



Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/22/00010/MIN
FULL APPLICATION DESCRIPTION:	Continued restoration of colliery spoil heap, including extraction, processing and export of combustible material, limestone and sand for a period of 10 years
NAME OF APPLICANT:	Mr Robert Surtees
ADDRESS:	Former Colliery Spoil Heap, Hesleden, Durham
ELECTORAL DIVISION:	Blackhalls
CASE OFFICER:	Chris Shields, Senior Planning Officer 03000 261394, chris.shields@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The village of Hesleden is located south of the B1281 Road between the A19 to the west and the A1086 Road to the east. The former Castle Eden Colliery and associated spoil heap lie adjacent to the village, immediately south of the Haswell to Hart Railway Path, now part of the Sustrans National Cycle Network. This was once a mineral railway line serving various collieries in East Durham and finally closed in 1980. The site is on the northern edge of Hesleden Dene, which links with Nesbitt Dene to become Crimdon Dene, on the northern outskirts of Hartlepool.
2. The village of Castle Eden lies approximately 1 kilometre to the west; the A19 is approximately 1 kilometre further west again and the settlement of Blackhall Rocks lies three kilometres to the north east.
3. The application site is accessed via Gray Avenue, which in turn, leads to the B1281 Road. At the corner of Gray Avenue, where it becomes Front Street, a surfaced track leads to the site. This track, which forms part of Footpath No.24 (Monk Hesleden Parish), also serves a number of smallholdings, allotments and associated buildings in different ownerships in close proximity to the site. A number of business owners have access rights along this track, including the owner of the application site. Footpath No.16 (Sheraton with Hulam Parish) runs to the south of the site, approximately 100m from the application boundary and would not be affected by the proposed development.
4. The application site is approximately 3.89 hectares and comprises the colliery spoil heap resulting from mining activities conducted in the 19th Century. The site is surrounded by woodland including the Hesleden Dene Ancient Woodland that lies

immediately to the south and forms a dense barrier on three sides. Woodlands to the west, south and east are covered by a Tree Preservation Order. The north east boundary, facing towards Hesleden, forms a less dense boundary comprising low quality scrub woodland. The land rises up to the centre of the remaining mound and falls away sharply down to the Hesleden beck on the south and south western sides of the site.

5. There is history on the site of the material combusting and requiring attendance by the fire service to extinguish the fire. As a result, prior to the commencement of reclamation works, burning material was excavated from the site and deposited in stockpiles to be extinguished and cool. Since reclamation works commenced in 2017 there have been no incidences of combustion on site, although there is evidence of burnt shale throughout the spoil heap now that it has been exposed.
6. The site lies in an Area of Higher Landscape Value as defined in the County Durham Plan The site is within the designated Hesleden Dene Local Wildlife Site (LWS) designated mainly for its former importance to dingy skipper butterflies. Hulam Fen Site of Special Scientific Interest (SSSI) is located approximately 400m to the south of the site and Castle Eden Dene SSSI and Special Area of Conservation (SAC) is located approximately 1km to the north. Durham Coast SAC and Teesmouth and Cleveland SAC are located approximately 3.3km to the east.
7. At the southern edge of the site, at the foot of the spoil heap, is the Hesleden Beck. The steep slopes of the Hesleden Dene at this point in its course limit the spread of the flood plain, nevertheless, a very small area of the site is within Flood Zones 2 and 3. In addition, the site overlies a Major Aquifer and is in a Major Groundwater Vulnerability zone as defined by the Environment Agency.
8. There are no listed buildings, Scheduled Monuments or Conservation Areas designations within the site. There are twenty five designated heritage assets within 2km of the site comprising one Scheduled Monument, one Grade II* listed building and twenty two Grade II listed buildings. Castle Eden Conservation Area lies 1km to the west. The registered Grade II parklands of Castle Eden lie around 1km to the north.

The Proposal

9. The proposed development is for the continuation of the removal of combustible material from the Hesleden Colliery spoil heap comprising of low-grade coal, shale and spoil, and in addition the extraction of deposits of sand and magnesian limestone from within and below the spoil heap. The application area of the current application is identical to that previously granted planning permission.
10. The reclamation of the Hesleden spoil heap commenced with preparatory works in July 2017 and the first extraction of combustible material occurred in January 2018. The original planning permission allowed for 2 years to complete extraction of the combustible material, and upon this timescale extraction would therefore have been due to be completed by January 2020. However, this was not the case and an application to extend the completion date for mineral extraction by 2 years was submitted in 2019.
11. The original application estimated that within the spoil heap there was approximately 278,000 tonnes (173,000m³) of combustible material. At the time that this current planning application was received in December 2021, 110,000 tonnes of combustible material had been recovered and exported off site. As the site has continued working during the determination of the application the current volume of exported combustible material totals 170,408 tonnes.

12. The original estimate of 278,000 tonnes of combustible material being within the spoil heap has been revised since working commenced and an updated geological estimate has now indicated that the total volume of combustible material in the spoil heap prior to reclamation work commencing was 410,000 tonnes. Taking into account the material that has already been removed this leaves a volume of 239,592 tonnes of combustible material remaining.
13. In addition to the original application this proposal also seeks to extract and export 125,000 tonnes of magnesian limestone and 175,000 tonnes of sand that have been found within and below the spoil heap. This material would be used for aggregate purposes. Again, works have continued during the determination of this application and to date 61,600 tonnes of limestone and 14,640 tonnes of sand have been exported from the site. This leaves 63,400 tonnes of limestone and 160,360 tonnes of sand remaining.
14. The application proposes to remove this material over a period of 9 years, however, as the site has continued to operate for the 20 months since the application was submitted the remaining time for extraction is now 7 years and 4 months. Once the combustible material, limestone and sand has been removed the site would be restored to nature conservation with the reinstatement of Footpath No.24 (Monk Hesleden Parish). Final restoration following extraction works would take a further 12 months to complete.

Working method

15. The proposed development is a continuation of works that have been underway since January 2018. The combustible material and sand to be removed from site would be selectively dug from the areas identified from the site investigation data and subsequently confirmed within the excavations and such material would be excavated and stockpiled locally for subsequent loading out to road vehicles. Stockpiles on site would contain up to a 1 week supply for export, or approximately 3,500 tonnes and would have a height of up to 5m. The stockpiles would be located on the northern side of the site, close to the site access. Material is screened on site. The remaining non-combustible material would be kept on site for use in the restoration.
16. The underlying magnesian limestone is extracted using an excavator and is soft enough to not require any blasting. The sand and combustible material are typically of a granular nature and also extracted using an excavator.
17. The sequence of extraction phases, 14 in total, began in the centre of the site and has worked outward toward the north-west corner and then in an anti-clockwise direction around the initial area of excavation before eventually working back toward the site access. The scheme has been designed in this way to deliver a progressive reduction in tip height in order to maintain maximum stability, in particular to the southern facing slope and to minimise surface water runoff.

Working hours

18. The proposed working hours for site operations, including mineral haulage, are 07:00 – 19:00 Monday to Friday, 07:00 – 12:00 Saturday with no working on Sundays or Public/Bank Holidays save in cases of emergency. Operations outside of these hours would be restricted to maintenance and pumping. These hours are identical to those previously permitted.

19. Some illumination of the site would be required, especially in the winter months, but this would primarily be in association with plant working in the void area which would be below ground level. Illumination within the stockpile areas and site office area would be lit during the hours of darkness for security purposes, as is currently required.

Traffic and access

20. An average of 20 (10 in and 10 out) HGV movements per working day are anticipated during the working period Monday to Friday with only 2 (1 in, 1 out) on Saturdays. Previously the approved HGV movements were 44 per day (22 in and 22 out) Monday to Friday and 22 (11 in and 11 out) on Saturdays. Vehicles would continue to enter and leave the site via an existing track onto Gray Avenue, approximately 380m from the junction with the B1281. Visibility splays on the junction of the B1281 with Gray Avenue were widened as part of the original planning permission. The site access road links with the site office and car parking area. Wheelwash facilities are also located in this area.
21. All HGV lorries leaving the site would turn left onto Gray Avenue then left onto the B1281 then onto the A19 as they do at present. Combustible material would be sent to cement works for electricity generation. On return to site HGVs would turn right from the B1281 to Gray Avenue then right turn into the site.
22. Additional site traffic would include vehicles moving excavation plant and other items for a short period during the final restoration phases.

Restoration

23. The purpose of the development is to remediate a colliery waste heap and therefore all works are essentially restorative in their nature. The proposal would involve removing combustible material, sand and a portion of the underlying magnesian limestone. The remaining spoil and burnt shale can be left in place to form part of the restoration. The site would be restored within 12 months of the cessation of extraction.
24. The site would be restored to primarily magnesian limestone grassland with native woodland and scrub planting on the north, east and west boundaries. Areas of wildflower sward would be developed on the northern boundary with a mix of predominantly gorse scrub and wildflower sward interspersed with large magnesian limestone blocks across the centre of the site. A limestone face would be left partially exposed on the southern slope and allowed to naturally colonise for biodiversity and geodiversity purposes.
25. The site would be subject to the statutory 5 year aftercare requirement but this would be extended to provide long term biodiversity management. The aftercare period would commence following the completion of restoration works.
26. 14.5 full time equivalent jobs (6 full time, 17 part time) would be retained for the duration of the scheme plus 4 part time jobs. The applicant has proposed a community fund equivalent to 15p per tonne of combustible material and 5p per tonne for limestone and sand (this could provide around £62,600 during the life of the site including monies that have already been delivered) to help fund local projects. This would be administered through the existing community fund liaison committee. A separate site liaison committee also exists that provides a forum for the operator and community representatives to engage with each other about site related issues, activities and concerns.

27. The application is accompanied by an Environmental Statement (ES) as it is considered an Environment Impact Assessment (EIA) development having regard to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations). An addendum to the ES has also been submitted. This report has taken into account the information contained in the ES, an addendum to ES, further environmental information and information arising from statutory consultations and other responses.
28. This planning application is being reported to the County Planning Committee because it involves major minerals development.

PLANNING HISTORY

29. Planning Permission No. DM/14/00519/MIN was granted in 2016 for the reclamation of former colliery spoil mound to extract coal spoil, reprofiling of mound on completion of works and landscaping works. This permission allowed 24 months for working and restoration of the site.
30. The original planning permission was subsequently varied under Planning Permission No. DM/19/02315/VOCMW for the variation of Condition 6 (Time limit for mineral extraction) of Planning Permission DM/14/00519/MIN for extension of time of mineral extraction until January 2022. This permission allowed for a 2 year extension of time for working and restoration of the site until January 2022. This permission also allowed for the export of 4,000m³ of limestone.

PLANNING POLICY

NATIONAL POLICY

31. A revised National Planning Policy Framework (NPPF) was published in July 2021. 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.
32. In accordance with Paragraph 219 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 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.
33. *NPPF 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.
34. *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.

35. *NPPF Part 8 – Promoting Healthy and Safe Communities* – The planning system can play an important role in facilitating social interaction and creating healthy, inclusive and safe communities. 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 community facilities and services should be adopted.
36. *NPPF Part 9 – Promoting Sustainable Transport* – Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.
37. *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.
38. *NPPF 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, site of biodiversity or 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.
39. *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.
40. *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/government/publications/national-planning-policy-framework--2>

41. 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; listed air quality; climate change; determining a planning application; flood risk and coastal change; healthy and safe communities; historic environment; land affected by contamination; land stability; light pollution; minerals; natural environment; noise; planning obligations; travel plans, transport assessments and statements; use of planning conditions; water supply, wastewater and water quality

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

LOCAL PLAN POLICY:

The County Durham Plan (October 2020)

42. *Policy 10 – Development in the Countryside* – States that development in the countryside will not be permitted unless allowed for by specific policies within the Plan or within an adopted neighbourhood plan relating to the application site or where the proposed development relates to the stated exceptions.
43. *Policy 14 – Best and Most Versatile Agricultural Land and Soil Resources* – States that development of the best and most versatile agricultural land, will be permitted where it is demonstrated that the benefits of the development outweigh the harm, taking into account economic and other benefits. Development proposals relating to previously undeveloped land must demonstrate that soil resources will be managed and conserved in a viable condition and used sustainably in line with accepted best practice.
44. *Policy 21 – Delivering Sustainable Transport* – Requires planning applications to address the transport implications of the proposed development. All development shall deliver sustainable transport by delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings.
45. *Policy 25 – Developer Contributions* – advises that any mitigation necessary to make the development acceptable in planning terms will be secured through appropriate planning conditions or planning obligations. Planning conditions will be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning obligations must be directly related to the development and fairly and reasonably related in scale and kind to the development.
46. *Policy 26 – Green Infrastructure* – States that development will be expected to maintain and protect, and where appropriate improve, the County's green infrastructure network. Advice is provided on the circumstances in which existing green infrastructure may be lost to development, the requirements of new provision within development proposals and advice in regard to public rights of way.
47. *Policy 31 – Amenity and Pollution* - Sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that the development can be effectively integrated with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised to an acceptable level.
48. *Policy 32 – Despoiled, Degraded, Derelict, Contaminated and Unstable Land* – requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.

49. *Policy 35 – Water Management* – Requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development.
50. *Policy 39 – Landscape* – States that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse landscape and visual impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities of the landscape, unless the benefits of the development clearly outweigh its impacts. Development proposals should have regard to the County Durham Landscape Character Assessment and County Durham Landscape Strategy and contribute, where possible, to the conservation or enhancement of the local landscape.
51. *Policy 40 – Trees, Woodlands and Hedges* – States that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges. Where trees are lost, suitable replacement planting, including appropriate provision for maintenance and management, will be required within the site or the locality.
52. *Policy 41 – Biodiversity and Geodiversity* – Restricts development that would result in significant harm to biodiversity or geodiversity and cannot be mitigated or compensated. The retention and enhancement of existing biodiversity assets and features is required as well as biodiversity net gains. Proposals are expected to protect geological features and have regard to Geodiversity Action Plans and the Durham Geodiversity Audit and where appropriate promote public access, appreciation and interpretation of geodiversity. Development proposals which are likely to result in the loss or deterioration of irreplaceable habitat(s) will not be permitted unless there are wholly exceptional reasons and a suitable compensation strategy exists.
53. *Policy 42 – Internationally Designated Sites* – States that development that has the potential to have an effect on internationally designated site(s), either individually or in combination with other plans or projects, will need to be screened in the first instance to determine whether significant effects on the site are likely and, if so, will be subject to an Appropriate Assessment.
54. *Policy 43 – Protected Species and Nationally and Locally Protected Sites* – States that development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts. Appropriate mitigation or, as a last resort, compensation must be provided where adverse impacts are expected. In relation to protected species and their habitats, all development likely to have an adverse impact on the species' abilities to survive and maintain their distribution will not be permitted unless appropriate mitigation is provided, or the proposal meets licensing criteria in relation to European protected species.
55. *Policy 44 – Historic Environment* – Requires development proposals to contribute positively to the built and historic environment. Development should seek opportunities

to enhance and where appropriate better reveal the significance and understanding of heritage assets.

56. *Policy 47 – Sustainable Minerals and Waste Resource Management* – States that the development of a sustainable resource economy in County Durham will be promoted, encouraged and facilitated by encouraging all proposals for mineral extraction to minimise the amount of mineral waste produced in extraction, handling, processing and stockpiling; and to maximise the potential for mineral waste to be used in recycling or on-site restoration and encouraging and permitting the concurrent working of two or more minerals from the same site provided that the operation or restoration of the site is not prejudiced or significantly delayed, the overall proposal remains acceptable and does not have an unacceptable adverse impact on either the environment, human health or the amenity of local communities.
57. *Policy 49 – Primary Aggregates Provision* – States throughout the plan period a steady and adequate supply of primary aggregates will be maintained.
58. *Policy 50 – Locational Approach to Future Supply of Primary Aggregates* – States that as far as practical, the main focus of aggregate working over the Plan period should fall outside of and not adversely affect the North Pennines Area of Outstanding Natural Beauty (AONB), the County Durham Heritage Coast, or upon the county's Parks and Gardens of Special Historic Interest, Historic Battlefield, Conservation Areas and Scheduled Monuments. In addition, due to the protection afforded to them new aggregate working will be strongly resisted in locations which either contain or could adversely affect internationally and nationally designated sites and irreplaceable habitats. Proposals in or affecting any designated or defined area, site or habitat will be required to meet relevant Plan policies. In respect of the working of magnesian limestone and sand proposals for new working on prominent escarpment slopes will be resisted in order to avoid unacceptable landscape and visual effects
59. *Policy 51 – Meeting Future Aggregate Requirements* – States that over the Plan period it is anticipated that the majority of the future needs for both crushed rock aggregate and sand and gravel aggregate working will be met through the working of existing permitted reserves and through the working of sites allocated as strategic sites within the Plan or, if needed, through the working of non-strategic sites allocated in Minerals and Waste Policies and Allocations Document. Proposals for new or extended aggregate workings on land not allocated within the Plan or as a non-strategic sites in Minerals and Waste Policies and Allocations Document will be permitted subject to appropriate planning conditions where the need for the additional mineral working can be adequately demonstrated, the planning benefits of the proposal, including economic considerations, clearly outweigh and planning objections, the proposal accords with the future supply of primary aggregate minerals and it can be demonstrated that there will be no unacceptable adverse impacts on the environment, human health or the amenity of local communities.
60. *Policy 53 – Surface Mined Coal and Fireclay* – states that proposals for the extraction of coal and/or fireclay should not be granted permission unless they meet with a series of criteria to demonstrate either the environmental acceptability of the development or provide national, local or community benefits which clearly outweigh the unacceptable adverse impacts of the proposal.

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

61. *Policy M37 – Stand off distances* – states that unless it can be demonstrated that the amenity of local communities can otherwise be protected from the adverse impacts of

mineral working, mineral development will not be permitted where the extraction or associated activities are within 250 metres of a group of 10 or more dwellings.

62. *Policy M38 – Water Resources* – states that if a proposal for mineral development would affect the supply of, or cause Yes contamination to, underground, or surface waters, it should not be permitted unless measures are carried out as part of the development to mitigate those impacts throughout the working life of the site and following final restoration.
63. *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.
64. *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 routing 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.
65. *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.
66. *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.
67. *Policy M47 – After uses* – provides advice in relation to proposals for the after use of mineral sites.
68. *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.

NEIGHBOURHOOD PLAN:

69. There is no Neighbourhood Plan for this area.

RELEVANT EMERGING POLICY:

COUNTY DURHAM MINERALS AND WASTE POLICIES AND ALLOCATION DOCUMENT (PUBLICATION DRAFT PLAN NOVEMBER 2022)

70. *Policy MW1 – General Criteria for Considering Minerals and Waste Development* – This policy is permissive towards proposals where it can be demonstrated that they will not result in individual or cumulative unacceptable adverse impacts on human health and the amenity of local communities, the environment of County Durham (including its landscape, biodiversity and geodiversity, historic environment, surface and groundwater, flood risk, the best and most versatile agricultural land and soil resources), the local and strategic road network and public rights of way network, upon climate change, land stability and also aviation safety.

71. *Policy MW3 – Benefits of Minerals Extraction* – States that in determining planning applications for minerals extraction, including extensions of time to existing sites to allow full recovery of permitted reserves, great weight will be given to the benefits of mineral extraction.
72. *Policy MW4 – Noise* – This policy seeks to protect the environment and the amenity of local communities, minimise future complaints by requiring the proposed operator, to demonstrate how they propose to minimise, mitigate and whenever possible remove noise emissions at source. The policy is permissive where the operator can demonstrate that noise levels, subject to specific circumstances which may justify some small variation do not give rise to an unacceptable impact at specifically identified noise-sensitive properties and locations. Guidance on noise limits during normal working hours (07:00 to 19:00), during the evening (19:00 to 22:00), during the night time period (22:00 to 07:00), upon tonal and peak noise and noisy short term activities is provided.
73. *Policy MW5 – Air Quality and Dust* – This policy states that proposals for mineral and waste development will only be permitted where it can be demonstrated that the proposed development will not have an unacceptable adverse impact either individually or cumulatively on the environment, local amenity or human health through the emission of one or more air quality pollutants or which would result in adverse impacts on air quality, on an Air Quality Management Area within the County or as a result of dust emissions.
74. *Policy MW7 – Traffic and Transport* – This policy sets out that the transport implications of proposals of must be assessed through the use of a transport assessment or a transport statement. That proposals should always seek to maximise the use of sustainable forms of transport and minimise greenhouse gas emissions where opportunities exist and are practicable and economic. That proposals will be permitted where it can be demonstrated that: they provide safe and suitable access for all employees and visitors which optimises where practicable the use of public transport, walking and cycling; and that vehicular traffic generated by the proposed development does not have an unacceptable adverse impact on highway safety on the strategic or local road network. It also addresses the use of planning conditions, obligations or legal agreements including in relation to the number of lorry movements, their operating hours and routeing, highways improvements and maintenance, the prevention of dust and dirt onto the public highway.
75. *Policy MW19 – Water Resources* – This policy states that development which could adversely affect the quality or quantity of surface or groundwater will be required to demonstrate no unacceptable impact on the water resources both for the proposed site and the surrounding area including the water resources required for operations.
76. *Policy MW20 – Mineral Site Restoration, Landfill and Landraise* – This policy set out that proposals must include an appropriate scheme for the restoration, after-use and aftercare for the site. Proposals will be permitted where it can be demonstrated that they: deliver high quality restoration appropriate to the site and its surroundings; minimise harm to acceptable levels and are carried out at the earliest opportunity and are progressive in nature where this can reduce impacts; are designed to mitigate the effects of the development in that location and provide appropriate environmental enhancements (including where appropriate (deliver climate change adaptation and mitigation measures; provide benefits to geodiversity; enhance the character and distinctiveness of the local landscape; enhance or reveal the significance of heritage assets, historic character and the archaeology of the site; provide improved public access and recreation and assist in the delivery of all relevant plans and strategies); deliver net gains to biodiversity; provide for the aftercare of the site; make best use of

onsite materials for restoration purposes; and are feasible in technical and economic terms and the operator is capable of, and committed to, their delivery.

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/Development-Plan-for-County-Durham> (Adopted County Durham Plan and County Durham Minerals Local Plan) <https://consult-durhamcc.objective.co.uk/file/6185265> (Publication Draft County Durham Minerals and Waste Policies and Allocations Document)

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

77. *Castle Eden Parish Council* – objects to the proposal due to the further adverse effect on traffic generation and highway safety. It is also stated that the roads and footpaths on part of the route through Castle Eden are in a terrible state of repair the increased traffic will only exacerbate the problem.
78. *Monk Hesleden Parish Council* – objects to the proposal and raises concerns in respect of highway safety, rights of way, noise, dust, health, viability of the operator to restore the site and concerns that the site will not be restored and that the proposed restoration bond will be insufficient to restore the site in 10 years time due to inflation.
79. *Highway Authority* – has raised no objections to the proposal. Officers have noted that longer timescale is due to a reduced number of daily HGV movements, that being 20 per day Monday to Friday and 4 on Saturday compared with the previously approved level of 44 and 22, respectively. Officers have advised that due to the elapsed time since the commencement of the site and the conducting of the road condition assessment, another assessment should be undertaken and a further one during the term to identify any deterioration of the road. The scope of which can be identified as part of an agreement under Section 59 of The Highways Act 1980. Any defects should be rectified to help reduce the possibility of noise generated by HGVs. Conditions in respect of highways from the previous planning permission should be reiterated and the limit on HGV movements amended to reflect the proposed reduction in daily movements. Officers have noted that the personal injury accident records have been assessed for the period since the site has been operational and reveal that there have been no incidents involving HGVs along the haul route.
80. *Environment Agency* – has raised no objections to the proposal subject to conditions being imposed in respect of ground contamination in order to meet the requirements of the NPPF. Advice is also provided in respect of contaminated land, amenity impacts and waste permits and discharge consent.
81. *Natural England* – has raised no objections to the proposal and has not requested any conditions be imposed. Natural England notes that the Hulam Fen SSSI is located in close proximity to the site. However, considers that provided the development is carried out in accordance with the details as submitted it will not damage or destroy the interest features of the SSSI. Further advice is also provided in relation to protected species, soils and reclamation, biodiversity enhancements and green infrastructure potential.
82. *Coal Authority* – has raised no objections to the proposal and have not requested any conditions be imposed.

83. *Drainage and Coastal Protection (Lead Local Flood Authority)* – has raised no objections to the proposals. Officers have reiterated their comments from the original application in that the any surface water discharge from the drainage system to an outfall should be restricted to greenfield run-off in accordance with the Interim Code of Practice (ICP) mean annual flood (QBAR) rural calculation.

INTERNAL CONSULTEE RESPONSES:

84. *Spatial Policy* – has raised no objections to the proposed development. Officers identify the key planning policies and their current status relevant to the consideration of this proposal. Comments also highlight any policy related material considerations relevant to the consideration of this proposal in terms of national policy, guidance and locally derived evidence bases. Officers consider that the key determining factors are consideration of impacts to the environment, health and amenity of local communities, removal of combustible material, ensuring the timescales allow for high quality site working and restoration and ensuring that the operator is able and committed to operate and restore the site in accordance with any agreed scheme.
85. *Archaeology* – has raised no objections to the proposals.
86. *Design and Conservation* – has raised no objections to the application. Officers have commented that any impacts on cultural heritage would be equivalent to those previously accepted, irrespective of any proposed extension of time or extraction of additional materials. The spoil mound is stated to have no heritage significance and its reclamation would have no impact on nearby designated assets.
87. *Landscape* – has raised no objections to the proposals. Officers have commented that the proposals would not give rise to significant landscape or visual effects, relative to practical alternative strategies for completing the remediation of the land, other than in respect of the extended period of site operations. The restoration strategy is broadly appropriate. The final profile of the limestone face and land immediately above would need further detailed consideration to ensure that it is both safe and naturalistic in appearance. That detail would need to be agreed at an early enough stage to ensure that sufficient material was left in situ to achieve those objectives.
88. *Ecology* – has no objections to the proposals. Officers have commented that the restoration of this site presents an opportunity to create UK Biodiversity Action Plan Priority Habitats that will benefit Priority Species. Officers are also satisfied that the restoration plan is delivered at a later date once the final topographic details are known when the spoil and sand are removed, and the limestone cliff exposed.
89. *Environmental Health and Consumer Protection (Nuisance Action)* – has raised no objections to the proposals. Officers have commented that, following the submission of additional information in relation to noise and dust, and that provided the noise and dust action plans are followed as prescribed, there should be adequate controls in place to prevent noise and dust from site operations negatively impacting sensitive receptors. Officers have also recommended that conditions be imposed to secure noise and dust action plans and also in respect of operating hours, HGV movements and wheel cleaning facilities. Advice is also provided to the operator in respect of environmental permitting.
90. *Environmental Health and Consumer Protection (Air Quality)* – has raised no objections to the proposals. Officers have noted the submission of an Air Quality Assessment, Dust Action Plan and Planning Statement and the mitigation measures recommended within. Officers have commented that the mitigation measures

including damping of haul roads and stockpiles, dust netting and site shutdown, can be secured by planning condition.

91. *Environmental Health and Consumer Protection (Contaminated Land)* – has raised no objections to the proposals. Officers recommend that conditions associated with ground conditions, land contamination and water from planning permission DM/14/00519/MIN be repeated for this proposal. An informative is recommended in respect of any unexpected contamination that may be found during the working of the site.
92. *Public Health* – has raised no objections to the proposals. Officers have provided advice in respect of public health considerations and health impact assessments (HIA). Officers have, however, commented that an HIA might only be relevant in circumstances where there is a material change to the operation in question. If this is not the case, an HIA is not likely to add further benefit at this stage.
93. *Access & Rights of Way* – has raised no objections to the proposals. Officers have commented that Footpath No.24 (Monk Hesleden Parish) runs through the middle of the site, and it is noted that the request for an improved surface has been acknowledged. Officers note that Footpath No.24 would be reinstated on its legal line following restoration and it is suggested that providing connectivity with Footpath No.16 (Sheraton with Hulam Parish) would improve the public rights of way network. The options for footpath connectivity would be most appropriately dealt with by way of detailed restoration details, to be submitted at a later stage in the development of the site through planning condition.
94. *Countryside* – raise no objection advising officers have no concerns regarding the extension of the approval to allow for further removal of material. However, the development extension provides the opportunity for further improvement of the Hart to Haswell Railway Path, a valuable local community asset, and one which provides a convenient off-road link to the east and further north. Officers suggest a contribution to improving the path surface, drainage and access infrastructure would be appropriate to bring significant benefit to local users and provide well needed investment to the network.

PUBLIC RESPONSES:

95. The application has been advertised in the press, by site notices and neighbour letters were sent to 579 properties in the Hesleden and Castle Eden area. 61 objections have been received from individuals in response to the application from the local area.
96. A residents group (Hesleden No To The Quarry) has been established in opposition to the application. The group has organised public meetings, one of which was attended by a representative of the applicant and Council Planning officers. The group has periodically corresponded with the Council to request updates on determination of the application and also to report concerns regarding the operation of the site as well as queries in relation to the planning application.
97. As per the original application, many objections raise the issue of highway safety and traffic. References are specifically made to the impact upon the residential amenity of roadside communities, particularly Gray Avenue in Hesleden, the limited eastbound visibility at the junction of Gray Avenue and the B1281 and the narrowness of the roads from Hesleden to the A19. Concerns have also been raised in relation to mud being deposited on the highway from vehicles exiting the site that may cause accidents. Within the wider area objectors have stated that HGV movements on the B1281 are

causing cracks to appear in the walls of property, damage to the highway itself and HGV's travelling on the road from as early as 5:30am.

98. Air quality and noise from the development have been raised as issues by most objectors, particular in relation to health risks from PM2.5 particles released from vehicle emissions and noise from vehicles disturbing residents, as mentioned above.
99. The impacts from the development upon the flora and fauna present on the site, particularly the loss of mature trees and the resultant change to the landscape has been raised as an issue.
100. The impact of HGV's accessing and exiting the site across the Haswell to Hart Railway Path has been raised by many objectors as it is considered that the path would be damaged by this activity. There is also concern that vehicles crossing the path would cause disruption to users including walkers, cyclists and horse riders.
101. It has been stated that no work has been done to remove the spoil heap and only other minerals have been extracted.
102. It has been stated that the proposed restoration bond is insufficient in relation to the value of the site.
103. The location of the development in proximity to the village of Hesleden, residential properties, the village green and the recently built Multi-Use Games Area (MUGA).
104. Other issues that have been raised include impact upon Human Rights in respect of impact to residential amenity, devaluation of residential properties and an assertion that the site operator is not disclosing financial information relevant to the application.
105. *Local Members – Councillors Rob Crute and Stacey Deinali (Blackhall)* – both object to the proposal due to loss of amenity for residents in Hesleden and Castle Eden, impact on health and dust emissions from site, impact of noise and nuisance from the site, traffic generation and associated safety concerns and the environmental impact on the surrounding area.

APPLICANT'S STATEMENT:

106. DRS Land Regeneration Ltd. are currently remediating a former Colliery Spoil Heap at Hesleden, County Durham to restore the site as an area of potential significant ecological and geological interest and following a positive Pre Application response the applicant is seeking an extension of time to complete the works which were delayed during COVID.
107. The Remediation was required as the site had a history of spontaneous burning of the highly combustible material which is present. The site was also experiencing ongoing slope stability problems with a potential for further large scale slope failure that could affect the integrity of Hesleden Burn. Historically, the site was renowned for episodes of trespass and anti-social behaviour relating to the abuse of drink and drugs and represented a great concern to local residents and surrounding landowners.
108. The remediation scheme provides for the recovery of an estimated 410,000 tonnes of highly combustible material, 125,000 T of limestone and 175,000T of Sand. The site will be progressively restored to include ecological and geological enhancements which will be followed by appropriate aftercare.

109. The scheme has been subject to a full and rigorous independent Environmental Impact Assessment (EIA) which has resulted in the production of a comprehensive Environmental Statement (ES).
110. The results of the EIA together with the views of statutory consultees, many of whom support this application, demonstrate that the scheme is acceptable in environmental terms.
111. The principle objectives and benefits of the site remediation are as follows:
- Remove the current health, safety and environmental risk posed by the spontaneous burning of the combustible material within the site and the risk posed by slope instability, which threatened Hesleden burn.
 - Recovery of an estimated 410,000 tonnes of combustible material, for use in the building sector for creation of housing bricks and recovery of limestone and sand for the building and highways sector for use as aggregate.
 - Remediation and improvement of the local environment
 - Provision of an area of conservation and ecological and geological interest with the creation of habitat suited to the Dingy Skipper butterfly.
 - Provision of local jobs directly, and also indirectly through the provision of goods and services.
 - Provision of Developer contributions to the local community – current funds have assisted the construction of a Multi Use Games Area (MUGA) for the locals at the entrance to the site.
112. We note that there has been a level of objection from certain local residents (which is normal with such schemes). However it is pleasing to note that the proposals have also generated levels of support given that the proposal will provide a once and for all solution to the environmental and safety issues associated with the Colliery Spoil Heap. No statutory consultee has objected to the scheme.
113. In 2021 we have recorded the recolonisation of Dingy Skipper (*Erynnis tages*) butterflies on a part of the site. Together, the geological and ecological importance of this site is fast becoming clear and it is our opinion that in the near future the site will need further assessment to determine its importance in a local, district, county and regional scale.
114. Taking all the above matters into account, it is concluded that the scheme with the proposed mitigation accords with planning policies, offers benefits to the local community and the environment and is acceptable in environmental terms. DRS Land Regeneration Ltd., respectfully request that the application is approved.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at: <https://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

PLANNING CONSIDERATIONS AND ASSESSMENT

115. 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 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, residential amenity (including noise, air

quality, dust and health, lighting and vehicle movements), contamination and land stability, access and traffic, landscape and visual impact, cultural heritage and design and conservation, ecology and nature conservation, flood risk and drainage, public rights of way, soils and agriculture, cumulative impact, alternatives, legal agreements, other matters and public sector equality duty.

Principle of the development

116. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) and the remaining saved policies of the County Durham Minerals Local Plan (MLP) comprise the statutory development plan relevant to this proposal and are the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035. The MLP was adopted in 2000 and was intended to cover the period to 2016. However, NPPF Paragraph 219 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. The CDP replaces the principle policies of the MLP with the remaining saved policies set out in the Policy section above.
117. Paragraph 11 of the NPPF 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.
118. The Council has an up-to-date development plan. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up-to-date development plan without delay (Paragraph 11 c). It is considered that the key Policies for determining the principle of this application are CDP Policies 47, 49, 50 and 51. Accordingly, Paragraph 11(d) of the NPPF is not engaged by virtue that the most important and relevant policies within the CDP are considered to be consistent with the NPPF and are up to date. There are also a number of applicable environmental protection policies both within the CDP, MLP and the NPPF which are considered below.
119. A minerals and waste specific development plan document is being prepared to complement the strategic minerals and waste and environmental policies of the CDP. Once it is adopted all remaining saved MLP and County Durham Waste Local Plan policies will lapse. Consultation commenced on the Publication Draft Minerals and

Waste Policies and Allocations Document (M&WDPD) on 28 November 2022 and ended on 13 January 2023. The M&WDPD is at an advanced stage of preparation and will be submitted for examination in July 2023. There are relatively few and no significant objections to its policies (other than for the non-allocation of additional sites for mineral working and waste disposal). Given these circumstances, in accordance with NPPF Paragraph 48 it is considered that limited weight can be currently attached to its provisions. This weight will increase as the M&WDPD progresses beyond examination (subject to a favourable Inspector's Report) and is subsequently adopted.

120. Emerging policies MW1 and MW3 are also relevant to the consideration of the principle of this development. There are also a number of applicable environmental protection policies within the M&WDPD which are considered below.
121. The opening paragraph of CDP Policy 10 states that development in the countryside will not be permitted unless allowed for by specific policies in the Plan. These specific policies are set out in footnote 54 (of the CDP) and includes all applicable policies relating to minerals and waste development. As this is a minerals development it is considered that the development could be allowed for by specific policies in the plan (CDP Policies 47, 49, 50 and 51). The development therefore does not have to demonstrate an exception to CDP Policy 10, but the acceptability criteria are engaged.
122. CDP Policy 10 states that new development in the countryside must not give rise to unacceptable harm to the heritage, biodiversity, geodiversity, intrinsic character, beauty or tranquillity of the countryside either individually or cumulatively, which cannot be adequately mitigated or compensated for, result in the merging or coalescence of neighbouring settlements, contribute to ribbon development, impact adversely upon the setting, townscape qualities, including important vistas, or form of a settlement which cannot be adequately mitigated or compensated for, be solely reliant upon, or in the case of an existing use, significantly intensify accessibility by unsustainable modes of transport. New development in countryside locations that is not well served by public transport must exploit any opportunities to make a location more sustainable including improving the scope for access on foot, by cycle or by public transport, be prejudicial to highway, water or railway safety; and impact adversely upon residential or general amenity. Development must also minimise vulnerability and provide resilience to impacts arising from climate change, including but not limited to, flooding; and where applicable, maximise the effective use of previously developed (brownfield) land providing it is not of high environmental value.
123. The development would not result in the coalescence of settlements or adversely impact on the townscape of neighbouring settlements. The proposals would also not constitute ribbon development.
124. The site is mainly within flood zone 1 with a small area in flood zones 2 and 3. However, the development is not of a type that is sensitive to flooding and the effective widening of the flood plain would not increase the offsite risk of flooding. The purpose of the development is to restore a former colliery spoil heap with the resultant benefit of producing aggregates for local markets and providing a combustible fuel for cement works. Whilst this would not directly combat climate change it would make a small contribution towards reducing importation and/or extraction of virgin fossil fuels.
125. The proposed development would involve the continuation of the removal of combustible material from a historic colliery spoil heap with subsequent restoration to nature conservation and amenity use. The original submission was for the removal of combustible material with the extraction and removal of a limited amount of 4000m³ limestone from the site being permitted in 2021. This current planning application seeks to continue the extraction of combustible material but also the removal of

incidental sand and additional limestone from an outcrop below the spoil heap. The extraction and export of limestone and sand is currently taking place.

126. The combustible material subject of this proposal was previously mined and discarded as it was presumably deemed unsuitable for purpose at the time of extraction from the former colliery. However, it is now possible to use this material for cement works, and other coal fuelled industries. This previously could have been used for power stations but none remain that require a coal supply. As the coal has already been extracted and is effectively stored in a waste heap the proposed development is not considered to be surface coal mining and therefore should not be assessed as such. CDP Policy 53 is therefore not applicable as this is specific to surface mined coal and fireclay.
127. CDP Policy 47 states that the development of a sustainable resource economy in County Durham will be promoted, encouraged and facilitated by encouraging all proposals for mineral extraction to minimise the amount of mineral waste produced in extraction, handling, processing and stockpiling; and to maximise the potential for mineral waste to be used in recycling or on-site restoration and encouraging and permitting the concurrent working of two or more minerals from the same site provided that the operation or restoration of the site is not prejudiced or significantly delayed, the overall proposal remains acceptable and does not have an unacceptable adverse impact on either the environment, human health or the amenity of local communities.
128. Paragraph 5.485 of the CDP explains that minerals are a finite natural resource and can only be worked where they found. In order to support their sustainable management and long term conservation it is essential to make best use of them through: providing for a steady and adequate supply of minerals including aggregates and industrial minerals to provide the infrastructure, buildings, energy and goods that the country needs; encouraging the conservation of minerals through the efficient extraction of minerals and the reduction and productive use of mineral waste; encouraging the concurrent working of minerals where two or more minerals naturally occur. It is noted that the applicant advise that the suitability of the aggregate has been confirmed by geotechnical testing.
129. The proposal seeks the recovery of colliery waste and the concurrent working of minerals including sand and magnesian limestone. The main purpose of the development is to recycle mineral waste, therefore reducing waste on the site. Residual waste within the spoil heap would be retained for site restoration. The proposal would also involve the concurrent working of sand, limestone and combustible material. The proposal, as a whole, would significantly extend the life of the development from the original exportation of 278,000 tonnes of combustible material over a 24 month period. However, this is mainly due to a combination of additional combustible material being found following ongoing works at the site and a much slower export rate than what was originally envisioned. The extraction of limestone and sand would enhance the restoration of the site by providing exposed limestone outcrops whilst also preventing sterilisation of the mineral resource. The impacts of the development in respect of the environment, human health and the amenity of local communities are considered below. Subject to the proposal being acceptable in relation to these criteria it would accord with CDP Policy 47.
130. CDP Policy 49 seeks to ensure that throughout the Plan period a steady and adequate supply of primary aggregates will be maintained. Criterion b) advises that given the extent of existing permitted reserves of magnesian limestone and dolerite the presumption within the Plan is that no further provision will be required over the Plan period. However, the key decision making policies relating to aggregates in the CDP are policies 50 and 51. In this case, the relatively low volumes of sand and limestone (compared to dedicated quarries in the County) would mean that the winning and

working of aggregate from the site would make only a minimal contribution to supply. Therefore, whilst the plan advises that no further provision of magnesian limestone is required CDP Policy 49 is permissive and does not resist additional reserves. The proposal would therefore not draw support from CDP Policy 49 but would also not conflict with it.

131. CDP Policy 50 provides locational guidance and advises upon the designations that as far as practical the main focus of aggregate working over the Plan period should fall outside of and not adversely affect and also requires that proposals in or affecting any designated or defined area, site or habitat will be required to meet relevant Plan policies. In relation to magnesian limestone and sand it advises that proposals for new working on prominent escarpment slopes will be resisted in order to avoid unacceptable landscape and visual effects. The application site is outside of the North Pennines Area of Outstanding Natural Beauty (AONB), the County Durham Heritage Coast, the County's Parks and Gardens of Special Historic Interest, Historic Battlefields, Conservation Areas and Scheduled Monuments and is sufficiently removed from these designations to not have an adverse effect in accordance with CDP Policy 50.
132. The application site is, however, located within an Area of Higher Landscape Value (AHLV) and a Local Wildlife Site (LWS), however, these designations are not specifically restricted by CDP Policy 50 and the development should be assessed against the relevant policies (CDP Policies 39 and 43, respectively). The policies are addressed later in this report.
133. CDP Policy 51 states that proposals for new or extended aggregate workings on land not allocated within the Plan or as a non-strategic sites in Minerals and Waste Policies and Allocations Document will be permitted subject to appropriate planning conditions where the need for the additional mineral working can be adequately demonstrated, the planning benefits of the proposal, including economic considerations, clearly outweigh and planning objections, the proposal accords with the future supply of primary aggregate minerals and it can be demonstrated that there will be no unacceptable adverse impacts on the environment, human health or the amenity of local communities.
134. Emerging Policy MW3 states that in determining planning applications for minerals extraction, including extensions of time to existing sites to allow full recovery of permitted reserves, great weight will be given to the benefits of mineral extraction.
135. The proposed development would permit the extraction of limestone and sand in addition to the established extraction of combustible material and would therefore constitute new aggregate working. Within County Durham existing permitted reserves of crushed rock, which include magnesian limestone, are more than sufficient to meet long term need and maintain a ten year crushed rock landbank, although through recent forecasting further sand and gravel provision is now recognised as being required to maintain a steady and adequate supply and maintain a seven year sand and gravel landbank. However, given the limited quantities of potential aggregate that could be extracted from the site it is considered that the proposal would have a negligible impact and would not prejudice the steady and adequate supply of aggregates.
136. The benefits of the development include the continued supply of combustible material for industry and energy generation, supply of aggregates, continued employment for 6 full time and 17 part time jobs (14.5 full time equivalent), indirect economic benefit to local shops, services and suppliers. The completed restoration of the site would remove a potential safety and fire risk, improve local amenity and provide biodiversity

net gain. The impact of the development in respect of the environment, human health and amenity is assessed later in this report and a balance of harm and benefits will be undertaken. In principle it is considered that the proposal would accord with CDP Policy 51 and emerging Policy MW3.

137. Paragraph 217 of the NPPF states that permission should not be granted for the extraction of coal unless the proposal is environmentally acceptable, or can be made so through conditions or obligations, or if not environmentally acceptable, then it provides national, local or community benefits which clearly outweigh the likely impacts to justify the grant of planning permission. This paragraph is considered to be a relevant consideration for this proposal.
138. Combustible material from the site would be sent to a cement works in West Bradford for energy production. Combustible material would not be supplied to power stations and there is no longer a market in this sector. The Government has announced an intention to close the UK's remaining 2 coal fired power stations by 2024, with closure of Kilroot (County Antrim) planned for September 2023 and closure of Ratcliffe on Soar (Nottinghamshire) planned for September 2024. In July of 2023 coal fired power stations provided only 0.4% of electricity generation for the UK.

Consideration of the environmental acceptability of the proposals

139. Whilst the development involves the extraction of colliery spoil, comprising of low-grade coal, shale and spoil, it is distinctly different from a surface mining coal operation and as stated above it is considered that CDP Policy 53 is not relevant to the determination of the proposal. Notwithstanding this, the previous applications were considered against Paragraph 217 of the NPPF as the colliery spoil contains some coal. The nature of the colliery spoil has not altered. Paragraph 217 states that planning permission should not be granted for the extraction of coal unless: a) the proposal is environmentally acceptable, or can be made so by planning conditions or obligations; or b) 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).
140. Having regard to Paragraph 217 a) of the NPPF, proposals for the extraction of coal are required to be environmentally acceptable or can be made so by planning conditions or obligations. This report will assess each identified likely environmental impact against the relevant Development Plan policy and NPPF.

Residential amenity

141. Paragraph 174 of the NPPF 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 and water quality. Paragraph 185 of the NPPF states that planning decisions should ensure that new development is appropriate for its location taking into account the likely 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 186 of the NPPF 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. Paragraph 187 of the NPPF advises that planning decisions should ensure that new development can be integrated

effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs).

142. CDP Policy 31 sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for locating of sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated. MLP Policy M37 states that unless it is demonstrated that the amenity of local communities can otherwise be protected from the adverse impacts of mineral working, mineral development will not be permitted where extraction or associated activities are within 250 metres of a group of 10 or more dwellings. MLP Policy M42 states that minerals development will only be permitted where the amenity of roadside communities is protected, and the impact of traffic generated by the development on local and recreational amenity is otherwise acceptable. Emerging Policy MW1 states proposals for minerals development will be required to demonstrate that the proposal will not result in unacceptable impacts on human health, the amenity of local communities and other sensitive receptors.
143. 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.
144. The spoil heap lies immediately to the south west of the village of Hesleden. The closest properties along Hillcrest Place are approximately 220m from the excavation area. Southfield Farm is located approximately 250m to the north west and The Bleachery is located approximately 570m to the south west. There are 12 properties in Hesleden that are within 250 metres of the nearest area of working within the site and therefore the provisions of MLP Policy M37 are engaged. It must therefore be demonstrated that residential amenity can continue to be protected from the adverse impacts of mineral working for the extended duration of working. In the case of this site the main impacts to consider in relation to residential amenity are noise and air quality. Notwithstanding this, MLP Policy M37 is only partially compliant with the NPPF as the NPPF does not identify thresholds for stand-off distances.
145. The site has generated complaints from neighbouring residents from Hesleden and Castle Eden but not to the degree that the Council has considered it expedient to take enforcement action.
146. Concerns have been raised by objectors regarding noise, dust and traffic 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 8 enforcement complaint cases opened relating to alleged breach of planning conditions since the site has been operational. These relate to dust, noise, working hours, vehicle movements and vehicle sheeting. Although there have been 8 enforcement cases there have been 15

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 5 of the enforcement complaint cases in relation to noise, dust management, working hours, vehicle movements and vehicle sheeting. A case relating to dust management has been resolved without requiring enforcement action. There are currently 2 open cases in relation to dust, noise and working hours. To date the Council has not considered it necessary to take enforcement action.

147. The approved noise action plan and dust action plan include a procedure for responding to complaints made directly to the site operator. The Council has its own procedure to deal with enforcement complaints.

Noise

148. Government guidance, as contained in the Minerals section of 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 will be difficult to achieve without imposing unreasonable burdens on the mineral operator, the limit set should be as near to that level as practicable. During the evening (1900 – 2200) limits should not exceed background level by 10dB(A). During the night limits should be set to reduce to a minimum any adverse impacts, without imposing any unreasonable burdens on the mineral operator, but should not exceed 42dB(A) $L_{Aeq}1h$ (free field) at noise sensitive properties. This is reiterated in emerging M&WDPD Policy MW4.
149. A noise assessment has been carried out as part of the proposals, the results of which are contained in the ES submitted with the original application. The assessment identified the types of plant to be used on site, the operations that would continue to be carried out and the noise levels associated. The assessment also identified that the nearest sensitive properties are at Hillcrest Place to the north-east, Southfield Farm to the north-west and The Bleachery to the west.
150. The recorded background noise level for Hillcrest Place was 48dB, 46dB for Southfield Farm and 49dB at The Bleachery. Noise generated from the development would vary as operations continue to progress across the site. Predicted noise levels (based on a 'worst case scenario') indicated that normal site operations would not exceed the nominal limits of 55dB(A) $L_{Aeq}1h$ and would not be 10dB(A) above measured background levels.
151. The predicted maximum level for normal operations at Hillcrest Place is 50dB (potential increase in noise levels of 2dB), 48dB for Southfield Farm (potential increase in noise levels of 2dB) and 40dB at The Bleachery (0dB potential increase).
152. When considering the original application for the site Environmental Health and Consumer Protection (Nuisance Action) officers viewed the submitted noise assessment and found the predicted levels, monitoring points and mitigation measures to be acceptable. Officers recommended that a condition be imposed requiring that noise emitted from on-site operations should not result in ambient noise levels greater than 55dB $L_{Aeq}1h$ as measured at the noise monitoring locations identified. Additionally, restrictions would continue to be imposed on working hours to ensure that operations are only carried out during daytime hours of 7am to 7pm Monday to Friday

and 7am to 12pm on Saturdays. These restrictions have been in place for the duration of the operation of the site and would continue should planning permission be granted for the current planning application.

153. In assessing the current application Environmental Health and Consumer Protection (Nuisance Action) officers have considered the submitted information and advised that provided the noise and dust management plans are followed as described there should be adequate controls in place to prevent noise from site operations negatively impacting sensitive receptors
154. The NPPG does not provide guidance on appropriate noise levels for recreation areas. Previous Government Guidance (MPG11) recommended a noise level of 65dB Leq,1hr during the working day. The noise assessment submitted with the original application did not compare noise levels on the footpaths and bridleway around the site to this limit. However, given there is no limit specified in the NPPG and measures would be put in place to mitigate noise levels from the site, it was not considered necessary for such an assessment to be undertaken. It is therefore considered that the impact of noise from the proposed development would not have an unacceptable impact upon the recreational value of the countryside, and the proposal would not conflict with CDP Policies 31, emerging M&WDPD Policies MW1 and MW4 and Parts 15 and 17 of the NPPF.

Air Quality and Dust

155. Mineral sites give rise to dust issues and it is accepted that the generation of dust can only be minimised and controlled rather than eradicated. The impact would depend on wind speed, the degree of rainfall and surface topography. The National Planning Practice Guidance sets out 5 stages for carrying out a dust assessment that would provide useful ways of mitigating dust from mineral development. These are to establish baseline conditions, identify activities that could lead to dust emissions, identify site parameters that may increase potential impacts.
156. A dust assessment was carried out as part of the original application, the results of which are contained in the ES. The assessment identified baseline conditions including potentially sensitive receptors, existing dust sources, typical dust levels, topography of the site and meteorological conditions; the potential impacts including mineral extraction and haulage, erosion from bare ground and stockpiles and loading and off-site haulage; evaluation of the impacts on upon the nearest receptors, and; mitigation proposals. The addendum to the ES advises that the background concentration of PM10 for potentially affected receptors were below 17µg/m³. In accordance with IAQM guidance for minerals it is state that there is little risk that the PM10 and PM2.5 concentrations as a result of the continued operations at the site would cause a breach of air quality objectives and the impact would be negligible.
157. Those objecting to the proposal have raised health concerns. Environment, Health & Consumer Protection (Air Quality) officers recognise the health impacts associated with emissions of PM10 and PM2.5 and that there is potential for emissions of both of these air quality pollutants from mineral extraction activities. The submitted air quality assessment shows that the background levels of pollutants (Particulates and Nitrogen Dioxide) are well below the national air quality objectives at this location for both of these pollutants. The assessment shows that the change in concentrations of both particulates (PM₁₀ and NO₂) will not be significant and negligible if considered in relation to the air quality objectives.
158. The application is also accompanied by an updated dust action plan, which sets out methodology for dealing with dust. Mitigation measures that include the use of water

sprays/bowsers and dampening down of the haul road, use of wheelwash facilities and sheeting of laden HGVs, and the temporary suspension of operations giving rise to fugitive dust in dry windy weather until additional equipment is provided or conditions improve. Monitoring of dust deposition levels around the site would continue to take place and results made available to the Authority upon request.

159. It is noted that objectors to the submission have referred to concerns relating to dust. However, having considered the impact of the proposed site on residential amenity in terms of dust it is considered that the impacts could continue to be controlled through requirements to mitigate any adverse effects on the nearest properties as the proposed conditions do thus according with CDP Policy 31 and emerging M&WDPD Policies MW1 and MW5 and Parts 15 and 17 of the NPPF.

Lighting

160. The existing site does not utilise outdoor lighting other than on mobile plant and attached to the site welfare cabins, where downward pointing flood lights are installed. The current application does not propose any additional lighting and it is therefore considered that light pollution from the site would cause any additional harm in accordance with CDP Policy 31 and Part 15 of the NPPF.

Vehicle Movements

161. MLP Policy M42 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.
162. Objections have been received which state that disturbance is caused by HGV vehicles travelling to and from the site.
163. The number of HGV movements approved as part of the original application were 44 per day (22 in and 22 out) Monday to Friday and 22 (11 in and 11 out) on Saturdays. In reality the site has never reached these levels (although there have been claims to the contrary) and actual HGV movements are typically less than half of this. For this application an average of 20 (10 in and 10 out) HGV movements per working day are anticipated during the working period Monday to Friday with only 2 (1 in, 1 out) on Saturdays.
164. It is accepted that in the context of the residential street of Gray Avenue the presence of HGVs is likely to be more noticeable, however, once this traffic joins the B1281 road it is entering the highway network and is materially indistinct from other HGV traffic travelling to and from the A19 trunk road. Motorists driving on the B1281 may become held up behind one of these vehicles or have to take extra care when passing them from the opposing direction. These circumstances create a perception that the traffic associated with the development is more prevalent and more significant than it actually is. However, it is clear from the number of objections to the proposal that the perceived impact is sufficient to cause a degree of harm even if the actual impact is very low. On this basis it is considered that vehicle movements associated with the proposal would cause an adverse, but not unacceptable amenity impact. The proposal would therefore not conflict with the amenity protection requirements set out in CDP Policy 31, MLP Policy M42 and Part 15 of the NPPF.

Health

165. The application has been accompanied by assessments for noise and air quality with associated action plans for managing these environmental impacts, which have been considered in the sections above.
166. Objectors to the developments have raised harm to health as being main issue with the application with some objectors stating that their health has degraded since the site has been in operation. One objection has stated that the pH level of the water in their garden pond has been elevated from 8.0 to 9.5, alleging that this is the result of limestone dust from the development. It is further stated that this rise in pH level has killed the Koi carp that were kept in the pond, and it is questioned what harm is being caused to lungs and general health.
167. The Council's Public Health Team has been consulted on the proposal and have advised that planning applications involving operations that may carry the risk of significant effects of human health could benefit from a Health Impact Assessment (HIA). Knowledge surrounding 'health and place' is sometimes contested in planning matters, often with tension that emanates from lay (communities) and expert evidence, particularly as they relate to identification and assessment of local health impacts. For example, community health concerns are often cited by residents who (through the planning consultation process or on various media) articulate perceived negative impacts of the site operation, sometimes in the absence of firm epidemiological evidence, or often contrary to the findings published by experts. An HIA could consider such conflicting views in the context of the available evidence base. It should also be noted that such matters can also be addressed through provision of specialist/expert evidence without the need for such an HIA.
168. Public Health officers note that the site has been operating satisfactorily for several years and state that a HIA might only be relevant in circumstances where there is a material change to the operation in question. If this is not the case, an HIA is not likely to add further benefit at this stage.
169. Public Health officers have also commented that several issues have been raised on a local social media site that refer to the potential health impacts of this operation on local human and animal health. Commenting on such claims is not within the remit of a local authority public health team, as establishing causation would require specific, controlled enquiry that is out with the capacity of local authority public health provision.
170. Although a HIA does not support this application, as noted by Public Health officers, the site has been operating without any confirmed harm to health and whilst this proposal includes the extraction of virgin limestone, the means by which it is extracted and processed are not materially different from the way in which the colliery spoil is extracted and processed. The impacts of noise and dust from the site have been assessed and found to be acceptable when managed in accordance with established action plans. The site is subject to environmental monitoring by the Environment Agency and Environmental Health in addition to regular monitoring of planning conditions by the Councils Minerals Monitoring officer.

Summary

171. There would be some disturbance to residential properties for the duration of the proposed development and there would be operational development within 250m of a group of 10 dwellings. However, having considered the impact of the proposed development on residential amenity in terms of noise it is considered that the impacts could be controlled through condition setting limits and requirements to mitigate any

adverse effects on the nearest properties thus according with CDP Policy 31, County Durham Minerals Local Plan Policy M37 Parts 15 and 17 of the NPPF. It is also considered that the proposal would not conflict with M&WDPD draft Policies MW1, MW4 and MW5 however given the current stage of the Plan only limited weight can be afforded to these Policies at this time.

Contamination and Land Stability

172. Part 15 of the NPPF (Paragraphs 120, 174, 183 and 184) 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. CDP Policy 32 requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.
173. A Geotechnical Assessment Report has been submitted in support of this application and is contained within the ES. This assessment concludes that due to the age of the tip, documentary evidence and intrusive investigations that there are no deposits of fine discard or buried lagoon structures and that the tip was generally stable prior to the commencement of current site operations. The report states that there is no evidence of any active combustion of the tip material and it is not thought that any would be initiated during the course of the current operations
174. Environmental Health and Consumer Protection officers have raised no objections to the proposals. Officers recommend that conditions associated with ground conditions, land contamination and water from Planning Permission No. DM/14/00519/MIN be repeated for this proposal. An informative is recommended in respect of any unexpected contamination that may be found during the working of the site. The Coal Authority has also raised no objections to the proposals.
175. It is considered that the proposed development would be suitable for the proposed use and would not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities and it is considered that the proposals would provide an acceptable standard of residential amenity in accordance with CDP Policies 32 and Part 15 of the NPPF.

Access and traffic

176. Paragraph 110 of the NPPF states that safe and suitable access should be achieved for all people. In addition, Paragraph 111 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts on development are severe. CDP Policy 21 states that the transport implications of development must be addressed as part of any planning application, where relevant this could include through Transport Assessments, Transport Statements and Travel Plans. MLP Policy M42 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. MLP Policy M43 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. MLP Policies

M42 and M43 are considered to be consistent with the NPPF and can be afforded weight in the determination of the application.

177. Emerging M&WDPD Policy MW7 states that the transport implications of all proposed minerals or waste development which will generate significant amounts of vehicular movement must be assessed as part of any planning application through a transport assessment or transport statement. Policy MW1 seeks to resist unacceptable adverse impacts on the local and strategic road network.
178. Access to the site would be via the existing private track from the spoil heap to Gray Avenue in Hesleden. From Gray Avenue vehicles would head north to the B1281. HGV traffic would be routed to and from the A19 using the Wellfield Junction via a 3km stretch of the B1281 to Gray Avenue in Hesleden.
179. Vehicles would continue to enter and leave the site via an existing track onto Gray Avenue, approximately 380m from the junction with the B1281. Visibility splays on the junction of the B1281 with Gray Avenue were widened as part of the original planning permission. The site access road links with the site office and car parking area. Wheelwash facilities are also located in this area.
180. A Transport Statement was submitted as part of the original application and is included within the ES and the addendum to the ES. The statement identified baseline conditions and pre-development traffic flows and assessed this against the proposed development. The statement concludes that the surrounding highway infrastructure can accommodate the predicted development traffic with no discernible impact on highway safety or the operational capacity of the road network. The review of the Transport Statement within the ES advises that all of the approved highways works including surfacing, signage, surveys and improved visibility splay have been carried out and would be maintained for the duration of the development.
181. This application takes into account the working of the site since operations began in 2017, which has shown that actual vehicle movements fall significantly short of the levels predicted in 2014. An average of 20 (10 in and 10 out) HGV movements per working day are anticipated during the working period Monday to Friday with only 2 (1 in, 1 out) on Saturdays. Previously the approved HGV movements were 44 per day (22 in and 22 out) Monday to Friday and 22 (11 in and 11 out) on Saturdays.
182. The main issue in terms of access and traffic that has been raised by the Highways Authority in relation to the previous application was the limited visibility afforded to drivers exiting Gray Avenue on to the B1281. To remedy this a condition was imposed to require pruning and realignment of the hedgerow adjacent to the junction. This was carried out satisfactorily and the applicant proposes to maintain this visibility splay for the duration of the development.
183. In their consideration of the original application the Highways Authority highlighted the need for pre and post development surveys along part of Gray Avenue and for repair on completion of the proposed development. In considering this current application Highways officers have requested two additional assessments at points within the duration of the development. In order to protect the amenity and safety of local residents the Highways Authority has also requested the imposition of the conditions to control vehicle numbers, wheel washing and to ensure that the visibility splays at the junction of Gray Avenue and the B1281 are maintained.
184. Concerns have also been raised by objectors in relation to HGV's travelling from Gray Avenue to the A19 through Castle Eden. Objectors have suggested that vehicles represent a safety risk to other road users due the carriageway being narrow in places

and the speed of the vehicles relatively slow speed. The Highways Authority has considered the full length of the haulage route to the A19 and reviewed the objections from local residents. Highway officers consider that the proposed haulage route is capable of carrying the proposed type and number of HGV's without impacting upon highway safety.

185. Traffic generated by the proposal could be accommodated safely and conveniently on the highway network. The Highways Authority has raised no objections to the proposal subject to conditions. The proposed development would accord with CDP Policy 21, County Durham Minerals Local Plan Policies M42 and M43 and Parts 9 and 17 of the NPPF.
186. MLP Policy M42 is consistent with the NPPF 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 and is not time limited. Whilst the Policy is consistent with the general principles of NPPF 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. It is also considered that the proposal would not conflict with M&WDPD draft Policies MW1 and MW7, however given the current stage of the Plan only limited weight can be afforded to these Policies at this time.

Landscape and visual impact

187. CDP Policy 31 states that proposals which will have an unacceptable impact such as through overlooking, visual intrusion, visual dominance or loss of light, noise or privacy will not be permitted unless satisfactory mitigation measures can be demonstrated whilst ensuring that any existing business and/or community facilities do not have any unreasonable restrictions placed upon them as a result. CDP Policy 39 states that proposals for new development will be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals will be expected to incorporate appropriate measures to mitigate adverse landscape and visual effects. Development affecting Areas of Higher Landscape Value will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of development in that location clearly outweigh the harm. CDP Policy 40 states that proposals for new development will be expected to retain existing trees where they can make a positive contribution to the locality or to the development, maintain adequate stand-off distances between them and new land-uses, including root protection areas where necessary, to avoid future conflicts, and integrate them fully into the design having regard to their future management requirements and growth potential. Where trees are lost, suitable replacement planting, including appropriate provision for maintenance and management, will be required within the site or the locality.
188. CDP Policy 50 states that proposals for new working of magnesian limestone and sand on prominent escarpment slopes will be resisted in order to avoid unacceptable landscape and visual effects.
189. The application is accompanied by a Landscape and Visual Impact Assessment (LVIA), which is contained within the ES. The LVIA identified receptors within the study area that would potentially be affected by the development. It is noted that the combination of varied topography, intervening woodland, field boundary hedgerows and trees significantly limits both the availability of views towards the site and the potential effects of the development on the wider landscape. The addendum to the

ES comments that the extension of time for the development would be undertaken within the existing site boundary and as such no adverse landscape effects have been identified.

190. The site lies in the East Durham Limestone Plateau County Character Area which forms part of the wider Durham Magnesian Limestone Plateau National Character Area (NCA 59). It lies in the Coastal East Durham Plateau character area which belongs to the Coastal Limestone Plateau landscape type.
191. The site lies within Hesleden Dene, a narrow incised wooded valley. The woodland is made up largely of ancient semi-natural woodland together with some areas of planted or secondary woodlands. To the north and south lie areas of gently rolling open farmland. The former Ferryhill and East Hartlepool Railway runs parallel with the dene to the north. The village of Hesleden lies around 200m to the north-east.
192. The site is a former colliery tip which locally modifies the natural topography of the dene standing up around 6m above surrounding levels in the north and falling steeply to the Hesleden Burn in the south. The outer flanks of the heap are clothed in young mature plantation and naturally regenerated woodland and scrub of mixed species (spruce, pine, sycamore, ash, elder and hawthorn). The site is not located on a prominent escarpment slope.
193. The site is visible in views from greater distances to the south; as a small part of visually complex panoramas from properties on higher ground on the northern edge of Hutton Henry and in shallow views from properties in Hulam and Footpath No. 14 (Sheraton with Hulam Parish) in that area.
194. The northern storage mound within the site is visible from properties and public vantage points in the south-west of Hesleden and in views from some sections of footpaths in the immediate locality. The effects in other views is not significant.
195. The continued operation of the site would lead to substantial adverse effects in views from sections of footpaths in the immediate locality during the operational period including a short adjacent section of the Haswell to Hart, and sections of Footpath No. 16 (Sheraton with Hulam Parish) to the south. There would not be a significant effect on the visual amenity of the wider network.
196. Landscape officers have raised no objections to the proposals. Officers have commented that the development would not give rise to significant landscape or visual effects, relative to practical alternatives strategies for completing the remediation of the land, other than in respect of the extended period of site operations. The restoration strategy is broadly appropriate. Officers have stated that the final profile of the limestone face and land immediately above would need further detailed consideration to ensure that it was both safe and naturalistic in appearance. That detail would need to be agreed at an early enough stage to ensure that sufficient material was left in situ to achieve those objectives. This detail could be delivered as a planning condition.
197. It is considered that none of the visual impacts on residential amenity are predicted to be high or long term and that the working method has been designed to minimise them as far as possible. Impacts on the wider visual environment of the local community include impacts on the footpath network and railway path south of the village where the main focus of countryside access lies. Considerable parts of the railway path in particular would remain unaffected and the village would still have good access to attractive countryside during the operational period. It is therefore considered that the proposal would not conflict with CDP Policies 31, 39, 40 and 50 and Parts 15 and 17 of the NPPF in respect of landscape harm. It is also considered that the proposal

would not conflict with M&WDPD draft Policy MW1 however given the current stage of the Plan only limited weight can be afforded to this Policy at this time.

Cultural Heritage

198. 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 must be given considerable importance and weight by the decision-maker.
199. Part 16 of the NPPF requires clear and convincing justification if development proposals would lead to any harm to, or loss of, the significance of a designated heritage asset. NPPF Paragraph 195 states that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. CDP Policy 44 seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The continued importation of inert waste would not materially impact upon cultural heritage and waste policy is therefore not a consideration in this section.
200. There are no listed buildings, Scheduled Monuments or Conservation Areas designations within the site. There are twenty five designated heritage assets within 2km of the site comprising one Scheduled Monument, one Grade II* listed building and twenty two Grade II listed buildings. Castle Eden Conservation Area lies 1km to the west.
201. A heritage assessment was submitted with the original application and is included within the ES. The assessment identified the impact on the designated and non-designated heritage assets located within 2km of the application site including visual impact, noise, dust and vibration. The assessment concluded that no significant environmental effects in relation to archaeology and cultural heritage associated with the proposed works have been identified and the effects of the proposed works were deemed to be negligible.
202. Design and Historic Environment officers have raised no objections to the proposals. Officers have commented that any impacts on cultural heritage would be equivalent to those previously accepted, irrespective of any proposed extension of time or extraction of additional materials The spoil mound is considered to have no heritage significance and its reclamation would have no impact on any nearby designated assets. Archaeology officers have also raised no objections to the proposals.
203. It is considered that there would be no harm to designated heritage assets given the proposed development is not within the setting of, and it would not affect the significance of any heritage asset given the given the distance from the application site, intervening topography, planting and built development. Although the haulage route would pass through the Castle Eden Conservation Area it is considered that the ambience of this settlement would not be detrimentally affected by this activity and the impact would also amount to no harm being caused. Design and Conservation officers

have raised no issues in respect of harm to the Castle Eden Conservation Area. It is considered that the proposal would accord with CDP Policy 44 and Part 16 of the NPPF. It is also considered that the proposal would not conflict with M&WDPD draft Policy MW1 however given the current stage of the Plan only limited weight can be afforded to this Policy at this time.

Ecology and nature conservation

204. Paragraph 180 of the NPPF sets out the Government's commitment to halt the overall decline in biodiversity by minimising impacts and providing net gains where possible and stating that development should be refused if significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for. CDP Policy 41 reflects this guidance by stating that proposals for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or, as a last resort, compensated for. CDP Policy 42 seeks to restrict development that cannot demonstrate that there would no residual adverse effects to the integrity of internationally designated sites. CDP Policy 43 states that development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts upon locally designated sites will only be permitted where the benefits outweigh the adverse impacts.
205. 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 in order to determine whether a licence is likely to be granted. 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. Brexit does not change the Council's responsibilities under the law.
206. The proposed site is not affected by statutory nature conservation designations. However, the Hulam Fen SSSI is approximately 400m to the south. Castle Eden Dene SSSI is located approximately 1.1km to the north. The Durham Coast Special Area of Conservation (SAC) is located approximately 1.1km to the north of the site. The application site is located entirely within the Hesleden Dene LWS.
207. A Phase 1 habitat survey including surveys for protected / notable species was submitted with the application and is contained within the ES. The surveys and submitted assessment concluded that no significant residual effects on the ecological receptors were identified. It is proposed to development habitat enhancement through the proposed restoration of the site. The addendum to the ES confirms that the proposed extension of time to the development would not change the ecological status and there would be no direct impacts upon species or adjacent habitats. Indirect effects would arise within the woodland setting but this would reduce in time, particularly in combination with proposed mitigation.

208. The addendum to the ES has noted that as of 2021 Priority Species Dingy Skipper butterflies have recolonised on part of the site. It is also stated that the geological and ecological importance of the site is fast becoming clear and with complete restoration could achieve high conservation value status as either SSSI or similar.
209. The Council's Ecologist is satisfied with the level of survey work submitted with the application and the restoration proposals for the site. No harm to protected species has been identified. Officers have stated that the restoration of this site presents an opportunity to create UK Biodiversity Action Plan Priority Habitats that would benefit Priority Species. Mitigation works would be secured through condition. Officers have raised no objections in relation to the LWS or the Special Area of Conservation. Natural England is satisfied that there is not likely to be an adverse effect on the SSSIs and that they do not represent a constraint in determining the application.
210. Ancient and Semi-natural woodlands located within 2km of the site are also not considered to be sensitive to potential dust impacts. No concerns have been raised by Ecology Officers in this respect. Natural England has stated that any impacts on ancient woodland and ancient and veteran trees should be considered in line with Paragraph 180 of the NPPF, which states that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists. No impacts to ancient woodland or veteran trees have been identified and therefore the test set out in paragraph 180 is not engaged.
211. Ecology officers have considered the proposals and raise no objections subject to appropriate long term management of the site. It is recommended that the biodiversity enhancement would be secured through a Section 39 Agreement under the Wildlife and Countryside Act 1981. Section 39 of the Wildlife and Countryside Act 1981 enables local authorities to enter into management agreements with the owner of land for its conservation (and for other related purposes) and is regarded as a suitable mechanism for securing long term land management in relation to biodiversity net gain. A Section 39 is more suited to ensuring long term management than planning condition.
212. The proposed development would provide biodiversity enhancement to the site and, whilst there may be a continued temporary displacement of wildlife during the reclamation process, the net increase in biodiversity value would adequately mitigate any residual harm. It is considered that the proposed development would not impact upon any internationally, nationally or locally protected sites. Suitable mitigation would be secured through Section 39 agreement. It is therefore considered that the proposals would not conflict with CDP Policies 25, 41, 42 and 43 and Parts 15 and 17 of the NPPF in respect of avoiding and mitigating harm to biodiversity. It is also considered that the proposal would not conflict with M&WDPD draft Policy MW1 however given the current stage of the Plan only limited weight can be afforded to this Policy at this time.

Flood risk and drainage

213. Part 14 of the NPPF directs Local Planning Authorities to guard against flooding and the damage it causes. Protection of the water environment is a material planning consideration and development proposals, including waste development, should ensure that new development does not harm the water environment. Paragraph 174 of the NPPF 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.

214. Paragraph 167 of the NPPF states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment it can be demonstrated that it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate, and any residual risk can be safely managed.
215. CDP Policy 35 requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water. CDP Policy 10 states that new development in the countryside must minimise vulnerability and provide resilience to impacts arising from climate change, including but not limited to, flooding.
216. The Hesleden Beck is located to the immediate south of the site. The steep slopes of the Hesleden Dene at this point in its course limit the spread of the flood plain, nevertheless, a very small area of the site is within Flood Zones 2 and 3. In addition, the site overlies a Major Aquifer and is in a Major Groundwater Vulnerability zone as defined by the Environment Agency.
217. A water resources assessment was carried out the results of which are contained in the ES. The assessment identified baseline conditions for the site in relation to hydrogeology, hydrology, flood risk, groundwater levels and flow and groundwater quality. The assessment concludes that the working and restoration of the site would, through appropriate management and mitigation, present a negligible or minor impact upon the surface and groundwater environment. The addendum to the ES has confirmed that the site now has consent from the Environment Agency to discharge water at a maximum rate of 15l/s, equivalent to greenfield runoff rate. This consent includes limits on pH level and suspended solids to ensure any discharge does not adversely affect the watercourse. However, to date there has been no requirement to discharge water from the site; collected water is either used for dust mitigation or infiltrates through the strata. It is noted within the ES addendum that they Environment Agency has no found no evidence of pollution in the Hesleden Beck and water quality is being enhanced due to the clean up operations undertaken as part of the reclamation.
218. Drainage and Coastal Protection officers have considered the proposals and raised no objections. Officers have commented that any positive discharge by pipe, ditch or culvert should be restricted to QBAR Rate, taking into account of all storms up to and including the 360 minute 1 in 100 year event plus 40% Climate change. The Environment Agency has also raised no objections to the proposal in respect of harm to watercourses or the major aquifer.
219. The site is bounded by a perimeter drainage channel that leads to clay lined settlement lagoons at the lowest point with capacity for a 1 in 100 year event. The design and capacity of the drainage system was subject to agreement with Drainage and Coastal Protection officers as part of the original application and has been in place since the commencement of the development and would continue to be.

220. Provided that the above conditions are complied with it is considered that the proposed development would not cause or contribute to any pollution of groundwater resources in accordance with CDP Policies 10 and 35 and Parts 14 and 17 of the NPPF. It is also considered that the proposal would not conflict with M&WDPD draft Policies MW1 and MW19 however given the current stage of the Plan only limited weight can be afforded to this Policy at this time.

Public Rights of Way

221. Paragraph 100 of Part 8 of the NPPF states that planning decision 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. CDP Policy 26 states that development will be expected to maintain or improve the permeability of the built environment and access to the countryside for pedestrians, cyclists and horse riders. Proposals that would result in the loss of, or deterioration in the quality of, existing public rights of way (PROWs) will not be permitted unless equivalent alternative provision of a suitable standard is made. Where diversions are required, new routes should be direct, convenient and attractive, and must not have a detrimental impact on environmental or heritage assets.
222. Footpath No.24 (Monk Hesleden Parish) shares the access track to the spoil heap and also the allotments to the north of the site. The section of this footpath south of the Haswell to Hart Walkway extends into the site. In order to maintain safe operation of the site it is proposed to temporarily divert Footpath No.24 to a route through Hesleden that would lead users to the Haswell to Hart Walkway at a more easterly point. Footpath No.16 (Sheraton with Hulam Parish) runs to the south of the site and would not be affected by the proposed development. It is proposed to reinstate Footpath No.24 as part of the restoration of the site.
223. The Haswell to Hart Walkway does not have status as a Public Right of Way but is a popular walking, cycling and horse riding route. The site access crosses over the Haswell to Hart Walkway at a point where there is already a gated intersection. The crossing point has operated safely to date and it is not proposed to change the way in which this is managed. Mitigation measures include signage for both users of the Walkway and drivers accessing the site of the crossing point and including physical measures to prevent drivers from crossing the Walkway without stopping.
224. Access and Rights of Way officers have considered the proposals and have raised no objections. Officers have noted that the surface improvement for Footpath No.24 has been carried out. It has been suggested that in order to improve the network further a link to Footpath No.16 (Sheraton with Hulam Parish) should be considered during the restoration phase. It is recommended that this form part of the detailed restoration plans to be secured by condition. Officers have also stated that they would welcome an earlier restoration of Footpath No.24 but as this forms the only route into the site it would not be possible.
225. The Council's Countryside officers have also raised no objection to the proposals advising that there are no concerns regarding the extension of the approval to allow for further removal of material. Officer have however, stated that the development extension provides the opportunity for further improvement of the Hart to Haswell Railway Path, a valuable local community asset, and one which provides a convenient off-road link to the east and further north. It has been requested that the developer provide a contribution to improving the path surface, drainage and access infrastructure. The developer has committed to providing a community fund that could be used for such facilities, if the Community Fund Committee deemed it to be

appropriate. Alternatively, the developer may provide ad-hoc assistance to the Countryside team, which may include improvements to access, drainage and surfacing. For clarity, the provision of a contribution for improving the path surface, drainage and access infrastructure of the Hart to Haswell Railway Path would not be required in order to make the development acceptable.

226. Although Footpath No.24 (Monk Hesleden Parish) would continue to be temporarily diverted, users are still be able to access the Haswell to Hart Walkway via the alternative route to the east. Any adverse impact on users of the routes would be for the duration which they use the route and measures would be put in place to ensure that any potential impacts would be minimised. Impacts such as noise, dust and visual impact are addressed elsewhere in the report. It is therefore considered that the development would not have an unacceptable impact upon the recreational value of the countryside. The proposals would therefore accord with CDP Policy 26 and Part 8 of the NPPF.

Soils and agriculture

227. Paragraph 174 of the NPPF seeks to protect best and most versatile land. CDP Policy 14 states that where mineral working is proposed on best and most versatile agricultural land, proposals should seek where practicable to minimise its loss and retain its longer term capability unless the benefits of alternative restoration strategies outweigh its loss. In addition, all development proposals relating to previously undeveloped land must demonstrate that soil resources will be managed and conserved in a viable condition and used sustainably in line with accepted best practice.
228. The application site was the subject of a very low level reclamation project in the late 1960's or early 1970's but this focused mainly on land to north of and including the Haswell to Hart Railway Path. The site has therefore seen very limited improvement since the placement of the colliery waste. Prior to the reclamation works commencing only a small portion of the site was overlain with any soils. Within these areas the soils have already been stripped and stored in a stockpile on the northern boundary of the site.
229. The proposed restoration of the site is for non-agricultural nature conservation use where minimal soil is of benefit to encourage a more diverse range of species, particularly those that have historically inhabited the site. Natural England has raised no objections to the proposals.
230. As the site is less than 20 hectares and would not lead to the loss of any best and most versatile agricultural land it is considered that there would be no conflict with CDP Policy 14 or Part 15 of the NPPF. It is also considered that the proposal would not conflict with M&WDPD draft Policy MW1 however given the current stage of the Plan only limited weight can be afforded to this Policy at this time.

Cumulative Impact

231. Paragraph 185 of the NPPF 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 211 of the NPPF 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.

232. CDP Policies 10 and 31 requires consideration of cumulative impact as does Policy M45 of the MLP also addresses cumulative impact. CDP Policy 31 sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment. MLP Policy M45 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. MLP Policy M45 is not time limited and is consistent with the NPPF which requires consideration of the multiple impacts from individual sites and/or from a number of sites in a locality. MLP Policy M45 can carry full weight in the decision-making process.
233. Paragraph 17 of the National Planning Practice Guidance section relating to Minerals require consideration of the impacts of minerals development in cumulation with other development in the area. It is recommended that when determining planning applications local planning authorities should take into account the cumulative effects of multiple impacts from individual sites and/or a number of sites in a locality. It is stated that the cumulative impact of mineral development is capable of being a material consideration when determining individual planning applications.
234. The applicant has submitted an assessment of cumulative impact as part of the Environmental Statement. The assessment sets out the methodology and scope for considering cumulative impact. No developments were identified within the near vicinity or area that could be deemed to have an effect on the application site. The study therefore concludes that the cumulative impact of the development would be negligible.
235. Although the assessment submitted by the applicant has considered the potential cumulative impacts from other sources in relation to the proposed development it does not consider the individual effects of the proposal. The primary impacts of the proposal being traffic and highway safety, noise, dust and air quality. These impacts have been assessed individually earlier in this report and considered to be acceptable. The operational area of the site is sufficiently distant from sensitive receptors that the impacts of noise and dust from extraction would not be perceived in conjunction with the traffic and highway safety impacts.
236. It is therefore considered that although the cumulative impacts of landscape, noise, dust and traffic are of some significance they do not constitute a degree of harm that would substantiate a refusal under the criteria set out in any of the relevant policies from the CDP, MLP. It is therefore considered that the proposal would accord with CDP Policy 31 and MLP Policy M45 and Parts 15 and 17 of the NPPF. It is also considered that the proposal would not conflict with M&WDPD draft Policy MW1 however given the current stage of the Plan only limited weight can be afforded to this Policy at this time.

Alternatives

237. In accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 the applicant has provided a consideration of alternative options, should the proposed scheme not be deemed to be acceptable.

238. Option 1 would be the case where no further mineral extraction would be carried out; effectively a refusal of the planning application. In this situation all the excavations that have exposed the limestone would be backfilled and featureless graded slopes of about 26.6° to 21.8° would be formed extending across the site towards Hesleden Dene. Due to the potential combustibility of spoil material remaining in situ a covering layer of not less than 1m of compacted clay would have to be applied over and beyond the areas of remaining unprocessed colliery spoil to prevent long term ingress of air and the potential for combustion.
239. Some 246,000 tonnes of potentially combustible colliery spoil would remain on site. Site investigation has confirmed that the capping clay could be sourced on site, although any excavations would require backfilling and profiling as part of the wider programme of earthworks.
240. The total volume of required clay could amount to some 24,000m³ (48,000 tonnes). The majority would have to be simply spread and trafficked using a dozer. A vegetative cover would have to be established to prevent erosion or could be covered with spoil material for natural regeneration. Other areas could be seeded or could be achieved using compost derived from green waste and sewage filter cake, but would again this may have to be imported by road. If it is assumed that all the necessary materials could be sourced without delay and supplied at the required rate, the earthworks could take at least 6 months to complete subject to suitable weather and ground conditions. However, the applicant has advised that these are very optimistic assumptions and the whole task would realistically take 12 months.
241. Option 2 assumes that planning permission is granted for only part of the proposed extension of time (i.e. 3-4 years so that there is only partial recovery of the remaining mineral reserves). Where possible and depending on market forces, the earthworks would be very much focused on the colliery spoil. An effort would be made to retain as much of the exposed limestone scarp as possible as this would form an important element in the restored site, but there would be some trade off with the reduction in graded slope profiles elsewhere. With this in mind, most, if not all of the sand would be removed to create additional void space for the processed spoil and ensure long term slope stability.
242. The aim would be to form graded slopes of not greater than 21.8°. The remaining areas of unprocessed spoil would again have to be capped using clay. It is possible that some 12,000m³ of clay would have to be site won.
243. Option 3 would allow the recovery of all the remaining mineral reserves on the site over a 9 year period followed by 12 months of restoration (now reduced to 7 years and 4 months plus 12 months for restoration due to operations continuing while the application is being determined). Recovery of the combustible material would remove any potential health, safety and environmental risk, thereby eliminating the need for surface capping of clay.
244. Recovery of all the remaining mineral reserves would create approximately 294,000m³ of void space and provide greater scope for the creation of an extended limestone scarp along the left bank of Hesleden Dene as well as reducing the grade of the restored slope profiles elsewhere.
245. The restored site would have greater aesthetic, geological and ecological value and would take 12 months to complete. The Restoration of the site would be as the submitted Restoration Plan.

246. Option 2 is disregarded as it would not deliver the full potential of the site in terms of biodiversity and geodiversity gain and would effectively sterilise mineral. It would also potentially not properly deal with the combustion risk.
247. Option 3 is the proposal that has been assessed in this report and which would deliver the full reclamation of the site; deliver the best outcome in terms biodiversity and geological enhancement and leave the site safe from potential combustion issues in future. In the event that the Planning Committee do not agree with the recommendations of this report then, as the site is already operational, it would be in the interests of the environment and public safety for an accelerated restoration to be enacted in line with Option 1.

Legal Agreement

248. County Durham Minerals Local Plan Policy M52 states that in considering planning applications for mineral development the ability and commitment of the intended operator to operate and reclaim the site in accordance with an agreed scheme will be taken into account. Proposals will only be permitted where either the operator is capable of, and committed to, the working and full restoration of the site in accordance with the requirements of any planning permissions or there are adequate safeguards are in place, through the provisions of financial bonds, appropriate mutual funds operated through the industry, or other means, to ensure that any breach of planning conditions, particularly with regard to the restoration and after-care of the site, can be remedied without additional public cost. MLP Policy M52 is considered to be consistent with the NPPF.
249. Emerging M&WDPD Policy MW20 states that restoration schemes for mineral sites will be secured through the imposition of planning conditions and where necessary planning obligations or other legal agreements. Within the supporting text of the M&WDPD at paragraph 4.97 it is stated that where appropriate and deemed necessary the Council will encourage the establishment of additional local liaison groups. Where established, it is intended that the operator will convene the Local Liaison Group at least once every year or at such other frequency agreed by the Liaison Group Committee. The operator will also provide all practical administrative and secretarial facilities to enable the Liaison Committee to function effectively including the provision of a suitable local venue for every meeting and the production of publicly available minutes for every meeting.
250. Under the provisions of Section 106 of the Town and Country Planning Act 1990 (as amended) a planning obligation is in place for the existing site. This makes provision for a £50,000 restoration bond to ensure that funds are available to safely restore the site in the event that the operator fails to do so. In addition, it requires the setting up and management of a Community Liaison Meeting and provides a Community Fund. The current Community Fund is based on a developer contribution of 10p per tonne of combustible material extracted from the site.
251. It is the intention of the applicant to enter into a new Section 106 obligation in order to provide an updated restoration bond, continuation of the Community Liaison Committee and revision to the Community Fund.
252. The proposed restoration bond has been calculated based on the full recovery of mineral from the site and therefore a 'worst case scenario'. The amount now to be provided for the bond is now set at £174,845 (including a 10% contingency), which would be index linked to account for inflation over the development period. A report has been submitted by the applicant, which includes a detailed breakdown of costs associated with restoration. An analysis of different options has been considered

ranging from no further extraction to full extraction of mineral. The scenario where there is no further extraction would attract a lower restoration cost (but also no planting or surface features) of £155,595. It is therefore considered that the proposed bond amount would be sufficient to address any eventuality.

253. The proposed amendment to the Community Fund would increase the developer contribution from 10p per tonne to 15p per tonne for combustible material. In addition, and to account for the variation in material to be extracted, a contribution of 5p per tonne of sand and 5p per tonne of limestone would also be provided. Based upon a calculation of 10p per tonne for the originally approved 278,000 tonnes of combustible material, 15p per tonne for the additional 132,000 tonnes of combustible material and 5p per tonne for the 125,000 tonnes of limestone 175,000 tonnes of sand the total developer contribution to the Community Fund would be approximately £62,600.
254. Developer contributions to date have assisted Monk Hesleden Parish Council with the construction of a Multi-Use Games Area (MUGA), for the residents of Hesleden, near the entrance to the site.
255. Paragraph 55 of the NPPF 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. Paragraph 57 of the NPPF states that planning obligations must only be sought where they meet all of the following tests: a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development. This is reiterated in the Community Infrastructure Levy Regulations 2010.
256. Whilst beneficial to the community, the proposed Community Fund, restoration bond and Community Liaison Committee are not necessary to make the development acceptable in planning terms and therefore it cannot be considered to be compliant with regulation 122 of the Community Infrastructure Levy Regulations 2010. Consequently, no weight can be afforded to this issue in the determination of the application.
257. The National Planning Practice Guidance (NPPG) provides guidance on financial guarantees and considers that a financial guarantee to cover restoration and aftercare costs will normally only be justified in exceptional cases. These being very long-term new projects where progressive reclamation is not practicable, such as an extremely large limestone quarry; where a novel approach or technique is to be used, but the minerals planning authority considers it is justifiable to give permission for the development; and where there is reliable evidence of the likelihood of either financial or technical failure, but these concerns are not such as to justify refusal of permission. The NPPG advises that Mineral planning authorities should address any concerns about the funding of site restoration principally through appropriately worded planning conditions.
258. Notwithstanding this, the applicant has unilaterally offered a restoration bond and there is no reason for the Local Planning Authority not to accept this. The bond provides reassurance that the operator is committed to the development and that there is a fund available in the unlikely event that the operator is unable to complete the restoration so that the site can be made safe without additional public cost.
259. In accordance with MLP Policy M52 and emerging Policy MW20 the ability and commitment of the intended operator to operate and reclaim the site in accordance with the agreed scheme have been taken into account. Given advice in the NPPF and

recognising the likely concerns of members of the public and the Committee it is considered that the proposal for a restoration guarantee is reasonable on this occasion. MLP Policy M52 is considered to be only partially consistent with the NPPF as it is emphasised within the NPPF that financial guarantees should only be sought in exceptional circumstances.

260. As set out in the Ecology section above, it is also proposed to secure biodiversity net gain and long term management through a Section 39 Agreement under the Wildlife and Countryside Act 1981. Section 39 of the Wildlife and Countryside Act 1981 enables local authorities to enter into management agreements with the owner of land for its conservation (and for other related purposes) and is regarded as a suitable mechanism for securing long term land management in relation to biodiversity net gain.

Summary

261. As set out earlier in this report, regard has been given to Paragraph 217 of the NPPF as the colliery spoil, as well as containing shale and spoil, also comprises low-grade coal. Therefore, in accordance with Paragraph 217(a) of the NPPF, the environmental impacts of the proposed development in terms of residential amenity (including noise, air quality and dust), access and traffic, landscape and visual impact, cultural heritage and design and conservation, ecology and nature conservation, flood risk and drainage, public rights of way, soils and agriculture, cumulative impact have been considered. It is concluded that as a whole the proposal would be environmentally acceptable with the application of appropriate planning conditions and obligations and would accord with all relevant development plan policies and Parts 15 and 17 of the NPPF.
262. For completeness, regard has also been had to Paragraph 217(b) which requires consideration to be given to the benefits of the proposal should it be considered that the proposal would not be environmentally acceptable. Under Paragraph 217(b) the benefits of the development must be weighed against the residual harm. The benefits of the development include the continued supply of combustible material for industry and energy generation, supply of aggregates, continued employment for 6 full time and 17 part time jobs (14.5 full time equivalent), indirect economic benefit to local shops, services and suppliers. The completed restoration of the site would remove a potential safety and fire risk, improve local amenity and provide biodiversity net gain. It is considered that the benefits of the development, particularly at this mid point in the restoration of the site, would outweigh the harm.

Other Matters

263. Objectors to the proposal have raised concern that the value of their property would be reduced as a direct result of the development. Impact of development on property values is not considered to be a material consideration in the determination of planning application. However, the effects of the proposal have been thoroughly assessed in relation to residential amenity and considered to be acceptable.
264. Objectors have also suggested that their human rights to the quiet enjoyment of their possessions (Article 1 of the First Protocol) would be breached by the proposed development. A detailed noise assessment has been submitted with the application and assessed earlier in this report. Noise levels from the proposed development would not exceed the limits set out in the PPG and it is therefore considered that the proposal would not lead to a breach of human rights.
265. Objectors have queried why the application has taken so long to determine and have suggested that the Council is complicit in allowing the applicant to export the maximum

amount of material possible in advance of the Planning Committee. The frustrations are appreciated however, this is a major development subject to Environmental Impact Assessment and time has been taken to ensure officers have arrived at an informed conclusion.

266. An objector has raised in correspondence that they delayed filing of accounts by the applicant is a means to hide the value of the development. The site was previously operated by B and S Recycling, which was a partnership between the site owner and other directors. The site is now owned and operated solely by the applicant under the company name of DRS Land Regeneration Ltd. The accounts for this company are up to date but, in any case, this was not a material planning consideration.

Public Sector Equality Duty

267. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.
268. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

CONCLUSION

269. Paragraph 211 of the NPPF states that when determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy. This proposal would allow for the continued reclamation of previously extracted combustible material that was deposited as colliery waste. The site would therefore provide a native source of fuel for existing coal fuelled cement works, reducing the need for imported coal or mining new reserves. This proposal also facilitates the working of sand and limestone deposits from below the colliery spoil that would otherwise not be available and would be sterilised if not extracted during the reclamation of the site.
270. Having assessed the likely impacts of the proposed development it is considered that the scheme would not have significant environmental effects of an adverse nature sufficient to justify a recommendation of refusal taking into account the proposed planning conditions and legal agreements.
271. The proposal has generated public interest with representations reflecting the issues and concerns of local residents affected by the proposed development. Whilst there would be some impacts upon local amenity associated with noise, dust, visual impact and traffic at certain stages of the development these would be at acceptable levels and can be controlled through the implementation of appropriate mitigation measures and planning conditions. These representations have been weighed along with other responses including those of statutory consultees that have raised no overriding objections to the scheme based on the submitted details and assessments. Whilst mindful of the nature and weight of public concerns it is not considered that these are sufficient to outweigh the planning judgement in favour of the proposed scheme.
272. The proposed development is considered accord with the relevant policies of the County Durham Plan, County Durham Minerals Local Plan, the emerging County

RECOMMENDATION

273. That the application be APPROVED subject to the following conditions and completion of an agreement under Section 39 of The Wildlife and Countryside Act 1981 to secure biodiversity management for the life of the development and Section 106 of the Town and Country Planning Act 1990 to secure a restoration bond, community fund and continuation of the liaison committee.

APPROVED DOCUMENTS

1. The development hereby approved shall only be carried out in accordance with the following documents and any detailed matters subsequently approved under Condition 3:
 - a. Description of the working method as contained within Appendix 1 of the Environmental Statement for the Remediation of former Colliery Spoil Heap at Hesleden dated March 2014.
 - b. Drawings:
 - Drawing No. HT WP1A3 rev.C 'Working Proposals Drawing'
 - Drawing No. 2133.01A. rev.A 'Restoration Proposals'
 - Drawing No. HT3 rev.A 'Restoration Contours and Section Locations'
 - Drawing No. HT3 rev.A 'Sections 1-3'
 - Drawing No. HT3 rev.A 'Sections 4-6'
 - Drawing No. HT3 rev.A 'Sections 7-10'
 - Drawing No. HT3 rev.A 'Sections 11-13'
 - Drawing No. JN0684-Dwg-0004 'PROW Network (Proposed Temporary Diversion)'
 - c. Documents:
 - Dust Action Plan Update Dated December 2021
 - Noise Action Plan Update Dated December 2021
 - Restoration Strategy Dated January 2023
 - Letter from DAB Geotechnics Ltd titled "HESLEDEN TIP – CONSTRUCTION OF ACCESS RAMP TO WATER TREATMENT AREA" Dated 15 May 2017
 - Letter from DAB Geotechnics Ltd titled "HESLEDEN TIP – PLANNING CONDITION 29 SURFACE WATER DRAINAGE SCHEME" Dated 1 December 2016
 - Wheel cleaning equipment

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

2. From the commencement of development to the completion of restoration a copy of this permission, including all documents hereby approved and any other documents subsequently approved in accordance with this permission and legal agreements, shall always be on display in the site offices and subsequently, shall be made available to all persons with responsibility for the site's aftercare and management.

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

MATTERS REQUIRING SUBSEQUENT APPROVAL

3. The development hereby permitted shall also only be carried out in accordance with a scheme or schemes to be approved, in writing, by the Mineral Planning Authority, which shall, amongst other matters, include provision for the matters listed below. Those details required by Condition 3(a) through to Condition 3(k) shall be submitted to and approved, in writing, by the Mineral Planning Authority at the specified times.

- a) Highway condition survey for the length of Gray Avenue between the site entrance and the junction with the B1281 road. 3 surveys shall be submitted with the following timings:
- Within 3 months of the issue of this planning permission
 - Between 47 and 48 months following the issue of this planning permission
 - Within 3 months of the cessation of works at the site

The highway condition surveys shall include an assessment of any degradation of the road surface due to activities relating to this development. If any degradation is identified works shall be carried out to remedy the road surface within 6 months of the date of the survey.

b) Details of the final restoration of the site, which shall include:

- i) the final contours for the site (at 2 metre intervals), indicating how such contours tie in with the existing contours on adjacent land;
- ii) the drainage of the restored site;
- iii) the erection of fences;
- iv) the planting of trees and hedges;
 - a. the species to be planted, and the percentage of the total to be accounted for by each species;
 - b. the size of each plant and the spacing between them;
 - c. the preparations to be made to the ground before planting;
 - d. a subsequent maintenance and management programme during the aftercare period once the hedgerow, tree, shrub planting and seeding has been carried out, which shall include the weeding of the planted area, repairing of any damaged fencing, and the replacement of any plants which die or are seriously affected by disease and a detailed schedule as to when the aftercare period commences for each area.

The final restoration details shall be provided within 5 years of the date of this permission, or upon completion of mineral extraction, whichever is sooner.

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

4. All mineral extraction shall cease by 31 December 2030.

Reason: To avoid unnecessary delay in the restoration of the site in accordance with County Durham Minerals Local Plan (December 2000) Policy M46 and Part 17 of the National Planning Policy Framework.

5. In the event of extraction ceasing earlier than the date specified in Condition 4 the Mineral Planning Authority shall be notified in writing within one month of the date of such cessation. Within one month of that date, a revised scheme for the restoration of the site, including timescales for completion, shall be submitted to the Mineral Planning Authority for its written approval. The revised scheme shall be implemented as approved.

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

WORKING PERIOD

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

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

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

Reason: In the interests of residential amenity in accordance with County Durham Plan Policy 31 and Part 15 of the National Planning Policy Framework.

ACCESS AND PROTECTION OF THE PUBLIC HIGHWAY

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

Reason: In the interests of highway safety in accordance with County Durham Plan Policy 21 and Part 15 of the National Planning Policy Framework.

8. The wheel cleaning equipment installed and detailed in Condition 1, shall be used to ensure all vehicles leaving the site access as indicated on Drawing No. HT WP1A3 rev.A 'Working Proposals Drawing' are cleaned of mud before entering the public highway.

Reason: In the interests of highway safety in accordance with County Durham Plan Policy 26 and Part 9 of the National Planning Policy Framework.

9. The total number of heavy goods vehicles entering and leaving the site shall not exceed 20 (10 in and 10 out) per operational day Monday to Friday and 4 (2 in and 2 out) on Saturdays. A record of all heavy goods vehicles leaving the site shall be

maintained by the operator and a certified copy of this record shall be afforded to the Mineral Planning Authority within 2 working days of such a request.

Reason: In the interests of residential amenity and highway safety in accordance with County Durham Plan Policies 21 and 31 and Part 9 of the National Planning Policy Framework.

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

Reason: In the interests of residential amenity and highway safety in accordance with County Durham Plan Policies 21 and 31 and Part 9 of the National Planning Policy Framework.

SOIL HANDLING

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

Reason: To ensure the site is satisfactorily restored in accordance with County Durham Minerals Local Plan (December 2000) Policy M46, Policy MW1 of the County Durham Minerals and Waste Policies and Allocations Document and Part 17 of the National Planning Policy Framework

SITE WORKING

12. No site clearance works or development affecting trees, scrub, ground vegetation or other semi-natural vegetation shall take place between March and August inclusive unless survey work immediately prior to the start of works confirms that breeding birds are absent. This is particularly relevant to the works to remove areas used by birds such as trees and scrub. If nesting birds are found then work in that area must be avoided until the birds have fledged.

Reason: To avoid any impacts on nesting birds in accordance with County Durham Plan Policy 43, Policy MW1 of the County Durham Minerals and Waste Policies and Allocations Document and Parts 15 and 17 of the National Planning Policy Framework.

SITE MAINTENANCE

13. From the commencement of the development, until restoration of the site, the following site maintenance operations shall be carried out:
 - a. the maintenance of fences in a stockproof and secure condition, between any areas used for development, and adjoining agricultural land;
 - b. the care, maintenance and fencing of trees and hedgerows to be retained within the site boundary and treatment of those affected by disease, in accordance with accepted principles of good woodland management and good arboricultural practice (including the provision of protective fencing);
 - c. the maintenance of all the hard surfaced access roads within the site, over which licensed road vehicles operate, clean from mud;

- d. the maintenance of drainage ditches, water treatment areas, and the clearance of mud and silt from water treatment areas to avoid reducing their capacity for intercepting sediment;
- e. all areas of the site, including undisturbed areas and all topsoil, subsoil and overburden mounds, shall be managed to minimise erosion and shall be kept free from injurious weeds (as defined by The Weeds Act 1959). Cutting, grazing or spraying shall be undertaken, as necessary and appropriate to the approved after-use of the land where the materials in mound are to be replaced, to control plant growth and prevent the build-up of a seed bank of such weeds, or their dispersal onto adjoining land.

Reason: To ensure the site is satisfactorily restored and in the interests of visual amenity in accordance with County Durham Plan Policies 31 and 39, County Durham Minerals Local Plan (December 2000) Policy M46, Policy MW1 of the County Durham Minerals and Waste Policies and Allocations Document and Part 17 of the National Planning Policy Framework

BUILDINGS, PLANT AND MACHINERY

- 14. Notwithstanding the provisions of Part 17 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, no buildings, plant, or machinery, other than detailed under Condition 1 above, shall be erected or placed on the site other than with the prior written approval of the Minerals Planning Authority.

Reason: To safeguard the amenities of nearby residents in accordance with the County Durham Plan Policy 31 and Parts 15 and 17 of the National Planning Policy Framework.

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

Reason: To safeguard the amenities of nearby residents in accordance with the County Durham Plan Policy 31 and Parts 15 and 17 of the National Planning Policy Framework.

ENVIRONMENTAL PROTECTION

NOISE

- 16. The noise emitted from operations on the site shall not result in noise levels greater than those listed below at the properties/locations listed below and identified in the approved Noise Action Plan between the hours set out in Condition 6.

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

Reason: To safeguard the amenities of nearby residents in accordance with the County Durham Plan Policy 31 and Parts 15 and 17 of the National Planning Policy Framework.

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

Reason: To safeguard the amenities of nearby residents in accordance with the County Durham Plan Policy 31 and Parts 15 and 17 of the National Planning Policy Framework.

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

Reason: To safeguard the amenities of nearby residents in accordance with the County Durham Plan Policy 31 and Parts 15 and 17 of the National Planning Policy Framework.

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

Reason: To safeguard the amenities of nearby residents in accordance with the County Durham Plan Policy 31 and Parts 15 and 17 of the National Planning Policy Framework.

BLASTING

20. No blasting shall take place at the site.

Reason: To safeguard the amenities of nearby residents in accordance with the County Durham Plan Policy 31 and Parts 15 and 17 of the National Planning Policy Framework.

DUST

21. The approved Dust Action Plan shall be implemented for the duration of the development and is intended to minimise and control dust arising from and leaving the site during the hours set out in Condition 6 from all operations, including vehicular movements, excavation operations, mineral, soils and overburden stockpiling arrangements and soil spreading operations. The Dust Action Plan shall be reviewed at six-monthly intervals and the latest version adhered to at all times.

Reason: To safeguard the amenities of nearby residents in accordance with the County Durham Plan Policy 31 and Parts 15 and 17 of the National Planning Policy Framework.

22. 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 additional dust suppression equipment is provided in order to minimise and control dust from leaving the site.

Reason: To safeguard the amenities of nearby residents in accordance with the County Durham Plan Policy 31 and Parts 15 and 17 of the National Planning Policy Framework.

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

Reason: To safeguard the amenities of nearby residents in accordance with the County Durham Plan Policy 31 and Parts 15 and 17 of the National Planning Policy Framework.

SURFACE WATER DRAINAGE AND POLLUTION CONTROL

24. The surface water drainage scheme constructed at the site and detailed in Condition 1 shall be retained for the life of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants and to ensure there is no increase of flood risk elsewhere as a result of this development in accordance with Policy 35 of the County Durham Plan and Part 14 of the National Planning Policy Framework.

25. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank it contains plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund. The bund shall be sealed with no drain for removal of contained liquids. Any bund contents shall be bailed or pumped out under manual control and disposed of safely.

Reason: To prevent adversely affecting watercourses passing through or outside the site in accordance with Policies 32 and 35 of the County Durham Plan and Parts 14 and 15 of the National Planning Policy Framework.

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

Reason: To prevent adversely affecting watercourses passing through or outside the site in accordance with Policies 32 and 35 of the County Durham Plan and Parts 14 and 15 of the National Planning Policy Framework.

RESTORATION

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

Reason: To ensure the site is satisfactorily restored in accordance with County Durham Minerals Local Plan (December 2000) Policy M46 and Part 17 of the National Planning Policy Framework

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

Reason: To ensure the site is satisfactorily restored in accordance with County Durham Minerals Local Plan (December 2000) Policy M46 and Part 17 of the National Planning Policy Framework

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

Reason: To ensure the site is satisfactorily restored in accordance with County Durham Minerals Local Plan (December 2000) Policy M46 and Part 17 of the National Planning Policy Framework

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

Reason: To ensure the site is satisfactorily restored in accordance with County Durham Minerals Local Plan (December 2000) Policy M46 and Part 17 of the National Planning Policy Framework

31. The Mineral Planning Authority shall be notified in writing of the completion of restoration works and afforded 48 hours notice to inspect the completed works.

Reason: To ensure the site is satisfactorily restored in accordance with County Durham Minerals Local Plan (December 2000) Policy M46 and Part 17 of the National Planning Policy Framework

AFTERCARE

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

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

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

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

ANNUAL REVIEW

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

(including works to rectify failures, and identified as necessary by the Mineral Planning Authority as a consequence of preceding site meeting, held in accordance with Condition 35.

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.

35. Every year during the aftercare period the developer shall arrange to attend a site meeting to be held before 30th November, to discuss the report prepared in accordance with Condition 34, to which the following parties shall be invited:
- a. the Mineral Planning Authority;
 - b. Natural England (or successor);
 - c. all owners of land within the site;
 - d. all occupiers of land within the site;
 - e. representatives of other statutory and non-statutory bodies as appropriate.

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

MAINTENANCE OF HEDGES AND TREES

36. Hedges and trees planted in accordance with Condition 28 shall be maintained during the aftercare period in accordance with the schemes approved under Condition 3, in accordance with good woodland and/or agricultural practice, such maintenance to include the following:
- a. the early replacement of all dead, damaged or diseased plants;
 - b. weeding early in each growing season, and as necessary thereafter to prevent the growth of plants being retarded;
 - c. maintaining any fences around planted areas in a stock proof condition;
 - d. appropriate measures to combat all pests and/or diseases which significantly reduce the viability of the planting scheme.

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

COMPLETION AND AFTERCARE

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

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

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

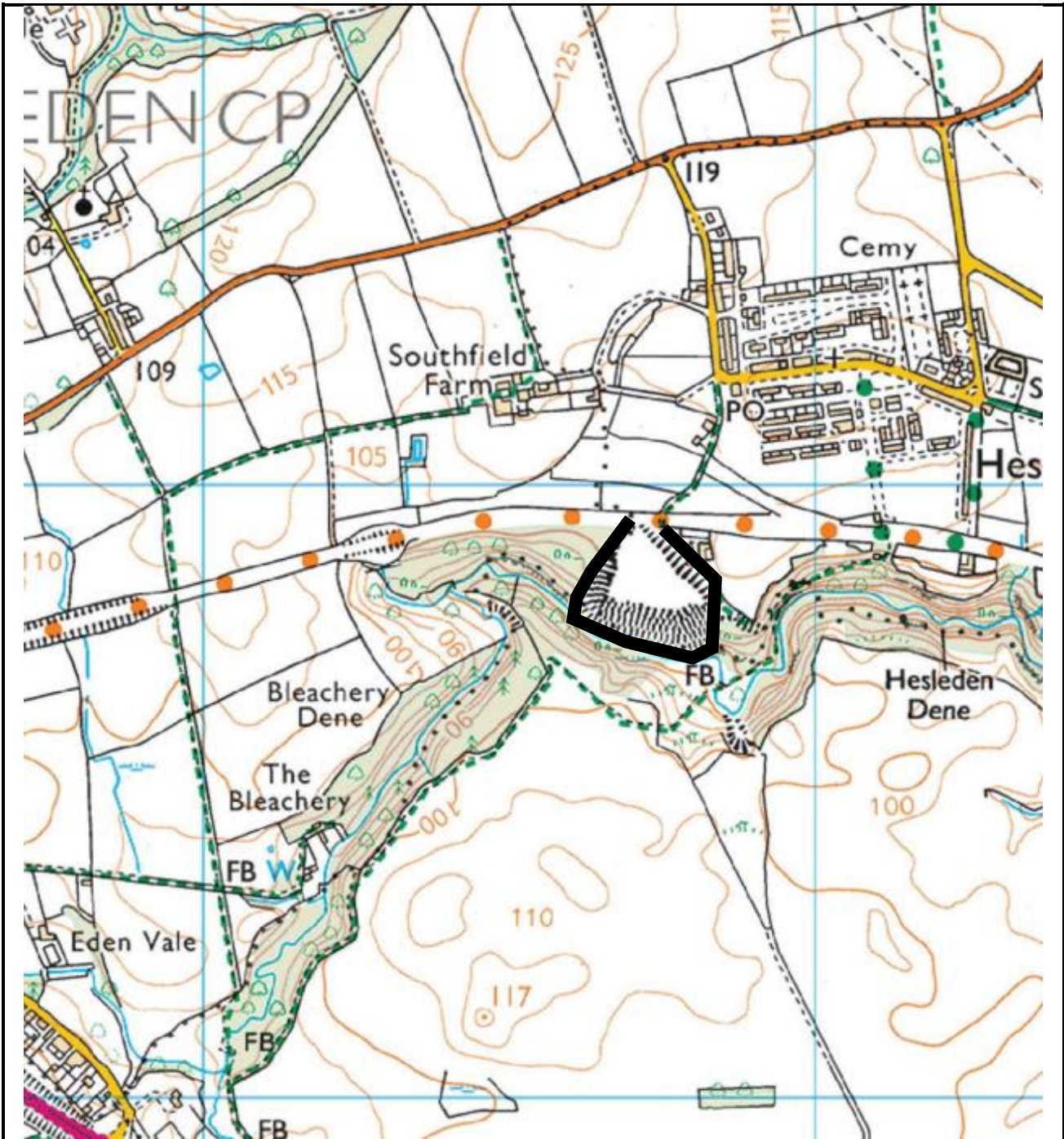
Reason: To ensure that the land is satisfactorily treated for an appropriate period after the initial restoration to bring it to a satisfactory standard as required by Schedule 5 of the Town and Country Planning Act 1990.


STATEMENT OF PROACTIVE ENGAGEMENT

In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority 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.

BACKGROUND PAPERS

- Submitted application form, Environmental Statement and Addendum, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2019)
- National Planning Practice Guidance notes.
- County Durham Minerals Local Plan (2000)
- County Durham Plan 2020
- Emerging County Durham Minerals and Waste DPD (2023)
- Statutory, internal and public consultation responses.



 <p>Durham County Council</p> <p>Planning Services</p>	<p>DM/22/00010/MIN</p> <p>Continued restoration of colliery spoil heap, including extraction, processing and export of combustible material, limestone and sand for a period of 10 years at the Former Colliery Spoil Heap, Hesleden, Durham</p>	
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	<p>Date September 2023</p>	<p>Scale not to scale</p>