

**GREAT OAK, LAND AT BIGNALL END, NEWCASTLE**  
**UK COAL SURFACE MINES LIMITED**

**14/00128/CPO**

This a consultation by the County Council as the Minerals Planning Authority on an application for surface coal mining to extract up to 450,000 tonnes of coal and fireclay and the subsequent restoration of the site to agriculture, nature conservation, woodland and public access over a period of two and half years, within which period coal extraction will be completed within 15 months. The County Council's reference is N.14/03/2013 M.

The site area measures 80 hectares in total, with area of coal extraction measuring 29 hectares with the remainder of the site accommodating top soil and subsoil storage mounds; overburden storage; water treatment areas; site offices; plant areas; coal and fireclay processing and storage areas; site access and haulage roads. Access to the site is from the A34 to the north of the A34/A500T Talke junction via Talke Road to the north of Red Street.

A number of public footpaths cross the site which will be closed during the duration of the operations and diverted for a temporary period, with the exception of one of the footpaths which will be permanently diverted.

The site is within the Green Belt; the majority of the site is within an area of landscape restoration and the remainder in an area of landscape enhancement; and contains a Site of Biological Importance all as identified on the Local Development Framework Proposals Map. The site is in the vicinity of the Wedgwood Monument, a Grade II listed building and well known viewpoint. In addition trees and a woodland within Tree Preservation Order No. 1 are found within the site.

For any comments that the Borough Council may have on this proposal to be taken into account, they have to be received by the County Council by no later than 23<sup>rd</sup> April 2014.

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## **RECOMMENDATION**

1) That the County Council be informed that the Borough Council considers that the proposal involves inappropriate development in the Green Belt and that planning permission should only be granted if the County Council are satisfied that the economic benefits of the development outweigh the harm to the openness and the visual appearance of the Green Belt that arises temporarily as otherwise the required very special circumstances will not exist. In addition careful consideration should be given to the consultation response of the Environmental Health Division and that planning permission should only be granted if the County Council are satisfied that the environmental issues, from dust, noise and particle emissions can be suitably addressed.

The Borough Council consider that very special circumstances that justify inappropriate development will not exist, without the security of a financial bond through a Section 106 Planning Obligation by agreement that can be called upon to complete the restoration of the site if necessary. Such a bond is also justified on the basis of the harm to the setting of the listed Wedgewood Monument that arises as a result of the proposed extraction.

The Borough Council request that planning permission should be refused if the County Council are not satisfied that the proposed development takes all suitable and necessary precautions to avoid disturbance to the remains of any casualties of the Diglake Colliery disaster that may lie in the former workings.

If the County Council are minded to permit the application conditions relating to the following should be imposed;

- All conditions to secure appropriate mitigation measures as recommended by the Environmental Health Division.
- A routing agreement for vehicles.
- All existing trees on boundaries and in undisturbed areas within the site to be retained and protected during the works.
- All recommendations of the Arboricultural Survey Report to be followed.
- Submission of a Tree Protection Plan and Arboricultural Method Statement to BS5837:2012;
- Submission of detailed restoration proposals including landscaping and planting proposals and a forward programme for planting management and establishment.

Consideration should also be given to securing a significant financial contribution toward the restoration of the Wedgewood Monument, provided the County Council considers that such a contribution would meet the requirements of Section 122 of the CIL Regulations.

2) The Borough Council requests that in the event of a Health Impact Assessment being submitted, it be consulted upon such an assessment.

3) If the Borough Council is consulted upon such an assessment, that the Head of Planning and the Head of Environmental Services be authorised to respond to it on behalf of the Borough Council

## **Reason for Recommendation**

The proposal involves inappropriate development in the Green Belt as it would have an impact on its openness until restoration works are completed. The County Council will have to decide whether the economic benefits of the development outweigh the harm arising to the character and appearance of the landscape and the setting of the listed Wedgewood Monument; that environmental impacts can be suitably mitigated and that no highway safety issues arise that cannot be appropriately addressed, to be satisfied that very special circumstances exist to justify the granting of planning permission. Such very special circumstances would not exist if a financial bond is not secured through a Section 106 Agreement to enable completion of the restoration works if not carried out by the developer. Planning permission should be refused if they are not satisfied that the proposed development takes all suitable

and necessary precautions to avoid disturbance to the remains of any casualties of the Diglake Colliery disaster that may lie in the former workings.

Conditions are necessary to mitigate against the impact of the development should the County Council be minded to permit.

**Policies and Proposals in the approved development plan relevant to this matter: -**

Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 (adopted 2009) (CSS)

Policy CSP1: Design quality  
Policy CSP2: Historic environment  
Policy CSP4: Natural assets  
Policy CSP10: Planning obligations

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy S3: Development in the Green Belt  
Policy N3: Development and nature conservation – protection and enhancement measures  
Policy N4: Development and Nature Conservation – Use of local species  
Policy N12: Development and the protection of trees  
Policy N13: Felling and pruning of trees  
Policy N14: Protection of landscape features of major importance to flora and fauna  
Policy N17: Landscape Character – general considerations  
Policy N20: Areas of landscape enhancement  
Policy N21: Areas of landscape restoration  
Policy B5: Control of development affecting the setting of a listed building

Staffordshire and Stoke-on-Trent Minerals Local Plan 1994-2006 (MLP)

Policy 9 Site restoration and aftercare  
Policy 10 Use of legal agreements  
Policy 12 Impact on sensitive development  
Policy 19 Effects on areas of special interest  
Policy 20 Requirement to conserve features of natural or cultural conservation value, and replace habitats or features damaged or lost.  
Policy 21 Development to be informed by and sympathetic to landscape character and quality  
Policy 31 Legal agreements and mitigation of off-site traffic effects

**Other Material Considerations include:**

National Planning Policy

National Planning Policy Framework (2012) (NPPF)

Planning for Landscape Change – Supplementary Planning Guidance to the former Staffordshire and Stoke-on-Trent Structure Plan

**Relevant Planning History**

**Views of consultees**

It is the responsibility of the County Council to carry out consultations on this application. Notwithstanding this the **Landscape Development Section** has been consulted by your Officer and the following comments have been received:

- Trees and a Woodland within the site are included in Tree Preservation Order no. 1. They are shown to be retained.

- An Arboricultural Impact Assessment has not been provided, however it is considered that the proposals satisfactorily avoid the majority of existing trees and comparatively few principal trees would be lost, and that the restoration proposals provide adequate mitigation. Trees to be lost of most significance are 7 category 'A' trees in the fields to the south of Woodlands Farm which are visible from 3 public footpaths and to some extent from Bignall End Road.
- All existing trees on boundaries and in undisturbed areas within the site should be retained and protected during the works.
- All recommendations of the Arboricultural Survey Report should be followed.
- Permission should be subject to submission of a Tree Protection Plan and Arboricultural Method Statement to BS5837:2012 and submission of detailed restoration proposals including landscaping and planting proposals and a forward programme for planting management and establishment.

### **Response to Publicity concerning the application**

It is the responsibility of the County Council to publicise this planning application, and any resultant representations are sent to them.

### **Applicants' submission**

The following documents are provided with the application;

- Planning Supporting Statement
- Statement of Community Involvement
- Environmental Statement which includes a hydrogeological desk study; a geotechnical report; a landscape and visual impact assessment; an ecological assessment; a noise report; blasting report, air quality and dust report; agricultural land use and soils assessment; contaminated land study; a heritage assessment; a Flood Risk Assessment; and a review of the Diglake Colliery Disaster.
- Non Technical Summary

These documents are available to view on the Staffordshire County Council Planning web page [www.staffordshire.gov.uk/planning](http://www.staffordshire.gov.uk/planning). Either access them via 'applications making the headlines' or go to the application register, enter the County Council reference number N.14/03/2013 M and click on the 'documents' tab.

### **Key Issues**

The planning application to be determined by the County Council is for surface coal and fireclay extraction over an area of 29 hectares within a site which in total measures 80 hectares. The proposal involves the formation of top soil and subsoil storage mounds; overburden storage mounds; water treatment areas; site offices; plant areas; coal and fireclay processing and storage areas; site access and haulage roads. Access to the site is from the A34 to the north of the A34/A500T Talke junction via Talke Road to the north of Red Street.

The site is within the Green Belt; the majority of the site is within an area of landscape restoration and the remainder in an area of landscape enhancement; and contains a Site of Biological Importance as identified on the Local Development Framework Proposals Map. The site is in the vicinity of the Wedgewood Monument, a Grade II listed building.

The Borough Council is being asked for its views on this proposal – the County Council being the Mineral Planning Authority and determining body for such an application. The Borough Council's Planning Committee, with respect to "major developments", has the authority to decide what comments are to be put to the County Council with respect to planning applications being considered by the County.

In deciding what representations to make the first consideration for this Council is normally whether the proposal has an impact upon any particular interests of the Borough Council (such as land in its ownership). Whilst the Borough Council has a considerable property portfolio, it is not considered that any land ownership or other similar interests will be directly affected by the proposed development.

Beyond that interest members might usually wish to consider whether any aspect of the development has a particular bearing upon the amenity of residents of the Borough, and to comment upon whether the proposal appears to conflict with any policies within that part of the development plan or for which the Borough Council is the responsible Planning Authority, and upon whether the proposal has any bearing upon the strategic aims of the Council – a clean, safe and sustainable borough, a borough of opportunity and a healthy and active community.

The Borough Council's role is simply that of a consultee – it is not the decision maker.

Policy S3 of the Local Plan (NLP) indicates that there is a presumption against any form of development in the Green Belt although certain exceptions are identified. Mineral extraction is not listed within the NLP. The NPPF indicates at paragraph 90 that mineral extraction is not inappropriate in Green Belt provided that it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. Whilst only for a temporary period the formation of mounds to store top soil, subsoil and overburden, extracted minerals, and the siting of offices would have an impact on openness and as such it is concluded that the development is inappropriate in the Green Belt and as such it should not be approved except in very special circumstances.

Paragraph 144 of the NPPF states that when determining planning applications Local Planning Authorities (LPAs) should, amongst other things give great weight to the benefits of the mineral extraction, including to the economy. It will be a matter for the County Council as the Minerals Planning Authority to assess whether such benefits, and any other benefits arising from the extraction of the minerals at this site, outweigh the potential harm to the Green Belt. Notwithstanding this consideration will be given to the impact of the development on the amenity of residents.

The proposed extraction, which involves some limited blasting, will result in noise, dust and particle emissions in relatively close proximity to residential properties. In light of this the proposal is supported by a Noise Impact Assessment and other assessments which concludes that noise from the proposed site operations will not cause an unacceptable impact if appropriate mitigation measures are implemented. The Environmental Health Division of this Council will be assessing the adequacy of the submissions in this regard having been consulted by the County Council. Their views are not yet known but it is appropriate to request that the County Council take their expert advice fully into consideration in their assessment of the impacts of the proposal.

It is also understood that the applicant will, at the request of the County Council, be submitting a Health Impact Assessment. which draws together health related impacts and includes additional information relating to local health statistics. It would be appropriate for the Borough Council to be given an opportunity to comment upon such an assessment.

In addition to residential amenity issues the proposal raises issues relating to visual amenity. As indicated above part of the site (that to the east of the disused railway line) is within area of landscape restoration and the remainder (that to the west of the disused railway line) is in an area of landscape enhancement. NLP Policy N21 relates to areas of landscape restoration, and indicates that proposals that will help to restore the character and improve the quality of the landscape will be supported, *subject to other plan policies*. NLP Policy N20 relates to areas of landscape enhancement and indicates that, *subject to other plan policies*, the Council will support proposal that will enhance the character and quality of the landscape. Both policies include a requirement that within the area in question it will be necessary to demonstrate that development will not further erode the character or quality of the landscape.

The extraction of coal will have significant impact on the existing landscape prior to the site's restoration and will further erode the character and quality of the landscape at least for a temporary period and as such it is difficult to conclude that the proposal accords with either NLP policy N21 or NLP Policy N20. The submission, however, seeks to demonstrate that the proposed restoration to a predominantly agricultural use will result in a landscape which is broadly similar in character to that which existed prior to the development in the short to medium term. In the long term the Landscape and Visual Impact Assessment concludes that the restoration will be moderately beneficial subject to careful management of the restored landscape. Your officer has no basis upon which to disagree with such conclusions.

In responding to a consultation this Council's Landscape Development Section indicates that trees protected under a Tree Preservation Order will be retained, that relatively few trees that have been assessed to be the most significant, category 'A' trees, will be lost (7 in total) and that the proposals avoid the majority of existing trees. The retention of trees will assist in the restoration of the landscape as any new tree planting will be viewed in the context of existing mature trees.

It is considered in this instance that the harm to the Green Belt that arises from the inappropriate nature of the development that the necessary very special circumstances to justify the development could not be considered to exist without an appropriate mechanism to secure restoration.

In addition the proposed extraction is relatively close in landscape terms to the Wedgewood Monument, a Grade II listed building. The nearest extraction area is just under 300 metres from the monument, whilst the offices, coal processing and plant bay area is at its closest some 250 metres from the monument albeit there is a significant part coniferous part deciduous intervening woodland. The monument, or rather its reduced part, stands in elevated position and the nearer parts of the extraction areas would not, because of the landform, be visible from the monument – which is also a significant local viewpoint..

The monument's function depends upon its extensive landscape setting. Your Officer's view is that appropriate regard has been paid to the immediate setting of the structure, in terms of the areas to be opencasted, However the opencast operation will still have an adverse impact on the wider setting of that listed building until the site is restored – particularly in views from Talke Road westwards (where the plant and coal storage areas will be in foreground), from the south west (Bignall End) and west (Great Oak Road) and certain (admittedly currently limited) views from the A500 for eastbound vehicles.

Whilst the NPPF states that bonds should only be sought in exceptional circumstances such impacts justify, in the opinion of your Officer, additional security in the form of a Section 106 agreement that secures a financial bond, at an appropriate level, that can be called upon if the developer cannot complete the restoration of the site.

Furthermore given the harm to its setting, the County Council and the applicant should be encouraged to consider securing a significant financial contribution toward the restoration of the Wedgewood Monument, provided the County Council considers that such a contribution would meet the requirements of Section 122 of the CIL Regulations.

A suitable routing agreement should be secured to ensure that highway safety and amenity issues don't arise as a result of large vehicles accessing the site other than from the most direct route to the strategic highway network, the A34 and A500(T).

Finally the site is in close proximity to the site of the Diglake Colliery Disaster which resulted in the deaths of 77 men and boys, of which only 5 bodies have ever been recovered. It is important that the remains of the casualties of the Disaster are not disturbed by the proposed extraction. The submission suggests that proposed extraction will be at an appropriate stand-off distance from the Diglake Mine workings to avoid any such disturbance and your officer does not have any information that could challenge such conclusions. It will be for the County Council to fully consider this matter however it should be requested that planning permission be withheld if County Council consider that there is any risk of disturbance of the remains of all the casualties of the Disaster.

### **Background Papers**

Planning file  
Planning Documents referred to

### **Date report prepared**

10<sup>th</sup> April 2014