies M7 and M19. MLP Policy M7 is not considered to be consistent with the NPPF and can be afforded limited weight in the decision-making process. The approach of Policy M19 is in line with the NPPF (2019) which seeks to facilitate the sustainable use of minerals whilst protecting the environment and local amenity, whilst requiring sites are restored. On this basis Policy M19 is considered to be consistent with the NPPF (2019). The Policy is not time limited or out of date and can be afforded full weight in the decision-making process.
- 238 It is notable that Paragraph 203 of the NPPF (2019) states that since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation. The original Bradley application noted that small amounts of sand and gravel may be encountered. At that time, it was considered that in the unlikely event that useable minerals of sufficient quality and quantity were encountered then the environmental effects (such as any increase in vehicle movements) of the removal of additional mineral would need to be considered in advance of removal from site. No other minerals have been found to be suitable for extraction on the existing site. The current planning applications states that retrieved cores from the drilling in the proposed extension site have proven that no other mineral deposits are of a sufficient quality or quantity to be extracted on a commercial basis. Based on the current site this is a reasonable conclusion.

Consideration of the environmental acceptability of the proposals

- 239 Although it is considered that MLP Policy M7 is not consistent with the NPPF (2019) limited weight can be afforded to it. It is therefore considered appropriate to assess the proposals against Policy M7 and Paragraph 211 of the NPPF (2019).
- 240 To comply with MLP Policy M7(a), and to pass the first test of Paragraph 211(a) of the NPPF (2019), surface coal mining proposals are required to be environmentally acceptable or can be made so by planning conditions or obligations. This report assesses each identified likely environmental impact against the relevant

Development Plan policy and NPPF (2019) including the scope for control by condition or legal agreement.

- 241 Having regard to the Appeal decision in relation to the existing site and the three main issues the Planning Inspector identified, this would equate to the first issue, being the effects of the proposal on the environment, with particular reference to landscape character and visual impact; levels of amenity in the locality (for residents and others), and other environmental effects. Although the Planning Inspector concluded in respect of the existing Bradley site, it is for the County Planning Committee as decision maker to come to its own conclusion in relation the current planning applications.

Residential Amenity

- 242 Both the existing site and proposed extension lie in open countryside between Leadgate and Dipton.
- 243 There are a number of residential properties within 100m of the proposed extension site. The closest properties are to the south west at the Jolly Drovers Public House, Pont Road, Tweed Avenue, Tyne Avenue, Derwent Crescent and Eden Avenue. The Jolly Drovers Public House is located some 27m to the south separated from the site by Pont Lane and is not currently occupied. The closest occupied residential property being at Pont Road is some 33m from the site boundary at its closest point. Properties at Annaside Mews are more distant. Also, within close proximity to the site are properties along St Ives Road leading into Leadgate with the closest being Redwell Hill Farm at approximately 110m from the site boundary at its closest point. Drovers Forge lies some 60m to the south of the proposed extension and is separated by the A692 and roundabout. There are a number of properties more distant to the south east at Brooms Farm and Selly Park House and to the north east at Douglas and Hedley Terraces and to the north west at Low Bradley and High Bradley. The principal effects of working on residential amenity would be in respect to noise, dust, blasting and vibration and visual impact.
- 244 MLP Policy M37 seeks to prevent mineral development within 250m (500m where operations involve blasting) of a group of 10 or more dwellings unless it is demonstrated that residential amenity can be protected from the adverse impacts of mineral working. The closest dwellings and their proximity to the proposed extension site and proposed operations are listed in the table below (distances in metres) as are the distances in relation to the existing Bradley site. The properties named are either specific or representative of groups of dwellings.

Proposed Extension – Approximate distance in metres from identified sensitive properties to various site operations

Property	Site boundary (red line)	Operational area boundary	Void	Overburden mound	Soil Storage	Coal yard	Blasting
Douglas Terrace	867	875	875	n/a*	966	n/a*	881
Brooms Farm	231	233	359	n/a*	233	n/a*	364
Our Lady and St Joseph's Church	155	159	313	n/a*	159	n/a*	318
Jolly Drovers Public House	27	32	70	n/a*	32	n/a*	75
Pont Road (No. 1)	33	141	173	n/a*	141	n/a*	178
Low Bradley Farm	964	1026	1026	n/a*	1448	n/a*	1031
Annaside Mews	283	295	340	n/a*	295	n/a*	345
Redwell Hill Farm	110	121	160	n/a*	121	n/a*	165

* There would be no new overburden mound or coal yard within the proposed extension site.

245 The proposed extension site boundary is within 250m of a group of 10 or more dwellings. These being 78 properties on Pont Road, Tweed Avenue, Tyne Avenue, Derwent Crescent and Eden Avenue. Along St Ives' Road there are 9 residential properties within 250m of the site boundary. Beyond 250m lies Annaside Mews which is separated from the proposed extension area by open land and, as with all of these properties Pont Lane lies between them and the extension site. A roundabout at the A692 and Pont Lane is close to the properties on St Ives' Road.

246 As stated above the closest group of 10 properties to the proposed mineral development would be those on Pont Road, Tweed Avenue, Tyne Avenue, Derwent Crescent and Eden Avenue. These properties would be closest to areas to be stripped of soil, the proposed topsoil storage mound, acoustic bund and the excavation area.

247 Initial disturbance in relation to the proposed extension area would be caused by the creation of the acoustic bund, soil stripping and subsequent creation of the topsoil storage mound but these mounds would seek to reduce the impact of extraction operations for the duration of the excavation works. Notwithstanding this, the applicant has considered the proximity to occupied properties when designing the site and has sought to demonstrate that residential amenity can be protected from the adverse impacts of mineral working. Soil stripping operations would take place approximately 141m from the closest property on Pont Road. The coal stocking and

subsoil mound would be further distant being located within the existing Bradley site. As the existing site access is proposed to continue to be used, there would be no greater impact upon properties closest to the extension in the Pont Lane area over and above those currently experienced, although operations would continue for a longer period. No coal processing takes place at the site or is proposed to take place as part of the extension proposal. The closest properties to the site access would continue to be Broom Farm and Brooms Farm and Our Lady and St Joseph RC Church Presbytery. Low Bradley would continue to be the closest property to the water treatment areas.

248 As can be seen from the table above the operational site boundary and extraction or associated activities (soil stripping, soil storage areas and excavation area) are slightly further distant from residential properties than the site boundary providing a standoff or buffer from site operations to those properties on Pont Road and the other properties within the vicinity. Billingside Plantation itself provides a buffer of some 100m from those properties from the excavation area. Blasting would take place within 500m of a great number of residential properties.

249 The closest residential properties to the existing Bradley site are Douglas Terrace and Hedley Terrace which lie to the north east of the site along with two other properties (the closest being some 60m north east of Douglas Terrace) referred to as High stables. The closest residential properties in the Leadgate area are to the south west on Pont Road. Isolated residential properties surrounding the site are Brooms Farm and Our Lady and St Joseph RC Church Presbytery to the south east. Low Bradley Farm is some 507m to the north west. Bradley Hall lies adjacent to Low Bradley Farm some 530m again to the north west. These dwellings and their proximity to the proposed extension site and proposed operations are listed in the table below (distances in metres). Like with the proposed extension, the principal effects of working on residential amenity would be in respect to noise, dust, blasting and vibration and visual impact.

Existing Bradley Site – Approximate distance in metres from identified sensitive properties to various site operations

Property	Site boundary (red line)	Operational area boundary	Void	Overburden mound (at full size)	Soil Storage	Coal yard	Blasting
Douglas Terrace	262	268	296	695	268	778	530
Brooms Farm	53	58	72	371	58	214	359
Our Lady and St Joseph's Church	138	142	156	441	142	227	437
Jolly Drovers Public House	414	416	553	577	416	434	558
Pont Road (No. 1)	385	393	551	421	393	554	556
Low Bradley Farm	507	523	745	765	664	1254	749

No coal processing takes place at the existing site as the coal is taken offsite to the applicant's Shotton site near Stannington in Northumberland.

- 250 The Planning Inspector through allowing the Appeal considered the distances from the nearest residential properties and with suitable mitigation considered the impacts to be acceptable. The variation of conditions application would introduce the creation of an additional soil mound within the existing site (the subsoil from the proposed extension) and the existing site infrastructure would be used. However, the extension would not impact upon the duration of restoration for the existing site. Although vehicle movements would continue for longer should the extension be permitted, extraction and blasting will have ceased by approximately January 2021 and the overburden mound would be deconstructed 3 months later by April 2021. The Appeal decision does not permit blasting within 500m of properties at High Stables. This standoff was incorporated as part of the design of the site.
- 251 MLP Policy M36 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. Policy M36 is not time limited and is broadly consistent with the NPPF (2019) which requires amongst other provisions (Paragraph 205b) that planning decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability; by ensuring that any unavoidable noise, dust and particle emissions; ensuring that any blasting vibrations are controlled, mitigated or removed at source and establish appropriate noise limits for extraction in proximity to noise sensitive properties; and addressing issues relating to traffic and transport (Paragraph 108 of the NPPF (2019) in particular) and matter such as unstable land. MLP Policy M36 can carry full weight in the decision-making process.
- 252 MLP Policy M37 is considered not to be consistent with the NPPF (2019) as it does not identify thresholds for stand-off distances. Nor is it consistent with the PPG on the basis that the PPG provides specific advice that separation distances/buffer zones may be appropriate, where it is clear that based on site specific assessments and other forms of mitigation measures (such as working scheme design and landscaping) a certain distance is required between the boundary of the minerals extraction area and occupied residential property. MLP Policy M37 can be given very limited weight in the decision-making process and is considered to not be up to date.
- 253 The PPG advises on separation zones/buffer zones noting they may be appropriate in specific circumstances where it is clear that, based on site specific assessments and other forms of mitigation measures (such as working scheme design and landscaping) a certain distance is required between the boundary of the minerals extraction area and occupied residential property. Any proposed separation distance should be established on a site-specific basis and should be effective, properly justified, and reasonable. It should take into account: the nature of the mineral extraction activity; the need to avoid undue sterilisation of mineral resources, location and topography; the characteristics of the various environmental effects likely to arise; and the various mitigation measures that can be applied.
- 254 Paragraph 170 of the NPPF (2019) states that planning decisions should contribute to and enhance the natural and local environment by preventing new and existing

development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of air or noise pollution. Development should, wherever possible, help to improve local environmental conditions such as air quality.

- 255 Paragraph 180 of the NPPF (2019) requires that planning decision should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so it is stated that they should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life. Paragraph 205 of the NPPF (2019) requires that in considering proposals for mineral extraction, minerals planning authorities should ensure that there are no unacceptable adverse impacts on human health. Also, to ensure that any unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source, and establish appropriate noise limits for extraction in proximity to noise sensitive properties.
- 256 Paragraph 181 of the NPPF (2019) advises that planning decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement.

Noise

- 257 Government guidance as contained in the PPG 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 would 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.
- 258 The PPG also recognises that mineral operations will have some particularly noisy short term activities that cannot meet the limits set for normal operations. These include soil stripping, the construction and removal of baffle mounds, soil storage mounds and spoil heaps, construction of new permanent landforms and aspects of site road construction and maintenance. The PPG advice is that increased temporary daytime noise limits of up to 70dB(A) $L_{Aeq}1h$ (free field) for periods of up to 8 weeks in a year at specified noise sensitive properties should be considered in order to facilitate essential site preparation and restoration work and construction of baffle mounds where it is clear that this will bring longer-term environmental benefits to the site or its environs. Where work is expected to take longer than 8 weeks a lower limit over a longer period should be considered and in wholly exceptional cases, where there is no viable alternative, a higher limit for a very limited period may be appropriate in order to attain the environmental benefits.
- 259 Noise levels for temporary and normal operations at the existing site (within permitted levels set out in Government Guidance) are controlled through existing

conditions and noise levels are currently monitored by the site operator. Condition 32 of the Appeal decision sets levels of 55dB LAeq, 1Hr (free field) at Brooms Farm, 55dB LAeq, 1Hr (free field) at Pont Road and 50dB LAeq, 1Hr (free field) at Douglas Terrace during normal operations. During periods of temporary operations (soil stripping, the construction and removal of baffle mounds, soil storage mounds and spoil heaps, construction of new permanent landforms and aspects of site road construction and maintenance) Condition 33 specifies that the noise emitted from operations on the site shall not result in noise levels greater than 70dB LAeq, 1Hr (freefield) as measured at the aforementioned properties. The duration of such activities shall not exceed 8 weeks in relation to each of the respective noise monitoring properties in any 12 month period. The levels pertaining to the existing site are not proposed to be varied through the S73 application and would be reproduced should planning permission be approved.

- 260 A noise assessment has been carried out as part of the proposals the results of which are contained in the ES. The assessment concludes that the operation of the proposed extension would not exceed the noise limits currently in place under the terms of the existing Bradley permission. In addition, the predicted noise impact falls below the recommend limits outlined in PPG. The predicted noise levels have been calculated for temporary and long-term operations for the proposed extension. The assessment is based upon a computer noise model which has been prepared to represent the potential worst-case scenarios, for site preparation and mineral extraction. The assessment also shows that noise from temporary operations would be less than the 70dB(A) LAeq,1hour (free field) criterion at the existing sensitive receptors (ESRs). The significance of the noise impact during temporary operations is negligible. The assessment further concludes that it has been shown that the noise from worst case long-term operations would comply with the upper free field level of 55dB LAeq,1hour and noise limits derived from the existing background noise level at the ESRs. The significance of the noise impact during long term operations is minor adverse. It is concluded that the site can operate in accordance with the guidance on noise as set out in the PPG accompanying the NPPF and is concluded to be not significant in EIA terms.
- 261 As part of the assessment consideration was given the properties and locations around the site including Low Bradley, Annaside Mews, Redwell Hills Farm, Pont Road, Brooms Farm and Douglas Terrace. A combination of monitoring, noise levels from the previous application and representative baseline levels been used to calculate predicted noise levels for the site operating as a whole i.e. with the proposed extension. Predicted noise levels (based on a 'worst case scenario') indicate that normal site operations would not exceed the nominal limits of 55dB(A) LAeq1h and would not be 10dB(A) above measured background levels. The recorded background noise level for Annaside Mews was 46dB, Brooms Farm was 58dB (this being an existing noise limit from the previous application), Douglas Terrace was 40dB (this being an existing noise limit from the previous application), Jolly Drovers was 49dB (representative levels taken from Redwells Hill Farm), for Low Bradley no monitoring is available. For Pont Lane the background noise level was 47dB (this being an existing noise limit from the previous application) and for Redwell Hills Farm the background noise level was 49dB.
- 262 The predicted level for normal operations at Annaside Mews is 44dB, Brooms Farm and Douglas Terrace are 42dB, Jolly Drovers 53dB, Low Bradley 42dB, Pont Lane 51dB and 49dB at Redwell Hills Farm. The predicted levels are less than the background noise levels for certain properties but greater for others. The proposed noise levels for normal operations for all but one of the locations is 55dB. At Douglas Terrace it is 50dB. Compared to the highest predicted noise level the greatest

increases would be at Annaside Mews with an increase of 11dB(A), 13dB(A) at Brooms Farm and 13dB(A) at Low Bradley. However, in line with the levels set out in the PPG the proposed levels would not exceed the background level by more than 10dB, in addition the predicted levels are based on a worse case scenario.

- 263 The assessment concludes that all temporary operations would be carried out within the nominal limit of 70dB(A) in any one hour LAeq1h over an 8 weeks period as specified in the Planning Practice Guidance. The highest predicted levels for temporary operations would range between 47 and 67dB at the aforementioned properties. The greatest increases would be at Annaside Mews, Brooms Farm and Low Bradley, an increase of 23dB(A), 22dB(A) and 25dB(A) respectively from 47dB(A), 48dB(A) and 45dB(A). The creation of topsoil mound closest to Pont Lane (topsoil mound T12) would take 9 days and the same period to remove. The creation of the subsoil mound to be created within the existing site closest to Brooms Farm would take 10 days to construct and the same period to remove. Extraction of overburden in the first box cut of the extension area along with coal extraction followed by the formation of an acoustic bund are predicted to be the temporary operations which are likely to result in increased noise levels.
- 264 The assessment considers that specific noise mitigation measures would not be required as temporary and long-term operational noise levels are acceptable but to minimise any possible noise impact from operations over the lifetime of the project, best practice should be implemented. As well as the construction of earth mounds, potential noise mitigation measures also include regular inspection, maintenance and repair of plant used on site and plant would not be operated with covers removed or open. Other mitigation measures include the use of automatic broadband reversing alarms, use mobile plant to ensure that reversing alarms are unobtrusive at surrounding sensitive premises, pumps, generators and lighting sets would be placed at locations on site where they would not be audible at the nearest noise sensitive premises and where necessary be acoustically insulated. Mobile plant would only be operated in accordance with the approved working hours unless in the case of emergencies. All Banks road HGV tractor and trailer units would be fitted with air suspension and rubber brushes fitted to the trailer bodies and chassis to minimise noise from this source. Disc brakes would also be fitted to enhance braking efficiency and minimise brake squeal. These measures would also apply to contractors.
- 265 The permitted hours of working for the existing site are specified in Condition 11 of the Appeal decision. Site operations are permitted 07.00 to 19.00 Monday to Friday and 07.00 to 12.00 Saturday. Maintenance hours are 07.00 to 19:00 Monday to Friday and 07.00 to 16:00 Saturday. With the exception of pumping, no working or operations including the maintenance of vehicles and plant shall take place outside of these hours or at any time on Bank, or other public holidays, save in cases of emergency when life, limb, or property are in danger. The Mineral Planning Authority is required to be notified as soon as is practicable after the occurrence of any such operations or working. Condition 12 states that notwithstanding the operational hours set out in Condition 11, no mineral extraction, overburden or soils handling operations shall take place within 200m of Brooms Farm or Our Lady and St Joseph's Church House prior to 08.00 hours Monday to Saturday. The site informally liaises with the Church to ensure that noisy operations do not take place when services are taking place, and this would continue.
- 266 The current applications propose to retain the permitted working hours, having abandoned an initial proposal to commence maintenance works at 06:30 Monday to Friday following concerns from the Council's Environment, Health and Consumer

Protection Officer. As with the existing site working hours levels would be secured through condition.

- 267 Having regard to the nature and location of operations it is accepted that there could be notable changes in some local noise levels during the life of the site especially during temporary operations which could have the potential to have an impact on the amenity of local residents. The existing site has generated complaints from neighbouring residents from both normal and temporary operations but not to the degree that the Council has considered it expedient to take enforcement action. The predictions for the proposed extension are based on worst case scenarios and the higher levels from temporary works would be limited to 8 weeks in any one year and within acceptable levels as specified in the PPG.
- 268 Environment, Health and Consumer Protection officers have no objections. In view of this and given suitable controls would be put in place to ensure that these limits are adhered to, it is considered that the proposals would accord with MLP Policies M36 and M37 and with Paragraphs 170, 180 and 205 of the NPPF (2019).
- 269 The PPG does not provide guidance on appropriate noise levels for recreational areas. Previous Government Guidance (MPG11) recommended a noise level of 65dB Leq,1hr during the working day.

Air quality and dust

- 270 Mineral sites give rise to dust issues and it is recognised that the large amounts of overburden to be moved as part of surface coal mining operations and intensity of activity associated with that movement can contribute significantly to the increased potential for dust emissions. It is also accepted that the generation of dust can only be minimised and controlled rather than eradicated. The impact depends on wind speed, the degree of rainfall and surface topography.
- 271 Where dust emissions are likely to arise, mineral operators are expected to prepare a dust assessment study. The PPG sets out five stages for carrying out a dust assessment. These are: to establish baseline conditions of the existing dust climate around the site of the proposed operations; identify site activities that could lead to dust emission without mitigation; identify site parameters which may increase potential impacts from dust; recommend mitigation measures, including modification of site design, and make proposals to monitor and report dust emissions to ensure compliance with appropriate environmental standards and to enable an effective response to complaints.
- 272 A Department of Health and Department of the Environment, Transport and the Regions research study: *The Impact of Particulate Matter from Opencast Coal Sites on Public Health*, was published in December 1999. The PPG reflects the good practice recommendations made in the report. The key assessment criteria are the proximity of residential communities to a site and background levels of small particles (PM10) in relation to the National Air Quality Standard. The proximity distance to settlements for assessment purposes is 1km. PM10 are particles with a diameter of less than 10 and measured in micrometres.
- 273 At the time of the original application the background levels for North Durham were quoted as being between 11.4 – 16.2µg/m³ and the predicted increase from opencasting (typically opencast site operations can produce 2µg/m³ of PM10s)

would still maintain levels that are below National Air Quality Standard of $40\mu\text{g}/\text{m}^3$ annually and $50\mu\text{g}/\text{m}^3$ (24 hours mean).

- 274 Site operations commenced at the existing Bradley site on 17 May 2018. Continuous air quality monitoring for Total Suspended Particles, PM_{10} , and $\text{PM}_{2.5}$ has been taking place at the site since March 2018. Results have shown PM_{10} levels to range between 6.70 and $9.10\mu\text{g}/\text{m}^3$. Monitoring took place between May and September 2017 and pre-development levels of PM_{10} s was $9.30\mu\text{g}/\text{m}^3$ and $3.60\mu\text{g}/\text{m}^3$ for $\text{PM}_{2.5}$. DEFRA data for the area for 2017 (pre-operations) show PM_{10} levels ranging between 8.28 and $8.61\mu\text{g}/\text{m}^3$ and $\text{PM}_{2.5}$ between 5.49 and $5.62\mu\text{g}/\text{m}^3$.
- 275 The continuous monitoring that has been undertaken at the site has shown that concentrations of PM_{10} s are well below $17\mu\text{g}/\text{m}^3$ in the vicinity of the existing site and that there are no exceedances of the short term and long term PM_{10} air quality objectives. An air quality assessment is included within the ES and considers that the proposed extension is viewed as being a continuation of the existing site operation and that there would be no increase in intensity of operations. As a result, it is not anticipated there would be any fine particulate matter increases. The fine particulate matter effect is deemed to be negligible and not significant.
- 276 As well as considering PM_{10} s the assessment also considers $\text{PM}_{2.5}$ s. The annual mean $\text{PM}_{2.5}$ objective, of $25\mu\text{g}/\text{m}^3$ has had to be met since January 2015. For $\text{PM}_{2.5}$ the measured levels range between 4.30 and $4.50\mu\text{g}/\text{m}^3$. Pre-development monitoring took place between May and September 2017 and levels of $3.60\mu\text{g}/\text{m}^3$ for $\text{PM}_{2.5}$ was recorded. DEFRA data for the area for 2017 (pre-operations) show $\text{PM}_{2.5}$ levels between 5.49 and $5.62\mu\text{g}/\text{m}^3$.
- 277 An air quality assessment is included within the ES that considers that operations at the existing Bradley surface mine are ongoing and therefore the current baseline should be considered with the surface mine operational and that a detailed assessment can therefore be screened out. The assessment has considered the potential for dust and fine particulate matter impacts for the proposals at the five existing sensitive receptors surrounding the existing and proposed sites noting that operations at the existing site would be predominately restoration when the extension site would be operational. The assessment considers the likely effects of the development and demonstrates that it would not have an unacceptable impact on human health in terms of air quality. Five real time monitors would continue to be used to monitor air quality.
- 278 Dust control and mitigation measures are currently in place at the existing site through the Dust Action Plan (DAP) and the requirements of the conditions of the Environmental Permit which seek to ensure that dust emissions do not consequently result in levels that exceed the Air Quality Objective concentrations. These measures would continue to be in place should planning permission be granted for the extension. A permit, granted by the Council, is in place under the Environmental Permitting (England And Wales) Regulations 2016 covering the handling of the coal within the existing site. The applicant has made an application to change the permit to encompass the proposed extension should planning permission be granted. A DAP to cover the existing site and extension has been submitted with the applications and is considered to be acceptable by Environment, Health and Consumer Protection officers.
- 279 Dust arising from a mineral site can reduce amenity in the local community due to visible dust plumes and dust soiling. The Institute of Air Quality Management

document entitled 'Guidance on the Assessment of Mineral Dust Impacts for Planning (May 2016) states that the generally coarser dust that leads to these effects may, therefore, be referred to as 'disamenity dust'. The submitted assessment concludes that the potential impacts from disamenity dust and fine particulate matter are not considered to be significant following mitigation and the proposed extension and the existing site would be operated in accordance with the updated DAP which as well including mitigation measures it also includes air quality and dust monitoring methods.

- 280 Whilst accepting that compliance with general air quality standards can be achieved there are residential properties well within 1km of the site which would potentially be at risk from any fine particle dusts generated by site activities. With regard to larger dust particles, depending on wind speed, the degree of rainfall and surface topography, these particles would generally return to the surface over a much smaller distance. There is potential for risk from dust nuisance, however, Environment, Health and Consumer Protection officers raise no objection.
- 281 As no changes to the number of vehicle movements are proposed (an increase to an average of no more than 96 daily HGV movements), the application considers that a further assessment of vehicular emission impacts is not required.
- 282 The submitted assessment notes that receptors can potentially be affected by dust up to 1km from the source, although any dust emissions are more likely to be deposited much closer to the dust sources, generally within 100m, depending on the size characteristics of the dust particles and in the absence of appropriate mitigation. The impact would depend on the nature of activity taking place, wind direction and speed, particle size distribution, the degree of rainfall and surface topography. The method of working at the site involves a number of dust-generating activities which have the potential to cause adverse impacts at receptors in the vicinity of the site. Dust generating activities including mineral excavation and handling, soil stripping, handling and replacement, overburden handling and replacement and transportation. Dust control measures would be implemented throughout the operational life of the Bradley West surface mine. approved Dust Action Plan for Bradley has been revised to include the extension
- 283 The submitted dust assessment has assessed the potential for dust and fine particulate matter impacts during operations at the existing and proposed sites at five existing sensitive receptors surrounding the future operations. Operations within 400m of the surface mine have been assessed in accordance with the Institute of Air Quality Management (IAQM), Minerals Guidance and the NPPF. For the existing Bradley surface mine, this only applies to the final restoration in the north eastern part of the mine (involving overburden and soils replacement) and the compound where coal and fireclay stock would be stored short term.
- 284 The assessment considers the operations associated with the development which are dust generating at sensitive receptors, representative of residential dwellings, Brooms Farm, Pont Lane, Douglas Terrace, Footpath No. 28 and Redwell Farm. These being site preparation and restoration, mineral extraction, on-site transport, construction of baffle mounds and exposed surfaces. The majority of sensitive receptors are located between 140 and 300m from a dust generating operation. The IAQM Minerals Guidance considers sensitive receptors within 100m as close (i.e. as the majority of dust will deposit within 100m), between 100 and 200m as intermediate and beyond 200m as distant). The overall risk of exposure is identified as very low.

- 285 The assessment concludes that for most operations sensitive receptors are located more than 100m from a dust generating operation. The majority of fugitive dust is expected to deposit within 100m of a dust source. The only instance of a low risk occurs during the construction of a topsoil baffle mound closest to Brooms Farm, which is predicted to experience up to approximately four days per month with winds blowing from the operation to the sensitive receptor location. In reality, the construction of baffle mounds would be completed in a matter of days and seeded thereafter sealing in the surface.
- 286 The maximum number of days per month, when the site is operational, and when the sensitive receptor is downwind of that particular operation is 4.47 days and this would occur at Brooms Farm during construction of the topsoil mounds but the mound would be created in a matter of days. Less than 1.4 days per month are predicted at all five receptors during subsoil mound construction. All of the receptors would be over 100m from the mineral extraction operations and it is predicted that Brooms Farm, Pont Lane, Footpath No. 28 and Redwell Farm would experience less than 3 days per month when wind patterns and orientation of operations have the potential to cause an effect. Douglas Terrace is further distant.
- 287 In terms of on-site transportation Brooms Farm, Pont Lane and Footpath No. 28 would experience less than 1.4 days per month when wind patterns and orientation of operations have the potential to cause an effect with Douglas Terrace and Redwell Farm being further distant. With regard to exposed surfaces (the coal pad) Brooms Farm would experience 2.71 days when wind patterns and orientation of operations have the potential to cause an effect.
- 288 The calculation does not assume that dust would necessarily be carried by the wind; it simply derives the length of time that a receptor will be downwind of potentially dusty operations. The pathway effectiveness assumes there is no benefit from dust mitigation or from any local environmental features. Dust mitigation, in the form of agreed measures and as outlined in the dust action plan, would continue to be adopted for all dust generating operations through the life of the proposed extension. Overall, the adverse effects of disamenity dust to sensitive receptors is considered to be negligible and not significant, with mitigation employed. Disamenity dust monitoring will continue at Bradley and mitigation will remain on a proactive basis.
- 289 Monitored PM10 concentrations in the vicinity of the Bradley surface mine are well below the value of 17 µg/m³ and therefore in accordance with the IAQM Minerals Guidance, a detailed assessment for fine particulate matter impacts arising from mineral extraction has been screened out. A comparison of PM10 concentrations measured pre- and post-commencement of operations at Bradley shows that the increase in concentration due to mining is negligible. Fine particulate matter impacts arising from the proposed extension are not considered to be significant. Exceedance of the short term 24-hour and long term annual mean PM10 objective is not is not predicted to occur, in accordance with the IAQM Minerals Guidance methodology.
- 290 The assessment states that dust control measures would be implemented throughout the operational life of the extension site as set out in the DAP submitted with the application and that an extensive dust deposition and fine particle monitoring scheme would be in present throughout the operational life and that monitoring would continue at the five existing automatic monitoring locations.
- 291 The potential impact of emissions of air quality pollutants has been assessed and provided a DAP can be agreed and effectively implemented on the site together with

the continued monitoring of dust from the site then it is considered mitigation measures may be put in place to minimise the emissions of both nuisance dust and emissions of PM10 and 2.5.

- 292 The ES includes an assessment of known meteorological information. For the sensitive locations it identifies the total number of working hours in an average month during which winds may blow dust towards sensitive locations within 400m of working activities on the site. Dominant winds are from the west and south-west. The data assessed (5 year annual average) provides a percentage breakdown over compass directions, and not seasonal variations. Spring to summer months would naturally be the highest risk times for dust effects due to longer dry spells and appropriate wind speeds as opposed to winter months where rainfall is generally more frequent and prolonged.
- 293 The operator intends to adopt a full Environmental Management System to ensure high standards of operation and mitigation would be in place. A DAP has been submitted with the applications, it is a revision of the approved Plan for the existing site, revised to include the proposed extension and includes an additional monitoring point (Redwell Hills Farm). The DAP includes trigger levels relating to wind speeds so that additional dust suppression measures would be implemented under certain conditions. Typical dust suppression measures would include the use of water sprays/bowsers, fitting of dust filters on fixed plant and machinery where appropriate, dampening down of haul roads and stocking areas, seeding of soil and overburden mounds 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, including concentrations of total suspended particulates, around the site would also take place and results would be made available to the Authority upon request. Environmental Health and Consumer Protection Officers have no objections to the proposed development. Given the mitigation measures proposed it is considered that the proposal would accord with MLP Policy M36.
- 294 Whilst accepting that compliance with general air quality standards can be achieved there are residential properties well within 1km of the site which would potentially be at risk from any fine particle dusts generated by site activities. With regard to larger dust particles, depending on wind speed, the degree of rainfall and surface topography, these particles would generally return to the surface over a much smaller distance. Using worse case assumptions, the assessment has predicted the magnitude of dust risks in the absence of any specific mitigation as less than 5 days per month, however mitigation is proposed.
- 295 The health impacts associated with emissions of PM10 and PM2.5 are noted and that there is potential for emissions of both of these air quality pollutants from surface mineral extraction activities and monitoring of these has shown that they are generated. In support of this particular proposal the potential impact of emissions of air quality pollutants has been assessed and provided the Dust Action Plan is effectively implemented on the site together with the continued monitoring of dust from the site then it is considered mitigation measures may be put in place to minimise the emissions of both nuisance dust and emissions of PM10 and 2.5. With mitigation, there would be no significant adverse residual environmental or health effects associated with changes in air quality as a result of proposed extension.
- 296 Regard has been given to the views of Environmental, Health and Consumer Protection officers, Public Health Durham and Public Health England who do not object to the applications, subject to conditions as appropriate, as well as

Government guidance, and it is considered that the application can be determined on the basis of the information provided.

- 297 An objector has stated that the original planning application stated that the large area of trees nearby would act as some sort of shelter from the dust. The area in question has since been deforested, so this protection no longer exists. Although the felled trees may have acted as buffer to some degree there are dust mitigation measures in place which seek to minimize and manage dust from the site. Should there be problems in relation to dust then these are dealt with at the time of any complaint. Although the trees were in place when the planning Appeal was being considered it is not a requirement of the planning permission that they are retained therefore it is not considered that the Planning Inspector gave weight to this.
- 298 Although operations have the potential to generate dust there are unlikely to be significant adverse effects on the surrounding area and appropriate mitigation measures would be put in place to minimise the impact of dust as is the case currently. Existing conditions seek to ensure the suppression and monitoring of dust generated by quarrying operations and a dust management plan is in place. No change is proposed to the existing conditions (although rewording would be necessary) and it is considered that the current proposal would not result in any additional effects over and above those predicted originally. A dust action plan and requirement for dust monitoring are currently covered by planning conditions together with a package of other measures. These include use of wheel cleaning equipment, sheeting of vehicles, a speed limit within the quarry to reduce the potential of raising dust, reduction in drop heights, the provision and use of dust suppression equipment and the seeding of soil storage areas. These measures would continue to be secured by condition should planning permission be granted.
- 299 In view of this and given suitable controls would be put in place to ensure that dust levels are minimised, it is considered that the proposals would accord with MLP Policies M36 and M37 and with Paragraph 170 and 205 of the NPPF (2019).

Blasting and vibration

- 300 Blasting is currently carried out in Area B of the existing site to fracture the sandstone overlying certain coal seams. Blasting was not required in Area A of the existing site. Blasting would also be required in the proposed extension area as it is particularly thick (up to 17m above the Top Brass Thill and Bottom Brass Thill although this variable). Like with the existing site only low level explosive charges would be used where blasting is necessary to ensure that coal seams are not disturbed by excessive fragmentation.
- 301 The three effects associated with blasting, are ground vibration, air overpressure (or air blast wave) and projected rock particles (flyrock). The extent of disturbance is dependent on a number of factors including type and quantity of explosive, degree of confinement, distance to nearest buildings, the geology and topography of the site and atmospheric conditions.
- 302 Blasting currently takes place between 09:00 – 12:00 and 14:00 – 16:00 Monday to Friday at prearranged times, 5 minutes before or past the hour and is restricted to a maximum of 2 blasts per day. Following a test blast in February 2019 to inform the design and calculation of production blasts, blasting commenced in May 2019. Between May 2019 and 12 June 2020 there have been 558 opportunities to blast in accordance with planning conditions imposed by the Appeal decision at the existing site. Due to the variable nature of the sandstone which varies in depth between 17m

to less than 1m, only 78 blasts have been undertaken. It is expected that this would be similar for the proposed extension. It is not considered necessary for a test blast for the extension site as the strata is similar to that of the existing site. Both the existing planning condition and blast monitoring plan for the existing site are set a level for production blasts specifying that no component of the peak particle velocity of ground vibration resulting from the blasting shall exceed 12mms/second at any time during the working of the site at the nearest occupied residential property and, in each six month period of working, 95% of blasts shall not exceed 6mms/second. These levels are within defined limits set in previous Government guidance pertaining to the review of mineral planning permissions and comply with the relevant British Standard. Measures are undertaken and would continue to be undertaken to minimise overpressure and avoid flyrock.

- 303 A blasting assessment has been submitted with the ES focusing on the main potential environmental impacts of blasting in the extension area. It advises that ground vibration and air overpressure may be perceptible to the public in this case. However, it is stated that previous assessments and guidance have shown that the likely magnitude of blast induced vibration is low and can be suitably controlled by planning condition. It is identified that the nearest occupied residential property falling within a group of 10 or more dwellings is at 1 Pont Lane which lies 150m from the closest proposed point of blasting. The blasting assessment demonstrates that the extension site can be operated in compliance with the blasting vibration peak particle velocity limits specified in the Appeal decision by observing the recommended maximum charge weight. The assessment concludes that the predicted vibration levels that would occur as a result of blasting would be within the prescribed limits outlined in Government policy and guidance as contained within the NPPF and PPG. It goes on to say that the proposed extension can be operated in accordance with the same strict environmental controls as the existing site which would ensure that there would not be an unacceptable impact on residential amenity.
- 304 It is proposed that the extension area would be worked in the same way as the existing site with the same mitigation measures proposed, but with an additional monitoring point being added at the Jolly Drivers Public House. Blasting would commence in the extension area following the completion of blasting in the existing site.
- 305 The nearest blasts in relation to residential properties are set out in the table above for the proposed extension. For purposes of MLP Policy M37 blasting would take place within 500m of a group of 10 properties or more. The groups of 10 properties are within Leadgate at Pont Road, Tweed Avenue, Tyne Avenue, Derwent Crescent, Eden Avenue, Tees Grove, Skerne Grove, Annaside Mews, Grassmere Mews, Patterdale Mews, Ambleside Mews, Ponthead Mews, St Ives Gardens and properties along St Ives' Road. Approximately 206 properties would be within 500m of the proposed mineral development, this being from the site boundary. The excavation boundary is 50m beyond the site boundary and approximately 150 properties would be within 500m of it. The design and calculation of blasts would ensure that the vibration levels at all nearby properties are controlled and kept within permitted limits. Like with the existing site it is proposed that no component of the peak particle velocity of ground vibration resulting from the blasting shall exceed 12mms/second at any time during the working of the site at the nearest occupied residential property and, in each six month period of working, 95% of blasts shall not exceed 6mms/second. This would also be in line with normal planning requirements on mineral sites. Conditions would require blasting to be carried out in accordance with the submitted blast vibration monitoring scheme, controls on timings and a limit on

blasting levels. The blasting proposals would not conflict with MLP Policies M36 and M37.

- 306 In relation to the existing site the Planning Inspector noted in the Appeal decision that it was anticipated that blasting would be required when Area B was to be worked. The Inspector stated that the assessment submitted at that time showed it would be possible to satisfy the relevant criteria both in relation to nearby residential properties and the gas main which crosses the northern part of the site. Subject to controls, including liaison with the nearby church, the Inspector considered that the proposal would not have an unacceptable effect on local amenity with regard to blasting. Conditions in relation to blasting were imposed requiring the submission of blasting scheme, controls on timings and a limit on blasting levels.
- 307 The proposed variation application would not alter this view and appropriate conditions would continue to be in place for the remaining life of the existing site. Environmental Health and Consumer Protection officers have raised no objection. The proposal would accord with MLP Policy M36 and Part 15 of the NPPF (2019) in particular Paragraph 205. MLP Policy M36 is consistent with the NPPF (2019) and can carry full weight in the decision making process.

Residential amenity summary in relation to noise, dust and blasting

- 308 There would be 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 (albeit divided from the development by Pont Lane) and blasting within 500m of a group of 10 dwellings. The existing site was designed so that blasting did not take place within 500m of High Stables; the proposed extension does not propose such a restriction. MLP Policy M37 does not preclude mineral development within 500m or 250m of a group of 10 more dwellings if it can be demonstrated that residential amenity can be protected from the adverse impacts of mineral working. For those properties closest to the extraction and associated activities there could be notable changes in local noise levels during the life of the site especially during temporary operations which could have the potential to have an impact on the amenity of local residents. 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 Paragraphs 170 and 205 of the NPPF (2019) and advice contained within the PPG. 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 (2019) Paragraphs 170 and 205 and advice contained within the PPG.
- 309 Mineral processing does not and would not take place at the site or the proposed extension as all coal is taken off site for processing. Temporary storage of coal and fireclay would occur within a designated area within the existing site. The environmental impacts of stockpiling would be controlled through condition. The proposals would not conflict with MLP Policies M50 and M51, Policies which are considered to be consistent with the NPPF (2019) and can be given full weight in the decision-making process. The approach of Policies M50 and M51 are in line with the NPPF and specifically its provisions which requires that planning policies set out criteria or requirements to ensure that permitted and proposed operations do not have unacceptable adverse impacts on the natural and historic environment or human health. These Policies are not time limited or out of date.

- 310 In relation to dust, noise and blasting, the Planning Inspector was satisfied that the mitigation measures proposed in relation to the Appeal decision allowing the existing site would be sufficient to ensure that the proposal was environmentally acceptable.
- 311 Concerns have been raised by objectors regarding noise, dust and blasting from the existing site as well as concerns that the proposed extension would generate further issues. At the time of writing this report, there have been 9 enforcement complaint cases opened relating to alleged breach of planning conditions since the site has been operational. These relate to dust, noise, blasting, maintenance of drainage ditches and quality of restoration. Although there have been 9 enforcement cases there have been 49 complaints relating to those cases and some complainants have complained more than once. In addition, there have been queries as opposed to complaints regarding site operations. In line with the Council's Enforcement Protocol complaints are investigated and where necessary issues are raised with the site operator. No breach of planning control has been concluded on five of the enforcement complaint cases in relation to blasting and quality of restoration. A case relating to the maintenance of drainage ditches has been resolved. There are currently 3 open cases in relation to dust, noise and blasting. To date the Council has not considered it necessary to take enforcement action.
- 312 Objectors have made comments have also been made regarding the existing site liaison committee meetings. The liaison committee is a forum for representatives of the local community, the developer and the Council comprising elected Members and officers to discuss the development. Given the history and nature of the development it is understandable that concerns are raised, and the liaison committee is the forum to do so.
- 313 The approved noise action plan, dust action plan and vibration monitoring scheme include a procedure for responding to complaints made directly to the site operator. The Council has its own procedure to deal with enforcement complaints.

Landscape and visual Impact

- 314 The existing and proposed site lies in the West Durham Coalfield County Character Area which forms part of the larger Durham Coalfield Pennine Fringe National Character Area. They lie largely in the Northern Coalfield Uplands broad character area which belongs to the Coalfield Upland Fringe broad landscape type. Parts fall into the Derwent Valley broad character area which belongs to the Coalfield Valley broad landscape type.
- 315 The County Durham Landscape Value Assessment 2019 identified the wider tract of land containing the area occupied by the site's open pasture as having moderate value for condition, rarity and representativeness, low-moderate value for scenic quality and perceptual factors and moderate high value for historic interest, nature conservation interest and recreational value. The open part of the site is in poor condition and does not generally share the elevated values of the wider area although there are some features in the site of local historic interest. Officers assess its overall landscape value as being low-moderate, although visually it forms part of, and occupies a prominent location in, a wider landscape of higher value. The Landscape Value assessment identified the wider tract of land containing the area occupied by the woodland as having moderate-high value for condition, scenic value, rarity, nature conservation interest, historic interest and recreational value and high value for representativeness and cultural associations. The wooded part of the site shares many of those attributes and officers assess its overall landscape value as

being moderate-high. This is reflected in the designation of land in that area as AHLV.

- 316 The northern part of the existing site lies partly within the AHLV as does the north western part of the proposed extension site that is part of Billingside Plantation also lies within the AHLV. Paragraph 170 of the NPPF (2019) states that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. The County Durham Landscape Strategy 2008 indicates that the appropriate strategy for much of the land within this part of the site should be to 'conserve and restore' landscape character. The response to the higher and more open ridge top land covering much of the southern part of the site is to 'enhance' its character as this has been degraded in some degree by the loss of field boundaries and earlier opencast mining.
- 317 The open farmland that makes up much of the extension also lies within a Landscape Improvement Priority Area with strategies of enhance and restore or enhance. The woodland lies within a Landscape Conservation Priority Area with a strategy of conserve and enhance.
- 318 The site is visually contained to a substantial degree by the topography of the ridge to the south, south-west and south-east. It is visible in short range views from the immediate area in those directions from receptors such as the A692, C10 and St Ives Road, but not in middle and longer distance views. It is more generally open to view from the north across the Pont Valley locally screened or filtered by intervening woodlands.
- 319 The submitted landscape and visual impact assessment contained in the ES states that the working scheme has been carefully considered, in discussion with the Council which has led to the retention of the more valuable trees within the woodland at Billingside Plantation, as part of the working scheme. Through the operational phase of the work, temporary soil mounds would be established around the extension site perimeter, which would provide a visual screen to the works for users of the A692 and Pont Lane. Inevitably the works would result in a total change to the landscape of the part of the site subject to excavation. The southern part of the site contains few features of intrinsic landscape interest. The retention of trees in woodland to the north would allow a degree of maturity to the restored site on completion. The assessment states that the works within the main Bradley site would result in no additional impacts on the landscape character of the AHLV than already predicted for the consented scheme. Within proposed extension area it is noted the AHLV designation only covers a small area of Billingside Plantation on the northern edge of the site. Although the works would result in the felling of some trees, this would be temporary in nature, as new woodland and woodland edge will be planted upon completion. It is stated that this woodland is subject to ongoing management under a Forestry Commission licence, and as such felling and replanting is consistent with the management regime of commercial woodland. Temporary clearings in such areas are not uncharacteristic elements within the wider AHLV. Upon completion a more diverse landscape including additional woodland, and species rich grassland, along with an enhanced framework of hedgerows and hedgerow trees would be established.
- 320 The submitted assessment considers that the visual effects of the scheme are very limited and localised considering that the main effects would be experienced by road users as they pass the site, where the current open view across the fields would be replaced temporarily with grassed soil mounds leading to a short term adverse effect. Footpath Nos. 27 (Consett Parish) and 28 (Consett Parish) would be closed during the operational phase, and thus no views would be experienced from these. Views

would also change for users of the Jolly Drivers Public House, who would experience short term moderate adverse visual effects. Upon completion a more diverse and attractive landscape, including new roadside hedgerows would be established leading to minor beneficial visual effects. The landscape and visual impact assessment conclude that the extension proposals would not result in any significant effects on landscape resources or visual amenity.

Effects on landscape features

- 321 Council officers consider that that the landscape impact on the topography would be transformed by extraction operations but would be restored to something close to its present character. The effect would be negligible. The internal field boundary network would be removed which is considered to be currently of low value and sensitivity being largely wire fences and gappy or relict hedges. Small areas of gorse scrub would be removed. Perimeter trees would be retained. It is noted that the restoration proposals provide for the creation of a network of new hedges and hedgerow trees. The effect would be low adverse in the short term and moderate beneficial in the medium/longer term as new features established.
- 322 The felling of a number of mature trees in woodland in the north would be necessary. Although forming part of a managed plantation the majority of these mature trees would be expected to be retained under the current felling licence. Their loss would be a consequence of this proposal and would be harmful. The limit of extraction has been designed to retain a core of mature trees along the line of the footpath through this area to maintain some of its present character. The restoration proposals provide for the reinstatement of the woodland areas removed and the creation of a fringe of additional (native) woodland at the interface with the restored farmland to the south. The effect is considered to be medium-high adverse in the short term, and through into the medium term, becoming progressively a low beneficial effect in the long term as replanted or newly planted trees acquired some scale.

Effect on landscape character

- 323 The effects of the proposals on the character of the site and its immediate context would be transformative (high adverse) during the operational period of around 14 months. Officers consider the sensitivity of the site to be generally low-medium in the south (pasture) and medium-high (woodland) in the north. On completion the effect would reduce to medium-high adverse in the north, reflecting the loss of mature trees, and low in the south, reflecting the similarity of the newly restored site with its present open character. The effect would become progressively neutral, then beneficial, as the restored landscape features matured. The point at which the effect became beneficial, and the scale of that benefit is matter of judgement. Taken in the round officers see the benefits of new hedgerows with hedgerow trees in the south, together with areas of new planting and field ponds, balanced against the loss of mature trees in the north as becoming broadly beneficial at around 15 years onwards. The scale of the benefit in the longer term is considered as being of a medium magnitude.
- 324 The effect on the character of the wider Pont Valley would be relatively low during the operational period as the physical and visual effects of working would be localised. Although in a visually prominent location, the visual effects of operations would be incremental to the larger effects of the existing Bradley OCS, while clearly increasing them to some degree. On completion the effect would remain low, the appearance of the site in wider views being similar to its current condition. The effect would become progressively beneficial as the restored landscape features matured,

although the benefit to that wider landscape would also be low given their localised nature.

Effects on designated landscapes

- 325 There would be some localised physical harm to the AHLV in respect of the loss of mature trees in woodland in the north and their value in views from the footpath in that area, notwithstanding the retention of trees in the immediate footpath corridor, and in views from Pont Lane. The effect on the special quality of the wider Pont Valley AHLV would be low (both in terms of harm and benefits) due to its localised nature.

Visual effects – residents, road users, footpath users, other

- 326 Officers consider that from most residential areas, views of the proposals would be screened by intervening topography or woodland. Some parts of the operational site would be visible from properties to the north including properties on the southern edge of Medomsley, Bradley Cottages, Dewhirst Close, Bradley Hall and Low Bradley, Pleasant View and High Bradley. Site operations would be visible in varying degrees on the northern skyline, partially screened or filtered by intervening trees and seen in the context of the wider operational site. The additional effect would range from low to low-medium during mining operations and would be short term (around 14 months) in duration. It would be negligible beyond the point of reinstatement. From some properties on Pont Road and the public open space over Pont Lane the western part of the extraction area would be visible through the trees of the thinned plantation and particularly during winter months. The effect would be likely to be of a medium magnitude during the working of Boxcut 1 and the construction of the acoustic bund in that area, which would be of a limited duration, lower during later operations that would take place largely behind the bund for around 12 months, and higher again during decommissioning of the mound which would again be of limited duration. It would be negligible beyond the point of reinstatement.
- 327 With regard to road users, officers consider that the operational site would be visible at close quarters from the adjacent A692. The proposed perimeter topsoil mound would screen views of other site operations, although it would be a notable feature in itself, similar in character to the existing site perimeter mound to the east. It would be at its most intrusive during and immediately after construction. Its impact would reduce as it greened up, the speed of which would depend in part on the nature of the weather in the coming summer. The effect would be high in that initial phase (probably around 2 – 4 months) falling to medium for the remainder of the operational phase which would be of a short term duration (around 10 – 12 months). After decommissioning the effect of the restored site would be negligible, rising to a low positive effect in the longer term as new landscape features began to mature.
- 328 The effect would be similar in views from the eastern end of St Ives Road and the section of the C10 Pont Lane adjacent to the site. Other views from Pont Lane would be as described above for housing areas at Bradley Cottages and Pont Road. Parts of the operational site would be visible from the B6309 between the Hat and Feather and Pont. Site operations would be visible in varying degrees on or around the northern skyline, partially screened or filtered by intervening woodland and seen in the context of the wider operational site. The additional effect would be low or low-medium during mining operations and short term in duration. It would be negligible beyond the point of reinstatement. There would be similar views from the C10 Pont Lane north of Bradley Cottages, and similar but shallow and intermittent views from sections of the B6308 between the Hat & Feather and Medomsley.

- 329 Parts of the operational site would be visible from several footpaths on the northern flanks of the Pont Valley. Site operations would be visible in varying degrees on or around the northern skyline, partially screened or filtered by intervening woodland and seen in the context of the wider operational site. The additional effect would range from low to low-medium during mining operations and would be short term (around 14 months) in duration. It would be negligible beyond the point of reinstatement.
- 330 Part of the southern edge of the site is visible from the cemetery of Our Lady & St Joseph Church. Part of the perimeter topsoil mound would be visible over the A692. The effect would be of a medium magnitude during the development of the mound and until it greened up. It would reduce to low after that point. It would be negligible beyond the point of reinstatement. There would be a minor beneficial effect from hedgerow tree planting on the site boundary in the longer term.

Design Considerations

- 331 The site has been subject to detailed pre-application discussions which resulted in changes to the scheme involving retention of mature trees along the footpath. Options involving reducing harm further by avoiding more tree loss were explored but not pursued by the applicant. The restoration provides for the reinstatement of woodland removed for development (2.16ha) and planting of a further 0.97ha of new native woodland along its southern edge together with 0.75ha of marshy grassland and field ponds. That area also accommodates a permissive path which would provide an attractive walk, though limiting its wildlife value. The plan provides for the creation of 0.91ha of species rich grassland. Being outside of the gifted area its management / persistence beyond the aftercare period is not secure. The plan provides for around 1,300m of new hedgerow to the site perimeter and internal boundaries. The arrangement of field parcels is practical and preserves the alignment of the former railway line.

Restoration

- 332 It is proposed to gift 8.3ha of land within the restoration area to a wildlife/conservation body to enable the woodland and new marshy grassland/wetland habitats to be managed for biodiversity, landscape and amenity. This would have some benefit to the local community in the longer term although it is unlikely to have much of a tangible effect on the appearance of the site or how it is used at present or in the short to medium term.
- 333 It is proposed to establish a new 260m length of public right of way and 450m of permissive route. The former would be of benefit in improving formal access to the countryside from the adjacent housing areas, connecting with new and existing public rights of way within the restored Bradley site and the wider landscape beyond. The permissive path would be within the gift of the conservation body managing the land who would be best placed to determine whether its value for access outweighed the potential disturbance of habitat.
- 334 The proposed extension site would be progressively reinstated throughout the extraction period. Restoration proposals involve the planting of restored native woodland, new hedged field boundaries, new pond/wetland area and proposed/reinstated marshy area and a reinstated Footpath No. 28 (Consett Parish). In addition, the plantation area and proposed ponds area would become gifted land, and this would be secured through a planning obligation. The restoration scheme has been designed to tie into and compliment details for the existing site.

- 335 Approved details for the existing site include an improved public rights of way network. Woodland planting would predominantly be within central parts of the site with agricultural land in north western and south eastern areas. Species rich grassland/hay meadow is also proposed within the central part of the site within the woodland areas and on land to the south east between agricultural fields. Areas of acidic grassland are proposed as well as a number of water features in the north western part of the site. The route of the Western Way historic wagon way would be denoted by a new public right of way and interpretation boards would be erected detailing the history of the area and a drystone wall will be constructed along the route of Billingside Dyke. No changes are proposed to the details for the existing site.
- 336 An extended management period of 10 years is proposed for the proposed extension area which should ensure the establishment of the plantation area within the site and proposed ponds area and the land that would become gifted land.
- 337 During winter months the extension site would require some illumination. This would be needed for plant working in the void area which would be generally below ground level. No additional lighting is proposed in the existing site.
- 338 The special character and quality of the Pont Valley part of the AHLV defined within the DLP derives largely from its woodlands and public access. This has been given more detailed consideration in the County Durham Landscape Value Assessment 2019 which found elevated values for a range of attributes these being condition, scenic value, rarity, nature conservation interest, historic interest, recreational value, representativeness and cultural associations. Again, most of these arise from its heavily wooded character and levels of public access. There would be some localised harm to features in the edge of the AHLV in respect of the loss of mature trees in woodland in the north. The effect on the special quality of the wider Pont Valley AHLV would be low (both in terms of harm and benefits) due to its localised nature. Access to the AHLV from residential areas would be locally improved. Whether the effect on the special character and quality of the landscape is acceptable in the terms of MLP Policy M23 depends on whether the localised improvements in access, or other benefits of the proposals, are considered to outweigh the localised short and medium term harm.
- 339 There would be some harmful effects on local landscape character during the operation of the site and for a period afterwards until restored features became established. The effect in the longer term (>15 years) would be moderately beneficial. Whether the adverse effects have been kept to an acceptable minimum in the terms of MLP Policy M24 depends on whether the longer term benefits to the landscape, or other benefits of the proposals, are considered to outweigh the localised short and medium term harm. The proposals would entail the removal of some mature woodland trees to access coal, but the retention of others in the most sensitive areas forgoing coal. Whether the proposals are considered to conserve, as far as possible, important features of the local landscape in the terms of MLP Policy M24 will depend on whether the benefits of coal extraction in those areas is considered to outweigh the localised harm. The restorations proposals do have regard to the quality of the local landscape and seek to provide some appropriate improvements. The proposals would be consistent with MLP Policy M24 in that respect.
- 340 The proposals would entail some visual intrusion in views from residential areas and from the roads and footpaths serving them in their immediate surroundings. These

impacts have been addressed through site design and mitigation measures, as far as is possible to do so, and would be temporary (short term up to 14 months) in nature. Effects on residential visual amenity would be generally of a low order of magnitude and would entail only a small increase in the overall visual impact of the wider site. The only high impacts would be in views from the roads adjacent to the site, particularly during construction and decommissioning of roadside mounds, and would again be temporary. There would be some minor benefits to the visual amenity of the area from additional hedgerow and tree planting. Whether that residual effect has been reduced to an acceptable level in the terms of MLP Policy M36 would depend on whether the minor longer term benefits to the visual amenities of the area, or other benefits of the proposals, are considered to outweigh the localised short term harm.

- 341 Overall, the effects of the proposals on the character of the site and its immediate context would be high during the operational period of around 14 months. The effect in the longer term would be moderately beneficial, with new hedges, trees and woodland mitigating the short and medium term effects of tree loss. The effect on the character of the wider Pont Valley would be relatively low during the operational period as the physical and visual effects of working would be localised. Although in a visually prominent location, the visual effects would be incremental to the larger effects of the existing Bradley site. There would be some localised adverse effects on the special quality of the AHLV in respect of trees loss. The effect on the special quality of the wider Pont Valley AHLV would be low (both in terms of harm and benefits) due to its localised nature. Access to the AHLV from residential areas would be locally improved. There would be some visual intrusion in views from residential areas although this would be generally low and would entail a small increase in the overall visual impact of the wider site. The highest impact would be in views from adjacent roads. Roadside mounds would screen views of other site operations. They would be notable features in themselves, and particularly intrusive until greened up, but would be temporary; in place up to around 14 months.
- 342 Having regard to the overall balance of landscape affects it is considered that the impact of the development on the special character and quality of the AHLV landscape is acceptable in terms of MLP Policy M23. The restoration proposals would also accord with MLP Policy M24 in that these have regard to the quality of the local landscape and seek to provide improvements to it where appropriate. Nevertheless, there would be some localised impacts on the visual amenity of local communities over the life of the site, but from most residential areas views would be screened, and on a larger numbers of people using local roads and footpaths. Contrary to the view of the Appeal Planning Inspector and the original NPPF (2012), Policy M23 is consistent with the NPPF (2019), is not time limited and can carry full weight in the decision-making process. Paragraph 170 of the NPPF (2019) states that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. It should be noted that the extent of Areas of High Landscape Value were broadly defined by the County Structure Plan with detailed boundaries identified in Local Plans. In this regard the emerging County Durham Plan policy on this matter is underpinned by evidence relating to such areas which confirms the importance of the landscape quality in and around the application site. In this context it is considered that the Policy is considered to be consistent with the NPPF (2019). Policy M23 is not time limited or out of date.
- 343 MLP Policy M24 is consistent with the NPPF (2019), is not time limited or out of date and can carry full weight in the decision-making process. The proposals would not be in conflict with DLP Policy EN6 which permits development in the AHLV covering Lower Derwent and Pont Valleys provided it pays particular attention to the

landscape qualities of the area in the siting and design of buildings and the context of any landscaping proposals. Like MLP Policy M23, DLP Policy EN6 is considered to be consistent with the NPPF (2019) and can be afforded full weight in the decision-making process.

- 344 MLP Policy M29 broadly complies with guidance in the NPPF (2019) and PPG relating to the conservation and enhancement of the natural environment. This Policy is not time limited or out of date and be afforded full weight in the decision-making process.
- 345 Objectors to the proposal have referred to the quality of restoration on former surface coal site and that sites are never the same again. In addition, local residents have commented upon the quality of restoration on the existing site. The quality of restoration has improved over the years and through appropriate conditions and monitoring of the site a quality restoration of the site can be achieved. The restoration which local residents observed was prior to stone picking and was not the final restoration for the site.
- 346 When considering the existing site, the Planning Inspector gave consideration to the landscape effects. The Inspector considered that although the initial adverse effects in relation to both landscape character and visual impact would be substantial during the operational phase, their length and severity would be greatly mitigated through the use of a progressive approach to restoration. In her judgement, the adverse visual impact would move from major adverse to moderate-minor adverse within the short to medium term and would be barely noticeable beyond the point of about 15 years post-restoration. With regard to character, even though the scheme takes up the recommendations of the county landscape strategy and incorporates many valuable measures to improve the landscape, these would not be sufficient to outweigh the remaining longer term harm associated with the loss of so many historic features which contribute to time-depth. Notwithstanding the Inspector did consider that the despite mitigation and enhancement measure within the proposal there would remain some negative effects in relation to landscape and outlook. Despite the mitigation and enhancement measures within the proposal, the Inspector considered there would remain some negative effects in relation to landscape, outlook, ecology and the local economy. As such, the Inspector considered that the original proposal would fail to satisfy part (a) of MLP Policy M7 and it followed that there would be some conflict with MLP policies M23, M24 and M36.
- 347 The proposed variation of conditions and change to the working method to facilitate the proposed extension would not alter this view and appropriate conditions would continue to be in place for the remaining life of the permission. The restoration principles would remain and be extended to encompass the larger area should planning permission be granted.
- 348 The submission of a reclamation strategy for the site and scheme for nature conservation accord with the aims of MLP Policies M46 and M47 and the NPPF requiring mineral sites to be restored at the earliest opportunity.
- 349 Officers consider that both proposals, including restoration, would accord with MLP Policies M23, M24, M36, M46, M47 and M52 and Parts 15 and 17 of the NPPF (2019). MLP Policies M24, M36 and M47 being consistent with the NPPF (2019) and can carry full weight in the decision-making process. MLP Policy M46 relates to the restoration of mineral sites. It is considered only partially consistent with the NPPF this is because it only requires 'the phased extraction and restoration of mineral sites' and Paragraph 204 of the NPPF (2019) refers to 'local planning

authorities should: put in place policies to ensure worked land is reclaimed at the earliest opportunity' and Paragraph 205 of the NPPF (2019) requires that 'when determining planning applications, local planning authorities should: provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards'. Policy M46 is not time limited and can only be given limited weight in the decision-making process. The PPG provides detailed advice on restoration and after use.

- 350 MLP Policy M52 is partially consistent with the NPPF (2019) and is not time limited and can only be given limited weight. Paragraph 206 of the NPPF (2019) states when determining planning applications, local planning authorities should: provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards, through the application of appropriate conditions, where necessary. Bonds or other financial guarantees to underpin planning conditions should only be sought in exceptional circumstances. This Policy is only partially in accordance with the NPPF (2019) and PPG due to the precise wording. The NPPF (2019) emphasises that, bonds or financial guarantees should only be used in exceptional cases. Policy M52 can be given limited weight in the decision-making process. The matter of a financial guarantee in relation to restoration is considered below.

Biodiversity interests

- 351 The proposed extension site is not affected by statutory nature conservation designations. The existing site previously included the Brooms Pond LWS and part of the former West Billingside Meadow SNCI. Brooms Pond LWS designated for previously supporting a great crested newt population, had been located in the south western part of the existing site. The pond is no longer in place having been encompassed within the planning permission boundary for the existing site and mitigation was provided in the form of new ponds prior to the development commencing, but the designation has not been removed. The majority of the former West Billingside Meadow SNCI was located within the north eastern part of the existing site. This was a local former Derwentside District Council designation that had been noted for its 'mid-altitude semi natural species rich grassland'. However, its condition had deteriorated and is no longer considered to be of high botanical or fauna interest. The site was not included on the County Council's definitive list of Local Wildlife Sites. Other Local Wildlife Sites in the immediate area of the existing site include Pontop Fell LWS is approximately 115m to the east (approximately 910m to the north east of the proposed extension) and Stony Heap/Batling Lime Kiln LWS lies some 1065m to the south east (1.26km of the proposed extension). Pontop Springpit Wood and Billingside Wood are both ancient woodlands adjacent to the north western and north eastern boundary of the existing site and some 384m to the northeast and north and northwest of the proposed extension. The Derwent/Browney Link wildlife corridor runs outside of the site, 160m to the north east. The local designations would not be directly affected by the proposals. Objectors have raised concerns regarding the impact of the existing site and the proposed extension upon flora and fauna.
- 352 The ecological assessment submitted with the ES states that the proposals would not result in any residual effects on designated sites within the specified zone of influences. It is stated that the proposals would result in permanent losses of habitats under the footprint of the proposed extension but that the habitats lost would be predominantly of low ecological importance, with the exception of an area of broadleaved plantation woodland, an area of semi-improved acid grassland, an area of marshy grassland and a single hedgerow. Prior to the extensive compensation

measures proposed, the loss of the broadleaved plantation woodland and marshy grassland would result in significant residual effects at a local scale. It is stated that mitigation through design has been utilised to avoid impacts and operational impacts would be minimised through careful control of operational activities through industry best practice. As a result, all other predicted effects on important ecological features are not anticipated to be significant. Great weight is given to the restoration scheme, which is predicted to provide net gains for biodiversity, particularly for broadleaved woodland, species-rich grassland and native species rich hedgerows in the mid to long-term. The overall increase in biodiversity is potentially significant at a Local scale. Net gains for fauna, as a result of the restoration scheme, are also predicted to be significant, with the wider site having potential to support populations and assemblages of bats (foraging and roosting), birds (breeding and wintering) and invertebrates of Local importance. The assessment concludes that although some short to mid-term negative effects are unavoidable, resulting from the loss of ecologically important habitats, this assessment has demonstrated that the restoration of the site would deliver a net gain for biodiversity in the mid to long-term.

- 353 A number of detailed and appropriate ecological surveys have been undertaken. These being a Phase I and Phase II Habitat Survey and Desk Study and for breeding and surveys for wintering birds, bats, badgers and otters. Surveys for hedgehogs, red squirrel and reptile were scoped out of the impact assessment.
- 354 The Council's Ecology officers consider the ecological information provided by the applicant is sufficient for the Council to assess the extension application, the relevant surveys have been undertaken to the required standards. No impacts are expected on great crested newts, otter and red squirrels; great crested newts and otter have been reasonably scoped out and survey work showed no evidence of red squirrels.
- 355 The Phase I and Phase II Habitat Survey identifies a number of habitats within the proposed extension area. These being broadleaved plantation woodland of value at a district scale, unimproved acid grassland of value at a district scale, semi-improved acid grassland and marshy grassland of value at a local scale, and hedgerows of value at a local scale with none being considered important under the Hedgerow Regulations 1997. Within the existing operational site recorded land uses and habitats were the surface mine, hardstanding bare ground, poor semi improved grassland, marshy grassland, continuous gorse scrub and scattered trees and scrub considered to be of low nature conservation value and no rare or notable plant species were confirmed in these habitats. Also identified within the existing site were semi-improved acid grassland and standing water considered to be of value at a local scale.
- 356 In terms of the impacts on habitats, the Council's Ecologist advises that there would be losses of habitats, although the habitats impacted upon do not meet the definitions for Habitats of Principal Importance, the only habitat to meet the criteria is the unimproved acidic grassland and this feature would be retained with methods in place to prevent damage during the operational phase of the proposal. It is acknowledged that impacts on other habitats would result in net losses to biodiversity that require compensation through the restoration scheme. Impacts on woodlands are proposed to be compensated for with an additional 0.97ha of woodland planting alongside replanting of native woodland on land lost to coal operations and clear felling. Other habitats impacted upon include marshy grassland and hedgerows, in both cases habitat creation within the restoration scheme provides an increase in the area / length of these habitats. Other habitat enhancements include the creation of just under 1ha of species rich grassland and open water habitats.

- 357 The site is of local importance for breeding birds and contains a number of Biodiversity Action Plan (BAP) species birds on the red and amber lists but no Schedule 1 (of the Wildlife and Countryside Act 1981) breeding species. No nationally scheduled or regionally significant populations of birds were recorded but the site is considered to be of importance at a local scale in terms of bird value. A number of operations would have potential short term effects on nesting or breeding birds (such as initial ground works and vegetation clearance) but conditions can be imposed restricting the timing of vegetation clearance and there would be no long term implications on the bird population from working and restoring the site. In addition, mitigation for the loss of habitat for breeding birds would be provided upon restoration.
- 358 The Council's Ecologist notes that the bird data indicates that no long-term impacts are expected from the proposed development and that there are no significant bird assemblages impacted by the proposal. The restoration habitats will provide opportunities for the bird species recorded during the ecological survey work.
- 359 Whilst there would be some localised nature conservation effects from the loss of open land and hedgerows, the proposal would provide a more varied and sustainable habitat for wildlife and one that is appropriate to the ecology of the area. The proposed afteruses would meet objectives set out in the BAP to increase the amount of species rich grassland, native species woodland, acidic grassland, ponds, marsh and hedgerows in County Durham.
- 360 In terms of protected species, no evidence of otter was observed within the proposed extension site during any of the surveys undertaken. No places of rest or shelter were identified, and it is considered unlikely that they occur due to a lack of suitable habitat. All habitat within Billingside Ponds Reserve would be retained and buffered from any impacts that may arise as a result of the proposals as per the Appeal decision.
- 361 Bat surveys were undertaken with four trees identified with moderate or high bat roosting potential but no evidence of roosting bats at the time of the survey. The survey concludes that it is unlikely that the extension area is currently used by roosting bats and the value of the site to roosting bats is considered to be negligible. However, it is noted that bat tree roosts can be transitory and new roosts can develop in a relatively short period of time. Use of the proposed extension site for foraging or commuting was recorded being considered to be of importance at a local scale. It is proposed to undertake checks prior to felling and to include measures to restrict noise and lighting through the working of the proposed site. The Council's Ecologist acknowledges that the bat survey work found no evidence of roosting bats, the reports acknowledge that tree roosts are transitory and recommends a pre-commencement assessment of all trees; this approach follows best practice and the LPA has enough information to determine that impacts on bat roosts are unlikely and that suitable precautions are being taken. The bat transect data does not indicate any significant impacts on key foraging routes that are essential to the maintenance of bat populations in the local area. The restoration habitats will ensure that similar opportunities for foraging bats are available and that any impacts would not be long term.
- 362 Badgers were found to be using the site for foraging, but no active setts were found, although there were setts outside of the boundary. Several records of badger were returned from within 1km of the application boundary. Previous badger surveys have found numerous setts within the existing site. Several badger field signs were recorded within the proposed extension site however no active setts were identified

at the time of survey and the site is not regarded an important part of their functioning territory. The ecological assessment concludes that the habitats within the proposed extension area for badgers is not considered to be an important ecological feature in the context of this assessment but will be subject to further consideration due to the possible presence of a sett within the gorse scrub and the legal protection afforded to them. Mitigation through the use of precautionary measures through the clearance of gorse scrub and a walkover survey prior to the commencement of each mining phase are proposed.

- 363 The Council's Ecologist considers that no significant effects are expected on badgers as the data indicates that the extension site does not form an important area for foraging. It is noted that there are badger foraging habitats in the vicinity of the site and badgers affected by development are likely to have enough foraging in the immediate area especially given the low importance of the extension site. The Council's Ecologist notes that a badger sett is potentially present within gorse scrub, although this is not regarded as being a main sett. A process is established, in line with Natural England guidance, to clear the gorse and a badger licence would be required prior to any impacts on any sett present.
- 364 The presence of protected species is a material consideration in planning decisions as they are a protected species under the Wildlife and Countryside Act 1981 and the European Union Habitats Directive and the Conservation of Habitats and Species Regulations 2017 (as amended). The Habitats Directive prohibits the deterioration, destruction or disturbance of breeding sites or resting places of protected species. Natural England has the statutory responsibility under the regulations to deal with any licence applications but there is also a duty on planning authorities when deciding whether to grant planning permission for a development which could harm a European Protected Species to apply three tests contained in the Regulations. These state that the activity must be for imperative reasons of overriding public interest or for public health and safety, there must be no satisfactory alternative, and that the favourable conservation status of the species must be maintained. No protected species have been found.
- 365 The EA does not object to either application but through condition requires the submission of a habitat management plan to enhance the natural features and character of the site and to both offset the impact on wildlife experienced during the working of the mineral and to maximise the opportunity for securing positive benefits for nature conservation once mineral workings cease. Without this condition the EA advises that it object to the proposal because it cannot be guaranteed that the development would not result in appropriately created and managed habitats to mitigate for the loss as part of the scheme. In addition, advice is provided in relation to following best practice, creating margins and boundaries, pond creation, notable species. Advice is also provided in relation to river restoration, general biosecurity measures, woodland and hedgerows, fisheries, herbicides and great crested newts. With regards to river restoration the EA considers that there has been a missed opportunity for river restoration and in line with the Northumbria River Basin Management Plan, it recommends that the proposed development is used as an opportunity to restore more natural processes to the Pont Burn and the River Derwent which would offer a significant environmental gain. With regard to woodland and hedgerows, mulching as opposed to the use of herbicide in the removal of week growth and encourages cut branches from thinning work to left on the surface to provide habitats. In terms of fisheries it is stated that the proposed development must not cause any further deterioration in the water quality, and hence the fish, status of the burn. Any opportunities the scheme provides to improve habitat for fish should also be taken. Care must also be taken to ensure that

herbicide will not damage or pollute the aquatic environment (including both surface water and groundwater). If herbicides are to be used for the restoration of woodland and creation of wildflower meadows, permission may be required from the EA if these activities are in or close to the Pont Burn. The EA notes that no great crested newts have been recorded in recent survey work at Billingside Ponds but recommend plans for monitoring future populations of great crested newt and other amphibians to be included in the extended aftercare period of the site.

- 366 Although great crested newts had originally been associated with the existing site none have been identified with the proposed extension area.
- 367 The County Durham Badger Group (CDBG) objects to the proposed extension in relation to the impact of the proposal particularly in relation to the restoration of the site and the protection of wildlife and habitat. Objectors have also raised concerns regarding the loss of earthworms advising that this would have an adverse impact upon badgers.
- 368 The Council's Ecologist considers that the key issues is whether or not working the extension site would have a significant impact on badgers and the evidence is that it would not. The extension site does not appear, from the survey work, to form an important part of a badger clan's territory, and so its removal will not have a significant negative impact. The issues around the gorse badger sett and the previously installed replacement sett are dealt with via Natural England, they have agreed the methodology previously and the work on the replacement sett was under a licence.
- 369 No impacts are expected upon statutory and non-statutory designated sites due to the distances between the extension site and the designated sites.
- 370 With the existing site the Planning Inspector noted that the ES acknowledged that was likely to be a displacement effect on red and amber-listed breeding birds. However, the Inspector was mindful that there appeared to be adequate availability of alternative habitat in the locality. Also, although a bird may use the appeal site for foraging, it would represent only a small proportion of its territory. It seems to the Inspector that the modern soil handling techniques proposed for the appeal site would be likely to assist in a more rapid recovery period for the earthworm population than was the case in the study referred to. Even so, this does indicate that it could still be quite a substantial number of years before the full ecological potential of the restored site would be realised. One estimate was that it could be some 15-20 years before a similar level of ecological stability could be reached. Thus, although the Inspector accepted that no direct adverse effect on particular species has been demonstrated and that the broader adverse ecological effects would be temporary, this does suggest they could persist for some time after restoration is complete.
- 371 The Inspector considered that the proposal would have a substantial adverse effect on the nature conservation value of the site in the short term. Extensive measures would be required to address the ecological consequences, particularly in order to provide for the reinstatement of lost habitats and to make the necessary provision for protected species. The Inspector accepted that the new and complementary habitats, if delivered as intended, would provide net gains for biodiversity but this would not be until sometime later and would only be brought about after a period of considerable harm. Notwithstanding the various enhancements within the restoration scheme therefore, the Inspector considered that the proposal as a whole would result in a moderate net disbenefit in ecological terms. Local businesses close to the site would also experience some adverse effect, in the short term. Despite the

mitigation and enhancement measures within the proposal, the Inspector considered there would remain some negative effects in relation to landscape, outlook, ecology and the local economy. As such, the Inspector considered that the proposal would fail to satisfy part (a) of MLP policy M7. Also, it follows that there would be some conflict with MLP policies M23, M24 and M36.

- 372 Measures to enhance the habitats within the site were considered by the Inspector in assessing environmental acceptability. However, the arrangements for the gifted land, the extended period of aftercare and the management of adjacent woodland were considered to be separate from the restoration scheme itself. The Inspector considered that the gifted land in conjunction with the other elements of the Habitat Management Plan represented a local benefit of considerable value.
- 373 The proposed variation of conditions and change to the working method to facilitate the proposed extension would not alter this view and appropriate conditions would continue to be in place for the remaining life of the permission.
- 374 Although having regard to the view of the Planning Inspector, on the balance of biodiversity issues in relation to both applications, it is concluded that the proposed benefits within a comprehensive programme of restoration and management, would outweigh any adverse impacts that working would have on the existing ecology of the area. Natural England, the EA and the Council's Ecologist has no objection to the proposed developments and appropriate conditions would be applied. The proposals would be in accordance with MLP Policies M27 and M29. Policy M27 is partially consistent with the NPPF (2019) and PPG provisions for conserving and enhancing the natural environment. In particular it is consistent with Paragraph 170 of the NPPF (2019) but is only partially consistent with Paragraph 175 of the NPPF (2019) which is considered to be more restrictive in that NPPF (2019). Paragraph 175 requires that if significant harm cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. The Policy is not time limited or out of date and can be afforded limited weight in the decision-making process. MLP Policy M29 broadly complies with guidance in the NPPF (2019) and PPG relating to the conservation and enhancement of the natural environment. This Policy is not time limited or out of date. Paragraph 170 of the NPPF (2019) states that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. Policy M27 can therefore be given limited weight in the decision-making process and Policy M29 can carry full weight in the decision-making process. The proposals would not conflict with DLP Policy EN22 given there are no protected sites of nature conservation importance on the proposed extension site and the designations on the existing site are no longer applicable. DLP Policy EN22 is considered consistent with the NPPF (2019) and can be given full weight in the decision-making process.
- 375 Objectors to the application have referred to the adverse impacts of the existing development upon great crested newts and a criminal prosecution against the applicant. A private prosecution was made against the applicant for alleged offence under the Conservation of Habitats and Species Regulations 2017 relating to the damaging or destroying of a great crested newt breeding site in 2018. The prosecution not yet been resolved. The existing site included Brooms Pond which was located on the southern boundary near the A692. Surveys in 2007, 2011 and 2014 identified the presence of great crested newts although the population was shown to be declining. Should GCN be still present when the site came to be worked then it was expected that they would be translocated to offsite ponds.

Council officers and Natural England are aware that a survey carried out in 2017 on behalf of Banks did not find evidence of great crested newts. Objectors to the development reported that they had found a great crested newt on site prior to the site commencing and this was reported to Natural England and Durham Constabulary. The Council and Natural England considered and continues to consider that the site operator had properly assessed the risk and put in place suitable safeguards that allowed them to undertake works which they were permitted to do. The site operator continued to ensure that there was an ecologist onsite during the early works and that constant monitoring was implemented in identifying any protected species; great crested newts were not recorded during monitoring. Although the private prosecution has not been resolved officers do not consider that this would prevent determination of the current applications as it is an entirely separate matter which has no bearing on the planning merits.

- 376 Objectors have also referred to adverse impacts the existing site has had upon flora and fauna. Through condition the impacts were sought to be mitigated and the restoration scheme seeks to provide enhanced habitats in the long-term. Should planning permission be granted then such mitigation would be secured.

Cultural heritage

- 377 In assessing the proposed development regard must be had to the statutory duty imposed on the Local Planning Authority under the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character and appearance of a conservation area. In addition the Planning (Listed Buildings and Conservation Areas) Act 1990 also imposes a statutory duty that, when considering whether to grant planning permission for a development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. If harm is found this gives rise to a strong (but rebuttable) statutory presumption against the grant of planning permission. Any such harm must be given considerable importance and weight by the decision-maker.
- 378 There are no listed buildings, Scheduled Monuments or Conservation Areas designations on either the existing or the proposed site. There are two 19th Century listed structures in the vicinity the Church of St Ives (Grade II) (approximately 644m to the south west of the existing site and 230m of the proposed extension) and the Church of Our Blessed Lady and St Joseph (150m to the south of the existing site and 155m of the proposed extension). The nearest Conservation Area is Medomsley some 1.5km to the north of the site.
- 379 The Gothic Church of St Ives is located on St Ives Road. The Church is some 240m to the west of the roundabout with Pont Lane and the A692. The Church is clearly visible in views along the A692 where its height and tall steeply pitched roof creates an architectural focal point that has dominated the historical skyline for nearly 160 years. It is considered that the proposed works would not adversely impact upon or obscure views of the Church or diminish its presence given the lighting columns and vegetation along the roadside. Given the location and existing ongoing road noise it is considered that the setting would not be impacted upon by any additional noise impact.
- 380 The Church of Our Blessed Virgin and St Joseph is located to the south west of the proposed extension and of the existing site. It is set back from the road and fronted by the cemetery and belt of mature trees. The perimeter soil mound and compound

area are the closest elements of the existing site to the Church and would continue to be so when the extension area is operational. The impacts from the proposed extension area would not be any greater than those which exist with the existing site although the duration of mineral extraction would be extended with associated vehicle movements. Given the location close to the A692 and existing ongoing road noise it is not considered that the setting would be impacted upon by any additional noise impact. Operational development would be no closer than with the existing site. During restoration those operational elements of the site would be removed, and the land reinstated with hedgerow planting along the roadside as required. It is considered that the setting of the listed building would not be unduly compromised by the proposed extension.

- 381 There is an informal arrangement between the site operator and the Church to limit potential disruption to burials and church services due to site operations depending upon the time of the services.
- 382 An archaeological assessment has been undertaken in relation to the proposed extension site. The assessment states that designated heritage assets have been identified within a wider study area but that there would be no impact on the setting or significance of these assets.
- 383 Initially Design and Historic Environment officers raised concerns regarding the extent of the heritage impact assessment contained within the archaeological assessment. It was noted that the desk-based research and evaluation identified three designated heritage assets for consideration; the Church of Our Lady, St. Joseph Church of St. Ives and Leadgate War Memorial, individually listed at grade II. Concluding that there would be no long-term adverse impact on the setting or significance of these assets. However, it was considered that the area covered was too restricted, and a wider heritage impact assessment looking at the potential impacts of the proposal on the setting of all designated and non-designated heritage assets within a 2km radius and any scheduled monuments, grade I and II* assets within a 5km radius of the site would ordinarily need to be provided prior to determination of the application. This is the standard search radius for all EIA developments as agreed with Development Management. For example, Medomsley Conservation Area lies approximately 2km to the north with Iverston Conservation Area some 1.7km to the south. Pontop Hall, listed at Grade II* is approx. 1.8km to the north east, with Colliery Chapel Scheduled Monument beyond some 2.8km from the site. It would be advised that the desk-based research area is expanded to be confident that there would be no adverse impact on the setting of those heritage assets in the wider context. Notwithstanding the above it would be anticipated that no adverse harm or potentially very minor changes to settings would occur.
- 384 However, the applicant provided justification for not expanding the heritage impact assessment area in-line with general search parameters for EIA developments. The justification being that the nature of the development is such that there is no impact on heritage assets further afield than those that have been included in the report that can be assessed. The nature of the proposed development is such that the cause of any impact on setting is restricted to views of bunds and some plant over the surrounding hedgerows. This would only have an impact on the setting of assets within the immediate vicinity of the site, particularly given the topography of the surrounding landscape and screening provided by the adjacent woodland. Extending the study area to a 2 km radius for all designated and non-designated assets and 5 km for any scheduled monuments, Grade I or Grade II* assets would not change the conclusions of the assessment.

- 385 Following this justification Design and Conservation officers concluded that the location, nature of the development, the intervening topography and landscape features means there would likely be no impact on the setting of any other heritage asset in the wider context. This is not contested as such factors would prevent visual interactions between the site and other heritage assets, the impact on setting being neutral. The existing appraisal would therefore be considered acceptable. Given the above, and that there will be no long-term adverse impacts on the setting or significance of the designated heritage assets closer to the site, as stated in original comments, there are no grounds on which to object from a heritage standpoint.
- 386 In respect of the variation of condition application, Design and Conservation officers advise that they do not have any bearing on impact on heritage assets but refers to comments on the proposed extension as set out above.
- 387 Objectors have raised concerns in relation to archaeology. The submitted archaeological assessment advises that an archaeological desk-based assessment was undertaken and further works involving a scheme of geophysical investigation and trenching was subsequently carried out to investigate identified anomalies and other features reported to be present on the site. Archaeological deposits have been identified on the site of the proposed extension comprising regionally significant remains relating to prehistory and potential remains relating to the Western Way Wagonway. Remains of negligible significance have been identified relating to the course of the South Medomsley Branch Railway, post-medieval mining and cultivation, the Redhill Common Quarry and a track associated with Eden Colliery. The development would remove or truncate this resource. The assessment concludes that a programme of archaeological recording and dissemination of the results would mitigate the impact of the scheme on the regionally significant remains, so that there would be no significant environmental impact.
- 388 Having regard to the submitted evidence base there is no indication of any archaeological features of national significance that would warrant the preservation in situ of remains as per Part 16 of the NPPF (2019). However, the evaluation works have shown that the proposed development area does contain features of local and possibly regional significance in terms of the extensive wider industrial landscape which extends along the Derwent Valley from the Tyne to Consett and that these should be suitably signposted in the landscape. It is proposed that an interpretation board be installed on the route of Footpath No. 28 (Consett Parish) to better aid the understanding of historic assets.
- 389 The approved restoration details for the existing site include a proposed footpath along the indicative route of the Western Wagon Way based on the work of a local historian. This along with the provision of interpretation boards explaining the history of the site and its surroundings would provide a beneficial link to the historical past.
- 390 In respect to the affected non-designated heritage assets identified by the archaeological assessment, the NPPF (2019) advises at Paragraph 197 that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. The proposed extension proposals have the potential to truncate or removed surviving archaeological remains within the site and the effects would be permanent and irreversible. Subject to the development taking place in accordance with the submitted details including the Written Scheme of Investigation which includes reporting, Archaeology officers have no objections to the proposals.

- 391 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 distance from the application site and intervening topography, planting and built development. Design and Conservation officers raise no objection to the proposals. Historic England has not made any adverse comments in respect of the applications.
- 392 With regard to heritage assets within the existing site the Planning Inspector noted that these mainly relate either to past mining activity or to agriculture. The Inspector considered that that the proposal would lead to the loss of a number of non-designated heritage assets within the site. Features of particular note include the Billingside Dyke and field pattern, the Western Way and an area of uneven ground within the site. In terms of their heritage value, the Inspector considered that they were predominantly of local importance. Noting that the proposal made provision for mitigation of the heritage loss by means of the written scheme of archaeological investigation, including making the findings available as appropriate. To the Inspector's mind, this represented a reasonable balance between the scale of the harm and the significance of these heritage assets, in accordance with Paragraph 134 of the NPPF (2012) (Paragraph 196 of the NPPF (2019)). A number of relics of past mining have been retained and information boards would continue to form part of the restoration proposals.
- 393 The proposed variation of conditions and change to the working method to facilitate the proposed extension would not alter this view. The restoration principles in relation would remain and be extended to encompass the larger area should planning permission be granted. Extensive programmes of archaeological assessment, evaluation and mitigation works have been completed for the existing site and associated reports have been lodged with the Historic Environment Record.
- 394 It is considered that the proposals would accord with MLP Policies M30, M31, M32 and M33 and advice contained in Parts 16 and 17 of the NPPF (2019). Policy M30 is not time limited but does not fully reflect the guidance with the NPPF (2019) or PPG in relation to conservation and enhancement of the historic environment or the protection afforded to designated heritage assets. The Policy can be given limited weight in the decision-making process. Policies M31 and M33 are considered broadly consistent with the NPPF (2019) and are not time limited or out of date. In particular, NPPF (2019) Paragraph 189 advises that, where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation. MLP Policies M31 and M33 can be afforded limited weight in the decision-making process. However, Policy M32 which relates to nationally significant archaeological remains is not time limited but is considered to be not consistent with the NPPF (2019) as the wording is more permissive than the NPPF (2019) (specifically Paragraph 194). MLP Policy M32 can be afforded limited weight in the decision-making process.

Recreational amenity

- 395 The area has an established and well used public rights of way network. Three footpaths pass through the existing site (Footpath Nos. 26, 27, and 28 (Consett Parish)) and have been temporarily diverted as a result of the working of the existing site. The Coast to Coast (C2C) Sustrans route lies to the south of the proposed extension emerging from Leadgate along St Ives Road but is not directly affected by the proposed development.

- 396 Footpath Nos. 27 (Consett Parish) and 28 (Consett Parish) cross through the proposed extension area. Although lengths of these footpaths would be stopped up during operations (320m over 12 to 14 months), alternative routes would be provided around the site (both within and outside the site boundary) and these would be subsequently reinstated upon restoration. The alternative route would link up with those alternative routes created as a result of diversions on the existing site. The number and length of rights of way around the application site would also be increased, thus improving public access to the area. 2km of new footpaths are proposed overall including a footpath through the existing site following the suspected route of the Western Way Wagon Way. The additional footpaths proposed as part of the extension application would be a 260m new public right of way 'dedicated' (secured through the proposed S106 planning obligation) to ensure its use in perpetuity and would tie into the surrounding public rights of way network. In addition, a 450m permissive right of way is proposed between the plantation and reinstated agricultural land. The early dedication of a length of public right of way that extends east of the existing site boundary has recently been secured through a dedication agreement under Section 25 of the Highways Act 1980.
- 397 There is a section of Alternative Way No. 2 within the existing site that currently links with Footpath 28 (Consett Parish). A short section of Alternative Way No.2 running up the western boundary of the current Bradley site would be truncated should the extension be worked. This would be closed to avoid confusion to footpath users with fencing to block access. A new Alternative Way No. 4 would adjoin Alternative Way No. 2 at this point to provide a continuous diversion route.
- 398 A temporary public right of way closure order would be required during working of the proposed extension. An application has been made to the Council but would not be progressed until the planning applications have been determined.
- 399 The footpaths across the extension site provide good opportunities for countryside access and informal recreation for the nearby population linking into a wider network. However, the footpaths in the wider network are temporarily disrupted by the existing site but alternative routes have been provided and linkages would be provided. The use of the routes through the proposed extension site would be directly affected by the proposed development and there would be a slight reduction in the levels of amenity currently provided for the duration of the development. However, the proposed arrangements to ensure the continued use of public rights of way during and after mineral extraction are considered acceptable and there is likely to be a positive long term effect upon the recreational value of the countryside arising from increased public access through additional rights of way being created across the restored site as a whole. Access and Rights of Way officers raise no objection to either application.
- 400 The original proposal required the temporary diversion of footpaths which crossed the site. The Planning Inspector noted that additional footpaths enhancement measure forms an integral part of the restoration scheme and that there would also be substantial additions to the footpath network. Although some public footpaths would pass close to or even run alongside the site, the Inspector considered that evidence indicates that occasions when any route would be affected by dust emissions would be relatively infrequent. Since footpath users would be passing through the area, any transient effects of dust would not be sufficient to amount to a material adverse effect. Thus, whilst it may well be that some users would take a different route rather than register a complaint, it seemed to the Inspector that the proposal would not have an unacceptable effect on users of footpaths.

- 401 There would be no alteration to the existing arrangements in relation to public rights of way in the existing site during the working of the proposed extension, with the exception of the truncation of a short section of Alternative Way No.2. The proposed variation of conditions and change to the working method to facilitate the proposed extension would not alter this view and appropriate conditions would continue to be in place for the remaining life of the permission. The restoration principles in relation to public rights of way would remain and be extended to encompass the larger area should planning permission be granted.
- 402 The Planning Inspector in the Appeal decision in considering the existing site noted that although the C2C cycleway passes close to the site, it is located beyond the valley ridge. There would be no direct views from that route so that the proposed surface coal mine would be unlikely to have any material effect on its users. It was suggested to the Inspector that views might be had from the cycleway on the opposite side of the valley but, given the distances involved, the Inspector considered that any effect on users would be negligible. The conclusions of the Planning Inspector are not disputed and are considered to apply to the current applications. In addition, it is not considered that the proposed extension would adversely impact upon the C2C.
- 403 The proposals would therefore accord with MLP Policy M35 and Part 8 of the NPPF (2019). Policy M35 is not time limited and is broadly consistent with the NPPF (2019) provisions but does not reflect up to date NPPF provisions relating to existing open space, sports and recreational buildings and land, and public rights of way which the NPPF (2019) seeks to both protect and enhance. MLP Policy M35 can carry full weight in the decision-making process. Paragraph 98 of the NPPF (2019) advises that planning decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails. The proposals in relation to the existing site would accord with MLP Policy M35 and Part 8 of the NPPF (2019).

Agricultural land quality and use

- 404 The proposed extension (18.5 ha) comprises plantation (6.5 ha) and agricultural use (12ha for grazing of cattle and also gorse scrub areas). None of the agricultural land falls within Grade 1, 2 or 3a these being Grades that are recognised as the best and most versatile under the agricultural land classification (9.3ha Grade 3b, 2.4ha Grade 4, 0.3ha non-agricultural land). Of this 6.6ha of agricultural land would be disturbed in association with the working of the proposed extension. There would be a loss of agricultural land during the life of the site (6.6 ha) and 2.4ha of woodland soils, but these would be reinstated upon restoration. At restoration 5.5ha of land would be restored to agriculture (4.7ha pasture (Grades 3b and 4)) along with species rich grassland, woodland and woodland edge habitat. Hedgerows would be planted providing more defined field boundaries around the agricultural land than currently.
- 405 The ES includes a soils and agricultural land quality assessment which contains an Agricultural Land Classification assessing the agricultural quality of the land. It has allowed the types, volumes and distribution of soils to be determined, including areas affected by the working proposals, for stripping, storage and later use for restoration. An appraisal of the agricultural businesses has also been undertaken for the main stages of development and following restoration. Potential impacts and mitigation measures for handling, storage, and restoration and aftercare of soils and agricultural land use have been identified and evaluated.

- 406 The assessment concludes that in terms of impacts of the scheme on soils and agricultural land use, the 'short term' effects on the agricultural land use and soil structure have been identified as moderate adverse in significance, decreasing with restoration, and decreasing further progressively during aftercare. By the end of the aftercare period the effects on land quality has been assessed as neutral. Impacts on farm businesses are neutral. It considers that the proposed development would not result in disturbance of further areas of soil on the existing Bradley site therefore there will be no additional effects on soils, land use or the agricultural business.
- 407 A soil handling and management manual is in place for the existing site that includes a methodology for soil stripping, handling, storage, replacement and assessment of suitable soil handling conditions. The manual has been revised to include the proposed extension area. Through condition the operator is required to submit an annual soils management audit to the Mineral Planning Authority. Should the extension be approved the handling and storage of soils would be carried out in line with good practice and adequately controlled through condition in line with those in place for the existing site. Natural England, in terms of soils, has raised no objections to the proposals. The manual has also been updated to address the potential for encountering contaminated land.
- 408 Should the extension be approved it would be inevitable that there would be an impact upon the land, and it would be unusable for its current use for the duration of operations. However, the soils would be carefully handled and stored to ensure that they would be effectively used in the restoration of the site and returned to agricultural land.
- 409 In respect of the existing site the Planning Inspector was not persuaded that the proposal would, overall, have an adverse effect on the quality of agricultural land. The proposed variation of conditions and change to the working method to facilitate the proposed extension would not alter this view and appropriate conditions would continue to be in place for the remaining life of the permission. The proposal would not conflict with MLP Policy M34 or Part 15 of the NPPF (2019).
- 410 The current proposals would not conflict with MLP Policy M34 or Part 15 of the NPPF (2019) which address amongst there provisions agricultural land and soil and Part 17 of the NPPF (2019) which addresses the winning and working of minerals given there not be a loss of any best and most versatile agricultural land. The soil handling and management manual would be secured through condition. MLP Policy M34 is not time limited but it is not considered to be consistent with the NPPF (2019) and is out of date. While there is a degree of consistency between criteria b) of Policy M34 and NPPF footnote 52, the Policy is considered to be too restrictive and applies to mineral development which affects or is likely to lead to the loss of 20 or more hectares of the best and most versatile land. On this basis it is considered that very little weight should be applied to Policy M34 whereas Paragraph 170 of the NPPF (2019) applies to all best and most versatile agricultural land.

Hydrology and hydrogeology

- 411 The existing site lies within the catchment of Pont Burn, a tributary of the River Derwent. It drains in a northerly and north westerly direction. A stream flows through the western part of the site which has been retained, although original proposals had been to stop it up during the works. The site is within Flood Zone 1 (in an area assessed as having less than 0.1% annual exceedance probability of flooding) although land either side of the Pont Burn to the north is within the more

sensitive Flood Zones 2 and 3 in the Environment Agency flood risk land classification. Brooms Pond, a lagoon from previous mining activities, had been located close to the south eastern boundary but was incorporated into the existing site. The existing and proposed sites are within a groundwater vulnerability area. There are no licensed or unlicensed surface water abstractions on the proposed site or up to at least 1 km from its centre. The proposal would therefore not affect the direct water supply of properties. Historic landfill sites records indicated that there were previous waste disposal operations some 550m to the south west (High Brooms) and some 750m (Brooms Dene) from the proposed extension site.

- 412 A hydrological and hydrogeological assessment has been submitted with the application that concludes that although a number of former landfill sites have been identified in the area, in the absence of any dewatering and drawdown on the site, any leachate is unlikely to be drawn towards it, any leachate is unlikely to be drawn towards and there are no plausible pathways. The Stony Heap site was adjacent to Brooms Dene and no issues of this type were recorded. The Environment Agency has not raised any concerns in relation to former landfill or waste management facilities.
- 413 A Flood Risk Assessment has been submitted and concludes that the proposed development would not increase the risk of flooding if water is treated and discharged through the existing infrastructure at the Bradley site where maximum discharge rate are well below those of a greenfield site in accordance with the Environment Agency Permit.
- 414 A storm drain (a County Council asset) runs across approximately south to north of the extension site and discharges from a headwall, then flowing into an open channel through Billingside Plantation to Pont Burn. The excavation area within the extension has been designed to stand off the drain. It would be necessary for a perimeter soil mound to be located at the southern end of the field and an overburden acoustic bund at the northern end. The working method proposes to replace the existing drain following the same route. A proposed acoustic bund at the northern boundary would cross the drain. Due to the design and load of the overburden bund the existing pipe would be replaced with a more flexible pipe along the same route. This would take place prior to commencement of operations in the extension area. The storm drain replacement works would be secured under a licence agreement with the Council.
- 415 The submitted hydrology and hydrogeology assessment focuses on assessing conditions at the proposed extension but considers proposed operations in the context of the remainder of operations at the existing site. It is proposed that the sites would be operated under the same surface water management regime, whereby the drainage network at the extension would connect to the network on the existing site and utilise the existing water treatment lagoons and outfall point to Pont Burn. No material changes to the working method on the existing site that would impact hydrology or hydrogeology impacts are proposed, other than changes required to incorporate the drainage network for the extension.
- 416 The submitted assessment is based on the study of a number of documents including the experience gained from operation of the existing site including deep borehole data, the exploratory borehole data from the proposed extension and an evaluation of old workings and abandonment plans produced by the Coal Authority. It is stated that there is no visible evidence of minewater discharges within the perimeter of the existing site or proposed extension and that Environment Agency

records confirm that there have been no groundwater pollution incidents on the site or within 1 km of its centre.

- 417 The assessment concludes that in terms of hydrology, the proposed development would not increase the risk of flooding off-site. All surface water collected on site would be contained and settlement lagoons would treat the surface water before it is discharged off site using the established outfall point. Water quality parameters would be in accordance with the existing Bradley Environment Agency permit. The discharge rate of water leaving the site would be controlled at less than greenfield rates in accordance with the existing Bradley Environment Agency permit. It is noted that the site would be restored to agriculture together with woodland and areas of ecological interest. Surface water would continue to be managed until such time that the suitability of the restoration drainage system has been proven and that greenfield run off rates would be re-established.
- 418 In terms of hydrogeology it is considered that the proposed development would not have a significant impact on the discharge of mine water from the East Consett Block identified by the Coal Authority. In the absence of any dewatering operations, the proposed development would not initiate any further mining subsidence outside the site boundary. In the far north-west of the site, where the vulnerability of the bedrock aquifer to pollution would be slightly higher as backfill would only reach 5 -10 m in thickness, restoration of the land to woodland and ecological habitat uses will ensure that pollution is unlikely to occur at the ground surface in future. There is however unlikely to be measurable pollution of the groundwater because it lies at depth beneath a thickness of unsaturated strata. Overall, it is concluded that there would be no unacceptable adverse effects upon the hydrological or hydrogeological regime in and around the proposed extension site as a result of the proposals.
- 419 The EA originally objected to both applications as submitted because it was considered that the risks to groundwater had not been satisfactorily assessed. The EA considered that adequate information had not been supplied to demonstrate that the risks posed to groundwater and the hydraulically connected receiving water courses (Smallhope Burn, the Pont Burn and the River Derwent) could be satisfactorily managed. In particular, the development proposal failed to provide sufficient information pertaining to the quality and flow of the mine water discharges to the River Derwent at Hamsterley John, the Pont Burn from the Pont Level and the Smallhope Burn from the Stony Heap mine water treatment scheme; and sufficient information regarding the mitigation measures to protect the environmental water quality of the above named discharges and the surface waters.
- 420 The applicant submitted additional environmental information advising that the hydrology and hydrogeology chapter of the ES evidences that groundwater is not present at the Bradley site and would not be encountered at the proposed extension. It states that it also demonstrated that the potential increase in surface water infiltration from the operation of the proposed extension would be so low in the context of the East Consett minewater block that it is negligible. The ES also stated that the groundwater resource lies at depth beneath a thick layer of unsaturated strata. The additional information supplements the ES by providing further calculations on the potential increase in surface water infiltrations rates from the existing and proposed sites during the operational and restoration phases, and illustrative cross sections to visually clarify the location of the sites in the context of the wider minewater block. These demonstrate the limited potential for hydraulic connectivity with the underlying groundwater or wider minewater block discharge points. The additional information concludes that it does not affect the conclusion of

the ES that the proposed development would not have a significant effect on hydrology or hydrogeology.

- 421 Following consideration of this information the EA has withdrawn its objection subject to conditions requiring the submission of a habitat management plan and that surface water is managed being imposed on any grant of planning permission. Along with other advice the EA advises that the Water Quality Environmental Permit for the site is undergoing review as a variation request has been submitted to the EA. The EA advises that the additional information provided has clarified the risk to the groundwater/mine water regime is negligible, as it has been shown to be below the base of extraction of both the proposed western extension and the existing surface mine. The submitted cross sections have shown the risk to both Stoney Heap and Hamsterley John mine water discharges is low. The Pont Level, a drift into Brass Thill to Dipton Burn drains the workings of the lowest coal seam to be extracted in the western extension. Within the remaining void of the existing site the proposed depth of extraction and mitigation to prevent the free-flow of water through the exposed mine workings would protect controlled waters. Thus, the risk to the Pont and tributaries is considered to be low. Therefore, no specific mitigation is required to manage/ protect bedrock groundwater quality and resource. The EA note that the risk to habitats has not been assessed due to the lack of recent shallow groundwater monitoring data. The EA also advises that the mitigation required for other reasons, are used as justification to the conclusions of the hydrology and hydrogeological risk assessment and would help protect the both the groundwater and surface water.
- 422 The EA also advises that the Water Quality Environmental Permit for the site is undergoing review as a variation request has been submitted to the EA. As the extension site is utilising existing infrastructure associated with this discharge, this variation permit would apply to the extension site. Should planning permission be granted a review of the existing water treatment areas would be required in order to ensure that the discharge from both the original site and the extension site meets permit requirements and has no impact on the Pont Burn.
- 423 Old workings would be encountered in the Top Brass Thill and Bottom Brass Thill seams. However, ground water levels have been found to be well below the strata that would be worked and are unlikely to either effect or to be affected by operations.
- 424 The ES considered at the second Public Inquiry concluded that there would be no increased risk of downstream flooding, provided the proposal followed a working method of progressive restoration and included storage provision for storm flows. The excavations would be allowed to flood in more extreme weather conditions. Discharges into local watercourses would be subject to Environment Agency controls. Survey data indicated very little groundwater was likely to be encountered, including in old mine workings. The Inspector concluded that although the proposal would lead to an increase in the drainage capacity of the underlying bedrock, there was no reason to expect it would affect groundwater conditions in the locality. The presence of boulder clay deposits meant that no risk has been identified to properties at Douglas Terrace and Hedley Terrace. Nor did the Inspector consider that the proposals would affect tufa identified in the Pikewell Burn, a tributary of the Pont Burn. Also, in relation to hydrology and hydrogeology, the Planning Inspector was satisfied that the mitigation measures proposed in relation to the Appeal decision allowing the existing site would be sufficient to ensure that the proposal was environmentally acceptable.

- 425 The proposed variation of conditions and change to the working method to facilitate the proposed extension would not alter this view and appropriate conditions would continue to be in place for the remaining life of the permission.
- 426 Protection of the water environment is a material planning consideration and development proposals, including mineral extraction, should ensure that new development does not harm the water environment. In this case the proposal poses a threat to water quality. Paragraph 170 of the NPPF (2019) advises that planning decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of water pollution. Development should, wherever possible, help to improve local environmental conditions such as water quality.
- 427 Based on available information the proposals would not have unacceptable adverse environmental effects in terms of hydrology and hydrogeology. No surface or ground water issues have arisen that cannot be controlled through mitigation measures including through the method of working and restoration and adherence to the submitted water management plan, and other pollution controls regulated by the EA. The EA has no objections to the proposal subject to conditions. Drainage and Coastal Protection officers do not raise objections. The proposals would not conflict with MLP Policy M38 or Parts 14 and 17 of the NPPF (2019). MLP Policy M38 is not time limited, is considered to be consistent with the NPPF (2019) and can carry full weight in the decision making process.

Access and traffic

- 428 The access to the existing site is from a purpose-built access off the A692 with a protected right-hand turn. Traffic turns right into the site and left out. All HGV vehicles are required to travel on the A693 to the A1(M) at Junction 63 Chester-le-Street and adherence to the existing coal haulage route by all laden and unladen HGVs is currently secured through the S106 planning obligation. The obligation also sets out penalties to drivers not following the adhered route.
- 429 The Planning Inspector in the Appeal decision for the existing site noted that the existing site access would be by way of a priority junction access, including a right hand harbourage onto the A692. It was estimated there would be 64 HGV movements on a normal working day. These would travel to the A1(M) via the A693, which is a designated freight route, enforced by means of the planning obligation. Since site traffic would form only a small proportion of HGV traffic on this route, the Inspector was satisfied that there would be no material effect on congestion or safety in this respect.
- 430 The Appeal decision through condition (Condition 15) specified that the total number of heavy goods vehicles entering and leaving the site shall average no more than 64 (32 in and 32 out) Monday to Friday when calculated over any four week working period (Mondays to Fridays) and 30 (15 in and 15 out) on Saturdays.
- 431 A non-material amendment to the Appeal condition approved in January 2019 increased the permitted weekday average HGV movements to 96 (48 in and 48 out). No change to the movements on Saturdays was proposed. The reason for the change being that the movements set out in the condition were based on a calculation of the estimated total coal recovery over the operational life of the site. However, as operations proceeded it was found that the rate of coal recovery is subject to variation due to differences in coal depth across the site, with shallower

coal in the earlier phases, and differences in in-situ coal from variations in previous old workings. The increase in HGV movements therefore enables increased flexibility to deal with this variation and avoid a coal stocking constraint on site. No increase to the currently permitted vehicle numbers is proposed and this would be secured through planning condition.

- 432 A traffic statement accompanies the planning application. The statement considers the highway and transportation implications associated with the proposed extension and the export of the additional coal and fireclay from the site. It assesses the baseline highways and transport conditions, including a review of current site access and associated traffic with the existing site, details the proposed development, addresses proposed trip generation and impact on the surrounding network and outlines mitigation measures that may be required. It is stated that overall, export of material from the proposed extension would not have any significant impact on the wider highway network. All works associated with the existing site and proposed extension area would be completed, and the site restored, by August 2021 in accordance with the existing planning permission. The submitted traffic statement concludes that the proposals are satisfactory in transport terms.
- 433 Paragraph 108 of the NPPF (2019) advises that in assessing applications for development it should be ensured that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. Paragraph 109 of the NPPF (2019) advises that, development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 434 The proposed extension would utilise the existing access and adhere to the existing restrictions on vehicle movements, and there would be no increase as a result. This would be secured through condition. The existing access, vehicle movements and travel plan for the existing site have previously been considered to be appropriate and no change are proposed to these as a result of the current applications.
- 435 Traffic generated by the proposals can be accommodated safely and conveniently on the highway network and planning conditions can continue to be imposed to ensure traffic impacts are minimised with the impact of traffic generated by the development on local and recreational amenity would be acceptable. The Council as Highways Authority raises no highways objection to the proposed extension. The Highways Authority considers that the variation application proposals do not give rise to any additional HGV movements at the site and on this basis no objections are raised to that application. The provision and maintenance of wheel cleaning facilities, measures to ensure that the highway is kept clear of mud or debris and the sheeting of vehicles would continue to be secured through planning condition. Recording of vehicle movements would also be covered by planning condition. Traffic routing would be included in a revised S106 planning obligation.
- 436 With regard to the variation of conditions application, a change to the permitted vehicle movements was considered and approved under a previous NMA application. Although the application refers Condition 15 no change is proposed to the previously approved amended movements which was considered to be acceptable. The proposed variation of conditions and change to the working method to facilitate the proposed extension would not alter this view.

437 The proposals would accord with MLP Policies M36, M42 and M43. MLP Policy M42 is consistent with the NPPF (2019) and is not time limited. Policy M42 can carry full weight in the decision-making process. MLP Policy M43 is only partially consistent with the NPPF (2019) and is not time limited. Whilst the policy is consistent with the general principles of NPPF (2019) and PPG, the matter of planning obligations needs to align with the related legislation. The terminology used in the policy 'insofar as they fairly and reasonably relate to the proposed development' does not fully reflect Section 122 of the CIL Regulations. MLP Policy M43 is therefore afforded limited weight in the decision-making process.

Contamination

438 There is a long history of coal mining in the area with a number of disused mine openings within or close to the site boundary. The proposed extension includes some areas of potentially contaminated land, being levels, shaft and railway land. Some localised areas of previously disturbed topsoil and subsoil affected by historic mine spoil and material associated with old coal mines and tramways have been identified. The application considers it unlikely that there is material contamination of the underground strata or soil from colliery spoil and only small volumes have been encountered during extensive ground investigations. No legacy industry contaminated soils have been identified at the existing site.

439 Environmental Health and Consumer Protection officers initially advised that land contamination or historical land uses had not been considered in the ES and that although the soil examination schedule has not identified any soils that appear to pose a significant risk, no soil testing has taken place. However, given the proposed end use as agricultural land and given the information provided it is not considered there is a significant risk from land contamination to the receptors. As a result, information was requested in relation to identification of areas, how it would be segregated and depth to be placed.

440 The submitted combined soils handling and management manual for the existing site and proposed extension was updated and identifies how potentially contaminated soils would be identified during soils stripping. Any soil containing deleterious material would be deposited within the overburden backfill at a depth of at least 2m below the finished restoration level, beyond the depth of any plant roots or likely leaching into surface layers, with ongoing guidance from a soils advisor. The material would be mixed within the backfill to effectively dilute any potential source of contamination to ensure there would be no risk to human health, controlled waters and the environment and that following restoration, the site would be suitable for use.

441 Paragraph 178 of the NPPF (2019) advises that after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and adequate site investigation information, prepared by a competent person, is available to inform these assessments. Paragraph 179 of the NPPF (2019) states that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

442 Environmental Health and Consumer Protection are satisfied with the information provided in relation to potentially contaminated soils and how it would be dealt with during the restoration. Officers advise that there is no requirement for a contaminated land condition.

443 Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner. As part of the proposal, potentially contaminated soil would be dealt with in an appropriate manner, ensuring the site would be suitable for the proposed enduses with no risk to humans and the environment. This would be in accordance with Paragraphs 178 and 179 of the NPPF (2019). The measures to deal with potentially contaminated soils are contained within the submitted combined soils handling and management manual which would be conditioned as part of any planning permission.

Geotechnical and stability

444 A coal mining risk assessment report has been submitted with the ES. The Coal Authority has considered the submitted report along with the application and supporting documents and has advised that it is clear the applicant is aware of the coal mining legacy risks present on the site. Shallow coal workings would be removed as part of the excavation works and this would provide a more stable landform that poses less of a risk to members of the public and agricultural workers.

445 A geotechnical assessment produced in accordance with the requirements of the Quarries Regulations (1999) has been submitted with the application. The assessment focuses largely on the proposed extension proposals as no material changes to the geotechnical aspects of consented operations on the existing site are proposed, with the exception of the construction of an additional subsoil mound. The report has been prepared following a review of various sources of information including boreholes drilled by the applicant and those associated with the historic Billingside proposal, evaluation of British Geological Survey (BGS) plans, reports and borehole logs, computer modelling of abandoned mine plans produced by the Coal Authority and experience gained from the working of the existing site.

446 It is noted that the bedrock on site consists of typical Middle Coal Measures strata with minimal faulting. It is considered that the results of the various assessments indicate that the proposed extension site has normal engineering properties of bedrock strata for the Durham coalfield. The assessment considers that superficial deposits would influence the stability of excavation slopes, soil mounds, the overburden screening mound and loosewall slopes, however, suitable mitigation measures would be undertaken to counter the effects. Mounds, slopes, benches and benched profiles would be constructed, excavated and formed in accordance with recommendations set out in the assessment. Safe working conditions around areas with abandoned mine workings would be maintained. Recommendations resulting from the assessment relating to regarding mound construction including standoff distances, bench heights, underground mineral workings, backfill tip and loosewall slopes, haul roads, surface runoff and groundwater, mineral stockpiles and inspection frequencies have been incorporated into the design and proposed method of working for the proposed extension site. Excavation and tip rules that are in place for the existing site would be reviewed prior to the commencement of the extension should planning permission be granted and during working there would be regular geotechnical inspections. The geotechnical assessment concludes that it has been demonstrated that the proposed extension has been designed to the highest standards and can operate without creating an unacceptable effect on land stability outside the site boundary. The geotechnical effects considered are common to most mining operations, there are no unusual or unexpected geotechnical effects associated with the proposed extension site. All sites are subject to inspection by the Health and Safety Executive.

- 447 The proposed extension site includes land that has been subject to historic drift mining. This has left areas of subsidence and old mine opening which, the assessment states, presents a potential hazard to members of the public but that the working of the site would provide the opportunity to restore the land to a stable and safe state at no public cost.
- 448 The assessment concludes that it demonstrates that the proposed extension has been designed to the highest standards and could operate without creating an unacceptable effect on land stability outside the site boundary and that the geotechnical effects considered are common to most mining operations and there are no unusual or unexpected geotechnical effects associated with the proposed extension.
- 449 The Planning Inspector noted in the Appeal decision that there had been instances where land within the existing site had been fenced off as unsafe due to the presence of old mine workings. The Appellant contended such collapse could occur anywhere within the site and the landowners reported that past collapses have presented problems for the current agricultural use. The Inspector took the point that specific remediation measures would be extremely costly. Nevertheless, noted that it was a requirement of the proposal that the agricultural areas of the restored site should be suitable for such use. Consequently, the fact that the restored site would no longer be subject to instability issues did not in the Inspector's opinion represent a further benefit, over and above restoration. This conclusion is applicable to the proposed extension.
- 450 The proposed variation of conditions and change to the working method to facilitate the proposed extension would not alter this view and appropriate conditions would continue to be in place for the remaining life of the permission.
- 451 In assessing the environmental impacts from mineral extraction the PPG advises that the consideration of slope stability that is needed at the time of an application will vary between mineral workings depending on a number of factors, e.g. depth of working; the nature of materials excavated; the life of the working; the length of time interim slopes are expected to be in place; and the nature of the restoration proposals. Appraisal of slope stability for new workings should be based on existing information, which aims to identify any potential hazard to people and property and environmental assets and assess its significance, and identify any features which could adversely affect the stability of the working to enable basic quarry design to be undertaken. Part 15 of the NPPF (2019) (Paragraphs 118, 170, 178 and 179) requires the planning system to consider remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land where appropriate. Noting that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner. MLP Policy M36 requires the incorporation of suitable mitigation measures to ensure potentially harmful impacts from subsidence and landslip and gaseous emissions are reduced to an acceptable level.
- 452 The Coal Authority and Environmental Health and Consumer Protection (Contaminated Land) raise no objections to the proposals. It is considered that the proposals would be in accordance with MLP Policy M36, the PPG and Paragraphs 118, 170, 178 and 179 of the NPPF (2019).

Mine gas

- 453 A number of gases are associated with old coal mines. These include combustible gases (methane, hydrogen and carbon dioxide) and excess inert gases (nitrogen and carbon dioxide). Gases can come to the surface through old access points to the mine, through cracks and fissures in the underlying rock. Abandoned drifts and mine shafts represent potential migration pathways and their proximity to occupied dwellings may therefore pose a significant risk to health and safety. Conversely, the presence of thick deposits of glacial clay will inhibit or prevent the flow of gas from mine workings.
- 454 No changes to the extraction area in the existing site are proposed. A mine gas risk assessment has been submitted considering the risks associated with the potential for mine gas risks associated with the proposed extension. Underground workings have been encountered on the existing site and records indicate that there are abandoned underground workings within several coal seams both within and within close proximity to the extension site and will extend well beyond the extension site. All workings will act as a potential source of mine gas where they are not already flooded. The possibility that uncharted workings are present cannot be ruled out, but none have been recorded in any of the exploratory boreholes. Exploratory drilling has shown that by far the majority of the proposed extension site is covered by glacial deposits that predominantly comprise clay or till. The assessment notes that some level of protection from mine gas migration will be provided where the deposits exceed 3 or 4m in thickness and form the foundation of occupied dwellings because of the very low permeability of the material. There will be less protection where the deposits are thin or absent. Some of the occupied dwellings that lie adjacent to the extension are protected by glacial deposits of a depth which may provide adequate protection (e.g. properties near the north west of the site, and in the area of Our Lady and St. Joseph Catholic Church), however some other properties lie in areas of thinner cover, such as Brooms Farm and Douglas Terrace, where the glacial cover is less than 3 m thick.
- 455 The permeability of opencast backfill is considerably higher than that of glacial clay, even where it is has undergone consolidation and self-weight compaction. The continued agricultural and ecological use would not be compromised however in relation to the site, even if mine gas is emitted at ground surface, due to the very low concentrations emitted and their immediate dissipation in the atmosphere.
- 456 The mine gas risk assessment advises that no groundwater would be required to be extracted to recover the coal and there would be no additional drawdown which might otherwise dewater mine workings that lie beyond the site boundary and lead to further generation of mine gas. In this instance, there would be no groundwater rebound and no displacement of accumulated gas that might pose a risk to the public. Although the excavations would exhume areas of dewatered workings however any mine gas that was present would dissipate in the atmosphere. By removing areas of old workings, the development would effectively remove the potential for mine gas generation. There may also be some measure of ventilation in those workings exposed, in the excavation slopes.
- 457 The assessment goes on to advise that mine gas migration from old workings already places large numbers of the public at potential risk in the Durham Coalfield but that this risk is inherent and would not be increased by the proposed development and is the responsibility of the Coal Authority. Although it is noted that observable mine gas emissions may occur outside the site boundary during its operation and cannot be ruled out but does not consider that these would likely be as

a result of the proposed development. The possibility that landfill gas could migrate into the surface excavations and pose a risk to operatives and members of the public has also been considered. Given that High Brooms and Brooms Dene Tip Landfill sites are greater than 0.5 km from the proposed extension site it is not considered that the exhumation of old workings may facilitate the movement of gas, but it is not thought that a plausible migration path is present between any identified landfill sites. No evidence of landfill gas has been observed in the operation of the existing site to date.

- 458 The assessment concludes that there are no significant environmental effects upon the mine gas regime in and around the proposed extension site that would occur directly as a result of the proposed development. This would be the case during working and upon restoration. No specific safety measures are proposed beyond the implementation of appropriate site rules. The Coal Authority considers that the risks posed by mine gas are considered to be by the report author to be very low
- 459 Gases will have accumulated in old mine workings and have been displaced where flooding has occurred. The Coal Authority has taken measures to control groundwater levels so there are no controlled discharges and dewatering is not required. The site would be restored using backfilled material excavated from the site and restored to agricultural and nature conservation end uses. Any risks of mine gas from old workings would be minimised through on site safety measures.
- 460 It is considered that the proposals would be in accordance with MLP Policy M36 requiring the incorporation of suitable mitigation measures to ensure potentially harmful impacts from gaseous emissions are reduced to an acceptable level. This would also be in accordance with PPG and Paragraphs 118, 170, 178 and 179 of the NPPF (2019).

Climate change and CO₂/greenhouse gas emissions

- 461 Schedule 4 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 advises on the information to be included in an ES including a description of the likely significant effects of the development resulting from, amongst other matters, the impact of the project on climate (for example the nature and magnitude of greenhouse gas emissions) and the vulnerability of the project to climate change.
- 462 The ES includes an assessment of greenhouse gases. The assessment considers the emissions from the extraction of coal from the existing site, extraction of coal and fireclay from the proposed extension site and the handling and transportation of coal to Port Talbot (the furthest located end user). The assessment does not consider the transport and distribution of fireclay. Nor does it consider emissions from the end use of the coal recovered from the site, considering that it is entirely reasonable to assume that they would be similar in quantum to those from coal from alternative sources (primarily imported coal). The assessment considers direct greenhouse gas emissions that are owned by the applicant (onsite power generation, plant equipment and machinery and use of explosives and fugitive emissions from coal mining and handling) and indirect greenhouse gas emissions not controlled by the applicant (transportation of raw materials, employees commuting, waste disposal and transportation and distribution of coal).
- 463 The assessment predicts that direct greenhouse gas emissions would be 12,000 tonnes of CO_{2e} (the standard unit for measuring greenhouse gases). The total greenhouse gas emissions (direct and indirect as defined above) would be 18,064

tonnes of CO₂e and would contribute 0.00354% to the yearly UK greenhouse gas emissions budget and 1.88% to UK coal mining and handling emissions. The assessment also looks at the greenhouse gases emissions that would result if UK industrial customers had to source the coal produced at Bradley and Bradley West from abroad. It is stated that using coal mined in County Durham would result in 56.6% less CO₂ emissions than coal from the most likely alternative sources of supply, these being the primary alternative producer countries of Russia and Australia. Objectors to the proposals consider the approach to the assessment to be incorrect and should be discounted.

- 464 The NPPF (2019) focus relates to moving to mitigating and adapting to climate change, including moving to a low carbon economy (Paragraph 8). Specific guidance is set in Part 14 of the NPPF (2019) (Meeting the challenge of climate change, flooding and coastal change). NPPF (2019) Paragraph 148 advises that the planning system should support the transition to a low carbon future in a changing climate; and it should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure. Specific paragraphs in Part 14 of the NPPF (2019), focus on mitigating and adapting to climate change. Paragraph 150 of the NPPF (2019) relates to helping to increase the use and supply of renewable and low carbon energy and heat. Part 14 of the NPPF (2019) does not contain any advice which seeks to restrict surface mined coal on climate change grounds and does not refer to any requirement to consider CO₂ emissions associated with the winning and working of coal or its use by the end user.
- 465 In terms of the PPG, Paragraph 147 advises that the environmental impacts of coal extraction should be considered in the same way as for other minerals; and Paragraph 013 advises upon the principal environmental issues that mineral planning authorities should address when considering mineral working. In this regard a notable exception is climate change and the climate change implications of the winning and working of minerals or the use of an extracted mineral by its end user. The only exception appears to be that in relation to peat extraction where climate change is referenced within Paragraph 224 of the NPPF (2019).
- 466 A separate section on climate change is contained within the PPG which provides advice on how to identify suitable mitigation and adaptation measures in the planning process to address the impacts of climate change. This section does not refer to minerals.
- 467 Concerns have been raised by those making representations on the application regarding CO₂ emissions. It is recognised that climate change and the impacts upon the environment are major priorities for the those objecting to the proposals as well as the Council.
- 468 Durham County Council declared a climate change emergency on 20 February 2019 which includes ambitious targets to reduce its own carbon emissions by 60% by 2030 (from a 2008/9 baseline) and to investigate what further actions are necessary to make County Durham carbon neutral by 2050. The 60% target was subsequently raised to 80% at a meeting of the Council's Cabinet on 12 February 2020. The Council's declaration has been cited by objectors as a reason for refusal of the applications with objectors considering approval of the applications would be contrary to the declaration.

- 469 There would be large amounts of CO₂ associated with both the production of the coal and then the burning of the coal, however, it is considered that the extension to the existing site over an 11 month period in total would not impact upon the targets set by the Council to reduce its own carbon emissions by 2050 or those set in the Climate Change Act 2008. In addition, the amount of CO₂ emissions that would be generated to produce the steel required in the UK would be far greater should the coal be imported as evidenced in the assessment contained in the ES.
- 470 Whilst appreciative of the aims of the Paris Agreement, the Climate Change Act 2008 and its emissions targets for 2050 as well as the Council's declaration of a climate change emergency, it is considered that approval of the applications would not be detrimental to those targets being met in the long term given it is proposed to extract the coal within an 8 month period commencing in July/August 2020. The coal would be used in the manufacture of steel or other UK industrial processes and ancillary industrial uses for which the Government has not sought, like it has with unabated coal fired power stations, to place their restrictions on their use. It should also be noted that Government targets referred to above are in relation to the closure to unabated coal fired power stations the Government is not preventing the use of coal in abated coal fired power stations.
- 471 In this regard it is noted that climate change considerations are now regularly raised by objectors to surface mined coal sites. It was also a matter which the Inspector who was appointed to provide a recommendation to the Secretary of State considered in detail and a key matter upon which the Secretary of State took into account on his decision on the Highthorn surface coal mine application in Northumberland. However, the Secretary of State decision to reject the Inspectors recommendation that planning permission should be granted and instead refuse the planning application was quashed by the High Court on 23 November 2018. Therefore, it carries no weight or relevance. The Secretary of State has not yet issued a new decision in respect of Highthorn and objectors consider that the Bradley applications should not be determined until that decision is made. Although appreciating the views of the objectors it would be unreasonable to delay the determination of the applications for an unknown period of time when there is no prohibition by Government on determining such applications and the merits of the application must be assessed against current policy. In addition, the proposed planning obligation under the provisions of Section 106 of the Town and Country Planning Act 1990 (as amended) would render inoperative the existing planning permission should planning permission be granted for the current applications meaning that any review of this permission would be academic.
- 472 Prior to the Highthorn decision CO₂ emissions had not been a substantive issue raised in surface coal mining appeal decisions. With the 2016 Field House Farm, Durham surface coal mining scheme Appeal decision, CO₂ emissions were not an express issue and were dealt with as an aspect of the "need" case and in the planning balance in that same way; there would be no increase in CO₂ emissions because the coal to be extracted would be used in substitution for imported coal. The Northumberland Halton Lea Farm surface coal mining scheme decision of 2012 was made on the same basis: indigenous coal being burnt in substitution for the imported coal. The Inspector at the 2015 Bradley Appeal did not agree that the consequences of emissions from coal-fired powered stations on climate change, along with the costs of measures to combat climate change, should be taken into account. The Inspector also advised, although national energy policy seeks to move towards a low carbon economy, the statistics indicate that demand for coal would almost certainly continue throughout the period the site was likely to be in production.

473 Almost each objection received in respect of the applications refers to the adverse impacts of burning coal and the impacts of climate change and demand that burning is stopped. The burning of the coal, whether it be for energy generation or industrial purposes would undoubtedly also produce CO₂ emissions. It is not for the planning system to consider the consequences of emissions from the industrial processes such as the steel industry on climate change. The coal within the proposed extension is required in the short term and it is proposed to extract it within the short term with minimal impact upon longer term climate change targets including those set by the Council in declaring a climate change emergency.

Cumulative impact and future development

474 When considering cumulative impact regard should be had to past, current and future (planning permissions granted, or planning applications being considered) mineral and non-mineral activities in an area which have added collectively to adverse environmental impacts.

475 Paragraphs 180, 204 and 205 of the NPPF (2019) and the PPG recognise that some areas may have been subject to successive mineral development over a number of years. It is recommended that 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. The PPG states that some parts of a mineral planning authority area may have been subjected to successive mineral development (such as aggregate extraction or surface coal mining) over a number of years. Mineral planning authorities should include appropriate policies in their minerals local plan, where appropriate, to ensure that the cumulative impact of a proposed mineral development on the community and the environment will be acceptable. Furthermore, it is stated that the cumulative impact of mineral development is capable of being a material consideration when determining individual planning applications.

476 Paragraph 180 of the NPPF (2019) advises that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. Paragraph 205 of the NPPF (2019) advises that in considering proposals for mineral extraction, minerals planning authorities should take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality. The PPG also states that some parts of a mineral planning authority area may have been subjected to successive mineral development (such as aggregate extraction or surface coal mining) over a number of years. Policy M45 of the MLP addresses cumulative impact.

477 The ES submitted with the current applications considers cumulative impact and concludes that there are no relevant other sites which require consideration in relation to cumulative impact with the proposed extension.

478 In respect of the existing site, when considering cumulative impact, the ES in support of that application considered sites within 1.5km of the site. The planning history of the site and surroundings indicated that previous opencast activity and waste disposal activities largely took place more than 16 years ago and the land is now restored, and further time has now passed. The Stony Heap site worked between 2006 – 2007 some 400m to the south east of the existing Bradley site, has now been restored and had no direct impact upon communities in the immediate vicinity of the

current application site when it was operational. Further distant the Park Wall North site near Tow Law located some 14km from the application site is in aftercare and undergoing final planting drainage works. It is therefore difficult to sustain a case against the proposals in terms of the cumulative effects of those previous sites significant enough to conflict with MLP Policy M45.

- 479 The proposed extension would be operational alongside the proposed extension and there would be overlap with working and restoration activities. However, these would be time limited and both areas would be worked and restored by August 2021. In addition, appropriate planning conditions would seek to control the environmental impacts of working and restoration to acceptable levels and where applicable in line with Government guidance. The impacts of working the existing site and proposed extension have been considered within this report and are considered to be acceptable.
- 480 In terms of non-mineral activities in the area historic landfill sites records indicated that there were previous waste disposal operations some 550m to the south west (High Brooms) and some 750m (Brooms Dene) from the proposed extension site. Again, these sites are closed and restored. There are no consented major housing or commercial schemes within 1.5km of the site. The Submission Policies Map for the emerging County Durham Plan has also been consulted with respect to any relevant proposed allocations. There is a housing allocation at Laurel Drive, south west of Leadgate for 290 units, approximately 1.4 km from the site. Given that the County Durham Plan is not now expected to be adopted until later this year, and subsequent time for outline and reserved matters planning applications, it can be assumed that the site would not commence development until the latter stages of the operation of Bradley at the earliest. There is no intervisibility between the sites, and the proposed extension proposals do not involve an increase in the currently consented maximum HGV movements therefore potential cumulative highways impacts have been scoped out. There is a relatively small 1.6ha proposed employment land allocation at Leadgate Industrial Estate, approximately 1.3 km from the site. This is scoped out of the cumulative impact assessment due to the likely timescales for development proceeding, distance from Bradley and the scale of the proposals. It is considered that the possible cumulative impact upon the proposed non-mineral development in the emerging County Durham Plan would not be unacceptable and would not conflict with MLP Policy M45.
- 481 As noted by objectors to the applications woodland clearance has taken place in the vicinity of the existing and proposed sites since the Bradley site became operational in 2018. Forestry works have taken place in woodland at Pontop Springpit Wood around High Stables by a neighbouring landowner, and in woodland within Billingside Plantation to the south west of the existing site and adjacent to the proposed extension site by Scottish Woodland. Both were subject to a licence from the Forestry Commission and includes provision for replanting. Neither were connected to the Bradley surface coal mine and is a matter between the Forestry Commission and the person who undertook the tree removal. There are no planning restrictions on the removal of these trees in association with the existing Bradley permission.
- 482 Within the ES regard has been given to cumulative impact within the assessments for noise, air quality, biodiversity interests and cultural heritage and design and conservation. In relation to vehicle movements the ES states that this have been scoped out of cumulative assessment as the proposed extension proposals do not involve an increase in the currently consented maximum HGV movements. With regards to biodiversity, consideration of cumulative effects considered the potential

effects associated with other relevant development schemes in the vicinity. The assessment concludes that no cumulative impacts are expected that affect ecology. In terms of cultural heritage, it is concluded that there are no cumulative effects relating to the archaeological resource on the site, as the archaeological resource is isolated from any other schemes. Nor are there cumulative effects relating to the setting of designated heritage assets within the vicinity of the site, as the development would have no effect on the settings of these assets. In terms of noise, the noise assessment advises that there are no other industrial or mineral operations sufficiently close to the proposed extension so cumulative noise impacts would not occur at existing sensitive receptors. Operations from the existing Bradley site have been included in the assessment and considers that therefore should not be considered as additional cumulative noise. The air quality assessment concludes that in terms of cumulative impact there are no other significant dust sources in the vicinity of the proposed extension site which could cause adverse dust effects.

- 483 The variation of conditions in relation to the existing site would not extend the impacts previously considered and considered to be acceptable at Appeal. In terms of the variation application the proposals seek to amend the working method to facilitate the proposed extension. There would be a period where the existing site and the proposed site would be worked concurrently. These works would involve soil stripping and overburden extraction in the extension site and final overburden and soil placement within the existing site, but this would be for a period of several months and would be similar in some respects to the two working areas within the existing site. The period for extraction in the existing site would not be increased and restoration for the entire site would not extend the timescales for extraction of permitted reserves.
- 484 In terms of cumulative impact, the Planning Inspector advised that it does not necessarily follow that allowing the appeal would provide a 'foot in the door' for future proposals. The Inspector noted that, firstly, much of the concern around future proposals related to the potential for cumulative adverse effects. The Inspector noted that Paragraph 144 of the NPPF (2012) (replaced by Paragraph 205 of the NPPF (2019)) specifically expects the impacts from multiple sites in a locality to be considered. If a cumulative effect was identified, it would have to be taken into account. Secondly, each proposal must be considered on its own merits in relation to all other relevant effects, including on landscape. If another proposal was to come forward, it would have to be shown to be acceptable in its own right, as had been the case with the Appeal proposal, notwithstanding that earlier proposals have been refused and dismissed on appeal. Cumulative impact resulting from the prospect of further future proposals to undertake extraction in the area has been raised by objectors to the current applications, but is a matter which cannot be considered, as to do so would not accord with either the NPPF (2019) or MLP Policy M45.
- 485 The Planning Inspector's view on future working remains the case for any further proposals for surface mining now or in the future; they must be considered on their own merits in relation to all other relevant effects and have to be shown to be acceptable in their own right. With the extension proposal, this is an extension to an existing operational site which would use the existing site infrastructure; indeed, the recovery of the coal now would obviate the possibility of a future application in the locality. It is understandable that there are concerns by objectors that approval of the extension application would establish a precedent for further surface mining in the locality but it is considered that this would not be the case and the granting of this extension would not be a significant factor favouring any future coal extraction proposals in the area.

486 The combined effects of working any large-scale excavation may in itself also have some cumulative impacts on environmental and living conditions and the perceptions of the those within the vicinity of the area. The impacts of working and restoration of the site have been assessed within this report, informed by individual technical assessments contained in the ES. Whilst these have some weight, it is considered that sufficient information has been provided in this instance, to show that the effects can be effectively mitigated and would not conflict to MLP Policy M45 concerning cumulative effects and Parts 15 and 17 of the NPPF (2019). MLP Policy M45 is not time limited and is consistent with the NPPF (2019) which requires consideration of the multiple impacts from individual sites and/or from a number of sites in a locality. Policy M45 can carry full weight in the decision-making process.

Alternatives

487 As mineral reserves can only be worked where they are found the consideration of alternative development options has largely involved looking at different ways of working the site rather than possible locations or sources of energy supply. Such an approach is considered appropriate and consistent with how the Council has considered other applications for mineral development in the past.

488 The submitted ES acknowledges that alternative coal bearing sites in the UK and County Durham exist but considers that the exceptional quality of the mineral reserve at the existing site, the opportunity to recover additional mineral reserves in the most efficient manner and opportunity to prevent the sterilisation of the potential reserves have led to the exploration of options for an appropriate extension. The ES considers that it is logical that maximising recovery of mineral resources from the Bradley site area should be prioritised whilst the opportunity exists over consideration of new sites.

489 As per the requirements of the EIA Regulations alternative sites and extension options have been considered and discounted by the applicant. Consideration has been given to land to the north and east of the existing site, noting that the land immediately to the east, between the site and Douglas Terrace, had been included in the original application area but was removed due to proximity to residential properties. This area, along with an area to the north, is included with the existing and proposed S106 planning obligation seeking to prevent any future working in these areas. In addition, an area of untouched plantation to the north west and an area of agricultural land in the south eastern part of the proposed extension site are proposed to be included in such a restriction to future working. The S106 planning obligation does not cover the entirety of the eastern site boundary, and the working of an extension to the site boundary to the north east of Douglas Terrace would not be subject to legal restriction and would be technically feasible. The applicant considers this option is not appropriate, however, due to local sensitivity following the history of the UK Coal proposals in close proximity to Douglas Terrace. In addition, it is recognised that there would also be environmental constraints associated with the working of minerals on this land including the presence of ancient woodland and closer proximity to the Pikewell Burn, where tufa deposits are known to occur.

490 Through the ES consideration has been given to a northern extension but as the land is bounded by the steep wooded valley of the Pont Burn this restricts extension options. In addition, the woodland is also covered by the S106 planning obligation as 'Silvicultural Land' which requires to be managed for the purpose of regeneration of native species woodland for a period of 15 years. To the south of the existing Bradley site is bounded by the A692 along which lie sensitive premises including Brooms Farm and the Church of Our Lady and St Joseph a southern extension in

this area has been considered but discounted as not being a viable option for an extension that could safely utilise the Bradley site compound and stocking area. It has also been partially worked previously as part of the 1953 Billingside site.

- 491 The ES also considers the option of 'do nothing' and not pursue an extension but has been discounted on the basis that it would likely lead to the sterilisation of important mineral reserves, as there would be unlikely to be future opportunity to recover the minerals at Bradley West as a standalone site. The applicant considers that this would lead to the loss of a potential supply of exceptional quality, indigenously produced coal and fireclay regarded as an essential raw material in processes such as steel and cement manufacture in the UK leading to an increase in imports and uncertainties associated with the environmental effects of mining in other countries generating significantly higher transport emissions than the use of indigenous coal resources, transported predominately by rail, as is proposed at the proposed extension. The ES also notes that imported coal also carries uncertainties in terms of quality and regularity of supply.
- 492 Fireclay is an important resource for the UK brickmaking industry due to its combination of good technical qualities and its cream/buff firing characteristics. Primarily however, fireclay remains only viable to extract in association with a good quality coal reserve. The application states that the extension proposal provides an important opportunity to recover fireclay, particularly with fewer coal sites proceeding nationally. This would be the case should the clay actually be used and not discarded as has happened at a number of sites within the County as ultimately it was not found to be suitable for brickmaking purposes.
- 493 The site design has been based on the continuity of the coal seams that are currently being worked in Area B of the existing site and which run in a south westerly direction. The design has altered during the consideration of the proposal with the far south east of the site being discounted as a result of topography and being the most visually prominent part of the site as well as having a higher working ratio with a greater volume of overburden to coal. In addition, the route of the former South Medomsley Branch Railway runs through this part of the site providing a logical boundary and enabling preservation of the heritage asset in situ. As a result of ecological appraisals, the Billingside Plantation was found to be of varying structural and ecological value and the western area was assessed as being likely to qualify as Habitat of Principal Importance (HPI) and BAP habitat. The site boundary was, therefore, retracted south around the edge of the plantation at this point. This ensured the retention of woodland to provide visual screening from Pont Lane and to preserve maturity in the landscape. Furthermore, discussions with Council officers highlighted the importance of retaining trees to reduce the impact of the proposed development on Public Footpath No. 28 (Consett Parish) as well as agreeing an appropriate level of tree retention in the area.
- 494 In terms of alternatives, the ES concludes that the site design has been informed by detailed consideration of environmental constraints. The proposed working method would enable the efficient recovery of important mineral reserves whilst aiming to minimise environmental effects, in particular maintaining important characteristics of the existing landscape and minimising ecological impact. It is stated that the site can be worked in accordance with operational constraints. The potential impacts of the proposals are assessed within this report and are found to be acceptable.
- 495 The existing site has given consideration to working both larger and smaller areas, modifying the timescale of operations, alternative access points, and changes to the location of overburden mounds and working direction. However, a combination of

environmental, geological and economic reasons led to various alternatives being discounted in favour of the proposed scheme. Under the existing S106 planning obligation for no future opencast coal mining to take place on land owned by UK Coal to the north east (adjacent to and including the new ponds) and land in front of Douglas Terrace (13.42ha in total) although it was considered that this was a small area in comparison to UK Coal's land holding in the Derwent Valley. This Agreement applies to any successors in title. The site had been regarded as a 'once and for all development'. However, the current proposal should be assessed on its merits. Through a new S106 planning obligation is it proposed that the areas previously identified as restricted areas would continue to be secured as such with the addition of two areas within the proposed extension site application boundary which would not be worked as part of the proposals would be included in the proposed planning obligation. These being the area of untouched plantation to the north west (3.6 ha) and an area of agricultural land in the south eastern part of the extension site (1.41 ha).

- 496 The NPPF (2019) does not address exploration outside of site boundaries. However, MLP Policy M17 is permissive to mineral exploration and in accordance with the spirit of the NPPF (2019) which seeks the steady and adequate supply of minerals. On this basis the Policy is considered to be consistent with the NPPF (2019). The Policy is not time limited or out of date and can be afforded full weight in the decision making process. The proposed developments would not be in conflict with MLP Policy M17 as the applicant has sought to justify the proposed extent of mineral extraction and set out the limitations of working outside of the proposed extension area.

Legal Agreements

- 497 Under the provisions of Section 106 of the Town and Country Planning Act 1990 (as amended) the applicant is proposing a planning obligation for the existing site and proposed extension. As the proposed obligation would replace that for the existing site, it is an adaptation of that in place for the existing site but updated to reflect the current status of the site as well as including provisions relating to the proposed extension and changes as result of it should planning permission be granted.
- 498 The proposed obligation would include provision of continuation of the existing site liaison committee and a community fund of a combined sum of up to £100,000 for the existing site and the proposed extension. This being an additional sum of £48,000 in respect of the extension alone being paid over three instalments. The existing fund is 10p for each tonne of coal transported from the site for the approximately 533,750 tonnes coal included the existing site and it is proposed that this would still be the case. As per the existing arrangement the money would be administered by the County Durham Foundation in conjunction with the Bradley Liaison Committee's funding group. In addition, the planning permission for the existing site (the Appeal decision) and the existing planning obligations associated with it would be rendered inoperative.
- 499 The obligation would continue to restrict future working of 13.42ha of land in the applicant's control to the south west of Douglas Terrace and to the north of the site. In addition, two areas within the proposed extension site application boundary which would not be worked as part of the proposals would be included in the proposed planning obligation. These being the area of untouched plantation to the north west and an area of agricultural land in the south eastern part of the extension site. In addition, the obligation would include provision of a financial guarantee, requirements to ensure the continued provision of a site liaison committee and to

operate the sites in accordance with the approved Training and Employment Plan that seeks, amongst other matters to use reasonable endeavours to ensure that local County Durham residents and businesses benefit directly from the opportunities arising from the development. It would also specify the approved haulage route, the dedication of new footpaths, an undertaking not to fell newly planted woodland areas for a period of 40 years and to manage a specific area of land for the purpose of regeneration of native species woodland for 15 years from the commencement of the development of the existing site.

- 500 The S106 planning obligation for the existing site required the completion of protected right-hand turn works to the site; as these have been completed, this is no longer required. Provision for the transfer of the gifted land is retained and extended to include an additional area within the proposed extension. The current S106 planning obligation includes a requirement for Management Plan and a future agreement under Section 39 of the Wildlife and Countryside Act 1981. The requirement for the latter is no longer required as the applicant has agreed to enter into a further Section 39 (S39) agreement at the same time as the new S106 obligation.
- 501 In association with the existing site an agreement under Section 39 of the Wildlife and Countryside Act 1981 is in place to cover the 10 year management of specific areas of ecological interest after the cessation of the statutory 5 year aftercare period. As requested by the EA, a Habitat Management Plan would be required through condition. The implementation of the Habitat Management Plan would be secured through the S39 agreement during the extended management period following the statutory aftercare period. There is a Habitat Management Plan currently in place for the existing site the proposed Plan would also cover the extension area. The Habitat Management Plan would cover areas to be restored to species rich and acidic grassland (excluding one area), water bodies and marsh land, woodland, scrub, hedgerows and trees on site, running water, manage a specific area of land for the purpose of regeneration of native species woodland and preserved areas in and around the former SNCI. The applicant proposes a new S39 agreement to encompass the proposed extension area and will cover those areas to be restored to woodland and woodland edge and proposed/reinstated marshy areas.
- 502 An objector has referred to situations in Scotland where finance was not available for restoration purposes. It has been the case that 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. However, surface coal mines in the County have been accompanied by restoration bonds or financial guarantees. The NPPF (2019) in Paragraph 205(e) advises that in considering proposals for mineral extraction Mineral Planning Authorities should provide for restoration and aftercare at the earliest opportunity, to be carried out to high environmental standards, through the application of appropriate conditions. Bonds or other financial guarantees to underpin planning conditions should only be sought in exceptional circumstances.
- 503 The PPG provides further 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 PPG advises

that Mineral planning authorities should address any concerns about the funding of site restoration principally through appropriately worded planning conditions.

- 504 The planning obligation under the provisions of Section 106 of the Town and Country Planning Act 1990 (as amended) for the existing site requires a guaranteed sum or cash bond to provide confidence that the restoration scheme would be completed. The monies were to increase in stages from £1 million at Phase 1 to £3.65 million at Phase 5, stepping down again to £750,000 at Phase 8, reaching 0 by the end of the 15 year aftercare period, in order to ensure sufficient funds would be available to complete the restoration at any phase of the development. The S106 specifies that the guarantee sum shall be guaranteed by means of a bond or other institutionally acceptable form of security from a reputable finance house acceptable to the Council, or a cash bond. A Performance Guarantee was secured in May 2018 covering the life of the site and the subsequent aftercare phases specified in the obligation.
- 505 As part of the current applications the applicant is proposing a single cash deposit to cover the existing site and the proposed extension area. The proposed cash deposit would replace the existing performance guarantee but flexible wording in the new planning obligation would allow the cash deposit to be replaced by an alternative bond in the future, should the applicant so wish. The additional liability in terms of the extension would be £315,053 and combined with the maximum liability for the existing site (£3.65 million) the overall figure would be £3,965,053 and with a 5% contingency (£198,253) the maximum liability figure would be £4,163,306. The gifted land contribution of £150,000 with an additional £20,000 for the additional gifted land management contribution would be included within the cash deposit amount (as it is in the performance guarantee for the existing site). As a result, the new combined limit of liability would be £4,649,972 and this amount would be secured upfront. Like with the existing bond the monies would reduce, the full amount being at Phase 5, stepping down to £1,247,082 at Phase 8, reaching 0 by the end of the 15 year aftercare period.
- 506 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 (2019) and recognising the likely concerns of members of the public and the Committee it is considered that the proposal is appropriate. The applicant has highlighted his experience and track record.
- 507 Paragraph 54 of the NPPF (2019) states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. None of the matters which are proposed to be covered by the S106 could be addressed by condition,
- 508 Save for the provision of a liaison committee and community fund, adherence to a Training Employment Plan and the rendering inoperative of the current planning permission for the existing site, it is considered that the proposed planning obligations are necessary to make the development acceptable, and pass the necessary CIL Regulations tests set out above, Accordingly weight can be afforded to them in the planning balance assessment carried out.
- 509 Objectors have commented that the gifted land and long-term financial liability would be passed to a charity or local authority. Like with the current S106 the proposed

S106 planning obligation includes provision for the transfer of the gifted land and requires a land management contribution of £150,000 which includes providing for its management over a 10 year period. In respect of the additional gifted land management contribution of £20,000 is proposed. The organisation who takes on the gifted land would be well aware of the terms of the transfer of the land and would have the opportunity to invest the monies in such a way which would be beneficial in the longer term. In addition, the land would be an asset.

Other matters

- 510 An active gas main in the control of Northern Gas Networks is located within the northern part of the existing site. The closest point of the excavation in the existing site was 26m from the gas main. Northern Gas Networks did not object to the existing development and through condition details of a crossing pad were agreed. Northern Gas Networks initially objected to the variation of conditions application on the grounds that the protection given to its plant may be diminished by the works intended to be carried out. No works additional to those already approved by the Appeal decision are proposed and following correspondence with the applicant Northern Gas Networks has withdrawn its objection. The active pipeline is not within the proposed extension site and National Gas Networks has advised that it does not object to those proposals.
- 511 The Secretary of State has not yet issued a decision in respect of an undetermined request to revoke the existing Appeal decision for the Bradley site. Objectors consider that the Bradley applications should not be determined until that decision is made. Although appreciating the views of the objectors it would be unreasonable to delay the determination of the applications for an unknown period of time when there has been no prohibition by Government on determining the applications and they are readily capable of assessment against current policy. Also worthy of note is the fact that the revocation request was made in July 2018 and in the meantime there has been no restriction to working of the site which is now approximately two thirds through its working life.
- 512 The proposal has generated much public interest and comment. The views received have been documented and the planning related issues considered in the main body of the report.
- 513 The overwhelming majority of public representations received in respect of the applications are opposed to the proposals. These views are well articulated and substantially made on material planning grounds. However, some matters such as the need for coal and climate change is part of a wider debate and is not taken into account under national planning guidance which is primarily focussed on the local impacts of proposals.
- 514 On the previous application for the existing Bradley site concerns were raised about the detrimental impact of the development upon tourism and this has been raised again. Although mineral related development can have negative connotations when viewed from this perspective it is not considered that the proposal would affect the wider objective or specific initiatives to promote the tourist potential of the County. The application site is located alongside the A692, part of the strategic road network used by HGVs on a regular basis. Any road impacts including delays for people travelling this road are unlikely to be a deciding factor on most decisions of whether or not to visit the area or other parts of County Durham. The public rights of way network would be disrupted over the life of the site as would a local series of heritage walks. This would affect informal recreation and perceptions of it, but alternative

routes would be provided, and heritage features would be included within the package of reinstated and proposed footpaths. In terms of the current applications concerns have been raised regarding tourism. The conclusions of the Planning Inspector are not disputed and are considered to apply to the current applications.

- 515 The Planning Inspector in her Appeal decision noted that local businesses with particular concerns were a nearby pub, a B&B located in Douglas Terrace and an outdoor activities company which made use of land in the Pont valley. Given the nature of these businesses, The Inspector considered that they would be vulnerable to some reduction in demand for their services as a result of the adverse visual effects of the proposal in the short term. In terms of the current applications similar concerns have been raised in respect of the Jolly Drivers Public House. The conclusions of the Planning Inspector are not disputed and are considered to apply to the current applications. Given the Covid-19 social distancing measures, such businesses are not currently operating as they previously were and are unlikely to be for some time therefore any potential impacts are likely to be reduced.
- 516 The Appeal decision notes that there were also more general concerns that the nature of the proposal, being concerned with coal which was so strongly associated with the area's past, would run contrary to measures aimed at economic regeneration and building a new economy for the future, for example reducing potential investment from film and TV companies. However, in the absence of clear evidence of such an effect, for example by comparison with other areas where surface mining has occurred, the Inspector considered that such concerns lack an objective basis. The Inspector noted that it was also suggested that the potential for surface coal mining had led to blight and caused environmental deterioration, with a particular effect on residents. In the Appeal decision the Inspector noted that at the time of the site inspection many properties in the area showed evidence of recent investment and, in fact, works were in progress on others so that the Inspector was not convinced that any adverse effect could be identified in this respect. In terms of the current applications similar concerns have been raised. The conclusions of the Planning Inspector are not disputed and are considered to apply to the current applications.
- 517 Objectors have referred to non-compliance with the existing Section 106 planning obligation and the Appeal decision conditions. There is a non-compliance in respect of the existing S106 planning obligation the applicant was required to create a protected right hand turn onto the site. However, this was through a S106 planning obligation which does not directly affect planning permission. Under the terms of the planning permission, the applicant was able to extract coal but could not take it off the site until the work had been carried out. As coal was not be being exported from the site and the applicant was well on with completing the required roadworks, it was considered to not be appropriate or an efficient use of resources to take enforcement action.
- 518 In addition to monitoring compliance with planning conditions, the EA would visit the site to monitor permits and consents issued by it to a frequency it considered appropriate. There would continue to be visits by Environmental Health and Consumer Protection officers in relation to any amended permit under the Environmental Permitting (England And Wales) Regulations 2016 covering the handling of the coal. Visits by Durham Constabulary would be made if it were considered appropriate. Visits would take place by the Inspector of Mines and Quarries in relation to its areas of control during the life of the site.

- 519 There is also a statutory requirement for Councils to monitor mineral and waste sites. If planning permission were granted, then like with the current site it would be regularly monitored for compliance with the requirements of the planning permission. The number of scheduled (chargeable) visits per year is agreed in advance with a site operator but other non-scheduled visits do also take place. If non-compliance is identified, then the Council would consider appropriate action. Complaints received in respect of the existing site are referred to in the residential amenity section above.
- 520 As a result of Covid-19 Council officers had been unable to undertake site visits, this position has now changed and a site visit has taken place in accordance with social distancing guidance, and further visits will be carried out as the restrictions begin to ease. The site has continued to work during Covid-19 and the Council does not have any powers to enforce sites to close down as this is a decision for the individual operators.
- 521 The applicant has been asked if the applications as submitted are impacted by Covid-19. The applicant has advised that primary industries such as mineral extraction are considered an essential sector by Government during the Covid-19 outbreak. Banks is able to continue operating its mining sites safely and efficiently. Its new safety protocols have received positive feedback from the Health & Safety Executive and Quarry Inspector for the North East; with measures endorsed and its approach being used as an example for other businesses. At a time when severe economic impacts are being felt across the country and region, the applicant is continuing to provide employment, training and significant local economic benefits. The applicant's coal is providing a reliable resource to support UK industry when international trade is more challenging, and security of supply is more important than ever; there is increased demand for the product.
- 522 Tata Steel, the primary customer for Bradley, is continuing to operate and in a letter of support to the Dewley Hill application has stated that it is playing its part in the national effort to support the NHS and the national economy (e.g. producing steel tubes that are being used to make new NHS beds, producing cans for tinned goods, as well the production of other essential products). Furthermore, it is stated that a vital part of its ability to continue producing steel is having readily available raw materials, such as coal which is an essential component in the steelmaking process. In relation to decision making on the proposed extension, the applicant notes that Government guidance has stressed the importance of local authorities continuing to provide the best service possible and prioritising decision making, especially where this will support the local economy. This is directly relevant to the proposed extension to the existing Bradley site where a timely decision is vital to avoid adverse economic impacts.

Conclusion of the environmental acceptability of the proposals

- 523 The environmental impacts of the proposed development in terms of residential amenity (including noise, air quality and dust, blasting and vibration); landscape and visual impact; biodiversity interests; cultural heritage; recreational amenity; agricultural land quality and use; hydrology and hydrogeology; access and traffic; contamination; geotechnical and stability; mine gas; climate change and CO₂/greenhouse gas emissions; cumulative impact and future development, and alternatives have been considered.
- 524 Having regard to the Appeal decision in relation to the existing site and the three main issues the Planning Inspector identified, this would equate to the second issue, whether the proposal could be made environmentally acceptable by way of planning

conditions or obligations. In relation to dust, noise and blasting, hydrology and hydrogeology, traffic and the agricultural value of the land, the Inspector was satisfied that the mitigation measures proposed would be sufficient to ensure that the proposal was environmentally acceptable. Despite the mitigation and enhancement measures within the proposal, the Inspector considered there would remain some negative effects in relation to landscape, outlook, ecology and the local economy.

- 525 The Planning Inspector stated that in considering landscape and outlook, although having regard to the progressive approach to restoration landscape enhancement measures she considered that having regard to the degree of visual harm in the short to medium term and the continuing adverse effect on landscape character, overall the proposal would result in a moderate negative effect. Also, whilst the operation would be screened from view and then restored, the Inspector considered that this would not be sufficient to entirely outweigh the substantial, short-medium term adverse effects on the amenity of occupants of nearby properties, bearing in mind the high quality of the existing outlook and the strong connection to the locality demonstrated by local residents. Furthermore, the proposal would have a substantial adverse effect on the nature conservation value of the site in the short term. Extensive measures would be required to address the ecological consequences, particularly in order to provide for the reinstatement of lost habitats and to make the necessary provision for protected species. The Inspector accepted that the new and complementary habitats, if delivered as intended, would provide net gains for biodiversity but this would not be until sometime later and would only be brought about after a period of considerable harm. Notwithstanding the various enhancements within the restoration scheme therefore, the Inspector considered that the proposal as a whole would result in a moderate net disbenefit in ecological terms. Local businesses close to the site would also experience some adverse effect, in the short term.
- 526 As such the Inspector concluded that the proposal would fail to satisfy part (a) of MLP Policy M7 and that it followed there would be some conflict with MLP Policies M23, M24 and M36. The Inspector therefore concluded that the proposed development could not be made environmentally acceptable. The changes proposed through the S73 variation application themselves would not create any additional impacts than previously considered.
- 527 Although the Planning Inspector concluded in respect of the existing Bradley site that the proposal was not environmentally acceptable, it is for the County Planning Committee as decision maker to come to its own conclusion in relation the current planning applications. Despite the view of the Planning Inspector officers consider that the proposals can be made environmentally acceptable by planning conditions or obligations in the case of both planning applications.
- 528 The environmental impacts of the proposed development in terms of residential amenity (including noise, air quality and dust, blasting and vibration); landscape and visual impact; biodiversity interests; cultural heritage; recreational amenity; agricultural land quality and use; hydrology and hydrogeology; access and traffic; contamination; geotechnical and stability; mine gas; climate change and CO₂/greenhouse gas emissions; cumulative impact and future development and alternatives have been considered. It is concluded that although there may be some impact upon residential amenity in terms of noise, dust and blasting with appropriately worded conditions these impacts would be acceptable. In terms of landscape impact there would be an impact during working of the site and until restoration has been undertaken and for a period thereafter, but this would be time limited. The restoration to agricultural land would not impact too much on the

landscape and the removal of trees within the plantation are already taking place given it is commercial woodland. The restoration proposals would ensure replanting takes place and the land reinstated to agriculture with appropriate hedgerow field boundaries. The gifted land associated with the existing site and proposed extension would secure ecological benefits for the longer term. Overall, it is considered that the proposal would be environmentally acceptable with the application of appropriate planning conditions and obligations and would accord with MLP Policy M7(a) and Paragraph 211(a) of the NPPF (2019).

Provision of national, local and community benefits

- 529 Officers consider the proposed development meets the requirements of MLP Policy M7(a) and Paragraph 211(a) of the NPPF (2019). Having regard to MLP Policy M7(b) and Paragraph 211(b) of the NPPF (2019), the national, local and community benefits are assessed in this section of the report for completeness and in the event that the County Planning Committee takes a different view from officers on the environmental acceptability of the proposed development.
- 530 MLP Policy M7 states that within the exposed coalfield area there will be a presumption against proposals for the opencast mining of coal and/or fireclay unless they are environmentally acceptable, or can be made so by planning conditions or obligations, or they provide local or community benefits which clearly outweigh the adverse impacts of the proposal. To overcome the presumption against, MLP Policy M7 requires consideration to be given if they provide local or community benefits which clearly outweigh the adverse impacts of the proposal. In assessing such benefits particular regard will be had to: the contribution of the proposal towards the comprehensive reclamation of areas of derelict or contaminated land; the avoidance of sterilisation of mineral resources in advance of development which is either subject to a planning permission or allocated in an adopted development plan (in accordance with Policy M15); their contribution (or otherwise) to the maintenance of high and stable levels of economic growth and employment, and the need for supplies of fireclay to serve local brickworks. Paragraph 211(b) of the NPPF (2019) states that if it is not environmentally acceptable, then it provides national, local or community benefits which clearly outweigh its likely impacts (taking all relevant matters into account, including any residual environmental impacts).
- 531 Although there are similarities between MLP Policy M7(b) and the second test of Paragraph 211 of the NPPF (2019) Policy M7 does not include reference to national benefits. In addition, Policy M7 highlights benefits arising from the reclamation of derelict or contaminated land, avoiding sterilisation of mineral resources, the contribution to high and stable levels of economic growth and employment, and the need for fireclay for local brickworks. These criteria are not specified in Paragraph 211 of the NPPF (2019) which is silent on the range of benefits which should be considered. As a result, MLP Policy M7 is not considered to be consistent with the NPPF (2019) and can only be afforded limited weight in decision making process.
- 532 As previously stated, Paragraph 205 (2019) provides guidance to Mineral Planning Authorities when determining planning applications stating that great weight should be given to the benefits of minerals extraction, including to the economy. However, it should be noted that footnote 65 (included in Paragraph 205) states that except in relation to extraction of coal, where the policy at Paragraph 211 of the NPPF (2019) applies.
- 533 Prior to assessing the national, local and community benefits associated with the proposals regard should be had to the issues considered by the Planning Inspector

when considering the existing site and to the benefits of the proposed extension claimed by the applicant.

- 534 Paragraph 211 of the NPPF (2019) states that if it is not environmentally acceptable, then it provides national, local or community benefits which clearly outweigh its likely impacts (taking all relevant matters into account, including any residual environmental impacts). Although the Planning Inspector came to their own decision in respect of the existing Bradley site, it is for the County Planning Committee as decision maker to come to its own conclusion in relation the current planning applications.

The Inspector's considerations on provision of national, local and community benefits – the existing site

- 535 Having regard to the Appeal decision in relation to the existing site and the three main issues the Planning Inspector identified, this would equate to the third issue, if the proposal could not be made environmentally acceptable by such means, whether it would provide national, local or community benefits which would clearly outweigh the remaining adverse impacts. The Inspector considered supply and demand, environmental benefits of indigenous coal, employment and economic impacts, unstable land, ecological benefits and community liaison. As previously stated, the Appeal decision was considered against the 2012 version of the NPPF. The current applications are assessed and determined against the current 2019 version.
- 536 In terms of supply and demand the Inspector considered that the projected supply of coal should be taken to represent a national benefit carrying great weight, in accordance with its status within NPPF as a mineral resource of local and national importance and in line with projections of the Country's continuing reliance on fossil fuels. In considering environmental benefits of indigenous coal the Inspector concluded that the provision of indigenous coal would represent a reliable source of supply, albeit of a relatively small proportion of overall demand and over a comparatively short period of time. This would be a national benefit carrying modest weight.
- 537 With regard to carbon emissions, the Inspector considered that it stood to reason that a fuel source transported across a shorter distance would produce lower transport-related CO₂ emissions. The Inspector considered that the extent of this benefit, as quantified within an Updated ES, appeared reasonable. However, in the context of the part which unabated coal-fired powered stations play in the generation of carbon emissions, the Inspector considered this represented a very modest national benefit. The Inspector did not agree with objectors that the consequences of emissions from coal-fired powered stations on climate change, along with the costs of measures to combat climate change, should be taken into account. In view of the series of assumptions and estimates such a process would entail, very little reliance could be placed on any figure ultimately arrived at, so that it would be unlikely to have a material effect on the outcome of the appeal.
- 538 In terms of employment the Planning Inspector considered that the proposal would deliver a modest local benefit in relation to employment noting that the site would support up to 38 jobs directly and the planning obligation set out a scheme aimed at providing local training and employment opportunities. Through displacing imports, there would be some modest benefit to the balance of payments, in proportion to the amount of coal supplied.

- 539 With unstable land, the Inspector acknowledged that there had been instances where land within the Appeal site had been fenced off as unsafe due to the presence of old mine workings. The fact that the restored site would no longer be subject to instability issues did not represent a further benefit, over and above restoration.
- 540 Ecological benefits were also considered by the Inspector, though she took the view that measures to enhance the habitats within the site had already been taken into account in assessing environmental acceptability. However, the arrangements for the gifted land, the extended period of aftercare and the management of adjacent woodland are all separate from the restoration scheme itself so that they fall to be considered at this stage. The gifted land of some 21ha in area would be transferred after restoration works were completed along with monies to cover maintenance costs. The Inspector considered that the focus of a nature reserve would be ecological rather than recreational, so that the benefit would be of local rather than community value. However, the gifted land would be a permanent arrangement so that this benefit would endure long after the adverse impacts of the proposal had faded. In conjunction with the other elements of the Habitat Management Plan, this represents a local benefit of considerable value.
- 541 Community liaison (a liaison group and community fund) was also considered by the Inspector. The proposed levy of 10p per tonne would provide a fund of about £52,000 and the Inspector considered that there would be considerable scope for such funds to be deployed amongst groups within the local community. The Inspector considered that these represented modest local benefits of the scheme.
- 542 The Inspector noted that the planning obligation also provided an undertaking not to allow the winning or working of minerals within those areas identified as Restricted Land. The largest such area being closest to Douglas Terrace, which was formerly part of the proposed surface mining area. The Inspector considered that this aspect had already been taken into account when assessing the environmental acceptability of the proposal so did not represent an additional benefit to be weighed at this stage.
- 543 When considering whether the benefits would clearly outweigh the remaining adverse impacts the Planning Inspector concluded that the local and community benefits associated with the proposal would comprise a modest contribution to employment opportunities, a considerable ecological benefit and modest benefits with regard to community liaison and funds for community groups. Although the Inspector considered the balance to be a fine one, she was not persuaded they would be sufficient to clearly outweigh the residual adverse impacts identified. As such, the Inspector considered that the proposal failed to satisfy part (b) of MLP policy M7 so that the negative presumption applies. This, together with the conflicts with other MLP policies, meant that the proposal was contrary to the development plan as a whole. However, Paragraph 149 of the NPPF (2012) required that national as well as local and community benefits should be considered. Once great weight is accorded to the benefits of mineral extraction, along with modest weight in relation to security of supply, reduced transport-related carbon emissions and contribution to the balance of payments, the Inspector concluded that these would be sufficient, in her judgement, to shift the balance so that the benefits would clearly outweigh the residual adverse impacts identified. In this respect therefore, the proposal would satisfy Paragraph 149 of the NPPF (2012) and Policy 57 of the emerging local plan (the Pre-Submission Draft Local Plan (October 2013)).

544 Although the Planning Inspector concluded favourably in respect of the existing Bradley site, it is for the County Planning Committee as decision maker to come to its own conclusion in relation the current planning applications.

Officer considerations on provision of national, local and community benefits – the current applications

545 The NPPF states that when determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy except in relation to the extraction of coal, where the policy at Paragraph 211 of the NPPF (2019) applies. However, national, local and community benefits inevitably include benefits to the economy. 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.

546 In terms of national, local and community benefits the site would contribute to economic growth through the supply of domestically produced coal for use in the steel making industry or other UK industrial processes, provide direct and indirect employment for the life of the site, generate direct and indirect expenditure. The supply of fireclay to meet the needs of brickworks is an economic benefit to the construction industry. Community benefits are proposed in the form of an increased financial sum and continuation of the site liaison committee. The site contains limited derelict or contaminated land and the proposal would not have significant reclamation benefits. Sterilisation in advance of other development is not applicable in this case, this being criterion listed in MLP Policy M7(b).

547 The coal from the site would contribute to the provision of domestically produced coal for use in the steel manufacturing industry reducing the demand for imports and enabling the production of steel. Although the applicant advises that the coal is for use in the steel industry, and support from Tata Steel has been received, the proposed planning obligation proposes that all the coal extracted from the remainder of the existing Bradley site and the Bradley West extension would be sold, transferred or gifted for use in UK industrial manufacturing processes and ancillary uses only. This would potentially widen the use of the coal to, for example, cement manufacture. Although disappointing that the use secured by the proposed S106 obligation does not entirely reflect the specific end use stated by the applicant in the supporting documentation, is the key issue of importance is that it not proposed that the coal is used for energy generation and this would be secured through planning obligation should planning permission be granted. The planning obligation would secure that coal from the existing site and the proposed extension would not be sold, transferred, gifted or otherwise alienated other than for use in UK industrial manufacturing processes together with ancillary industrial uses, including but not restricted to, heritage railways, food manufacture and agriculture.

548 There is still a requirement for coal use in industries such as steel manufacture 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. For the future, targets referred to above may encourage the development of alternatives. In the meantime, the requirement for coal will continue. In the case of the current proposals there is a requirement for the coal from the proposed extension site, as well as the existing site, and from other sites in the Country, for the foreseeable future. Other countries export coal at competitive prices, but this in itself raises concerns over security of supply. It is considered that the need for indigenous coal in the UK industrial manufacturing process is a national benefit carrying modest weight. Despite Covid-19 in April 2020 Tata Steel reaffirmed its desire for coal from

the Dewley Hill site, although not relating to the proposed Bradley extension the applicant considers that there continues to be a need for the coal. Officers are aware of reports in the press of Tata Steel reportedly seeking Government support following a number of its customers halting production as a result of Covid-19. Should this ultimately impact upon the use of coal from the proposed extension and existing site it would be unfortunate, but the coal could be used for other UK industrial uses. The proposed planning obligation would prevent its use for electricity generation as it is not one of the prescribed uses of the coal.

- 549 The particular advantages of the current proposals is that the coal is available almost immediately, the working period is short (a matter of months), the impact of the proposed extension is reduced due to the use of existing site infrastructure and the restoration proposals are able to tie in with and complement those approved for the existing site with limited additional environmental impact.
- 550 A supply of indigenous coal either from the two application sites, or from elsewhere in the UK, would generate less CO₂ emissions in relation to transportation. The greenhouse gas emissions assessment seeks to quantify this. Although not including fireclay transportation, the impact is clearly less than importation, a shorter transportation distance would reduce the emissions produced. This is considered to be a very modest national benefit given that given the short duration of the proposals and the longer-term UK targets for reducing greenhouse gas emissions.
- 551 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. 34 full time jobs for the duration of the scheme would be retained at the site, no new jobs would be created. Over half of the workers live within 10 miles of the site, many living in the communities directly adjacent to the site at Dipton and Leadgate. The site also directly supports the employment of transport staff, with 5 HGV drivers based full time at Bradley, bringing the total number of site staff to 39, and further drivers working between sites, along with staff at the Banks Group head office in Meadowfield, County Durham. Six apprentices have been taken on at the existing site since the commencement of operations. No additional jobs would be created as a result of the proposed extension but gaining consent for the extension would enable more skilled site jobs to be sustained for a longer period of time as well as continuing support for the Banks Mining business and its employees. Through legal agreement the applicant has committed to operate the sites in accordance with the approved Training and Employment Plan that seeks, amongst other matters to use reasonable endeavours to ensure that local County Durham residents and businesses benefit directly from the opportunities arising from the development.
- 552 Although the proposals would not provide long term job opportunities, or additional jobs, it would continue to make a contribution to the local economy for the remaining life of the existing and proposed site generating direct and indirect expenditure in a period of economic uncertainty and difficulty. Given restoration would be taking place in parallel with the additional proposed extraction in the extension area the number of people retained on site would be greater for a longer period given the different activities taking place. As extraction would be taking place for a longer period the use of hauliers and other goods and services would take place over a few more months than would be currently permitted. In terms of employment this is considered to be a modest local benefit during the period of working and aftercare.
- 553 The existing site and the proposed extension would also have indirect effects on the local economy arising from the purchase of goods and services by the workforce and

the Company. The payment of mineral rates, taxes, coal royalties and the contribution of the development to the balance of payments would also be economic implications of the proposed development. These are matters that are common to all mineral developments. Through displacing imports, there would be some modest benefit to the balance of payments, in proportion to the amount of coal supplied.

- 554 Should the extension application be approved business rates would be payable to the Council and any other potential charges for services delivered such as trade refuse, as is currently the case with existing site. It is only when the site is entered onto the rating list by the Valuation Office that an indication as to what the rates liability could be calculated. Under the business rates retention arrangements, the Council retains 50% of locally paid business rates which would, with other funding streams, be used to pay for services provided by the Council. Business rates would represent a very modest national and local benefit given it would only be payable over a short period of time.
- 555 There is also a statutory requirement for Councils to monitor mineral and waste sites and there is charge to a site operator associated with this. Currently, the fee for a scheduled visit to an active site or site in active aftercare is £397 and £132 in respect of an inactive site. This would be an extremely modest local benefit over the remaining life of the site and extended aftercare period but an important community benefit in monitoring the restoration and afteruses of the sites.
- 556 The supply of fireclay to meet the needs of brickworks to provide sufficient bricks to build the number of houses considered to be required by the Government is not only an economic benefit but also can be seen to be national, local and community benefit. However, the amount is not of great significance and the demand could be met from elsewhere plus it may not ultimately be utilised. Very modest weight should therefore be given to this benefit.
- 557 There is no general support in the NPPF (2019) or development plan policy for arguments against proposed surface coal mine working on the basis of the impact upon tourism. This is particularly true on the exposed coalfield in areas such as County Durham which has sustained significant levels of working over the last 60 years that have shaped its character. It is not considered that generally tourism would be affected or specific tourist assets (such as Beamish Open Air Museum) would be prejudiced nor any designated landscape, heritage or nature interest designations that currently support tourism and need to be sustained in the future.
- 558 Community benefits proposed are long term environmental enhancements and an enhanced community fund payment. As previously stated, the applicant is proposing to continue the payment of 10p per tonne of coal transported from the existing site but also proposes a fixed amount of £48,000 in respect of the proposed extension. This would provide up to £100,000 during the life of the sites to help fund local projects and activities. The fund would be administered by the County Durham Foundation as per the current fund in association with the site liaison committee made up of local residents, community representatives, County Councillors and Council officers. These community benefits are considered to be modest benefits.
- 559 Restrictions on future working could be argued to be community benefits seeking to provide some certainty to the local community. However, these are relatively small areas and do not provide complete certainty that no further working would take place, that would be for the planning system. This benefit should be given little to no weight.

560 Local and community benefits are arguably associated with restoration of the site and the increased area of gifted land. Although restoration would be considered as part of the scheme and should be provided to high standard, the gifted land is additional and can be given very modest weight.

Conclusion of the provision of national, local and community benefits

561 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 which clearly outweigh the likely impacts (taking all relevant matters into account, including any residual environmental impacts) as considered in this report to justify the grant of planning permission.

Planning Balance

562 The most important development plan policies for the determination of these applications are MLP Policies M8 and M7, Policies which are considered to not be consistent with the NPPF (2019) and out-of-date. Paragraph 211 of the NPPF (2019) is also a material planning consideration as it specifically relates to the extraction of coal.

563 The extension proposal is considered to be contrary to MLP Policy M8, but the Policy is only considered to benefit from very limited weight. Although planning permission already exists for the existing site and therefore the principle of the development is established case law makes it clear that on a S73 application the proposal must nevertheless be assessed against relevant development plan policy. Accordingly, having assessed both proposals against MLP Policy M7 and Paragraph 211 of the NPPF (2019) it is considered that they would be environmentally acceptable with the application of appropriate planning conditions and obligations and would accord with MLP Policy M7(a) and Paragraph 211(a) of the NPPF (2019). However, as a result of policies MLP M7 and M8 being out of date, the acceptability of the application should be considered under the planning balance test contained within Paragraph 11d of the NPPF (2019). Having regard to Paragraph 11d(i) there are no specific policies within the NPPF (2019) that protect areas or assets of particular importance which provide a clear reason for refusing the development and therefore in accordance with Paragraph 11d(ii) planning permission should be granted unless the adverse impacts significantly and demonstrably outweigh the benefits. The benefits and adverse impacts of the proposal are set out above. In summary they are set out below.

Benefits

564 The progressive restoration proposals would allow for the conservation and restoration of biodiversity interest within both application areas. The range of afteruses across the application sites would provide an enhancement to what is existing at present and an additional 10 year management of specific areas of ecological interest would be provided after the cessation of the statutory 5 year aftercare period. The extended management and gifted land provision will seek to enhance the ecological value of these areas in the longer term. With additional public rights of way upon restoration, recreational provision would be enhanced.

565 Community benefits are proposed in the form of an increased financial sum of £48,000 taking the overall sum up to £100,000 as a result of the proposed extension. There would also be a continuation of the existing site liaison committee. The liaison

committee is a useful opportunity for discussions to be had regarding the development.

- 566 The proposals would provide national, local and community benefits by contributing to economic growth through the supply of domestically produced coal for use in the steel making industry or other UK industrial manufacturing process thereby reducing the reliance on imports and additional CO₂ emissions from transportation over great distances. The end use of the coal would be secured through S106 planning obligation providing certainty that it will not be used for electricity generation.
- 567 The retention of 39 full time jobs at the site would be a benefit, providing work for a longer period given the addition extraction proposed and the range of operations to take place at the site. Adherence to the approved Training and Employment Plan endeavours to ensure that local County Durham residents and businesses benefit directly from the opportunities arising from the development. In addition, jobs are associated with haulage personnel is involved with the movement of coal and fireclay.
- 568 The proposals would generate direct and indirect expenditure arising from the purchase of goods and services by the workforce and the Company. Other benefits include the payment of mineral rates, taxes, coal royalties and the contribution of the development to the balance of payments, payment of business rates would also be benefits of the proposed developments.
- 569 The supply of fireclay to meet the needs of a local brickworks is an economic benefit and a benefit to building the number of houses considered to be required by the Government is not only an economic benefit but also can be seen to be national, local and community benefit.

Adverse Impacts

- 570 The development would result in some adverse landscape harm, although this effect would be localised and time limited.
- 571 There may be some disruption to residential amenity of those living close to the site, but this would be temporary and controlled through suitably worded conditions in line with Government guidance.
- 572 The temporary diversion of public rights of way would be required for the proposed extension for the duration of the works. Temporary diversions are already in place for the existing site.

CONCLUSION

- 573 The proposed developments are for an extension to the existing and operational Bradley surface coal mine for the extraction of coal and fireclay, for which planning permission was granted on Appeal, and also for the variation of conditions at the existing site to facilitate the proposed extension. It is intended that the proposed extension would be worked and restored within the timescale approved for the existing site, by 17 August 2020.
- 574 MLP Policies M7 and M8, the most important policies for determining the applications, are considered out of date therefore consideration should be had to Paragraph 11d of the NPPF (2019). Having regard to Paragraph 11d(i) there are no

specific policies within the NPPF (2019) that protect areas or assets of particular importance which provide a clear reason for refusing the development. Therefore, in accordance with Paragraph 11d(ii) planning permission should be granted unless the adverse impacts significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

- 575 The proposed extension area and the existing site are partly subject to landscape designations with the AHLV covering part of the existing site and part of the proposed extension. It is not considered that that the proposed developments would have an adverse impact upon the designation. However, it is inevitable that there would be some visual intrusion from the engineered mounds and earth works throughout the life of the site but the operations would generally be localised and the impacts would be moderated and reduced by perimeter mounding and progressive reinstatement and screening works but with views from higher ground.
- 576 The site is not subject to active nature conservation designations and it is not considered that there would be an adverse impact on designations close by, a view endorsed by the ecological consultees. Nor is it considered that there would be an adverse impact upon flora or fauna, including protected species. Consideration has also been given to the impact of the proposals upon recreational amenity, hydrology and hydrogeology, access and traffic, contamination, geotechnical and stability, mine gas and cumulative impact and, subject to appropriate conditions where appropriate, the impacts are considered to be acceptable.
- 577 The site is not in high grade agricultural use, but the agricultural use would be lost for the duration of the development within the proposed extension area but would be reinstated to productive agricultural use. The restoration proposals would deliver a quality restoration and afteruse of the site with opportunities to increase biodiversity interests. Restoration of the site would be secured through condition and through the provision of a suitable guarantee secured through planning obligation, longer term management including the gifting of a proportion of the restored land. In addition, the applicant has agreed to enter into a S106 planning obligation that would amongst other matters seek to prevent the future working of land in its control.
- 578 There would inevitably be some disturbance and disruption from temporary operations for those living close to the proposed extension but for a limited period. Impacts upon properties at High Stables would reduce given the stage of development. The scheme as a whole has been designed to be worked in a way that would limit the environmental effects on local communities and suitable mitigation measures would be secured through site design and condition. 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 no long-term adverse impacts on the setting or significance of the designated heritage assets closer to the site.
- 579 Although it is considered that MLP Policy M7 is not consistent with the NPPF (2019) limited weight can be afforded to it. Having assessed the likely impacts of the proposed extension and variation of conditions relating to the existing site it is considered that the proposals would not have significant environmental effects of an adverse nature sufficient to justify a recommendation of refusal having regard to the proposed planning conditions and legal agreements. Overall, it is considered that the proposal would be environmentally acceptable with the application of appropriate planning conditions and obligations and would accord with MLP Policy M7(a) and Paragraph 211(a) of the NPPF (2019) relating to coal extraction.

- 580 Should the Committee consider that the proposals do not accord with MLP Policy M7a and the first test of Paragraph 211(a) of the NPPF (2019), then the national, local and community benefits that have been considered within the report including UK markets for the coal and fireclay, continued employment, benefits upon restoration through an appropriate restoration scheme and a community fund then it is considered that these benefits clearly outweigh its likely impacts (taking all relevant matters into account, including any residual environmental impacts) and the proposal also accords with MLP Policy M7(b) and Paragraph 211(b) of the NPPF (2019).
- 581 Although the proposed extension does not accord with MLP Policy M8, very limited weight can be afforded to the Policy given it is not consistent with the NPPF (2019), the environmental impacts of the proposal have been considered and found to be acceptable.
- 582 On the balance of planning considerations it is considered that the proposed development meets the tests for acceptability of opencast coal proposals as set out in MLP Policy M7(a) and surface mined coal as set out in Paragraph 211(a) of the NPPF (2019) and the proposed national, local and community benefits of the scheme would outweigh the short term environmental damage and loss of amenity that would be caused having assessed the proposals under Paragraph 11(d) of the NPPF (2019).
- 583 Having regard to the planning balance required by Paragraph 11(d)(ii) of the NPPF (2019) it is considered that whilst there are some adverse impacts relating to the proposals these do not significantly and demonstrably outweigh the benefits of the proposal in terms of the restoration proposals which will enhance ecology and national, local and community benefits.
- 584 The particular advantages of the current proposals is that the coal is available almost immediately, the working period is short (a matter of months), the impact of the proposed extension is reduced due to the use of existing site infrastructure and the restoration proposals are able to tie in with and complement those approved for the existing site with limited additional environmental impact. Given the duration of the proposed developments it is not considered that they would impact upon longer term climate change targets including those set out in the Council's Climate Emergency Declaration.
- 585 The proposal has generated significant public interest with representations reflecting the issues and concerns of local residents affected by the proposed development as well as from people from further afield. Whilst there would be some impacts upon local amenity associated with noise, dust, blasting, 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.
- 586 The impact of further coal extraction upon climate change has been at the forefront of objections to the proposals. It is clear that coal is being phased out for energy generation and also for industrial manufacturing processes but at this time there is still a requirement for coal in the steel industry and other UK industrial processes. 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. The end use of the coal would be secured through S106 planning obligation providing certainty that it will not be used for electricity generation.

587 Representations received 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 considered that these are not sufficient to outweigh the planning judgement in favour of the proposals comprised in both applications.

RECOMMENDATION

That both applications are **APPROVED** subject to the completion of a Section 106 Legal Agreement to secure the following:

- Haulage route
- Provision of a community fund
- Financial guarantee for restoration
- Restrictions on tree felling on newly planted trees for 40 years
- Dedication of new public rights of way
- Use of the coal for UK industrial manufacturing processes and ancillary uses only
- Restriction of specified working areas
- Gifted land provision and associated financial contribution
- Management of the silvicultural land
- Additional management following aftercare of the specific afteruses

and completion of a Section 39 of the Wildlife and Countryside Act 1981 Agreement to cover the 10 year management of specific areas of ecological interest after the cessation of the statutory 5 year aftercare period.

and subject to the following conditions:

DM/19/03567/MIN

DEFINING THE PERMISSION

1. The development hereby approved shall be carried out in accordance with the following plans and documents:

Plans:

- i. Drawing HJB/4071/30 Planning Application Boundaries and EIA Study Area
- ii. Drawing HJB/4071/25A Composite Working Method Plan (Drawing PA06A)
- iii. Drawing HJB/4071/51 Existing Features Plan
- iv. Drawing HJB/4071/28 Phasing Plan – 28 Months (Drawing PA07)
- v. Drawing HJB/4071/36 Phasing Plan – 36 Months (Drawing PA08)
- vi. Drawing HJB/4071/56 Restoration Plan (Bradley West Area) (Drawing PA10)
- vii. Drawing HJB/4071/56 Restoration Plan (Whole Area) (Drawing PA10)
- viii. Drawing HJB/4071/60 Surface Water Drainage and Treatment (Drawing PA12)
- ix. Drawing HJB/4071/41 Services Plan (Drawing PA13)
- x. Drawing HJB/4071/53 Working Programme (Drawing PA09)
- xi. Drawing HJB/4071/54 Fencing Layout Plan (Drawing PA24)
- xii. Drawing HJB/4071/45 Boundary Fence Details (Drawing PA25)
- xiii. Drawing HJB/4071/46 Internal Fence Details (Drawing PA26)
- xiv. Drawing NMA08A - Site compound - Ref HJB/4000/44E

Documents:

- Description of working method as contained in Chapter 3 of the Bradley West Planning Application & Environmental Statement – Proposed Extension to Bradley Surface Mine: November 2019 Volume 1 of 2
- Design and construction of the overburden mound described in Chapter 11 paragraph 11.13 of the Bradley West Planning Application & Environmental Statement – Proposed Extension to Bradley Surface Mine: November 2019 Volume 1 of 2 and in Section 5.1.3. of Appendix 7 Geotechnical Assessment (Section 5.1.3) of the Bradley West Planning Application & Environmental Statement – Proposed Extension to Bradley Surface Mine: November 2019 Volume 2 of 2
- Combined Soil Handling and Management Manual V2 7th February 2020
- Noise Monitoring Scheme File Note CM/N/4071/PL-5 dated 6 March 2020
- Dust Action Plan contained in Appendix 10 of the of the Bradley West Planning Application & Environmental Statement – Proposed Extension to Bradley Surface Mine: November 2019 Volume 2 of 2
- Blast Vibration Monitoring Scheme File Note CM/N/4071/PL-5 dated 6 March 2020
- Hydrological and Hydrogeological Assessment contained in contained in Appendix 6 Proposed Extension to Bradley Surface Mine: November 2019 Volume 2 of 2)
- Water Management Scheme (DAB/DAB/18014/03 dated 10 November 2019) contained in Appendix 6 Proposed Extension to Bradley Surface Mine: November 2019 Volume 2 of 2)
- Bradley West Proposed Extension to Bradley Surface Mine - Regulation 25 – Further Environmental Information
- Written Scheme of Investigation DS19.574r produced by Archaeological Services Durham University, January 2020
- Protected Species Working Method Statement and Mitigation Strategy March 2020 produced by fpcr
- File Note CM/N4071/PL Bradley West, Clarification of Lighting Details
- Email from Banks to DCC sent on 28 May 2020 in relation to hydrology and letter dated 19 May 2020 to Banks from DAB Geotechnics Ltd.

Reason: To define the consent and ensure that a satisfactory form of development is obtained having regards to County Durham Minerals Local Plan (December 2000) Policies M7, M8, M17, M19, M23, M24, M27, M29, M30, M31, M32, M33, M34, M35, M36, M37, M38, M42, M43, M45, M46, M47, M51, M52, Derwentside Local Plan Policies EN6 and EN22 and Parts 2, 4, 6, 8, 9, 11, 14, 15, 16 and 17 of the National Planning Policy Framework.

2. A copy of this decision, including all the approved plans and documents, along with any legal agreements and subsequent amendments, 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.

3. The Mineral Planning Authority (MPA) shall be given at least seven days prior written notification of the date of commencement of the following:
 - (i) site preparation works
 - (ii) the winning and working of coal
 - (iii) the extraction of coal
 - (iv) the export of coal from the site
 - (v) the export of fireclay from the site.

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

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.

MATTERS REQUIRING SUBSEQUENT APPROVAL

5. Within four months of the date of this permission, a scheme for the following shall be submitted in writing to the Mineral Planning Authority. Once approved the development shall be carried out in accordance with the approved details. The scheme should include the following elements:
 - i. details of any new habitat created;
 - ii. details of how any habitat created will function and complement the wider natural landscape;
 - iii. details of species composition of these habitats, with a preference towards native species;
 - iv. details of how all species identified as being within the site or likely to utilise the site will benefit from the proposed restoration;
 - v. details of the boundaries and/or buffers around water bodies and wetland features and how they will be created following best practice guidelines and managed;
 - vi. details of the treatment of site boundaries and/or buffers around agricultural land and how these will follow best practice guidelines and how they will be created and managed; and
 - vii. details of public access and how this will be restricted to protect habitats created on the site such as wetlands or areas supportive of ground nesting birds.

Reason: To enhance the natural features and character of the site and to both offset the impact on wildlife experienced during the working of the mineral and to maximise the opportunity for securing positive benefits for nature conservation once mineral workings cease. (Condition requested by the Environment Agency)

6. Within four months of the date of this permission, schemes for the following shall be submitted in writing to the MPA. Once approved the development shall be carried out in accordance with the approved details.
 - (a) 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 replacement of soils including depths and handling and replacement methods;
 - iii. a scheme to provide for the management of the restored ground within any areas on site identified as feeding grounds used by badgers, to promote the maximum recolonisation with invertebrate.
 - iv. the drainage of the restored site;
 - v. the erection of fences;
 - vi. the planting of trees and hedges, to include the numbers species and percentages of species to be planted; size and spacing; ground preparation; fencing; subsequent maintenance and management;

- vii. habitat creation works including seeding to be undertaken to include the seed mix and provenance of the seed, preparations to be made to the ground before seeding and subsequent maintenance;
- viii. the reinstatement of and provision of additional drystone walls;
- ix. the routes of proposed public rights of way, details of the surfacing and any other works associated with them and a timetable for their provision.
- x. the provision of appropriate site interpretation material based on the results of the archaeological works;
- xi. measures to ensure that the risk of erosion is minimised and the use of agricultural machinery is not unduly restricted;

(b) A strategy for the aftercare of the land for five years.

To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions) and Parts 15 and 17 of the National Planning Policy Framework.

COMPLETION

7. All extraction shall cease by no later 8 months from the date of the commencement of coaling as notified to the MPA under Condition 3.

Reason: To avoid unnecessary delay in the restoration of the site. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Parts 15 and 17 of the National Planning Policy Framework).

8. The site shall be restored by no later than 17 August 2021.

Reason: To avoid unnecessary delay in the restoration of the site. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Parts 15 and 17 of the National Planning Policy Framework).

9. In the event of extraction ceasing or significantly reducing for a period of 3 months from that specified in the approved detailed phasing programme, the MPA shall be notified in writing within one month of the date of such cessation or reduction. Within 1 month of that date, a revised scheme for the restoration of the site or modification of the detailed phasing programme for the site, including timescales for completion, shall be submitted to the MPA for its written approval. The revised scheme shall be implemented as approved.

Reason: To ensure the site is satisfactorily restored and to avoid unnecessary delay in the restoration of the site. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Parts 15 and 17 of the National Planning Policy Framework).

WORKS REQUIRED FOR SITE PREPARATION

10. The MPA shall be notified, in writing, within two working days of each of the following works being carried out:
- a. the construction of the approved site drainage cut-off ditches and other drainage facilities appropriate to the area to be stripped;
 - b. perimeter fencing and fencing alongside alternative rights of way,
 - c. protective fencing alongside hedgerows and trees.

Reason: To ensure the development is carried out in accordance with the approved documents, in the interests of visual amenity, to prevent adversely affecting

watercourses passing through or outside the site, and in the interests of agriculture (Adopted County Durham Minerals Local Plan (December 2000) Policy M36 Protecting Local Amenity, Policy M38 Water Resources, M46 Restoration Conditions) and Parts 14, 15 and 17 of the National Planning Policy Framework.

WORKING PERIOD

11. Operations shall only take place within the following hours:

Site operations

07.00 to 19.00 Monday to Friday

07.00 to 12.00 Saturday

Coal haulage hours

07.00 to 18.00 Monday to Friday

07.00 to 12.00 Saturday

Maintenance

07.00 to 19:00 Monday to Friday

07.00 to 16:00 Saturday

With the exception of pumping, no working or operations including the maintenance of vehicles and plant shall take place outside of these hours or at any time on Bank, or other public holidays, save in cases of emergency when life, limb, or property are in danger. 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 and Parts 9, 15 and 17 of the National Planning Policy Framework).

12. Notwithstanding the operational hours set out in Condition 11, no mineral extraction, overburden or soils handling operations shall take place within 200m of Brooms Farm or Our Lady and St Josephs Church House prior to 08.00 hours Monday to Saturday.

Reason: In the interests of residential amenity. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting Local Amenity, and Parts 15 and 17 of the National Planning Policy Framework).

ACCESS AND PROTECTION OF THE PUBLIC HIGHWAY

13. Access for all vehicles to and from the site shall be via the site access as shown on Drawing HJB/4071/25A Composite Working Method Plan Drawing No PA06A.

Reason: In the interests of highway safety (Adopted County Durham Minerals Local Plan (December 2000) Policy, M43 Road Traffic and Parts 9, 15 and 17 of the National Planning Policy Framework).

14. The wheel cleaning facilities approved under Planning Permission No. DM/19/03569/VOCMW and referred to in Condition 1 of that Permission shall be used to ensure vehicles leaving the site are thoroughly cleansed of mud before entering the public highway to ensure that mud and other debris shall not be deposited on the public highway.

Reason: In the interests of highway safety and residential amenity (Adopted County Durham Minerals Local Plan (December 2000) Policies M43 Road Traffic and M36 Protecting Local Amenity and Parts 9, 15 and 17 of the National Planning Policy Framework).

15. In the event that the wheel cleaning facilities at the approved access are found to be unable to clean vehicles such that the terms of Condition 14 can be fully met, all vehicle movements from the access in question shall cease immediately until alternative measures to prevent the deposition of mud and other debris on the public highway have been agreed with the Mineral Planning Authority and implemented.

Reason: In the interests of highway safety and residential amenity (Adopted County Durham Minerals Local Plan (December 2000) Policies M43 Road Traffic and M36 Protecting Local Amenity and Parts 9, 15 and 17 of the National Planning Policy Framework).

16. Combined with Planning Permission No. DM/19/03569/VOCMW the total number of heavy goods vehicles entering and leaving the site shall average no more than 96 (48 in and 48 out) Monday to Friday when calculated over any four week working period (Mondays to Fridays) and 30 (15 in and 15 out) on Saturdays. A record of all goods vehicles leaving the site shall be maintained by the operator and a certified copy of this record shall be afforded to the MPA within 2 working days of such a request.

Reason: In the interests of highway safety and residential amenity (Adopted County Durham Minerals Local Plan (December 2000) Policies M43 Road Traffic and M36 Protecting Local Amenity and Parts 9, 15 and 17 of the National Planning Policy Framework).

17. The loads of all laden coal lorries leaving the site shall be fully covered by sheeting.

Reason: In the interests of highway safety and residential amenity (Adopted County Durham Minerals Local Plan (December 2000) Policies M43 Road Traffic and M36 Protecting Local Amenity and Parts 9, 15 and 17 of the National Planning Policy Framework).

SOIL STRIPPING AND STORAGE

18. The MPA shall be given at least two working days notice in writing of any intended individual phase of topsoil or subsoil stripping.

Reason: To ensure the development is carried out in an orderly manner. (Adopted County Durham Minerals Local Plan (December 2000) Policy M36 Protecting Local Amenity and Parts 15 and 17 of the National Planning Policy Framework).

19. The MPA shall be given the opportunity to verify that the full depth of topsoil has been satisfactorily stripped prior to the commencement of subsoil stripping.

Reason: To ensure the development is carried out in an orderly manner. (Adopted County Durham Minerals Local Plan (December 2000) Policy M36 Protecting Local Amenity and Parts 15 and 17 of the National Planning Policy Framework).

20. A minimum stand-off distance of 2 metres shall be maintained between soil storage mounds and the site boundary and/or site drainage ditches.

Reason: To ensure the development is carried out in an orderly manner. (Adopted County Durham Minerals Local Plan (December 2000) Policy M36 Protecting Local Amenity and Parts 15 and 17 of the National Planning Policy Framework).

21. No topsoil, subsoil or soil making materials 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 and Parts 15 and 17 of the National Planning Policy Framework).

22. Within three months of the commencement of soil stripping, and every six months thereafter, the MPA shall be supplied with a plan indicating the area stripped of topsoil and subsoil, the location of each soil storage heap, and the quantity and nature of material within the mounds together with details of the type of plant used to strip/store those materials. A balance of the quantities of material stored with the proposed depth and texture of the soil profile to be replaced following restoration shall also be provided and outstanding restoration tasks.

Reason: To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Parts 15 and 17 of the National Planning Policy Framework).

SITE WORKING

23. A strip of land at least 12 metres wide shall be maintained at existing ground levels adjacent to any highway, except where the storage of topsoil and subsoil has been approved.

Reason: In the interests of highway safety (Adopted County Durham Minerals Local Plan (December 2000) Policy, M43 Road Traffic and Parts 9, 15 and 17 of the National Planning Policy Framework).

24. Overburden and soils shall only be stockpiled in the areas shown on Drawing HJB/4071/25A Composite Working Method Plan Drawing No PA06A, or as subsequently approved, to heights not exceeding those shown on the plan.

Reason: In the interests of visual amenity. (Adopted County Durham Minerals Local Plan (December 2000) Policy M36 Protecting Local Amenity and Parts 15 and 17 of the National Planning Policy Framework).

25. Coal and fireclay shall only be stockpiled in the areas shown on Drawing HJB/4071/25A Composite Working Method Plan Drawing No PA06A to heights not exceeding 5 metres in height.

Reason: In the interests of visual amenity. (Adopted County Durham Minerals Local Plan (December 2000) Policy M36 Protecting Local Amenity and Parts 15 and 17 of the National Planning Policy Framework).

26. Checking surveys shall be carried out prior to the commencement of soil stripping and prior to each phase of working to ensure no badger setts have been established on or in the immediate vicinity of the site. If setts have been established an impact assessment and mitigation strategy prepared by a suitably qualified person shall be submitted to and approved in writing by the MPA. The mitigation strategy shall be adhered to in full.

Reason: To conserve protected species and their habitat. (Adopted County Durham Minerals Local Plan (December 2000) Policy M29 Conservation of Nature Conservation Value and Parts 15 and 17 of the National Planning Policy Framework).

27. 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. If nesting birds are found then work in that area must be avoided until the birds have fledged.

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 and Parts 15 and 17 of the National Planning Policy Framework).

SITE MAINTENANCE

28. 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 and maintenance 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 and cleaning of all the hard surfaced access roads within the site over which licensed road vehicles operate;
 - (d) the maintenance of drainage ditches to avoid reducing their capacity for intercepting sediment;
 - (e) all areas of the site, including undisturbed areas and all topsoil, subsoil, soil making material 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 worked and restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Parts 15 and 17 of the National Planning Policy Framework).

BUILDINGS, PLANT AND MACHINERY

29. Notwithstanding the provisions of Part 20 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, no buildings, fixed plant or machinery shall be erected or placed on the site without the express planning permission.

Reason: In the interests of residential amenity and to enable the local planning authority to consider the implications of any proposal to expand the activities which take place within the site. (Adopted County Durham Minerals Local Plan (December 2000) Policy M36 Protecting Local Amenity and Parts 15 and 17 of the National Planning Policy Framework).

NOISE

30. Noise emitted from operations on the site shall not result in noise levels greater than those listed below, except when temporary operations (soil stripping, the construction and removal of baffle mounds, soil storage mounds and spoil heaps, construction of new permanent landforms and aspects of site road construction and maintenance) are taking place.

Douglas Terrace 50dB LAeq, 1Hr (free field)
Brooms Farm 55dB LAeq, 1Hr (free field)
Pont Road 55dB LAeq, 1Hr (free field)
Annaside Mews 55dB LAeq, 1Hr (free field)
Redwell Hills Farm 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 and Parts 15 and 17 of the National Planning Policy Framework).

31. During periods of temporary operations (soil stripping, the construction and removal of baffle mounds, soil storage mounds and spoil heaps, construction of new permanent landforms and aspects of site road construction and maintenance) the Noise Monitoring Scheme shall provide that the noise emitted from operations on the site shall not result in noise levels greater than 70dB LAeq, 1Hr (freefield) as measured at Douglas Terrace, Brooms Farm, Pont Road, Annaside Mews and Redwell Hills Farm. The duration of such activities shall not exceed 8 weeks in relation to each of the respective noise monitoring properties in any 12 month period.

Reason: In the interests of residential amenity. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting Local Amenity and Parts 15 and 17 of the National Planning Policy Framework).

32. The MPA shall be given at least 2 working days notice in writing prior to the commencement of any temporary operations.

Reason: In the interests of residential amenity. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting Local Amenity and Parts 15 and 17 of the National Planning Policy Framework).

33. Noise monitoring shall take place in accordance with the approved Noise Monitoring Scheme. On request, the operator shall, within 2 working days furnish the MPA with the particulars of the measurements recorded and the plant and equipment operating on the site at the time.

Reason: In the interests of residential amenity. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting Local Amenity and Parts 15 and 17 of the National Planning Policy Framework).

BLASTING

34. Blasting operations shall be restricted to 2 blasts per day between the following times:
Monday to Friday
09:00 hours to 09:05
09:55 hours to 10:05
10:55 hours to 11:05
11:55 hours to 12:00
14:00 hours to 14:05
14:55 hours to 15:05
15:55 hours to 16:00

No blasting shall take place outside these hours or at any time on Bank or other public holidays, save in cases of emergency when life, limb, or property are in danger. The Mineral Planning Authority shall be notified as soon as is practicable after the occurrence of any such emergency operations or working.

Reason: In the interests of residential amenity and to protect land outside the site. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting local amenity and Parts 15 and 17 of the National Planning Policy Framework).

35. No component of the peak particle velocity of ground vibration resulting from the blasting shall exceed 12mms/second at any time during the working of the site at the nearest occupied residential property and, in each six month period of working, 95% of blasts shall not exceed 6mms/second.

Reason: In the interests of residential amenity and to protect land outside the site. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting local amenity and Parts 15 and 17 of the National Planning Policy Framework).

36. Blasting and monitoring of blasts shall take place in accordance with the approved Blast Vibration Monitoring Scheme. On request, the operator shall, within 2 working days furnish the MPA with the particulars of the measurements recorded.

Reason: In the interests of residential amenity and to protect land outside the site. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting local amenity and Parts 15 and 17 of the National Planning Policy Framework).

37. Each blast shall be preceded by the sounding of a siren, and notices giving details of blasting operations and warning flags shall be placed at the agreed positions in accordance with the approved Blast Vibration Monitoring Scheme before blasting commences. The siren, notices and position at which flags are to be erected will be maintained throughout the duration of minerals extraction operations. Occupiers of adjacent residential properties shall be notified of blasting procedures on site in accordance with agreed details.

Reason: In the interests of residential amenity and to protect land outside the site. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting local amenity and Parts 15 and 17 of the National Planning Policy Framework).

38. The measures to minimise the effects of air overpressure from blasting as agreed in the approved Blast Vibration Monitoring Scheme shall be implemented.

Reason: In the interests of residential amenity and to protect land outside the site. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting local amenity and Parts 15 and 17 of the National Planning Policy Framework).

DUST

39. The approved Dust Action Plan shall be implemented and adhered to at all times

Reason: In the interests of residential amenity. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting local amenity and Parts 15 and 17 of the National Planning Policy Framework).

40. Monitoring of dust levels shall be carried out by the operator in accordance with the approved Dust Action Plan. On request the operator shall, within two working days,

furnish the Minerals Planning Authority with the particulars of the measurements recorded.

Reason: In the interests of residential amenity. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting local amenity and Parts 15 and 17 of the National Planning Policy Framework).

41. At such times when the equipment provided and the provisions in the approved Dust Action Plan are not sufficient to minimise and control dust arising from and leaving the site, operations shall temporarily cease until weather conditions change or additional effective dust control measures are implemented in order to minimise and control dust from leaving the site.

Reason: In the interests of residential amenity. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting local amenity and Parts 15 and 17 of the National Planning Policy Framework).

POLLUTION CONTROL

42. 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 the pollution of the water environment and to protect land outside the site and to prevent adversely affecting watercourses passing through or outside the site. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting Local Amenity, M38 Water Resources and Parts 14, 15 and 17 of the National Planning Policy Framework).

RESTORATION

43. All areas of hardstanding, including any site compounds, access road 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, unless they are to be retained in accordance with the approved plans.

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

44. 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 and Part 17 of the National Planning Policy Framework).

45. All fixed equipment, machinery, and any 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 and Part 17 of the National Planning Policy Framework).

REPLACEMENT OF OVERBURDEN

46. The final placement of overburden into the voids of completed workings shall be graded to prevent the material becoming saturated and waterlogged. Overburden shall be replaced to such levels, and in such a way that, after the replacement of subsoil and topsoil, the contours of the restored land conform to the approved restoration contours. The MPA shall be notified in writing when replacement of overburden has been completed and shall be given an opportunity to inspect the surface before further restoration works are carried out.

Reason: To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Part 17 of the National Planning Policy Framework).

REPLACEMENT OF SUBSOIL

47. The MPA shall be notified in writing, with at least two working days notice prior to each phase of subsoil replacement.

Reason: To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Part 17 of the National Planning Policy Framework).

48. Prior to the replacement of subsoils, the surface onto which it is to be placed shall be scarified to alleviate compaction, and surface picked of any stones or other materials capable of impeding normal agricultural or land drainage operations.

Reason: To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Part 17 of the National Planning Policy Framework).

49. No movement, replacement or cultivation of subsoil shall be carried out during the months of October, November, December, January, February and March inclusive, without first obtaining the written approval of the MPA for the proposed working methods and period of working.

Reason: To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Part 17 of the National Planning Policy Framework).

50. The stripped and stored subsoil or similar material shall be respread in accordance with the Soil Handling and Management Manual and the Restoration Scheme, as appropriate to the intended after-use.

Reason: To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Part 17 of the National Planning Policy Framework).

51. Each layer formed in accordance with Condition 51 shall be rooted and cross rooted to its full depth by a heavy duty subsoiling implement with winged tines set no wider than 600mm apart. Any non-subsoil type material, or stones larger than 225mm in any

dimension, shall be removed from the surface and not buried within the respread subsoil.

Reason: To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Part 17 of the National Planning Policy Framework).

52. All areas of exposed subsoil, not previously excavated, shall be rooted to 450mm depth at 600mm spacings to relieve compaction, and surface picked to remove any obstructions to cultivation.

Reason: To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Part 17 of the National Planning Policy Framework).

53. Following compliance with Conditions 51 and 52, the surface shall be graded to ensure that, after replacement of topsoil, the contours of the landform conform to the approved restoration contours.

Reason: To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Part 17 of the National Planning Policy Framework).

54. The MPA shall be given the opportunity to inspect each stage of the work completed in accordance with Conditions 50, 51 and 52 prior to further restoration being carried out, and shall be kept informed as to the progress and stage of all works. A record plan of the progress of restoration shall be maintained at the site office.

Reason: To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Part 17 of the National Planning Policy Framework).

REPLACEMENT OF TOPSOIL

55. The MPA shall be notified in writing, with at least two working days notice prior to each phase of topsoil replacement.

Reason: To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Part 17 of the National Planning Policy Framework).

56. The respraying of topsoil shall only be carried out when the material and the ground on which it is to be placed are in a suitably dry and friable condition, and there shall be sufficient time for subsoiling, cultivation and reseeded to take place and be completed under normal weather conditions before the end of September.

Reason: To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Part 17 of the National Planning Policy Framework).

57. No movement, replacement or cultivation of topsoil shall be carried out during the months of October, November, December, January, February and March without first obtaining the written approval of the MPA for the proposed working methods and period of working.

Reason: To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Part 17 of the National Planning Policy Framework).

58. Topsoil shall be respread in accordance with the approved Soil Handling and Management Manual and the Restoration Scheme, as appropriate to the intended after-use, to a form corresponding to the contours 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 and Part 17 of the National Planning Policy Framework).

59. The MPA shall be given the opportunity, with 48 hours advance notice, to inspect each stage of the work completed in accordance with Condition 58 prior to further restoration being carried out, and shall be kept informed as to the progress and stage of all works.

MAINTENANCE OF SITE RESTORATION RECORDS

60. During the whole restoration period, the developer shall maintain on site separate plans for the purpose of recording successive areas of overburden, subsoil and topsoil replacement approved by the MPA.

Reason: To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Part 17 of the National Planning Policy Framework).

61. Within 3 months of the restoration of the final topsoil layer, the developer shall make available to the MPA a plan with contours at sufficient intervals to indicate the final restored landform of the site, together with a record of the depth and composition of the reinstated soil profiles.

Reason: To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Part 17 of the National Planning Policy Framework).

AFTERCARE

62. The aftercare period will begin after compliance with Condition 58 for the whole of the site.

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.

63. Every year during the aftercare period the developer shall arrange an annual review meeting to be held before 30th November, 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.

The developer shall arrange additional aftercare meetings as required 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.

64. Not less than 4 weeks prior to the annual review meeting, a report shall be submitted to the MPA recording the operations carried out on the land since the date soil replacement operations were completed, or since the previous annual review meeting, and setting out the intended operations for the next 12 months, including works to rectify failures which have been identified as necessary by the MPA.

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.

CULTIVATION AFTER REPLACEMENT OF TOPSOIL

65. As soon as the ground is sufficiently dry following the satisfactory replacement of topsoil, the land shall be subsoiled using an agricultural winged tine subsoiler, operating at a depth and tine spacing agreed in writing beforehand with the MPA. At least seven days notice of the intention to carry out these works shall be given to the MPA and such works shall only proceed subject to the written approval of the MPA.

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.

66. Any stones lying on the surface after compliance with Condition 65 which are larger than would pass through a wire mesh with a spacing of 100mm, together with other objects liable to obstruct future cultivations, shall be removed from the surface and either be buried below the subsoil or removed from the site.

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.

67. Following compliance with Condition 66 the land shall be worked to prepare a seedbed suitable for the sowing of grass seeds or other approved crop.

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.

68. As soon as practicable following compliance with Condition 67, and no later than the end of September, the land shall be sown with a short-term grass seed mixture or other approved crop, the details of which shall have been submitted to and approved in writing by the MPA prior to the commencement of topsoil replacement.

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.

69. Where adverse weather conditions or other delays prevent compliance with Condition 68, alternative treatment of the reinstated soils to stabilise them over the winter period shall be submitted to and approved in writing by the MPA.

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.

PROVISION OF SURFACE FEATURES

70. From the date of commencement of the aftercare period on any part of the site, the following works shall be carried out within the relevant part of the site:
- (i) the installation of water supplies for livestock shall be completed within 12 months;
 - (ii) the erection of stock-proof fences and gates shall be completed within 24 months;
 - (iii) stone walls and access tracks shall be completed within 24 months (and prior to the commencement of any underdrainage installation) except where alternative details have been submitted to and approved in writing by the MPA;
 - (iv) hedgerows shall be planted within the first available season following the completion of soils replacement; and
 - (v) proposed woodland areas shall be sown with an agreed grass seed mix within the first available season, the details of which shall be submitted to and approved in advance in writing by the MPA. Trees shall then be planted in suitably prepared ground during the next available planting season.

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.

71. The works referred to in Condition 70 shall be carried out in accordance with details set out in the report prepared in accordance with Condition 64. The MPA shall be notified at least 4 weeks before commencement of, and no later than 4 weeks after completion of, each of the above works.

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.

DRAINAGE AND WATER SUPPLY

72. Following the completion of each phase of restoration, surface drainage works (including watercourses, field boundary ditches, and surface grips) shall be installed as soon as practicable following soils replacement, to intercept run-off, prevent soil erosion, and avoid flooding of the land. During each calendar year, such drainage works shall be completed prior to the end of September and maintained or improved throughout the aftercare period.

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.

73. A comprehensive agricultural field drainage system, conforming to the normal design criteria for restored land, and in accordance with a scheme to be submitted to and approved in writing beforehand by the MPA, shall be installed at a time to be agreed no earlier than the first annual aftercare meeting and no later than 24 months from the commencement of the aftercare period.

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.

74. At least 7 days notice of the intention to commence works to the installation of any underdrainage shall be given to the MPA. Underdrainage works shall proceed only subject to their approval in writing by the MPA.

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.

75. Within three months following the installation of the approved underdrainage, two copies of both the final drainage record plan and the up-to-date site survey plan (showing final restoration contours at 2 metre intervals) shall be submitted to and approved in writing by the MPA.

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.

CULTIVATION AFTER INSTALLATION OF FIELD DRAINAGE

76. As soon as the ground is sufficiently dry after compliance with Condition 73, the agricultural land shall be subsoiled, using an agricultural winged tined subsoiler, operating at a depth, and tine spacing approved in writing by the MPA. During the cultivation process, any exposed stones larger than 100mm in any dimension, together with other objects liable to obstruct future cultivation shall be removed from the site. At least seven days notice of the intention to carry out such works shall be given to the MPA and such works shall only proceed subject to the written approval of the MPA.

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.

77. Following compliance with Condition 76, the agricultural land shall be worked to prepare a seedbed suitable for the sowing of grass seeds or other crop approved in writing by the MPA prior to sowing. During the cultivation process any stones lying on the surface which would not pass through a wire mesh with a spacing of 100mm, together with other objects liable to obstruct future cultivation, shall be removed from the surface and not buried within the restored soil profile.

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.

78. By no later than the end of August following compliance with Condition 77, the agricultural land shall be sown with a long-term grass seeds mixture, the basis of which shall be perennial ryegrass and white clover. Details of the mixture including species and seed rate shall be submitted to and approved in writing by the MPA before sowing commences.

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.

ESTABLISHMENT AND MAINTENANCE OF GRASS SWARD

79. During the aftercare period the following shall be carried out in respect of the agricultural land:
- (a) the soil shall be tested annually, and fertiliser and lime shall be applied in accordance with good agricultural practice, and at a rate targeted to achieve the following nutrient levels under the Index System described in the latest version of the Ministry of Agriculture, Fisheries and Food Leaflet RB209 "Fertiliser Recommendations" or equivalent:
Potash - Index 2
Phosphate - Index 2
pH - 6.0
 - (b) reseeding any areas where a grass sward fails to become well established with an approved species mixture.
 - (c) the grass sward to be reduced to 50 – 100mm in length by cutting or grazing before the end of October.
 - (d) the condition of the grass sward to be inspected annually, with appropriate measures taken to control weed infestation.
 - (e) no vehicles, (with the exception of low ground pressure types required for approved agricultural work), machinery or livestock shall be permitted on the land during the months of November, December, January, February and March, without the prior consent of the MPA.

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.

HABITAT AREAS AND AMENITY AREAS

80. A detailed specification including a modified programme of soil resspreading, cultivation, seeding, fertilising and cutting shall be separately submitted to and approved in writing by the MPA prior to the commencement of the aftercare period, for any approved conservation habitat area or amenity area.

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

81. Hedges and trees shall be maintained during the aftercare period in accordance with good woodland and/or agricultural practice, such maintenance shall include:
- (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

82. 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, shall incorporate proposals to demonstrate 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.

83. 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 confirmed in writing by the MPA.

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.

and

DM/19/03569/VOCMW

DEFINING THE PERMISSION

1. The development hereby approved shall be carried out in accordance with the following plans and documents:

Plans:

- i. Drawing HJB/4071/30 Planning Application Boundaries and EIA Study Area
- ii. Drawing HJB/4071/25A Composite Working Method Plan (Drawing PA06A)
- iii. Drawing HJB/4071/51 Existing Features Plan
- iv. Drawing HJB/4071/28 Phasing Plan – 28 Months (Drawing PA07)
- v. Drawing HJB/4071/36 Phasing Plan – 36 Months (Drawing PA08)
- vi. Drawing HJB/4071/56 Restoration Plan (Bradley West Area) (Drawing PA10)
- vii. Drawing HJB/4071/56 Restoration Plan (Whole Area) (Drawing PA10)
- viii. Drawing HJB/4071/60 Surface Water Drainage and Treatment (Drawing PA12)
- ix. Drawing HJB/4071/41 Services Plan (Drawing PA13)
- x. Drawing HJB/4071/53 Working Programme (Drawing PA09)
- xi. Drawing HJB/4071/54 Fencing Layout Plan (Drawing PA24)
- xii. Drawing HJB/4071/45 Boundary Fence Details (Drawing PA25)
- xiii. Drawing HJB/4071/46 Internal Fence Details (Drawing PA26)
- xiv. Drawing NMA08A - Site compound - Ref HJB/4000/44E

Documents:

- Description of working method as contained in Chapter 3 of the Bradley Surface Mine Section 73 Application, Planning Statement
- Description of working method as contained in Chapter 3 of the Bradley West Planning Application & Environmental Statement – Proposed Extension to Bradley Surface Mine: November 2019 Volume 1 of 2
- The Written Scheme of Archaeological Investigation and Mitigation contained in the Updated ES Volume III, Appendix 10.7
- Combined Soil Handling and Management Manual V2 7th February 2020

- Noise Monitoring Scheme File Note CM/N/4071/PL-5 dated 6 March 2020
- Dust Action Plan contained in Appendix 10 of the of the Bradley West Planning Application & Environmental Statement – Proposed Extension to Bradley Surface Mine: November 2019 Volume 2 of 2
- Blast Vibration Monitoring Scheme File Note CM/N/4071/PL-5 dated 6 March 2020
- Hydrological and Hydrogeological Assessment contained in contained in Appendix 6 Proposed Extension to Bradley Surface Mine: November 2019 Volume 2 of 2)
- Water Management Scheme (DAB/DAB/18014/03 dated 10 November 2019) contained in Appendix 6 Proposed Extension to Bradley Surface Mine: November 2019 Volume 2 of 2)
- Bradley West Proposed Extension to Bradley Surface Mine - Regulation 25 – Further Environmental Information
- Protected Species Working Method Statement and Mitigation Strategy March 2020 produced by fpcr
- Email from Banks to DCC sent on 28 May 2020 in relation to hydrology and letter dated 19 May 2020 to Banks from DAB Geotechnics Ltd.

Details agreed pursuant to Condition 5e (details of planting and translocation of hedgerows) under DRC/18/00029 details being:

- Bradley Surface Mine Condition 5(e) Vegetation Planting – File Note - CM/N/4000/PL
- Drawing No. HJB/BA4000/36 Entitled ' Holly Translocation Plan' dated 19.01.18

Details agreed pursuant to Condition 5f (Drainage and surface management arrangements) and Condition 5g (Water treatment system details) under DRC/17/00503 details approved being:

- Bradley Surface Mine - Water Management Report - Dated October 2018

Details agreed pursuant to Condition 5h (Fencing details) under DRC/17/00510 details being:

- Document entitled 'Bradley Surface Mine, Condition 5(H) Fencing - File Note CM/N/4000/PL' dated 22 February 2018
- Plan HJB/4000/31B Fencing Layout Plan dated 22/02/18
- Plan HJB/4000/25 Boundary Fence Details dated 20/12/17
- Plan HJB/4000/33 Internal Fence Details dated 20/12/17
- Plan HJB/4000/57 Water Treatment Area Fence Details dated 20/02/18

Details agreed pursuant to Condition 5i (Site access details) under DRC/17/00506 details approved being:

- Document entitled 'Condition 5(i): Site Access - File Note CM/N/4000/PL' dated 23 March 2018
- Plan 17J94-D-GA01-RevF Site Access General Arrangement dated 22.03.18
- Plan 17J94-D-CP01-RevC Site Access Contour Plan dated 22.03.18
- Plan 17J94-D-RM01-RevD Site Access Road Markings and Signage dated 22.03.18
- Plan 17J94-D-SC01-RevC Site Access Site Clearance dated 22.03.18
- Plan 17J94-D-CD01-RevC Site Access Construction Details dated 22.03.18
- Plan 17J94-D-SP01-RevC Swept Path Analysis dated 22.03.18

The submitted plans listed above include details of the proposed site access as well as the proposed highway works covered under a S278 Agreement under the Highways Act 1980 as a result not all details are applicable to Condition 5i. The following are applicable to Condition 5i but only in so far as they relate to the formation of the site access.

- Document entitled 'Condition 5(i): Site Access - File Note CM/N/4000/PL' dated 23 March 2018

- Plan 17J94-D-GA01-RevF Site Access General Arrangement dated 22.03.18
- Plan 17J94-D-RM01-RevD Site Access Road Markings and Signage dated 22.03.18
- Plan 17J94-D-SC01-RevC Site Access Site Clearance dated 22.03.18
- Plan 17J94-D-CD01-RevC Site Access Construction Details dated 22.03.18

Details agreed pursuant to Condition 5k (Wheel cleaning equipment details) under DRC/18/00037 details being:

- Document entitled 'Condition 5(K): Wheel Washing Equipment - File Note CM/N/4000/PL' dated 16 January 2018
- Plan HJB/4000/29 Details of Wheel Washing Facility dated 24/01/18
- Plan HJB/4000/44 Proposed Site Compound dated 24/01/18 in so far as it shows the location of the wheel washing facility

Details agreed pursuant to Condition 5l (Site compound details) under DRC/18/00037 details being:

- Document entitled 'Condition 5(L): Site Compound - File Note CM/N/4000/PL' dated 14 March 2018

Details agreed pursuant to Condition 5m (Gas main protection pads) under DRC/17/00510 details being:

- Document entitled 'Bradley Surface Mine - Condition 5(M): Gas Main Protection Pads - File Note CM/N/4000/PL' dated 8 January 2018
- Plan HJB/4000/30A Temporary Gas Main Crossing Point dated 08/01/17

Details agreed pursuant to Condition 5n (Notice board details) under DRC/17/00510 details being:

- Document entitled 'Bradley Surface Mine - Condition 5(N): Site Entrance Notice Boards - File Note CM/N/4000/PL' dated 19 February 2018
- Plan HJB/BA4000/56 Location of Site Entrance Notice Boards dated 16.02.18
- Plan HJB/4000/27 - Site Entrance Sign
- Plan HJB/4000/32 - Approved Traffic Route sign

Details agreed pursuant to Condition 5o (Travel plan) under DRC/17/00510 details being:

- Document entitled 'Bradley Surface Mine, Condition 5(o): Travel Plan File Note CM/N/4000/PL' dated 20 February 2018

Details agreed pursuant to Condition 6a (Restoration Details) under DRC/18/00455 details being:

- Drawing No. HJB/BA4000/11 - Internal Fence Details
- Drawing No. HJB/BA4000/25 - Boundary Fence Details
- Email from Banks sent on 02/05/2019 at 13:34 with clarification in relation to consultee comments
- Document entitled 'Restoration and Aftercare Statement V3'

Details agreed pursuant to Condition 6b (Aftercare Strategy) under DRC/18/00455 details being:

- Drawing No. HJB/BA4000/11 - Internal Fence Details
- Drawing No. HJB/BA4000/25 - Boundary Fence Details
- Email from Banks sent on 02/05/2019 at 13:34 with clarification in relation to consultee comments
- Document entitled 'Restoration and Aftercare Statement V3'

Reason: To define the consent and ensure that a satisfactory form of development is obtained having regards to County Durham Mineral Local Plan Policies M7, M8, M17,

M19, M23, M24, M27, M29, M30, M31, M32, M33, M34, M35, M36, M37, M38, M42, M43, M45, M46, M47, M51, M52, Derwentside Local Plan Policies EN6 and EN22 and Parts 2, 4, 6, 8, 9, 11, 14, 15, 16 and 17 of the National Planning Policy Framework.

2. A copy of this decision, including all the approved plans and documents, along with any legal agreements and subsequent amendments, 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.

3. The Mineral Planning Authority (MPA) shall be given at least seven days prior written notification of the date of commencement of the development

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

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.

MATTERS REQUIRING SUBSEQUENT APPROVAL

5. Within four months of the date of this permission, a scheme for the following shall be submitted in writing to the Mineral Planning Authority. Once approved the development shall be carried out in accordance with the approved details. The scheme should include the following elements:

- viii. details of any new habitat created;
- ix. details of how any habitat created will function and complement the wider natural landscape;
- x. details of species composition of these habitats, with a preference towards native species;
- xi. details of how all species identified as being within the site or likely to utilise the site will benefit from the proposed restoration;
- xii. details of the boundaries and/or buffers around water bodies and wetland features and how they will be created following best practice guidelines and managed;
- xiii. details of the treatment of site boundaries and/or buffers around agricultural land and how these will follow best practice guidelines and how they will be created and managed; and
- xiv. details of public access and how this will be restricted to protect habitats created on the site such as wetlands or areas supportive of ground nesting birds.

Reason: To enhance the natural features and character of the site and to both offset the impact on wildlife experienced during the working of the mineral and to maximise the opportunity for securing positive benefits for nature conservation once mineral workings cease. (Condition requested by the Environment Agency)

6. Within four months of the date of this permission, schemes for the following shall be submitted in writing to the MPA. Once approved the development shall be carried out in accordance with the approved details.
- (a) Details of the restoration of the site, which shall include:
- xii. the final contours for the site (at 2 metre intervals), indicating how such contours tie in with the existing contours on adjacent land;
 - xiii. the replacement of soils including depths and handling and replacement methods;
 - xiv. a scheme to provide for the management of the restored ground within any areas on site identified as feeding grounds used by badgers, to promote the maximum recolonisation with invertebrate.
 - xv. the drainage of the restored site;
 - xvi. the erection of fences;
 - xvii. the planting of trees and hedges, to include the numbers species and percentages of species to be planted; size and spacing; ground preparation; fencing; subsequent maintenance and management;
 - xviii. habitat creation works including seeding to be undertaken to include the seed mix and provenance of the seed, preparations to be made to the ground before seeding and subsequent maintenance;
 - xix. the reinstatement of and provision of additional drystone walls;
 - xx. the routes of proposed public rights of way, details of the surfacing and any other works associated with them and a timetable for their provision.
 - xxi. the provision of appropriate site interpretation material based on the results of the archaeological works;
 - xxii. measures to ensure that the risk of erosion is minimised and the use of agricultural machinery is not unduly restricted;

(b) A strategy for the aftercare of the land for five years.

To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions) and Parts 15 and 17 of the National Planning Policy Framework.

COMPLETION

7. All extraction shall cease by no later 17 August 2020 from the date of commencement of the development.

Reason: To avoid unnecessary delay in the restoration of the site. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Parts 15 and 17 of the National Planning Policy Framework).

8. The site shall be restored by no later than 17 August 2021.

Reason: To avoid unnecessary delay in the restoration of the site. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Parts 15 and 17 of the National Planning Policy Framework).

9. In the event of extraction ceasing or significantly reducing for a period of 3 months from that specified in the approved detailed phasing programme, the MPA shall be notified in writing within one month of the date of such cessation or reduction. Within 1 month of that date, a revised scheme for the restoration of the site or modification of the detailed phasing programme for the site, including timescales for completion, shall be submitted to the MPA for its written approval. The revised scheme shall be implemented as approved.

Reason: To ensure the site is satisfactorily restored and to avoid unnecessary delay in the restoration of the site. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Parts 15 and 17 of the National Planning Policy Framework).

WORKING PERIOD

10. Operations shall only take place within the following hours:

Site operations

07.00 to 19.00 Monday to Friday

07.00 to 12.00 Saturday

Coal haulage hours

07.00 to 18.00 Monday to Friday

07.00 to 12.00 Saturday

Maintenance

07.00 to 19:00 Monday to Friday

07.00 to 16:00 Saturday

With the exception of pumping, no working or operations including the maintenance of vehicles and plant shall take place outside of these hours or at any time on Bank, or other public holidays, save in cases of emergency when life, limb, or property are in danger. 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 and Parts 9, 15 and 17 of the National Planning Policy Framework).

11. Notwithstanding the operational hours set out in Condition 10, no mineral extraction, overburden or soils handling operations shall take place within 200m of Brooms Farm or Our Lady and St Josephs Church House prior to 08.00 hours Monday to Saturday.

Reason: In the interests of residential amenity. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting Local Amenity, and Parts 15 and 17 of the National Planning Policy Framework).

ACCESS AND PROTECTION OF THE PUBLIC HIGHWAY

12. Access for all vehicles to and from the site shall be via the site access as shown on Drawing HJB/4071/25A Composite Working Method Plan Drawing No PA06A.

Reason: In the interests of highway safety (Adopted County Durham Minerals Local Plan (December 2000) Policy, M43 Road Traffic and Parts 9, 15 and 16 of the National Planning Policy Framework).

13. The approved wheel cleaning facilities referred to in Condition 1 shall be used to ensure vehicles leaving the site are thoroughly cleansed of mud before entering the public highway to ensure that mud and other debris shall not be deposited on the public highway.

Reason: In the interests of highway safety and residential amenity (Adopted County Durham Minerals Local Plan (December 2000) Policies M43 Road Traffic and M36 Protecting Local Amenity and Parts 9, 15 and 17 of the National Planning Policy Framework).

14. In the event that the wheel cleaning facilities at the approved access are found to be unable to clean vehicles such that the terms of Condition 13 can be fully met, all vehicle movements from the access in question shall cease immediately until alternative measures to prevent the deposition of mud and other debris on the public highway have been agreed with the Mineral Planning Authority and implemented.

Reason: In the interests of highway safety and residential amenity (Adopted County Durham Minerals Local Plan (December 2000) Policies M43 Road Traffic and M36 Protecting Local Amenity and Parts 9, 15 and 17 of the National Planning Policy Framework).

15. Combined with Planning Permission No. DM/19/03567/MIN the total number of heavy goods vehicles entering and leaving the site shall average no more than 96 (48 in and 48 out) Monday to Friday when calculated over any four week working period (Mondays to Fridays) and 30 (15 in and 15 out) on Saturdays. A record of all goods vehicles leaving the site shall be maintained by the operator and a certified copy of this record shall be afforded to the MPA within 2 working days of such a request.

Reason: In the interests of highway safety and in the interests of residential amenity (Adopted County Durham Minerals Local Plan (December 2000) Policies M43 Road Traffic and M36 Protecting Local Amenity and Parts 9, 15 and 17 of the National Planning Policy Framework).

16. The loads of all laden coal lorries leaving the site shall be fully covered by sheeting.

Reason: In the interests of highway safety and residential amenity (Adopted County Durham Minerals Local Plan (December 2000) Policies M43 Road Traffic and M36 Protecting Local Amenity and Parts 9, 15 and 17 of the National Planning Policy Framework).

SOIL STRIPPING AND STORAGE

17. The MPA shall be given at least two working days notice in writing of any intended individual phase of topsoil or subsoil stripping.

Reason: To ensure the development is carried out in an orderly manner. (Adopted County Durham Minerals Local Plan (December 2000) Policy M36 Protecting Local Amenity and Parts 15 and 17 of the National Planning Policy Framework).

18. The MPA shall be given the opportunity to verify that the full depth of topsoil has been satisfactorily stripped prior to the commencement of subsoil stripping.

Reason: To ensure the development is carried out in an orderly manner. (Adopted County Durham Minerals Local Plan (December 2000) Policy M36 Protecting Local Amenity and Parts 15 and 17 of the National Planning Policy Framework).

19. A minimum stand-off distance of 2 metres shall be maintained between soil storage mounds and the site boundary and/or site drainage ditches.

Reason: To ensure the development is carried out in an orderly manner. (Adopted County Durham Minerals Local Plan (December 2000) Policy M36 Protecting Local Amenity and Parts 15 and 17 of the National Planning Policy Framework).

20. No topsoil, subsoil or soil making materials 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 and Parts 15 and 17 of the National Planning Policy Framework).

21. Within three months of the commencement of soil stripping, and every six months thereafter, the MPA shall be supplied with a plan indicating the area stripped of topsoil and subsoil, the location of each soil storage heap, and the quantity and nature of material within the mounds together with details of the type of plant used to strip/store those materials. A balance of the quantities of material stored with the proposed depth and texture of the soil profile to be replaced following restoration shall also be provided and outstanding restoration tasks.

Reason: To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Parts 15 and 17 of the National Planning Policy Framework).

SITE WORKING

22. A strip of land at least 12 metres wide shall be maintained at existing ground levels adjacent to any highway, except where the storage of topsoil and subsoil has been approved.

Reason: In the interests of highway safety (Adopted County Durham Minerals Local Plan (December 2000) Policy, M43 Road Traffic and Parts 9, 15 and 17 of the National Planning Policy Framework).

23. Overburden and soils shall only be stockpiled in the areas shown on Drawing HJB/4071/25A Composite Working Method Plan Drawing No PA06A, or as subsequently approved, to heights not exceeding those shown on the plan.

Reason: In the interests of visual amenity. (Adopted County Durham Minerals Local Plan (December 2000) Policy M36 Protecting Local Amenity and Parts 15 and 17 of the National Planning Policy Framework).

24. Coal and fireclay shall only be stockpiled in the areas shown on Drawing HJB/4071/25A Composite Working Method Plan Drawing No PA06A to heights not exceeding 5 metres in height.

Reason: In the interests of visual amenity. (Adopted County Durham Minerals Local Plan (December 2000) Policy M36 Protecting Local Amenity and Parts 15 and 17 of the National Planning Policy Framework).

SITE MAINTENANCE

25. 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 and maintenance 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 and cleaning of all the hard surfaced access roads within the site over which licensed road vehicles operate;
 - (d) the maintenance of drainage ditches to avoid reducing their capacity for intercepting sediment;

- (e) all areas of the site, including undisturbed areas and all topsoil, subsoil, soil making material 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.

BUILDINGS, PLANT AND MACHINERY

26. Notwithstanding the provisions of Part 20 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, no buildings, fixed plant or machinery other than approved by this permission under Condition 1 shall be erected or placed on the site without express planning permission.

Reason: In the interests of residential amenity and to enable the local planning authority to consider the implications of any proposal to expand the activities which take place within the site. (Adopted County Durham Minerals Local Plan (December 2000) Policy M36 Protecting Local Amenity and Parts 15 and 17 of the National Planning Policy Framework).

NOISE

27. Noise emitted from operations on the site shall not result in noise levels greater than those listed below, except when temporary operations (soil stripping, the construction and removal of baffle mounds, soil storage mounds and spoil heaps, construction of new permanent landforms and aspects of site road construction and maintenance) are taking place.

Douglas Terrace 50dB LAeq, 1Hr (free field)
Brooms Farm 55dB LAeq, 1Hr (free field)
Pont Road 55dB LAeq, 1Hr (free field)
Annaside Mews 55dB LAeq, 1Hr (free field)
Redwell Hills Farm 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 and Parts 15 and 17 of the National Planning Policy Framework).

28. During periods of temporary operations (soil stripping, the construction and removal of baffle mounds, soil storage mounds and spoil heaps, construction of new permanent landforms and aspects of site road construction and maintenance) the Noise Monitoring Scheme shall provide that the noise emitted from operations on the site shall not result in noise levels greater than 70dB LAeq, 1Hr (freefield) as measured at Douglas Terrace, Brooms Farm, Pont Road, Annaside Mews and Redwell Hills Farm. The duration of such activities shall not exceed 8 weeks in relation to each of the respective noise monitoring properties in any 12 month period.

Reason: In the interests of residential amenity. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting Local Amenity and Parts 15 and 17 of the National Planning Policy Framework).

29. The MPA shall be given at least 2 working days notice in writing prior to the commencement of any temporary operations.

Reason: In the interests of residential amenity. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting Local Amenity and Parts 15 and 17 of the National Planning Policy Framework).

30. Noise monitoring shall take place in accordance with the approved Noise Monitoring Scheme. On request, the operator shall, within 2 working days furnish the MPA with the particulars of the measurements recorded and the plant and equipment operating on the site at the time.

Reason: In the interests of residential amenity. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting Local Amenity and Parts 15 and 17 of the National Planning Policy Framework).

BLASTING

31. Blasting operations shall be restricted to 2 blasts per day between the following times:
Monday to Friday
09:00 hours to 09:05
09:55 hours to 10:05
10:55 hours to 11:05
11:55 hours to 12:00
14:00 hours to 14:05
14:55 hours to 15:05
15:55 hours to 16:00

No blasting shall take place outside these hours or at any time on Bank or other public holidays, save in cases of emergency when life, limb, or property are in danger. The Mineral Planning Authority shall be notified as soon as is practicable after the occurrence of any such emergency operations or working.

Reason: In the interests of residential amenity and to protect land outside the site. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting local amenity and Parts 15 and 17 of the National Planning Policy Framework).

32. No component of the peak particle velocity of ground vibration resulting from the blasting shall exceed 12mms/second at any time during the working of the site at the nearest occupied residential property and, in each six month period of working, 95% of blasts shall not exceed 6mms/second.

Reason: In the interests of residential amenity and to protect land outside the site. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting local amenity and Parts 15 and 17 of the National Planning Policy Framework).

33. Blasting and monitoring of blasts shall take place in accordance with the approved Blast Vibration Monitoring Scheme. On request, the operator shall, within 2 working days furnish the MPA with the particulars of the measurements recorded.

Reason: In the interests of residential amenity and to protect land outside the site. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting local amenity and Parts 15 and 17 of the National Planning Policy Framework).

34. Each blast shall be preceded by the sounding of a siren, and notices giving details of blasting operations and warning flags shall be placed at the agreed positions in accordance with the approved Blast Vibration Monitoring Scheme before blasting

commences. The siren, notices and position at which flags are to be erected will be maintained throughout the duration of minerals extraction operations. Occupiers of adjacent residential properties shall be notified of blasting procedures on site in accordance with agreed details.

Reason: In the interests of residential amenity and to protect land outside the site. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting local amenity and Parts 15 and 17 of the National Planning Policy Framework).

35. The measures to minimise the effects of air overpressure from blasting as agreed in the approved Blast Vibration Monitoring Scheme shall be implemented.

Reason: In the interests of residential amenity and to protect land outside the site. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting local amenity and Parts 15 and 17 of the National Planning Policy Framework).

36. No blasting shall take place within 500m of any part of Douglas Terrace and Hedley Terrace.

Reason: In the interests of residential amenity and to protect land outside the site. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting local amenity and Parts 15 and 17 of the National Planning Policy Framework).

DUST

37. The approved Dust Action Plan shall be implemented and adhered to at all times.

Reason: In the interests of residential amenity. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting local amenity and Parts 15 and 17 of the National Planning Policy Framework).

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

Reason: In the interests of residential amenity. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting local amenity and Parts 15 and 17 of the National Planning Policy Framework).

39. At such times when the equipment provided and the provisions in the approved Dust Action Plan are not sufficient to minimise and control dust arising from and leaving the site, operations shall temporarily cease until weather conditions change or additional effective dust control measures are implemented in order to minimise and control dust from leaving the site.

Reason: In the interests of residential amenity. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting local amenity and Parts 15 and 17 of the National Planning Policy Framework).

POLLUTION CONTROL

40. 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 the pollution of the water environment and to protect land outside the site and to prevent adversely affecting watercourses passing through or outside the site. (Adopted County Durham Minerals Local Plan (December 2000) Policies M36 Protecting Local Amenity, M38 Water Resources and Parts 14, 15 and 17 of the National Planning Policy Framework).

RESTORATION

41. All areas of hardstanding, including site compounds, access road 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, unless they are to be retained in accordance with the approved plans.

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

42. 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 and Part 17 of the National Planning Policy Framework).

43. 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 and Part 17 of the National Planning Policy Framework).

REPLACEMENT OF OVERBURDEN

44. The final placement of overburden into the voids of completed workings shall be graded to prevent the material becoming saturated and waterlogged. Overburden shall be replaced to such levels, and in such a way that, after the replacement of subsoil and topsoil, the contours of the restored land conform to the approved restoration contours. The MPA shall be notified in writing when replacement of overburden has been completed and shall be given an opportunity to inspect the surface before further restoration works are carried out.

Reason: To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Part 17 of the National Planning Policy Framework).

REPLACEMENT OF SUBSOIL

45. The MPA shall be notified in writing, with at least two working days notice prior to each phase of subsoil replacement.

Reason: To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Part 17 of the National Planning Policy Framework).

46. Prior to the replacement of subsoils, the surface onto which it is to be placed shall be scarified to alleviate compaction, and surface picked of any stones or other materials capable of impeding normal agricultural or land drainage operations.

Reason: To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Part 17 of the National Planning Policy Framework).

47. No movement, replacement or cultivation of subsoil shall be carried out during the months of October, November, December, January, February and March inclusive, without first obtaining the written approval of the MPA for the proposed working methods and period of working.

Reason: To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Part 17 of the National Planning Policy Framework).

48. The stripped and stored subsoil or similar material shall be respread in accordance with the Soil Handling and Management Manual and the Restoration Scheme, as appropriate to the intended after-use. Any proposal to replace uniform subsoil types in a single layer by loose-tipping methods shall only be permitted subject to a trial demonstration and subject to the written approval MPA during the restoration phase.

Reason: To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Part 17 of the National Planning Policy Framework).

49. Each layer formed in accordance with Condition 48 shall be rooted and cross rooted to its full depth by a heavy duty subsoiling implement with winged tines set no wider than 600mm apart. Any non-subsoil type material, or stones larger than 225mm in any dimension, shall be removed from the surface and not buried within the respread subsoil.

Reason: To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Part 17 of the National Planning Policy Framework).

50. All areas of exposed subsoil, not previously excavated, shall be rooted to 450mm depth at 600mm spacings to relieve compaction, and surface picked to remove any obstructions to cultivation.

Reason: To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Part 17 of the National Planning Policy Framework).

51. Following compliance with Conditions 49 and 50, the surface shall be graded to ensure that, after replacement of topsoil, the contours of the landform conform to the approved restoration contours.

Reason: To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Part 17 of the National Planning Policy Framework).

52. The MPA shall be given the opportunity to inspect each stage of the work completed in accordance with Conditions 48, 49 and 50 prior to further restoration being carried out, and shall be kept informed as to the progress and stage of all works. A record plan of the progress of restoration shall be maintained at the site office.

Reason: To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Part 17 of the National Planning Policy Framework).

REPLACEMENT OF TOPSOIL

53. The MPA shall be notified in writing, with at least two working days notice prior to each phase of topsoil replacement.

Reason: To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Part 17 of the National Planning Policy Framework).

54. The respreading of topsoil shall only be carried out when the material and the ground on which it is to be placed are in a suitably dry and friable condition, and there shall be sufficient time for subsoiling, cultivation and reseedling to take place and be completed under normal weather conditions before the end of September.

Reason: To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Part 17 of the National Planning Policy Framework).

55. No movement, replacement or cultivation of topsoil shall be carried out during the months of October, November, December, January, February and March without first obtaining the written approval of the MPA for the proposed working methods and period of working.

Reason: To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Part 17 of the National Planning Policy Framework).

56. Topsoil shall be respread in accordance with the approved Soil Handling and Management Manual and the Restoration Scheme, as appropriate to the intended after-use, to a form corresponding to the contours 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 and Part 17 of the National Planning Policy Framework).

57. The MPA shall be given the opportunity, with 48 hours advance notice, to inspect each stage of the work completed in accordance with Condition 56 prior to further restoration being carried out, and shall be kept informed as to the progress and stage of all works.

MAINTENANCE OF SITE RESTORATION RECORDS

58. During the whole restoration period, the developer shall maintain on site separate plans for the purpose of recording successive areas of overburden, subsoil and topsoil replacement approved by the MPA.

Reason: To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Part 17 of the National Planning Policy Framework).

59. Within 3 months of the restoration of the final topsoil layer, the developer shall make available to the MPA a plan with contours at sufficient intervals to indicate the final restored landform of the site, together with a record of the depth and composition of the reinstated soil profiles.

Reason: To ensure the site is satisfactorily restored. (Adopted County Durham Minerals Local Plan (December 2000) Policy M46 Restoration Conditions and Part 17 of the National Planning Policy Framework).

AFTERCARE

60. The aftercare period will begin after compliance with Condition 56 for the whole of the site.

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.

61. Every year during the aftercare period the developer shall arrange an annual review meeting to be held before 30th November, 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.

The developer shall arrange additional aftercare meetings as required 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.

62. Not less than 4 weeks prior to the annual review meeting, a report shall be submitted to the MPA recording the operations carried out on the land since the date soil replacement operations were completed, or since the previous annual review meeting, and setting out the intended operations for the next 12 months, including works to rectify failures which have been identified as necessary by the MPA.

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.

CULTIVATION AFTER REPLACEMENT OF TOPSOIL

63. As soon as the ground is sufficiently dry following the satisfactory replacement of topsoil, the land shall be subsoiled using an agricultural winged tine subsoiler, operating at a depth and tine spacing agreed in writing beforehand with the MPA. At least seven days notice of the intention to carry out these works shall be given to the MPA and such works shall only proceed subject to the written approval of the MPA.

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.

64. Any stones lying on the surface after compliance with Condition 63 which are larger than would pass through a wire mesh with a spacing of 100mm, together with other objects liable to obstruct future cultivations, shall be removed from the surface and either be buried below the subsoil or removed from the site.

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.

65. Following compliance with Condition 64 the land shall be worked to prepare a seedbed suitable for the sowing of grass seeds or other approved crop.

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.

66. As soon as practicable following compliance with Condition 65, and no later than the end of September, the land shall be sown with a short-term grass seed mixture or other approved crop, the details of which shall have been submitted to and approved in writing by the MPA prior to the commencement of topsoil replacement.

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.

67. Where adverse weather conditions or other delays prevent compliance with Condition 66, alternative treatment of the reinstated soils to stabilise them over the winter period shall be submitted to and approved in writing by the MPA.

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.

PROVISION OF SURFACE FEATURES

68. From the date of commencement of the aftercare period on any part of the site, the following works shall be carried out within the relevant part of the site:
- (i) the installation of water supplies for livestock shall be completed within 12 months;
 - (ii) the erection of stock-proof fences and gates shall be completed within 24 months;

- (iii) stone walls and access tracks shall be completed within 24 months (and prior to the commencement of any underdrainage installation) except where alternative details have been submitted to and approved in writing by the MPA;
- (iv) hedgerows shall be planted within the first available season following the completion of soils replacement; and
- (v) proposed woodland areas shall be sown with an agreed grass seed mix within the first available season, the details of which shall be submitted to and approved in advance in writing by the MPA. Trees shall then be planted in suitably prepared ground during the next available planting season.

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.

69. The works referred to in Condition 68 shall be carried out in accordance with details set out in the report prepared in accordance with Condition 62. The MPA shall be notified at least 4 weeks before commencement of, and no later than 4 weeks after completion of, each of the above works.

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.

DRAINAGE AND WATER SUPPLY

70. Following the completion of each phase of restoration, surface drainage works (including watercourses, field boundary ditches, and surface grips) shall be installed as soon as practicable following soils replacement, to intercept run-off, prevent soil erosion, and avoid flooding of the land. During each calendar year, such drainage works shall be completed prior to the end of September and maintained or improved throughout the aftercare period.

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.

71. A comprehensive agricultural field drainage system, conforming to the normal design criteria for restored land, and in accordance with a scheme to be submitted to and approved in writing beforehand by the MPA, shall be installed at a time to be agreed no earlier than the first annual aftercare meeting and no later than 24 months from the commencement of the aftercare period.

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.

72. At least 7 days notice of the intention to commence works to the installation of any underdrainage shall be given to the MPA. Underdrainage works shall proceed only subject to their approval in writing by the MPA.

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.

73. Within three months following the installation of the approved underdrainage, two copies of both the final drainage record plan and the up-to-date site survey plan

(showing final restoration contours at 2 metre intervals) shall be submitted to and approved in writing by the MPA.

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.

CULTIVATION AFTER INSTALLATION OF FIELD DRAINAGE

74. As soon as the ground is sufficiently dry after compliance with Condition 71, the agricultural land shall be subsoiled, using an agricultural winged tined subsoiler, operating at a depth, and tine spacing approved in writing by the MPA. During the cultivation process, any exposed stones larger than 100mm in any dimension, together with other objects liable to obstruct future cultivation shall be removed from the site. At least seven days notice of the intention to carry out such works shall be given to the MPA and such works shall only proceed subject to the written approval of the MPA.

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.

75. Following compliance with Condition 74, the agricultural land shall be worked to prepare a seedbed suitable for the sowing of grass seeds or other crop approved in writing by the MPA prior to sowing. During the cultivation process any stones lying on the surface which would not pass through a wire mesh with a spacing of 100mm, together with other objects liable to obstruct future cultivation, shall be removed from the surface and not buried within the restored soil profile.

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.

76. By no later than the end of August following compliance with Condition 75, the agricultural land shall be sown with a long-term grass seeds mixture, the basis of which shall be perennial ryegrass and white clover. Details of the mixture including species and seed rate shall be submitted to and approved in writing by the MPA before sowing commences.

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.

ESTABLISHMENT AND MAINTENANCE OF GRASS SWARD

77. During the aftercare period the following shall be carried out in respect of the agricultural land:
- a. the soil shall be tested annually, and fertiliser and lime shall be applied in accordance with good agricultural practice, and at a rate targeted to achieve the following nutrient levels under the Index System described in the latest version of the Ministry of Agriculture, Fisheries and Food Leaflet RB209 "Fertiliser Recommendations" or equivalent:
Potash - Index 2
Phosphate - Index 2
pH - 6.0

- b. reseeding any areas where a grass sward fails to become well established with an approved species mixture.
- c. the grass sward to be reduced to 50 – 100mm in length by cutting or grazing before the end of October.
- d. the condition of the grass sward to be inspected annually, with appropriate measures taken to control weed infestation.
- e. no vehicles, (with the exception of low ground pressure types required for approved agricultural work), machinery or livestock shall be permitted on the land during the months of November, December, January, February and March, without the prior consent of the MPA.

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.

HABITAT AREAS AND AMENITY AREAS

78. A detailed specification including a modified programme of soil resspreading, cultivation, seeding, fertilising and cutting shall be separately submitted to and approved in writing by the MPA prior to the commencement of the aftercare period, for any approved conservation habitat area or amenity area.

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

79. Hedges and trees shall be maintained during the aftercare period in accordance with good woodland and/or agricultural practice, such maintenance shall include:
- (e) the early replacement of all dead, damaged or diseased plants.
 - (f) weeding early in each growing season, and as necessary thereafter to prevent the growth of plants being retarded.
 - (g) maintaining any fences around planted areas in a stock proof condition.
 - (h) 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

80. 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, shall incorporate proposals to demonstrate 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.

81. 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 confirmed in writing by the MPA.

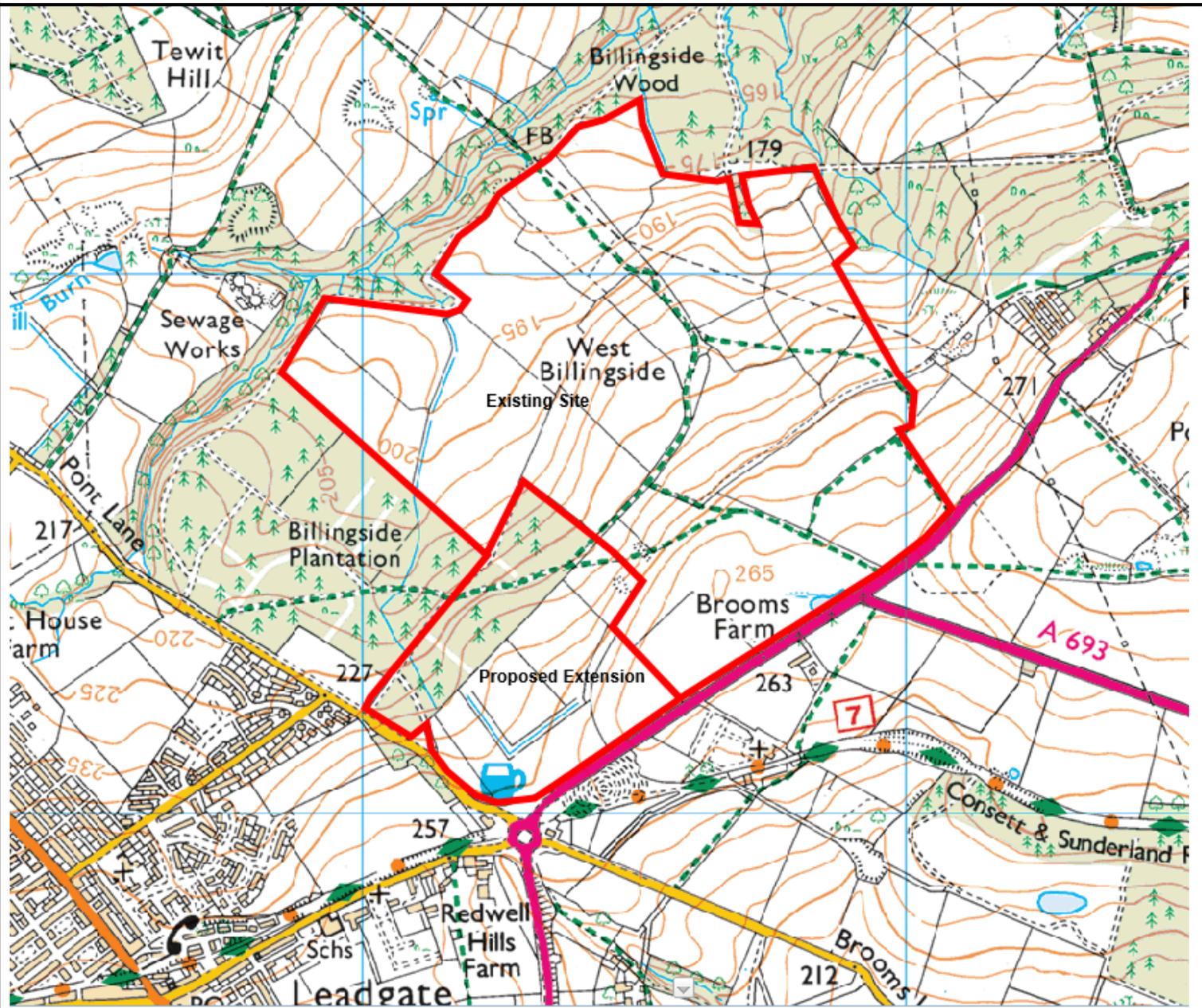
Reason: To ensure that the land is satisfactorily treated for an appropriate period after the initial restoration to bring it to a satisfactory standard as required by Schedule 5 of the Town and Country Planning Act 1990.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its recommendation to approve both applications 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) (CC) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

BACKGROUND PAPERS

- Submitted application forms, Environmental Statement, plans, associated documents and subsequently submitted additional environmental information and additional information provided by the applicant.
- National Planning Policy Framework (2019)
- National Planning Practice Guidance Notes
- County Durham Minerals Local Plan (2000)
- Derwentside District Council Local Plan (1997)
- Statutory, internal and public consultation responses.



Planning Services

- 1) DM/19/03567/MIN – Proposed surface mining for the extraction of up to 90,000 tonnes of coal and 20,000 tonnes of fireclay with restoration of the site to include woodland, species rich grassland and haymeadow, scrub, water features and agriculture at Land To The West Of Bradley Surface Mine, Leadgate, Consett, DH8 6RS
- 2) DM/19/03569/VOCMW – Variation of Conditions 1 (Approved documents), 5 (Matters requiring subsequent approval), 7 (Extraction date), 8 (Restoration date), 11 (Working period) and 15 (Number of HGV numbers) pursuant to Appeal Decision AAP/X1355/A/11/2150277 (DCC Ref. CMA/1/37) to facilitate an extension to the existing Bradley surface mine at Bradley Surface Mine Leadgate Consett DH8 6RS

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Comments	
Date June 2020	Not to scale