

**Derbyshire County Council
Director of Environmental Services**

**The Town and Country Planning (Environmental Impact Assessment)
Regulations 2011**

Scoping Opinion

Code No: SCOM/4/46

File No: 4.2482.2

Proposal: Surface coal mining scheme on land west of the A61 north of Clay Cross

Location: Hill Top Farm, Clay Cross.

Opinion Sought

Consideration by the Council as Mineral Planning Authority of a formal request made by CJS Planning, as agent for Provectus, for a Scoping Opinion about the issues to be considered in an Environmental Statement to accompany an intended planning application to extract coal by surface mining methods at Hill Top Farm, Clay Cross.

Purpose of Document

To give an account of the consideration by the Authority of the request for a scoping opinion and to provide a scoping opinion.

Background; the Site

The proposed opencast development at Hill Top Farm would cover approximately 30 hectares of land currently in agricultural use situated immediately north-west of Clay Cross between the village of Woodthorpe Grange to the west and the A61 main road to the east. The site would be approximately 1.5 kilometres long running north – south between the village of Old Tupton to the north and Clay Cross to the south. The site is bounded by residential areas to the north, south, and west, with the A61 Derby Road to the east and industrial and commercial developments to the south east. The land runs along a moderate ridgeline sloping gently south to north and to a lesser degree east to west, resulting in the site being on higher ground relative to the surrounding residential areas. A minor watercourse passes through the northern section of the site. Two public rights of way also cross the site. A new vehicular access would be created for the site on the A61 approximately 300 metres north of Hill Top Farm.

Environmental Impact Assessment: Scoping Opinion

CJS Planning has made a written request to the council as the relevant Mineral Planning Authority for a scoping opinion on the information to be provided in an Environmental Statement to accompany a planning application.

The document or documents comprising an ES must contain the information specified by Regulation 2(1) and in Schedule 4 to the Regulations. Regulation 10 allows applicants to obtain a formal opinion from the relevant planning authority on what should be included in the Environmental Statement – a scoping opinion. Circular 02/99 says at para 89: *“This provision allows an applicant to be clear about what the local planning authority considers the main effects of the development are likely to be and, therefore, the topics on which the Environmental Statement should focus”*.

Regulation 13 states that a request for a scoping opinion shall include a plan indicating the nature and purpose of the proposal and its possible environmental effects, giving a broad indication of their likely scale. *“An applicant may also wish to submit a draft outline of the ES giving an indication of what are expected to be the main issues, to provide a focus for the local planning authority’s considerations.”* (Circular 02/99, para 90). In this case CJS Planning has submitted a document outlining the proposed development and what it considers to be the main potential environmental effects of the development, together with plans showing the land involved.

Submitted Details of the Proposal

The proposal is to excavate approximately 200,000 tonnes of coal from the site over a period of 3 ½ years from the commencement of operations to the completion of restoration works.

The coaling operations would be divided into 7 phases or cuts. The applicant anticipates that each cut would take approximately 6 months to complete, with the exception of Cuts 1 and 7 which would each be completed in 2 months. The site would be worked from south to north with Cut 2 being southernmost and Cut 7 northernmost. Temporary water treatment facilities and soil and overburden storage mounds would be located to the west of the site outside the coaling area. Some excavated material would be used to form screening bunds to the north of Cut 7 and south of Cut 2.

The coal processing area and site compound would be located centrally within the site close to the existing Hill Top Farm buildings and the new access onto the A61 Derby Road. The compound would house wheel-wash facilities, site offices, and mess facilities and would require lighting during the winter months. It is proposed that the site would operate between 0700 hours and 1900 hours Monday to Friday and 0700 hours and 1300 hours on Saturdays with no working on Sundays or national holidays. Processed coal would be transported from the site using Heavy Goods Vehicles (HGVs). The HGVs would turn left (north) leaving the site and right when entering. The applicant states that this would require works to the existing adjacent lay-by on the A61. The applicant anticipates that most of the coal would be transported to Radcliffe on Soar Power Station.

The ground levels and overall landform of the restored site would be based on those existing prior to development and the applicant states that the restoration strategy would be designed to improve the overall quality of the land and return it to agricultural uses.

Environmental Effects of the Development

The submitted document sets out a list of assessment topics:

- Landscape and Visual Assessment
- Ecology and Nature Conservation
- Archaeology and Cultural Heritage
- Noise & Vibration
- Air Quality
- Traffic Impact Assessment
- Soil Resources & Land Use
- Hydrology and Hydrogeology
- Socio Economics
- Cumulative Impacts
- Consideration of Alternatives

The applicant provides a summary of the matters which it would anticipate including for each of these topics.

The applicant has not indicated that any of the 'consultation bodies' referred to in the Regulations has been contacted.

Consultations

The Council has consulted the bodies required by the Regulations. The following summary relates only to the responses received.

North East Derbyshire District Council: Planning and Environmental Health

The North East Derbyshire District Council Planning Authority did not wish to add any further comments beyond those already made by the North East Derbyshire Environmental Health Officer (EHO). The only comments received from the EHO were in response to a pre-application enquiry made by the applicant before the scoping request. The documents submitted for both were largely the same.

The EHO made the following comments.

"The proposed scope of the EIA covers the topics I would expect to be addressed by such a proposal. Due to the close proximity of the proposed site to neighbouring dwellings I would expect the noise and air quality impacts of the development to be suitably addressed and where necessary mitigation offered to address unacceptable impact on the amenity of the dwellings identified.

A comment is made that "we have obtained preliminary noise advice from Dr Paul Cockcroft of Walker Beak Mason (Consultants in Noise & Vibration), which has helped the Company gauge how the proposal is likely to accord (or otherwise) with the guidance contained in Minerals Planning Statement 2 (MPS2)" I understand that this advice has been used to establish some in principle controls such as appropriate stand off distances. I would like to be clear at this stage that I would be strongly opposed the applicant submitting a scheme which proposes an "or otherwise" scenario as being the best practicable scenario. Given the scale of the development its duration and potential impact on neighbouring dwelling I would expect that as a minimum the scheme is design such that this scenario does not arise.

I do not consider that I am able to offer any further comments at this time due to the lack of site specific information."

Environment Agency:

The comments of the Environment Agency are quoted wholly.

"Flood Risk

We will be particularly interested in the impacts the development proposals

will have upon the local hydrology. There are a number of watercourses on site or in close proximity to the site area.

To that purpose a Flood Risk Assessment will be required in accordance with PPS25. The FRA will be required to demonstrate that there is no increase in flood risk to third parties as a result of the scheme. Impacts upon the local watercourses should be avoided or minimised wherever possible.

We will expect a detailed assessment upon the hydrological impacts which will include a comparison of the pre development scenario with during and post development arrangements.

Groundwater

The proposals must be supported by an hydrogeological impact assessment (you may wish to refer to the following document 'Environment Agency Guidance - Hydrogeological Impact Appraisal on Dewatering Abstractions', 1 May 2007). The impact of the proposed mining on water features in the area, especially local water courses should be considered. This includes potential impacts on water quality and water flow. Where appropriate the assessment should establish appropriate mitigation measures to prevent derogation of water courses.

The proposals detail a new water treatment facility which includes construction of lagoons and flow attenuation ponds, however at this early stage, no details are provided on how these ponds will be filled and / or maintained, therefore the applicant should be aware that if they intend to abstract water from a nearby watercourse or underground strata then a water resource permit may be required. If the lagoons and ponds are left to fill naturally to existing groundwater levels then no permits will be required.

Surface Water

The discharge of any surface water from this development will require the permission of the Environment Agency. Such permission will be given in the form of an Environment permit and we welcome early discussions concerning such a permit. All permit applications and information are available on the Environment Agency website.

Biodiversity

The applicant needs to assess the impact of the proposed works on any watercourses or other wetland habitats or freshwater species on or near the site.

The assessment should:

- *Assess the importance of the wetland habitats or species at a local, regional and national level*
- *Identify the direct or indirect impacts of the scheme on those features, in particular diffuse pollution*
- *Propose mitigation for any adverse ecological impacts or compensation for loss*
- *Demonstrate how the development will avoid adverse impacts*
- *Propose wildlife habitat enhancement measures”*

Natural England

The comments of Natural England are quoted wholly.

“Natural England welcomes the proposals set out within the scoping report to thoroughly assess the site proposals in terms of landscape and visual impact, ecological impact, hydrological impact and full assessment of soil resource. Assessment methodologies should adhere to standard guidelines, and should be undertaken by suitably qualified and experienced specialists, with details of surveyors given for each survey.

Ecological impacts will need to be considered in full, and following the Phase 1 assessment proposed, Natural England would expect all necessary detailed habitat and species work to be undertaken, in accordance with survey guidelines and at appropriate times of year. It is anticipated that the survey work will include a range of targeted species and habitat surveys in addition to the initial Phase 1 survey referred to in the Scoping Report.

Hydrological impacts will need to have particular regard to the presence of Far Tupton Wood to the immediate west, and the assessment work will need to be able to demonstrate how management of surface and ground water will ensure that water is not drawn away from this ancient semi natural oak woodland site. Natural England would also expect the assessment to include detailed proposals to protect watercourses crossing and in the vicinity of the development area.

It is noted that the proposal is for restoration to agriculture, which would be supported for a proportion of the site where best and most versatile soils enable sustainable re-use. Natural England welcomes the comprehensive soils assessment work proposed. However, Natural England would also expect a notable element of biodiversity habitat creation as part of the

scheme, and this should seek to contribute towards local biodiversity action plan targets.

In addition to new habitat creation, opportunities should be sought to restore and enhance local landscape character and existing biodiversity assets as part of the final restoration. This could be within or outside the site.

It is noted that the proposal will include road upgrades, and it should be noted that this creates opportunities for providing wildlife underpasses, which would aid wildlife movement as the A61 currently forms a barrier between habitats to each side of this road at this point.”

Derbyshire Wildlife Trust

The comments of the Trust are quoted wholly.

“With specific regard to the ecological aspect of any Environmental Impact Assessment and Environmental Statement we would strongly advise that the most up to date recommendations for the EIA process should be adopted. Therefore we would refer the applicant, and the Authority, to the publication “Guidelines for Ecological Impact Assessment in the United Kingdom” and suggest that this document should be used to guide production of the proposed Environmental Statement.

As this is a somewhat complex document we would suggest for initial guidance that the following items should be addressed as a minimum: Initially a desktop survey and extended Phase 1 habitat survey should be undertaken to determine and report the broad habitat types and species present. The Phase I survey should then be used to assess whether additional specific species surveys, or more detailed Phase II vegetation surveys with National Vegetation Classification (NVC) assessment, are required. Survey work should also cover priority Biodiversity Habitats and Species.

Within PPS9 - there is a requirement for the determining Authority to be confident that sufficient survey work for protected species has been undertaken, prior to determination. However, PPS9 also acknowledges that an unnecessary burden should not be placed on applicants by requesting surveys for protected species unless there is a reasonable likelihood of the species being present or affected by the development. Information arising from consultation responses (resulting from the desktop survey) and the Phase 1 survey should help to guide this process. We would recommend that Natural England, Mid-Derbyshire Badger Group,

Derbyshire Wildlife Trust, Derbyshire Amphibian and Reptile Group and Derbyshire Ornithological Society should be considered as key consultees in this process, but please note that this list is not considered to be exhaustive. Following this initial work further consultation with key stakeholders and the Authority should be undertaken to determine whether additional survey work is required. If this is done at this stage this will help to avoid delays – often an Environmental Statement is submitted only for consultees to request that additional survey work is required, as this survey work is often seasonal this can create very long delays.

It is important that all survey work is undertaken at an appropriate time of the year by suitably competent personnel. The results should be fully reported within the Environmental Statement – this then enables consultees to provide a fully informed response and reduces unnecessary delays in the planning process.

Following this stage the ecological features and resources identified by the survey work should be assigned an ecological value and this should be determined within a defined geographical context, ranging from International through to Parish and ‘zone of influence’.

There should then be some assessment of the ecological impact of the proposals on the identified features and resources. During this process it is important that both negative and positive impacts are identified and that both the active and post development phases are considered as well. Factors such as the duration of the proposed operation and the effect of any significant delays should be considered. Consideration of potential impacts should not be restricted to the actual working area and just because a feature of nature conservation interest, for example a designated Local Wildlife Site, is outside of the working area it should not be automatically considered to be unaffected by the development.

Government guidance within PPS9 recommends that determining Authorities should maximise opportunities for “building-in” beneficial biodiversity as part of good development design. This may be achieved using planning obligations where appropriate. We would recommend that irrespective of any mitigation or compensation arising from the EIA process that the Environmental Statement should demonstrate how a net ecological gain would result from the proposals. Any proposed habitat creation should be linked to Local Biodiversity Action Plan targets.

We would advise that particular emphasis should be placed upon determining the breeding bird interest associated with the site, especially the presence of ground-nesting species such as Lapwing.”

The Coal Authority

The comments of the Trust are quoted wholly.

“The Coal Authority considers that the scope of the Environmental Statement as proposed by Provectus (January 2012) addresses an appropriate and comprehensive range of issues.

In preparing the Environmental Statement, The Coal Authority would specifically request that due consideration is afforded to any potential impacts of the proposal on the hydrology of the area and the potential impact on the surface coal mining operation of mine gases.

The applicant should be aware that The Coal Authority operates two minewater monitoring points approximately 3km north of the proposed application site, which may provide useful information for the hydrology section of the ES. The applicant should also be aware that historically mine gases have proved to be an issue within this part of Derbyshire.”

English Heritage

The comments of English Heritage are quoted wholly.

“Thank you for consulting English Heritage on this request for a scoping opinion for open-cast extraction and the likely impacts on the historic environment.

- general advice on these matters may be found in Mineral Extraction and Archaeology: A Practice Guide (Mineral & Historic Environment Forum 2008). Copies may be downloaded at www.helm.org.uk

- we note that the line of Rykniel Street Roman road passes through the development site and its line and survival should be the subject of detailed assessment and field evaluation. A short section of this road in Tupton is scheduled because of its national archaeological importance.

- we note with interest that seven mineshafts are known within the footprint of the proposed development, and these together with evidence of pillar and stall working (para 2.15) indicate the presence of industrial archaeological remains which potentially are of significant importance to the history and archaeology of coal-mining in Derbyshire

- Mineral Extraction and Archaeology: A Practice Guide *sets out a staged and incremental process to the assessment and field evaluation of archaeological remains of all periods using appropriate techniques, including the remains of our more recent industrial past.*"

The Highway Authority

The Highway Authority considered that the ES should include a Transport Assessment in accordance with Department for Transport (DfT) guidance and that the scope of the assessment should be agreed with the Highway Authority.

The Highway Authority also raised the following issues that the applicant should consider;

- The proposed new access would be located within a section of the A61 where the speed limit is 50mph at a point where the road geometry is likely to preclude the provision of 160 metre visibility splays.
- The Hill Top Farm access would require improving to DfT standards if its use is to increase as part of the proposed development.
- Use of the existing lay-by may not be considered acceptable as it forms part of the adopted highway.
- The Highway Authority considered the details of the proposed lorry routing to be inaccurate.

Applicant/Agent

As required by the Regulations, the applicant's agent has been consulted, and the comments provided have informed the final draft of this scoping opinion.

Considerations

The Regulations state that before adopting a scoping opinion the Authority shall take into account:

- i) the specific characteristics of the particular development;
- ii) the specific characteristics of development of the type concerned;
and
- iii) the environmental features likely to be affected by the development.

Characteristically, **development of the type concerned**, the winning and working of coal by opencast methods, when undertaken on generally agricultural land involves the stripping of soils on the site and the removal of overburden to expose the mineral. The removal of overburden may involve the use of explosives. Soils and a proportion of the overburden are

stored in mounds on the site; the remainder of the overburden is backcast into the excavations already made. Soil mounds tend to be relatively low and can be used as baffles or screens, overburden heaps relatively high. The mineral is extracted progressively after the initial development period and up to the refilling of the final void. There is the potential for progressive restoration of the land whilst other excavations are continuing.

There may be interruptions to drainage systems both surface and underground, and surface water on the site will require treatment before discharge. The machinery involved is a potential source of noise, the exposure, movement and treatment of materials a potential source of dust, and, if blasting is required, there may potentially be vibration, at receptors around the site.

The coal needs to be transported from the site either to a coal disposal point or direct to its market. Where no rail connection is available, road transport is usual.

All of these activities can have environmental impacts such as are set out in Schedule 4 of the Regulations.

The characteristics of restored sites vary according to the site location and circumstances. The resulting landforms tend to be dependent on the quantity of surplus and/or imported material to be accommodated and the intended end use. Normally afteruses for this type of site would include agriculture, woodlands, and habitat creation.

The **characteristics of the particular development**, as described by CJS Planning, relate to the removal of an estimated 200,000 tonnes of coal. Achieving this would involve the use of heavy machinery in the removal of existing vegetation, the excavation of overburden, some which would be backcast and some put to storage above original ground level, and the extraction of coal by opencasting. This would then be followed by the screening, loading, and removal of excavated materials from the site by heavy goods vehicles. Reclamation of the land would be to a condition that would make it suitable for agricultural uses. The applicant proposes a development period of 3 ½ years.

The development would involve the transport of material by road directly from the application site onto the A61 Derby Road and then the wider highway network. However, no traffic route from the site to market(s) is set out in the scoping document.

Further brief details of the site and its development are set out above.

Both the typical and particular characteristics have a bearing on the environmental effects of the types referred to in Schedule 4 of the Regulations.

The **environmental features likely to be affected** by the development are contained in the proposed site and the surrounding area which are described above.

The proposed site consists predominantly of arable and pastureland enclosed by hedgerow field boundaries. The hedgerows contain a number of individual trees and stands of trees are at the site boundary. A minor watercourse runs through the site and another runs adjacent to the site. All these habitats, and the flora and fauna that exist within and about them, are likely to be affected by the development.

There are residential areas to the north, west, and south of the site. Some residential properties are immediately adjacent to the site boundary with dwelling buildings within 50 metres of the operational areas of the site. These areas are likely to be affected to some degree by the proposal through sensory impacts related to noise, air quality, and visual amenity, as a consequence of operations on the site and the road traffic generated by them. There is also the potential for similar impacts on the adjoining industrial estate and the open countryside beyond.

Topics for inclusion under the Environmental Statement

Taking account of the specific characteristics of the development, of the environmental features likely to be affected, and of the requirements of the EIA Regulations, the submitted Request for a Scoping Opinion appears to identify the range of main environmental impacts and features that are likely to be affected by the development. There are, however, some elements of the proposed scope of the ES which require careful further attention and consideration for expansion, these are set out below.

The information to be included in environmental statements is set out in Schedule 4 of the Regulations. For major applications of the nature proposed here, the Authority considers that the statement should provide, as appropriate, the full scope of the types of information described in Part I of that Schedule.

The applicant is recommended to have regard to the contents of the 'Considerations' section above. The items which are listed under the sub-

heading 'environmental features likely to be affected' represent a range of environmental features which the Authority is currently mindful should be considered to be relevant. However the Council has not been in a position to carry out any investigation to identify exhaustively the environmental features in the area which might be recognised as likely to be affected.

For an EIA/ES the proposed site must have been subject to what can be reasonably viewed as a current assessment. Timing of the proposal is a matter which should also be taken into account in assessments. The durations of temporary impacts are parameters which should be taken into account in assessments.

In addition to these general points there are some parts of the proposed scope of the EIA/ES which the Authority considers require further considerations, additions or clarifications. Without drawing particular attention to one aspect over any others, from the information provided in the submitted scoping document, these are as follows:

Landscape and Visual Impact

- The Landscape and Visual Impact Assessment should be carried out in accordance with a proven methodology e.g. Guidelines for Landscape and Visual Impact Assessment (GLVIA) by the Landscape Institute and the Institute of Environmental Assessment.
- Identification of landscape character as part of any baseline assessment of the landscape to establish the setting for the proposals, and a clear understanding of how this information can be applied to scheme design and in formulating an appropriate landscape response to mitigate any potential adverse impacts identified by the assessment. The applicant's attention is drawn to the 'Landscape Character of Derbyshire' publication in order that the applicant can liaise with the mineral planning authority as part of the information gathering exercise. ('The Landscape Character of Derbyshire' is available to purchase from the Environmental Services Department via tracey.frost@derbyshire.gov.uk or is downloadable (PDF format) from the Council's website at www.derbyshire.gov.uk). A local landscape character appraisal should also take account of the value of the existing landscape resource including the assessment of individual landscape features which may be affected by the proposals and which contribute to the local and wider landscape character. This should include an assessment of existing trees, boundaries, land use, etc, and their overall significance to local landscape character. Equally, the EIA should identify those features that do not accord with the established

landscape character of the area and formulate proposals for their satisfactory enhancement and/or integration.

- The Visual Impact Assessment should identify the most sensitive viewpoints affected by the proposals and produce photographic material to support the assessment of likely impacts, choosing locations that show the 'worst case'. The site boundary should be clearly annotated on photographic material. As appropriate, adverse visual impacts should be supported by photomontages that clearly and accurately demonstrate the nature and scale of the likely impact. Where adverse impacts are identified there should be a clear design response established to either avoid the impact or mitigate any adverse effects.
- The work should be undertaken by landscape professionals who will have an appreciation of the relevant landscape issues, will be able to address the issues relating to landscape character and visual impacts and are able to design accordingly as part of an iterative process.

Included in the EIA information should include;

- A tree survey to BS 5837:2005 including a statement and plan showing the trees to be retained and those to be lost due to the site operations/works.
- Standoff and protection details for vegetation / trees to be retained
- Heights of topsoil, subsoil and overburden mounds above the general ground level.
- Sections showing existing and proposed final landforms including temporary overburden tips.
- Restoration should include specific landscape objectives and where appropriate be related to the appropriate landscape character type.

Ecology (Flora and Fauna)

- The ES should contain a full Ecological Impact Assessment (EcIA). The EcIA should:
 - i) Be undertaken in accordance with the IEEM publication "Guidelines for Ecological Impact Assessment in the United Kingdom" and other relevant guidance.
 - ii) Include a suitably detailed desktop study.
 - iii) Include an extended Phase 1 habitat survey to determine the broad habitat types and species present or likely to be present.
 - iv) Assess whether further surveys such as phase-2 botanical surveys or targeted protected or notable species surveys (i.e. including surveys for BAP priority habitats and species, if required) are required.

- v) Where such surveys are indicated as required, these should be completed and full details submitted in support of the application. Whilst the scope of such surveys will be defined by the results of the extended phase-1 survey.
 - vi) Include an impact assessment undertaken in accordance with in accordance with the IEEM publication “Guidelines for Ecological Impact Assessment in the United Kingdom”.
 - vii) Include proposals for the avoidance, minimisation, mitigation and compensation for ecological impacts, and demonstrate a net gain for biodiversity.
- Where the presence of protected or notable species (including for example Section 41 list species of principle importance) is suspected or confirmed, the ES and planning application should be supported by appropriate follow up surveys.
 - The request for scoping opinion document only refers to the provision of mitigation measures; in accordance with accepted practice, we will expect to see a stepwise approach taken to the mitigation of potential ecological impacts, with (in this order) impacts avoided in so far as is possible, reduced where they cannot be avoided, mitigated for where an impact remains, and compensation provided to fully offset any residual impact. Ideally, a net ecological gain should result.
 - The extent of ecological surveys required on site will depend on the results of the phase 1 survey of the site. Whilst the site lies outside of any ecological designation, a number of protected and notable species (including but not limited to bats and bat roosts, reptiles, water voles and others) may be present in the surrounding area and may merit specific consideration on site. Appropriate consideration should also be given to the ecological value of the habitats and features present on site, these are likely to include hedgerows and hedgerow trees, woodland, ditches and watercourses, in addition to arable and pasture land.

Historic Environment

- In accordance with the requirements of Planning Policy Statement 5: Planning and the Historic Environment, the ES should include details of an evaluation undertaken to establish the presence (or absence) and extent of any heritage assets and to assess their significance. The site lies immediately to the west of the route of Rykniel Street Roman Road which survives in places as an upstanding earthwork.

A section north of the site at Old Tupton is a Scheduled Ancient Monument. There is the potential for Roman and even prehistoric archaeological remains on the coal measures but locating these is not always easy given the lack of previous survey and the fact that archaeological sites do not show well on aerial photographs on the coal measures geology. Therefore the archaeological analysis within the Environmental Statement should include geophysical survey followed by field evaluation if warranted.

Transport

- The ES should include a Transport Assessment (TA) sufficient to demonstrate the impacts of the development on the highway and provide a consideration of the impacts of that traffic.

Rights of Way / Recreation

- The ES should consider the potential impacts on users of public footpaths that cross the site (Clay Cross Footpaths 23 and 26).

Noise

- The ES should assess the potential noise impacts resulting from operations within the site and from traffic and plant travelling to and from the site. The assessment should have regard to the requirements of Annex 2 (Noise) of MPS2.
- The noise monitoring regime for the proposed development should include a monitoring and record keeping mechanism that clearly differentiates between temporary and normal operations.
- The noise monitoring regime should include continuous 12 hour daytime monitoring for working areas within 250 metres of residential properties.

Dust

- The ES should provide an assessment of the potential impacts related dust from site operations, together with appropriate methods for monitoring and mitigating those impacts set out in a Dust Monitoring and Action Plan. The assessment should have regard to Annex1 (Dust) of MPS2.

Hydrology

- The potential of the development to affect the hydrology and hydrogeology of the area as a result of mineral extraction, the infilling of the void with inert materials and restoration.

Blasting and Vibration

- The ES should provide an assessment of the effects of blasting, such as vibration and air overpressure, affecting sensitive receptors. Where blasting is unlikely to be necessary but can not be completely discounted, the applicant should set out the form of an appropriate assessment that would be undertaken and the measures that would be taken to ensure the effects would be within acceptable limits.

Alternatives

- The Authority takes the view that the consideration of alternatives is an important matter for inclusion in an EIA/ES and that the ES should sufficiently address the consideration of alternatives
- The Authority also considers that EIA is an iterative process involving the assessment of options and the use of those assessments in the selection of a preferred alternative; and thus that this should be reflected in the outlining of alternatives in the ES and give an indication as to how they have informed the content of the application proposals.

Cumulative Impacts

The cumulative effects of the development should be taken into account. In accordance with MPS2 'Controlling and Mitigating the Environmental Effects of Mineral Extraction in England' (paras 12 and 24-290, the cumulative impacts assessed should include: successive effects, simultaneous effects from concurrent developments and combined effects from the same development.

(i) Successive Effects

- The applicant should identify and take into account the environmental and temporal effects of the proposal in combination with previous developments of a similar nature in the same locality.

(ii) Simultaneous Effects from Concurrent Development

- The applicant should identify any potential concurrent development the effects of which might have impacts which act in cumulation with the proposed development;

(iii) Combined Effects

- The Authority takes the view that a decision as to which impacts should be assessed as to their potential to provide significant adverse effects in cumulation can only be properly taken after the initial assessment of all potential impacts. The implication of this is that it is necessary to assess individual impacts, not only as to their significance, but also to their degree of significance on a basis which allows them to be assessed cumulatively.

Socio-Economic Effects

- The positive and negative socio-economic effects of the development should be considered.

Planning Policy and policy advice context:

- The ES should include an assessment as to whether the proposals would satisfy the provisions of policy MPG3
- The ES should include an assessment as to whether the proposals would satisfy the provisions of policy MP27: Coal Extraction and Colliery Spoil Disposal, and the other policies, including but not limited to, MP1: The Environmental Impact of Mineral Development and MP2: The Need for Mineral Development, of the Derby and Derbyshire Mineral Local Plan (MLP) (the MLP policies referred to are currently 'saved policies');
- An assessment of the proposals in the context of the saved policies of the North East Derbyshire Local Plan; and,
- An assessment of the proposals against all relevant national planning policy guidance.

Legal and Human Rights Considerations

This scoping opinion has been requested in accordance with Part 4, paragraph 13 of the EIA Regulations which requires the County Council, as Mineral Planning Authority, to state in writing its opinion as to the information to be provided in an ES. The scoping opinion must be kept available for public inspection for two years at the place where the planning register is kept. If a planning application is subsequently made for the development to which the scoping opinion relates, the opinion and related documents should be transferred to Part 1 of the register with the application.

Opinion

In accordance with the powers delegated by the Council on 9th April 2003, the Council's opinion as to the information to be considered in an Environmental Statement to accompany a planning application for the extension of the time permitted for the completion of works at the site is that it should:

- a) meet the requirements of Schedule 4, Part I of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011; and
- b) include the information set out in the applicants Scoping Report subject to the applicant's addressing the additional suggestions/requirements set out in this document.

Signed:

Reg 12[3] & 13 Personal Data

Ian Stephenson
Strategic Director – Environmental Services

Date:

12 March 12