

Request for a Scoping Opinion by Provectus Group Limited

Proposed Surface Mining of Coal on Land west off the A61, Hill Top Farm, Clay Cross, Derbyshire

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1 Introduction & Background

- 1.1 Provectus is a multi-disciplinary environmental contracting and consultancy business providing a range of strategic risk management advice to land remediation and development projects. Recently, Provectus have successfully completed a surface coal mining scheme at the former Biwater Works site, off Market Street, Clay Cross (known as the 'Biwater Scheme'). This involved excavation of almost 4 million tonnes of overburden and the recovery of approximately 130,000 tonnes of coal and associated facilities over an 18 month period. The coal was removed in conjunction with contaminated land remediation as part of a wider redevelopment scheme, primarily business and housing development approved as outline planning permission by North East Derbyshire District Council in August 2010.
- 1.2 The Biwater scheme was successfully completed this Summer by the Company with minimal disturbance to the local community. The site has been restored to a condition that facilitates the proposed business and housing development in accordance with the terms of the planning permission.
- 1.3 In terms of the current proposal, the Company has land holding interest on land to the north of Clay Cross, immediately west of the A61. PGL has been considering potential options of developing a surface coal mining scheme at this site. To assist the evaluation process, drilling works have been undertaken between 17th October and 1st November 2011 in accordance with a Coal Authority Licence. The Company are now considering submitting a planning application seeking planning permission for a surface coal mining operation on the site.
- 1.4 Having considered the requirements of 'The Town and Country Planning (Environmental Impact Assessment) Regulations 1999' (as amended in 2010) and the guidance provided by the DETR in Circular 02/99 entitled 'Environmental Impact Assessment' the Company's current proposals are defined as "Schedule 1 development" by virtue of its size and scale. Paragraph 19 of Schedule 1 defines that quarries and open-cast mining are EIA development where the surface of the site exceeds 25 hectares. In this instance the proposed site area is approximately 30 hectares in size and is therefore Schedule 1 development. In such cases the above Regulations confirm that Environmental Impact Assessment (EIA) will always be required.

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- 1.5 To assist in the preparation of a potential planning application and the accompanying Environmental Statement (ES), the Company seeks the Mineral Planning Authority's (MPAs) formal Scoping Opinion (Regulation 10) to determine which topics the Environmental Statement (ES) should focus upon. To assist the MPA in coming to a considered view, details of the site, both in terms of location and site description, are outlined below, along with a brief description of the proposed development and a broad assessment of the significance of the potential environmental effects.

2 Site Location & Description

- 2.1 The proposed surface coal mining scheme would be located in between the A61 (Derby Road) and west of the settlement of Woodthorpe Grange in Derbyshire. It lies at the north western edge of Clay Cross and to the south of the village of Old Tupton. The site falls within the administrative boundary of North East Derbyshire District Council.
- 2.2 The current landuse is predominately agricultural with a mix of arable land and grazing/pasture land. The agricultural land is generally in a poor state, mainly as a result of the sub-standard restoration works that have taken place as a result of former mining activities on the site. The topography of the area is gently rolling. The land in the area generally falls from east to west. The A61 separates the site and the higher ground between Old Tupton and Egston to the west.
- 2.3 In terms of vegetation, the site contains a relatively small number of mature trees mainly contained within existing hedgerows that break up the site. The trees and hedgerows break up views across the site and surrounding land.
- 2.4 The residential area of Woodthorpe Grange is situated to the west of the proposed development. In the northern part of the settlement Far Tupton Wood lies centrally within the housing estate. Between the northern part of the site and the housing estate a belt of mature trees separates the land uses. The south western part of Woodthorpe Grange is at a lower level than the site.
- 2.5 Hill Top Farm contains a residential property and a small group of farm buildings and lies adjacent and immediately west of the A61, roughly in the middle part of the site.

Electricity

- 2.6 There are overhead electricity lines that are present across the southern part of the site. Two lines are present running generally west to east across the site, one from behind the snooker club running west to the housing development adjacent to the site. The second runs from Hill Top farm again going west to the adjacent housing development. These two lines are then connected by a third overhead line running from north to south from approximately 100m behind Hill Top farm down to the rear of the snooker club. Two underground low voltage lines are also present, both of these are short and one feeds into Hill Top Farm with the second providing a feed for the communication mast.

Gas

- 2.7 There are two underground gas mains present on site. The first runs approximately east to west from a gas governor adjacent to the A61 north of the bus depot across the site to the housing development to the west. A second smaller main connects into the main above and runs from south to north across the field adjacent to the A61 and connects to Hill Top Farm.

Water

- 2.8 Two large water mains are present running from north to south across the entire site. These are 21 inches and 33 inches in diameter respectively. Along the southern section of the site both of the mains are shown to run side by side along the western boundary so are not considered to have any effect. However, both of the pipes separate across the northern two fields and run from north to south bisecting both of the fields.
- 2.9 The southern of the two fields is mainly impacted by the eastern pipe which runs diagonally across the whole field. However, in the northern field the eastern pipe is shown to run close to the eastern boundary with the western pipe now across the middle of the field. It is considered that both of these pipes will have an impact to the potential for open cast works in their current positions.
- 2.10 Two smaller 4 inch service pipes are also shown near the southern end of the site running from west to east. Both of these run from the housing

development to the west and feed into the commercial area to the south of the snooker hall.

- 2.11 No sewerage mains are considered to have any impact although a main does run along the western boundary of the fields to the north.

Previous Mining History

- 2.12 Information obtained from the Coal Authority has indicated various mining activities over the site area. Historical deep mining has mainly comprised removal of the Cannel seam from across most of the southern area. This has resulted in the presence of 7 known mineshafts within this area across the site although, at this stage it is not clear whether they would be within any proposed opencast areas.
- 2.13 Some shallower deep mining has also been carried out historically across the northern two fields to extract the Old Tupton coal seam. This has been further clarified by the recent drilling works although one location has indicated that this may have been undertaken using pillar and stall methods. These works have also resulted in the presence of 1 known mineshaft within the southern of the two northernmost fields.
- 2.14 Opencast workings have also been carried out more recently across the southern area of the site and these comprised workings to the east for Tupton and Three Quarters seams and to the west for Yard and Cannel seams.
- 2.15 The topography of the areas is gently rolling with a series of tributary valleys off Nutbrook Valley. The highest land in the vicinity of the site lies at Smalley village reaching 144 metres AOD. This higher land extends as a broad ridge to the north east towards Heanor Gate though most of this settlement is a lower level.

3 The Proposal

- 3.1 The proposed surface coal mining scheme encompasses an area of approximately 30 hectares of land as shown on the Outline Proposals Plan (drawing number 100759-OC). This drawing shows the extent of the development area edged with a red line which contains land within the Company's control.
- 3.2 The proposed surface coal mining scheme would involve the excavation of an estimated 220,000 tonnes of coal over a 30 month period. The entire scheme is approximately 3½ years, from soil stripping to completion of restoration.
- 3.3 The proposed coaling operations would be worked in 8 main phases with the first cut at the southern end of the site and the last cut to the north of Hill Top Farm adjacent to the A61 as shown on drawing number 100759-OC. The location of the first cut and last cut are designed to ensure that the volumes are equal. The general direction of working would be from south to north. It is anticipated that, apart from the first and last cuts which would be worked in approximately 2 months, the main phases of development would take roughly 6 months to complete.
- 3.4 Coal from the excavated area would be transported to the proposed coal processing area situated immediately to the west of Hill Top Farm where it would be screened and loaded into road going lorries for despatch to market. It is anticipated that the majority of the coal is likely to travel east to Radcliffe Power Station. A compound would be established between the coal processing area and the Hill Top Farm buildings in the central part of the site. The compound would contain site offices and associated mess facilities. The existing office area, weighbridge, plant yard and coal processing area would be lit during the winter.
- 3.5 A new access point would be established onto the A61 approximately 400 metres north of Hill Top Farm, as shown on drawing number 100759-OC. This would involve the movement of HGVs on a left turn out and right turn in basis only. It is proposed that the existing lay-by on the eastern side of the A61 at this point is upgraded to enable HGVs to wait beyond the flow of traffic before crossing the road into the site. A new internal haul road would be established into the site. Wheelwash facilities would be established near the

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site entrance to minimise the potential for mud and detritus being carried onto the public highway.

- 3.6 New water treatment facilities would consist of a series of lagoons and flow attenuation ponds would be constructed and established before any substantial areas of soils are stripped. The water treatment facilities would be located on the western side of the site as shown on drawing number 100759-OC.
- 3.7 The proposed working hours of operation are:
- 0700 to 1900 hours Monday to Friday
 - 0700 to 1300 hours on Saturdays. Outside these hours only pumping would take place.
- 3.8 Although the site has previously been put forward through the District Council's Local Plan for residential and commercial development, the Company's proposed restoration scheme will be to agricultural use in close collaboration with the current land ownersto to ensure the quality of land is improved for farming in the future. The proposed restoration contours will be designed to generally follow those of the existing landform by replacing the overburden and soils (in accordance with best practice). The Company proposes an agricultural use for the majority of the site incorporating features to enhance the biodiversity of the land.

4 **Potentially Significant Environmental Effects**

- 4.1 To assist the MPA to come to a considered view on the topic areas of the ES (scoping) a broad assessment of the potentially significant environmental impacts is summarised below. The assessment has had regard to the specific characteristics of the site and the proposed development.

Landscape & Visual Assessment

- 4.2 A landscape and visual assessment of the proposal would be included as a chapter of the ES given that significant impact has the potential to arise. The assessment would include a study of the existing landscape character, identification of main viewpoints and an assessment of the sensitivity of such views with and without mitigation. Following baseline landscape studies, the

assessment stage would include the systematic identification of potential impacts, prediction of their magnitude and assessment of their significance.

- 4.3 The landscape and visual assessment would be carried out by a combination of site visits and desk based assessment work. The assessment methodology would follow the 'Guidelines for Landscape and Visual Impact Assessment (GLVIA) published by the Landscape Institute and the Institute of Environmental Management and Assessment 2002.
- 4.4 The assessment of landscape and visual impact would be presented with a series of plates recording views of the proposed scheme. Each plate would contain a photograph showing the location of the proposal in relation to that viewpoint. A written assessment of the predicted magnitude and significance of the impact would be undertaken representing each viewpoint. Receptors such as surrounding villages, residential properties, public viewpoints and public rights of way would be considered as part of the assessment work.

Ecology & Nature Conservation

- 4.5 An assessment of the potential ecological impact of the proposed extension area would be undertaken which would reflect the guidelines produced by IEEM "Guidelines for Ecological Impact Assessment". An initial desk based survey (including existing known data) has been undertaken to identify existing ecological designations with a 2.5km radius of the site. This would be supported by a Phase 1 Survey to identify the nature conservation value of the site and therefore the potential impact upon any protected species that would be present. Where potential adverse impacts on nature conservation are identified as part of the proposed scheme mitigation measures would be considered and be used to adjust the scheme design.

Archaeology & Cultural Heritage

- 4.6 A desk based assessment of the site would be undertaken to present information on the extent, character, date, integrity and state of preservation of archaeological deposits that exist within the proposed extension area. The report would also provide an assessment of the cultural heritage and archaeological sensitivity of the site and its immediate vicinity.
- 4.7 The desk based assessment would be used as a baseline for assessing the potential impact on the identified archaeological resource and related aspects

of cultural heritage. Consideration of potential mitigation measures to minimise any adverse impacts that are identified would be outlined and amendments to the scheme design made accordingly.

Noise & Vibration

- 4.8 An assessment of the potential impact of noise and vibration would be undertaken and a schedule of mitigation measures would be outlined to minimise any adverse impacts.
- 4.9 The main considerations in terms of noise impact would be the potential noise generated with mineral extraction, mineral processing and haulage. The key policies documents that would be used to evaluate the potential impact are Mineral Planning Policy Statement 2 (MPS2 - Controlling and mitigating the environmental effects of mineral extraction in England); Planning Policy Guidance Note 24 (PPG24 – Planning & Noise) and British Standard BS4142. The assessment would also consider the potential impact of vibration from the operation on potentially sensitive receptors.
- 4.10 The potential noise impact from both static and mobile plant (including lorry traffic) would be modelled and assessed. The noise impact of the proposed development would be considered for the various key stages of development and range of mitigation measures proposed to minimise any potential adverse impacts. It is unlikely that blasting would be carried as part of the mineral extraction operations.

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Air Quality

- 4.11 The purpose of this section of the ES would be to assess potential air quality issues that could arise from the proposed operations. The scope of the assessment would include an analysis of the significance and magnitude of the dust impacts that could arise having regard to any nearby sensitive receptors.
- 4.12 The scope and methodology would primarily follow the format of a “Dust Assessment Study” as defined by MPS2. The assessment work would also include the potential for mitigation measures to minimise any adverse impacts upon local amenity.

Traffic Impact Assessment

- 4.13 A traffic impact assessment would be undertaken to assess the proposed transport implications of the proposed development. Traffic data would be used to provide baseline conditions and an assessment of the potential impacts on the highway and related issues. The assessment work would include the potential for mitigation measures to minimise any adverse impacts upon the local highway network.

Soil Resources & Land Use

- 4.14 An assessment of the soil resources, land quality (ALC) and land use implications of the proposals would be undertaken to consider the potential impacts and any necessary mitigation measures. This would be in accordance with Government guidance set out in Planning Policy Statement 1: “Delivering Sustainable Development”, Planning Policy Statement 7: Sustainable Development in Rural Areas”, and Mineral planning Guidance 7: “The Reclamation of Mineral Workings”.
- 4.15 Published information on soils and land quality would be referred to and a detailed soil and ALC survey would be carried out over all of the agricultural land likely to be affected by the proposed extension. This would establish the distribution of main soil types, and the quality of agricultural land in accordance with Natural England’s Agricultural Land Classification (ALC). A soil and land quality report will consider the significance of land quality within the study area in relation to the relevant planning policies, and determine the nature of topsoil, subsoil and soil-forming materials available for the restoration of the site. The results of soil and land quality survey will form the factual basis to the UK Coal Mining Ltd soil handling strategy for the stripping and storage of topsoil, subsoil and soil-forming materials and restoration scheme to reinstate the land to a condition suitable for a range of beneficial after-uses.
- 4.16 The implications for the agricultural use of the land would also be considered in general terms, together with the proposed uses of the restored land following coal extraction.

Hydrology and Hydrogeology

- 4.17 This section of the ES would describe the baseline hydrogeological characteristics of the proposed extension area and consider the potential impact of the proposed operations. This would include detailed investigations and analysis of the underlying geology and surrounding area in order to demonstrate a clear understanding of the hydrogeological setting of the proposed extension area. The potential impacts on the water environment by the discharge of suspended solids, harm to local water quality, and impact upon any local springs would be assessed.

Socio Economics

- 4.18 Sustainable development concerns the quality of life experienced by people as well as environmental impact issues. The consideration of socio-economics is therefore needs to be considered as part of the environmental assessment work. MPS1 (Minerals and Planning) provides that minerals provision should be sustainable by adopting an integrated approach to social, environmental and economic factors. MPG3 recognises the social and economic factors...*"to ensure that the extraction of coal only takes place at the best balance of community, social, environmental and economic interests, consistent with the principles of sustainable development"*.
- 4.19 In light of the above the ES would include an assessment of the socio-economic impact of the proposed development.

Cumulative Impacts

- 4.20 Policy MP4 of the Minerals Local Plan recognises the potential for the environmental effects of minerals developments to result in a cumulative impact on the environment of an area because of the collective effects of an individual mineral proposal or because of the effects of a number of mineral developments occurring either concurrently or successively.
- 4.21 The issue of cumulative impact is also raised in paragraph 18 of MPG3, paragraph 12 of MPS2 and recent appeal decisions in regard to surface coal mining schemes. The consideration of cumulative impact has been an important consideration for MPAs as part of the determination of other surface mining proposals elsewhere in the country. One example is the Longmoor Surface Mining scheme which was determined by Leicestershire

County Council and subsequently concluded at appeal by the Secretary of State.

- 4.22 The Longmoor appeal decision, and the subsequent High Court challenge by Leicestershire CC which failed, assisted to clarify how aggregated environmental impacts should be considered. In that regard, it was concluded that aggregated effects cannot simply be regarded as unacceptable without a proper assessment. There should therefore be reasoned analysis in order to carry out a proper assessment as provided by paragraph 12 of MPS2. The judgement and conclusions of the Longmoor case were also used by the Inspector in the Telford (Huntingdon Lane) appeal case in July 2009 in respect of the issue of cumulative impact.
- 4.23 In regard to the above it is appropriate that the issue of “cumulative impact assessment” is considered as part of the ES. There are three categories of cumulative impact in which to consider as referred to paragraph 12 of MPS2, namely (i) successive effects (ii) simultaneous effects from concurrent developments, and (iii) combined effects from the same development.
- 4.24 Although UK Coal propose to follow the guidance set out in MPS2 and the approach interpreted by Planning Inspectors in the determination of surface mining appeals the Company would most welcome the MPAs guidance on what it expects the scope of the ES to consider (in terms of level of detail and nature of the issues) in regard to the issue of cumulative impact assessment.

Consideration of Alternatives

- 4.25 Schedule 4 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (as amended) sets out information that should be included in an Environmental Statement and indicates that this should include: *“an outline of the main alternatives studied by the applicant...and an indication of the main reasons for his choice, taking into account the environmental effects.”*
- 4.26 Furthermore, Circular 02/99 “Environmental Impact Assessment” is also relevant when considering alternative options. This accompanies the Regulations and is intended to assist developers and planning authorities in their proper interpretation. This states at paragraph 83: *“Where alternative approaches to development have been considered paragraph 2 of Part II of Schedule 4 now requires the developer to include in the ES an outline of the*

main ones and the reason for his choice. Although the Directive and the Regulations do not expressly require the developer to study alternatives, the nature of certain developments and their location may make the consideration of alternative sites a material consideration ...”

- 4.27 Given that EIA is an iterative process involving the assessment of options in the selection of a preferred alternative, the ES would include an outline of alternatives and an indication of how they have informed the content of the proposed development.
- 4.28 In the light of the above it is proposed that a chapter outlines and considers alternatives to the proposal including identifying a range of alternative working schemes before identifying the preferred working option.

5 Conclusions

5.1 The proposed development is Schedule 1 development as provided by 'The Town and Country Planning (Environmental Impact Assessment) Regulations 1999' (as amended) by virtue of its size and scale. In such cases the above Regulations confirm that Environmental Impact Assessment (EIA) will always be required.

5.2 In light of the above a formal Scoping Opinion (regulation 10) is sought to determine which topics the Environmental Statement (ES) should focus upon. Having broadly assessed the proposal, it is concluded that the ES should cover the following topics:

- Landscape & Visuals;
- Ecology & Nature Conservation;
- Archaeology & Cultural Heritage;
- Noise & Vibration;
- Air Quality & Dust;
- Traffic;
- Soil Resources & Land Use;
- Hydrology and Hydrogeology;
- Socio Economics;
- Cumulative Impacts;
- Alternatives