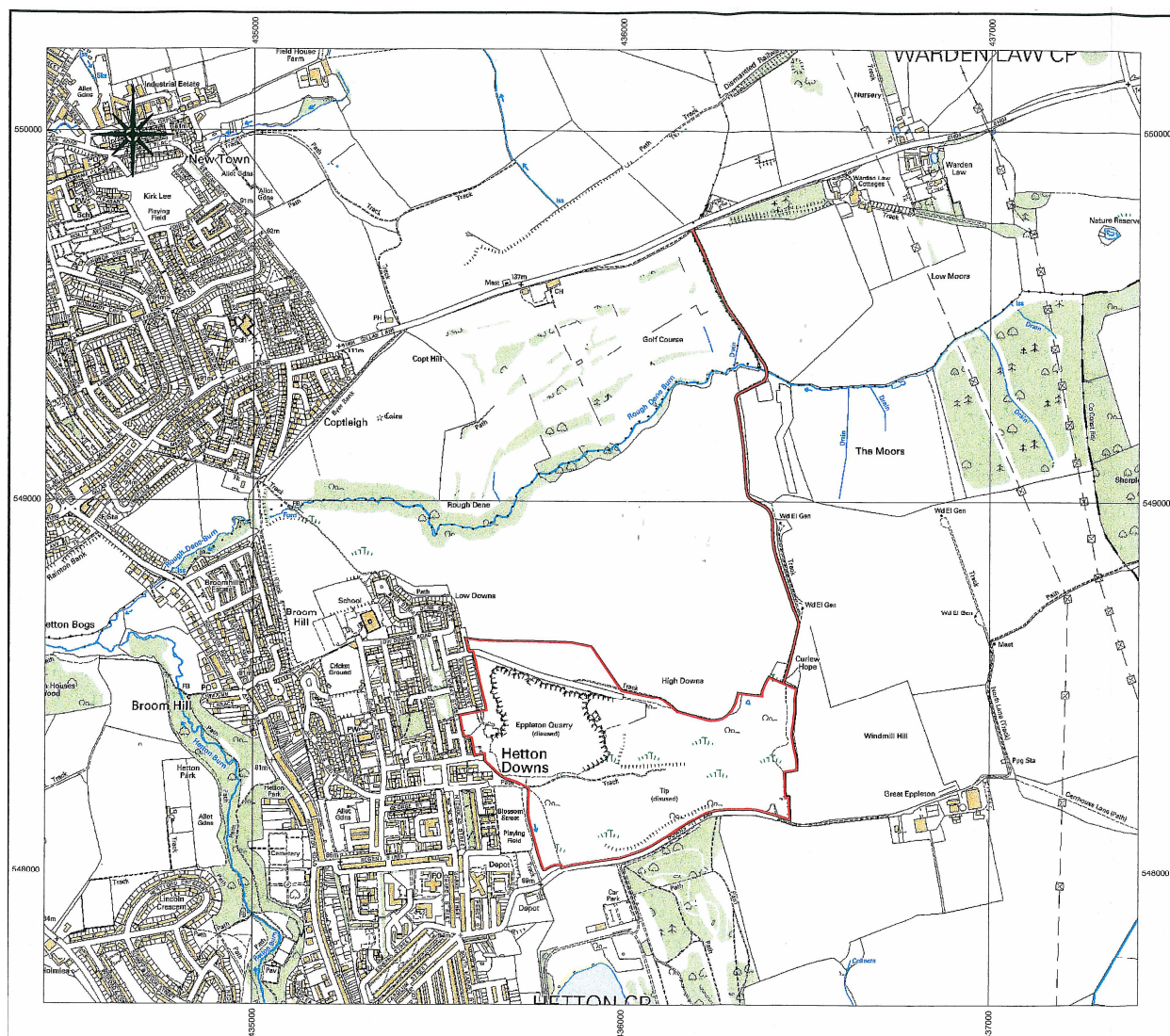


Reference No.:	07/05522/VAR Variation of Conditions Application
Proposal:	Modification of Conditions 7 and 8 of Planning Permission (Ref: 99/791/FUL) as modified by Planning Permission (Ref: 05/384/LEG) to extend the permission for mineral extraction to July 2013 and to extend the period for restoration to overburden level to December 2013.
Location:	Eppleton Quarry / Eppleton Colliery, Downs Pit Lane, Hetton Le Hole, Sunderland
Ward:	Copt Hill
Applicant:	Hall Construction Services Ltd
Date Valid:	7 January 2008
Target Date:	7 April 2008 (Extended by Sunderland City Council (SCC) to 30 July 2010) Agreed by the Applicant in a letter dated 08 June 2010. A letter has been sent to the Applicant to extend the determination period to 31 August 2010. A response is awaited from the Applicant.

Location Plan



PROPOSAL:

Planning Application to modify Conditions 7 and 8 of Planning Permission (Reference: 99/791/FUL) as modified by Planning Permission (Reference: 05/384/LEG) to extend the period for mineral extraction to July 2013 and to extend the period for restoration to overburden level to December 2013.

The description of development set out above has been taken from the Supporting Statement and the dates have been subsequently amended by the Applicant in a letter dated 07 July 2008. It should be noted that there is a different description of development set out on the forms which omits 'as modified by Planning Permission (Reference: 05/384/LEG)'.

Planning permission was originally granted for mineral extraction and the reclamation of Eppleton Quarry on the 26th February 2001, subject to 90 Conditions and a Section 106 Agreement. Development commenced in April 2001 and the Planning Permission (Reference: 99/791/FUL) required mineral extraction of sand, limestone, coal and red shale to cease by April 2005. In 2004 it became apparent that due to an underestimation of the volume of sand, limestone, coal and red shale, the original programme for completion could not be achieved.

An application was then submitted in February 2005 to amend Conditions 7 and 8 of the original Planning Permission (Reference: 99/791/FUL). In February 2006 planning permission was granted to amend the conditions and extend the date for completion of mineral extraction to April 2008 and for restoration to overburden level until September 2008.

Following a drilling programme in 2007 it was found that sand and limestone reserves were more extensive than was previously thought. Consequently a Section 73 Planning Application was submitted in December 2007 (the current application) to again modify Conditions 7 and 8 of Planning Permission 99/791/FUL to extend the period for mineral extraction to April 2011 and to extend the period for restoration to September 2011.

The Section 73 Planning Application has subsequently been revised by the Applicant and the time period for mineral extraction on site amended. It is now proposed that Conditions 7 and 8 are amended as follows:

Condition 7 of Planning Permission (Reference: 99/791/FUL) as first modified by Planning Permission (Reference: 05/384/LEG) is further modified to allow mineral extraction to continue until July 2013; and

Condition 8 of Planning Permission (Reference: 99/791/FUL) as first modified by Planning Permission (Reference: 05/384/LEG) is further modified to require that the restoration to overburden level be completed by December 2013.

The above amendment to the application was made following a review of on site production rates as it was considered timescales should be extended to ensure all minerals could be removed under this application. At the time of the submission of the application it was considered that it would take approximately 5.25 years to remove all minerals on site under the Section 73 Application.

Further to this, as a result of issues raised during the consideration of the planning application, the target date for a decision has been extended from 17 April 2008 to 31 August 2010. Issues included recoverable mineral reserves on site and restoration and

maintenance proposals. Originally it was estimated within the Supporting Statement that 1.25 million tonnes of recoverable materials remained to be worked at April 2008, however, the Applicant subsequently confirmed in a letter dated 28 May 2008 that 1.5 million is the correct figure.

The Council screened this Section 73 Application against the Town and Country Planning (Environmental Impact Assessment) Regulations 1999 and confirmed that an EIA was not required.

It was considered by the Council that insufficient information was provided by the Applicant to determine the Application. The Applicant subsequently agreed that the relevant surveys within the Environmental Statement submitted to accompany Extension Scheme Full Application (Reference: 07/05523/FUL) would also accompany the Section 73 Application. These surveys relate to Landscape and Visual Impact, Noise, Dust, Blasting and Transport. The surveys are referred to hereafter as relevant Chapters within the Environmental Statement.

PLANNING HISTORY

The area surrounding the application site has historically been subject to coal mining and is associated with the former Eppleton Colliery and Quarry.

On 28th June 1999 Hall Construction Services Ltd (Halls) submitted a Full Planning Application (accompanied by an Environmental Impact Assessment) for 'the reclamation of derelict land to Country Park' at Eppleton Quarry. The development was described within the Committee Report (Application Reference; 99/00791/FUL) as 'the reclamation of the disused quarry and colliery by the extraction and processing of minerals; coal washing; construction of a new access road; importation of inert construction waste and soil; restoration to a country park and 5 year aftercare on 37.76ha of land'. The restoration scheme was intended to be an extension to Hetton Lyons Country Park. The Planning Application was approved on 26th February 2001 subject to 90 Conditions and a Section 106 Agreement.

The Section 106 Agreement was entered into between the owners of the land at Eppleton Quarry, Mininvest (Eppleton) Limited, Halls and the Council. The obligations under this agreement were:

- HGV access to and from the site shall only be via the approved site access to the B1404, turning left to the B1260/ B1404 junction, turning right along Seaham Road (B1404) to join the A690. Returning traffic will follow the same route;
- At the conclusion of the restoration period public access shall be permitted along all footpaths and bridleways for recreational purposes only;
- At the conclusion of the aftercare period specified in the planning permission the land shall be transferred to the Council for a nominal consideration of £1.00, subject to a clawback provision in favour of the transferor in respect of any increase in value of the land which may accrue during the period of 80 years from the date of transfer as a result of planning permission being granted; and
- Unless and until the transfer above is effected the site shall be maintained beyond the aftercare period to the satisfaction of the Council.

Advice provided by the Council's legal department has indicated that following the statutory 5 year aftercare period it is intended that the ownership of the land will transfer to the Council along with maintenance obligations.

Condition 7 stated that all mineral extraction should cease no later than 4 years from commencement of operations on site. Operations on site commenced in April 2001 with an end date of April 2005.

Condition 40 of the original permission stated that no blasting was to take place on site. A Section 73 Application to allow blasting on site, by amending Condition 40, was submitted on the 16th August 2002 (Application Reference: 02/01686/VAR). This Application was then granted consent on 24th September 2003 subject to 5 additional conditions to ensure:

1. No blasting was to take place until further blasting technique details had been submitted and agreed with SCC;
2. Blasting will not take place more than twice in any 4 week period;
3. Blasting should only be carried out between 10.00 am and 3.00pm Monday to Friday and not on Weekends or Bank Holidays;
4. Details of visual or audible warnings should be submitted to SCC, before blasting commenced on site; and
5. No component of the peak particle velocity, attributable, to any blast shall exceed 6mm/s.

As previously stated, a further Section 73 Application was then submitted in February 2005 (Application Reference: 05/00384/VAR) to vary Conditions 7 and 8 of planning permission (Application Reference: 99/00791/FUL) to extend the period for mineral extraction to April 2008 and to extend the period for restoration to overburden level to September 2008. This Application was granted permission in September 2006 subject to a Section 106 Agreement. The Section 106 Agreement was dated 20th February 2006 and was between the Council and Halls. Halls were obligated to pay the sum of £5,000.00 to the Council as a financial contribution towards providing a vehicle activated speed warning sign on Seaham Road/ Market Place in Houghton-le-Spring. This speed warning sign is now in place on Seaham Road.

A Full Application for an extension to Eppleton Quarry was submitted on 19th December 2007 and is currently pending consideration in parallel to this application. The application has been considered alongside the Section 73 Application but both are independent of each other. The Full Application is accompanied by Environmental Impact Assessment presented as an Environmental Statement. Some Chapters of the submitted Environmental Statement have subsequently been added to accompany this Section 73 Application at the request of the Applicant (Landscape and Visual Impact, Noise, Dust, Blasting and Transport).

TYPE OF PUBLICITY:

Site Notice Posted 17th January 2008

Press Notice Advertised (Sunderland Echo) 5th January and 18th January 2008

Neighbour Notifications by letter (January and July 2008)

Public Exhibitions held on 27th and 28th August 2008.

CONSULTEES:

County Archaeologist

Hetton Town Council

Director of Community and Cultural Services (now Director of City Services Pollution

Control)
 Environment Agency
 Gateshead Council
 Durham County Council
 Durham City Council
 North East Regional Assembly
 National Grid Transco
 North East Regional Aggregates Working Party
 Northern Electric
 Government Office for the North East
 Defra
 UK Gas Business
 Councillor Wakefield
 HSE - Health and Safety Executive
 Property Services Manager
 Sunderland Planning Policy
 Sunderland Planning Implementation
 Sunderland Environmental Health
 Sunderland Transportation Section
 Durham Wildlife Trust
 Easington District Council
 Natural England
 Great North Forest
 Northumbrian Water
 RECLAM - Landscape and Reclamation

REPRESENTATIONS:

Neighbour Responses

5 letters of objections have been received in relation to the application. The main concerns raised relate to quarry traffic and blasting and are summarised below:

- Lorries are not operating within the timescale – 7.00am – 6.00pm;
- There are more HGVs than the maximum permitted amount (10 per hour) travelling along Seaham Road to the Quarry;
- Lorries are not always sheeted;
- Damage to private motor cars from material blown from or deposited by the HGVs;
- Noise and vibration from HGVs carrying loads to and from the quarry;
- Speed of lorries travelling along Seaham Road;
- Damage to the public roads by the HGVs;
- Damage to house foundations, water mains and gas mains from vehicle vibrations; and
- Damage caused to homes by blasting.

All of the objectors have indicated measures which they consider would help alleviate the current problems, including:

- Lorries should only travel down Seaham Road when they are empty;
- Numbers of HGVs travelling along Seaham Road should be monitored;
- HGV traffic should be re-routed making use of Warden Law or the B1404 through Seaton;
- Reduce traffic flows by a half;

- Lift the weight restriction at Seaham to allow Quarry vehicles to access the A19;
- Change operating hours to 8.30am – 5.00pm with no work taking place at the weekend;
- Houses to be assessed for structural damage (any found should be corrected); and
- A geological survey should be carried out to discover whether aftershocks are travelling along a disused mine shaft.

Public exhibitions were also held on the 27th and 28th August 2008 at Hetton Centre and Houghton Library respectively to give the public the opportunity to view proposals and to comment on them. A consultation report was produced outlining the outcomes of the exhibitions and is available online. The report addressed both planning applications and for completeness all responses have been included below.

Comments from members of the public included;

- Issues of ‘dust problem and duration’ of the scheme;
- The quarry itself being ‘an eye sore’;
- ‘Loss of amenity, destruction of the environment and traffic problems in Houghton Market Place’; and
- The changing nature of the new Full Application was also outlined, in that the Section 73 Application and previous applications were for a reclamation scheme, whereas the Full Application is for mineral extraction.

Members of the public noted that the extension of timescales at the quarry prolong the associated impacts of the development. Many feel that had they known the development would require a 2013 end date at the start it may not have been an issue, but they feel like they had not been fully informed of development proposals at the very start.

General comments regarding the quarry were that HGV drivers were not adhering to the approved traffic route. For example, drivers are allegedly using Downs Pit Lane and Gillas Lane East. One resident mentioned that they had complained many times but it was still occurring. Another comment regarding HGV drivers was that they were not always operating within permitted hours of working (07.00 – 18.00 Monday to Friday).

Those who did not live in close proximity to the quarry generally gave the impression that the developments would result in a positive change for the area once the site was reclaimed, as the extended Hetton Lyons Country Park.

Consultee Responses:

The **County Archaeologist** has commented that there are no archaeological implications associated with the proposals.

National Grid Transco has responded and consider that the risks associated with the development are negligible.

The **North East Regional Aggregates Working Party** (NERAWP) has responded but cannot comment on the need for Permian Sand as this is a specialist type of material. However, in more general terms, if the proposals at Eppleton are not approved, there will only be two quarries in Tyne and Wear producing sand and gravel. Therefore, the impact of this in Tyne and Wear must be considered. In addition, Crushed Rock is only produced at Eppleton and Marsden Quarries within Tyne and Wear. NERAWP have concerns that if Eppleton ceases to produce limestone, Marsden will not be able to produce enough to meet the Tyne and Wear crushed rock apportionment figures.

The **North East Regional Assembly** commented that there are no significant issues of non conformity with regional planning policy and the broad objectives for minerals. However, they recommend that the Local Authority should assess the proposals and outcomes of the relevant chapters of the Environmental Statement against the Local Planning Policies.

As will be outlined later, it should be noted that following the consultation process the RSS has been revoked. Therefore, conformity with regional planning policy is no longer a material planning consideration for this application.

The **Council's Planning Implementation Manager** states that the site is located within the Hetton Downs Area Action Plan (HDAAP) (at Preferred Options stage). The HDAAP was based on an assumption that quarrying activities would cease by 2009. Policy HD18 and HD21 of the HDAAP propose development of leisure and recreation on the site. Also major housing renewal is outlined in the HDAAP with sites to the west of the quarry proposed for housing. The Policy Officer considers that the extension of time will have an adverse effect on the delivery of the HDAAP.

Sunderland Planning Policy states that the permission for the extension of time for extraction at Eppleton Quarry would extend the land bank for sand and gravel in Tyne and Wear. Concerns raised by NERAWP have been highlighted that cessation of production from Eppleton is likely to impact upon Tyne and Wear's ability to meet its apportionment for crushed rock.

It is also stated that consideration needs to be given as to whether the proposals will prejudice the implementation of the HDAAP. However, the HDAAP was due to be adopted in 2010 but is now "on hold" at present pending the resolution of issues associated with the Council's school place planning programme, it is, therefore, considered that the policies within this document, although a material consideration, should not be a reason for refusal.

A consultation response has not been received from the **Council's Landscape and Visual Impact Team**. If a response is received prior to Committee this will be circulated to members.

Sunderland City Council Transportation Section has advised that there are no significant highway issues to justify a variation from the existing route, therefore the currently approved route is considered to be appropriate. This recommendation is on the basis that the existing condition limiting the number of large goods vehicles exiting the site be maintained.

The **Environment Agency** originally objected to the proposals as it was considered that they did not comply with the Water Framework Directive (2000/60/EC) and Planning Policy Statement 23 – 'Planning and Pollution Control' (PPS23) because there was insufficient information to demonstrate that there was no risk of pollution to controlled waters. This was due to the processing of colliery spoil on site to remove coal and red shale and the depositing of the remainder in the quarry void.

The Environment Agency did not have any information regarding the chemical properties of the processed material and found that the deposited colliery spoil presented a contamination risk to the underground aquifer which is in a Groundwater Source Protection Zone as designated by the Environment Agency. Such details as requested were submitted to the Environment Agency in May 2008 and they have now withdrawn their objection.

Comments have been received from **Natural England** regarding biodiversity, access and recreation issues, and on behalf of Defra regarding agricultural, soil resource protection and

associated reclamation considerations.

Natural England expressed concerns over protected species and Biodiversity Action Plan (BAP) species that may be affected by the development, most notably great crested newts, badgers and nesting birds. Natural England considered that additional information should be provided to demonstrate whether the development would have an adverse affect. Although the concerns highlighted by Natural England were related to both the Section 73 Application and the Full Application (Ref: 07/05523/FUL), it is considered they are more relevant to the Full Application as the application that is the subject of this report relates to an extension of time for an existing planning permission rather than an extension of area. However, the concerns have been addressed below. As previously stated on page 4 of this report, the Full Application has been considered alongside the Section 73 Application, but both are independent applications.

The Ecology Chapter within the Environmental Statement outlined that a risk assessment was undertaken which scoped out the presence of Protected and BAP Species, however, Natural England stated that information was required regarding how this risk assessment was undertaken.

A mitigation strategy, based on the risk assessment, was requested which was fully informed by survey results undertaken as part of the EIA. The Applicant provided the mitigation strategy and this has been forwarded to Natural England by the Council. A further response was received from Natural England which stated that they had no additional comments to make.

Further to this, Natural England welcome the principles for restoration including areas of hedgerows, woodland, wetland and magnesian limestone grassland. However, the Applicant is proposing a mix of amenity and downs grassland as they consider that magnesian limestone grassland will not establish on site. It should be noted that there is an existing area of magnesian grassland on site which will be unaffected by the development. The Council have stated that if magnesian limestone grassland cannot be established then lowland heath (downs grassland substitute) would be acceptable.

Natural England also welcome the principle of access to the nature conservation based recreation at the site, however, they have stated that access should be monitored and if necessary managed to ensure that fragile habitats such as the existing magnesian limestone grassland are not adversely impacted. It is considered that this will be included within the management plan.

Regarding soils and recreation, Natural England on behalf of Defra, have stated that they have no objection to the scheme. However, they would like to be identified as an interested party in the aftercare process. Natural England consider agriculture as a partial after use to be appropriate.

Durham County Council responded and have no comments to make regarding the proposed development.

Durham City Council have responded and have no objections or comments to make.

The following consultees did not respond, therefore, it has been anticipated that they have no comments on the application.

- Northumbrian Water;
- Great North Forest;

- Property Services Manager;
- Durham Wildlife Trust;
- HSE - Health and Safety Executive;
- UK Gas Business;
- Government Office for the North East; and
- Northern Electric.

POLICIES:

National Policy

Planning Policy Statement 1 - 'Delivering Sustainable Development' (PPS1)

Paragraph 19 of PPS 1 states that Planning Authorities should seek to enhance the environment, as part of development proposals. Significant adverse impacts on the environment should be avoided and alternative options which may reduce or eliminate those impacts considered.

The impacts of the proposed development are assessed in the relevant chapters of the Environmental Statement which accompanies the Section 73 Planning Application in order to conform to current national guidance. This includes landscape and visual amenity, noise, dust, blasting, ecology and transport. The Environmental Statement concludes that with sufficient mitigation and relevant conditions attached to any subsequent planning permission the development is environmentally acceptable.

Developments must also be sustainable in an economic sense and planning should recognise the wider sub-regional, regional or national benefits of economic development and consider these alongside any adverse local impacts. PPS1 goes on to state that planning should ensure that suitable locations are available for developments so that the economy can prosper.

Planning Policy Statement 7 - 'Sustainable Development in Rural Areas' (PPS7)

One of the key principles of PPS7 encourages sustainable development whilst maintaining high levels of economic growth and employment. The Supporting Statement considers that development will provide continued employment for the 42 people currently employed by Eppleton Quarry Products. This includes 26 HGV drivers who work full time, 4 head office/ ancillary staff working at Rushyford in County Durham and additional HGV drivers that sometimes work out of Eppleton Quarry.

The Supporting Statement also states that there are indirect employment benefits from the quarry which include those other companies who provide regular services to the site operations and supporting employment in the construction industry throughout the North East. It is considered that this may be the case; however, it is difficult to quantify the benefits associated with this.

It should be noted that, PPS4 'Planning for Sustainable Economic Growth' was published in December 2009 and supersedes the economic development section of PPS7. However, the key principle referred to above remains in place.

Planning Policy Statement 9 - 'Biodiversity and Geological Conservation' (PPS9)

The proposals include the reclamation of the site as an extension to Hetton Lyons Country Park and, therefore, are in line with PPS9 as they will make a contribution to the UK Biodiversity Action Plan as implemented through the Durham Biodiversity Action Plan.

As has been outlined previously, a risk assessment and mitigation strategy have been undertaken which has demonstrated that there will be no adverse impacts on habitats, Protected or BAP species as a result of the development. Natural England has no objection to the proposed development.

Planning Policy Guidance 13 - 'Transport' (PPG13)

Paragraph 46 of PPG13, states that conditions should be imposed to reduce the level of disturbance to residents, through noise and dust emissions from transport. Hours of operation at Eppleton Quarry are currently conditioned to control noise disturbance from vehicles and a set of conditions are also imposed to limit vehicles' dust emissions. Paragraph 47 suggests that when dealing with mineral sites it is important to look at more sustainable methods of transporting materials to and from the site. In terms of Eppleton Quarry this is not an option as there is no viable alternative facility for transporting minerals by either water or rail.

Planning Policy Statement 23 - 'Planning and Pollution Control' (PPS 23)

PPS 23 'Planning and Pollution Control' gives a broad requirement suggesting that for developments such as mineral workings, consideration must be given to the potential cumulative impacts on the surrounding area including noise and air pollution. Such assessments have been included within the supporting information to the application and conditions are imposed to the existing permission ensuring that appropriate mitigation is put in place.

Minerals Planning Statement 1 - 'Planning and Minerals' (MPS1)

MPS1 includes guidance on the principles of sustainable development, mineral supply, environment, landscape, agriculture and water resource considerations. Paragraph 40 of MPS1 states that '*minerals can only be worked where they naturally occur. Potential conflict can therefore arise between the benefits to society that minerals bring and impacts arising from their extraction and supply*'. In particular, developments must ensure that the environmental impacts caused by minerals operations and the transport of materials are kept as far as possible to an acceptable minimum. Chapters contained within the Environmental Statement that are relevant to this application conclude that with sufficient mitigation and relevant conditions attached to any subsequent planning permission, there will be no significant adverse environmental impacts caused by the extension of the time limit.

Minerals Planning Statement 2 – 'Controlling and mitigating the environmental effects of mineral extraction in England' (MPS2)

MPS 2 sets out how MPAs should minimise any significant adverse environmental effects that may arise from minerals extraction. Chapters within the Environmental Statement concludes that with sufficient mitigation and relevant conditions attached to any subsequent planning permission, there will be no significant adverse environmental impacts caused by the extension of the time limit.

Minerals Planning Guidance 7 – ‘Reclamation of Mineral Workings’ (MPG7)

MPG7 states that restoration and aftercare should provide the means to maintain or in some cases enhance the long term quality of land and landscapes. The proposals include the reclamation of the site as an extension to Hetton Lyons Country Park and, therefore, are in line with MPG7 which states that *‘Mineral workings reclaimed to amenity use can therefore contribute to Government policies in respect of recreation and nature conservation, including making a contribution to the UK Biodiversity Action Plan.’*

MPG7 also states that where there is serious doubt whether satisfactory reclamation can be achieved then there must also be a doubt whether permission for mineral working should be given.

The site restoration scheme (Drawing Number EPP/6/1/A) will be established by the Applicant and maintained for 5 years following on from this; however, the Applicant is under no obligation to provide maintenance costs for the site after this period. The Applicant has costed for the maintenance of the site a figure of £11,597.41 per annum. Legal advice was sought regarding the provision of maintenance costs and it was considered unreasonable of the Council to request any costs when this was not requested for previous permissions. As previously stated, legal advice has also indicated that in accordance with the Section 106 Agreement, maintenance beyond the statutory period will be undertaken by the Council.

Regional Policy

On 6th July 2010 the Secretary of State announced the revocation of the Regional Spatial Strategies with immediate effect. Regional Spatial Strategies have been revoked under s79(6) of the Local Democracy Economic Development and Construction Act 2009 and no longer form part of the development plan for the purposes of s38(6) of the Planning and Compulsory Purchase Act 2004. However, there is now a period between revocation of Regional Strategies and the legislation which is required to abolish them altogether. Guidance has been provided by DCLG which informs LPAs on the correct way to proceed.

MPAs continue to have responsibility for a steady and adequate supply of aggregate minerals to support economic growth and should now do this within the longstanding arrangements for minerals planning. It is not considered that the above is an issue with regard to this Section 73 Application; however, the implications of the above have been set out in detail within the Full Planning Application Committee Report.

Guidance has been taken from NERAWP in the form of their consultation response in determining this application.

Local Policy

In the Unitary Development Plan (1998) the site is subject to the following policies:

- B1 Priority areas for environmental improvements;
- CN15 Creation of the Great North Forest;
- CN23 Measures to conserve / improve wildlife corridors;
- EN15 Promoting / encouraging the reclamation of derelict land for appropriate uses;
- L3 Encouragement to regional recreation developments in appropriate locations;
- L4 Standards for outdoor sport and recreation;
- L5 Ensuring the availability of public parks and amenity open space;
- M3 Safeguarding minerals against unnecessary sterilisation by development;
- M8 Mineral Extraction;

M9 Operational Controls;
M12 Strategic requirements for development / extension of waste disposal/ transfer sites;
and
M13 Consideration of applications not complying with M12.

In the Sunderland City Council Core Strategy (Preferred Options) the site is subject to the following policies:

CS18 Mineral Safeguarding Areas.

In the Sunderland City Council Hetton Downs Area Action Plan (Preferred Options) the site is subject to the following policies:

HD18 Hetton Lyons Country Park Extension; and
HD21 Great North Forest.

KEY ISSUES:

The key issues to consider in determining the application are as follows:

- Land Use;
- Highways;
- Blasting;
- Contamination from Colliery Spoil;
- Need for the Development;
- The Proposed Time Period; and
- Restoration and Maintenance Issues.

Land Use

Policies B1 (Priority Areas for Environmental Improvements), EN15 (Promoting / Encouraging the Reclamation of Derelict Land for Appropriate Uses) and L3 / 4 and 5 (Leisure and Recreation Provision) of the UDP are relevant to the site. Restoration proposals for the site are in accordance with these policies. However, the proposals will delay the restoration of the site until December 2013. This is a total of 12 years not 4 as was originally envisaged under Planning Permission 99/00791/FUL.

The site is covered by Policy CN23 of the UDP, which states that development which would adversely affect the continuity of wildlife corridors, will normally be refused and Policy CN15, which states that developments which would adversely affect the creation of the Great North Forest will be resisted. The application site is already in existence and consequently it is considered that the proposal does not significantly impinge upon any wildlife network or corridor or the creation of the Great North Forest and once Eppleton Quarry is restored, it is considered the proposals will positively contribute to these policies.

The proposal must also be assessed against Policies M8 and M9 of the UDP, which provide criteria for ensuring that negative impacts, on the local community, the landscape and environment, conservation and transport, associated with the development are minimised. Policy M9 (i) states that suitable screening of operational works should be provided. Currently there is no screening on site and within the five year proposed time extension; it would not be feasible to provide screening for such a short time period. The Landscape and Reclamation Division within the Council have not expressed concerns with regard to screening of on site operations.

The site has permission to import inert construction waste in order to achieve the final restoration landform. The proposal is, therefore, in accordance with UDP Policy M13 which states that proposals to dispose of waste will be acceptable if it can be shown that the proposal will bring about early and necessary reclamation of derelict or degraded land including those restoration proposals for quarries which could not be expected to be reclaimed by other means.

The HDAAP has not yet been adopted, but must be considered when assessing this application. The site is located within the HDAAP (at Preferred Options stage). The HDAAP was based on the assumption that quarrying activities would cease by 2009. Policies HD18 and HD21 of the HDAAP propose development of leisure and recreation on the site. The extension, therefore, may have an adverse effect on the delivery of the HDAAP. The HDAAP is “on hold” at present pending the resolution of issues associated with the Council's school place planning programme. The reclamation to the west of the site is already underway, as mineral activities in this area have ceased and restoration already begun, which will reduce some of the negative impacts associated with prolonging the quarrying activities.

Highways

The main concerns of residents from the consultation event and objections received, in terms of the impacts of the development, are that the traffic associated with the quarry is causing disturbance in the residential area of Hetton-le-Hole. At present vehicles exit the haul road to the north east of the site and turn west on to the B1404 Gillas Lane. At the junction with the B1260 Gillas Lane East, Gillas Lane becomes Seaham Road and the large goods vehicles (HGVs) will take this route northwards (please see EPX/21/5 ‘Existing HGV Route – Option 1’).

Seaham Road then connects to the A690 north bound slip road via the roundabout junction of the B1404/ A690/ A182. Southbound HGVs must use the above roundabout to connect to the roundabout of the A1052/ A182/ A690.

It has been suggested by residents that HGVs should turn right onto the B1404 and join the A19 at Seaton. This route is currently not possible due to a weight restriction on Seaton Lane, therefore, this is not an option. The Transportation Section at Sunderland City Council considers that the existing route for the Section 73 Application is appropriate. A further noise assessment was also carried out to assess the impact of vehicle noise along Seaham Road. The assessment concluded that the noise produced by HGV traffic along Seaham Road does not exceed the permitted noise level of 55db (A) Leq measured 3.5 metres from any noise sensitive dwelling.

Blasting

Concerns have been raised by residents and Local Councillors relating to blasting that currently takes place on site. It has been requested that further testing is carried out to assess the possibility of vibrations travelling along faults in the rock and underground workings. There are concerns that structural damage is occurring to properties nearest to the quarry.

The vibration assessment carried out by the Applicant and submitted as accompanying information to the application recorded all vibration at surrounding properties including surface waves and those travelling along faults and underground workings. The report concludes that there are no negative impacts associated with the blasting occurring on site as the vibrations are below the recommended limits.

The assessment also concludes that old mine workings in the area do not increase the transmission of vibration waves in the surrounding area.

Eppleton Quarry Products have stated (letter dated 28 May 2008) that they will undertake a sample structural survey of one property on either Eppleton Terrace West or Eppleton Terrace East to be agreed with local residents and SCC. The structural survey has been offered in order to allay any resident's fears which may remain regarding structural damage to properties.

Contamination from Colliery Spoil

The Environment Agency were consulted on the proposed development, and consider that the proposals to use colliery spoil as backfill will not cause contamination to ground water as set out below. At present colliery spoil sits on a layer of glacial till (over-consolidated clay with interbedded deposits of silt, sand and gravel). Excavations in the quarry have revealed thick deposits of glacial till between the colliery spoil and basal permian sand but in the majority of the area to the east of the site, colliery spoil sits on a thin cover of glacial drift onto the underlying limestone.

The current proposals to place processed colliery spoil on a 1.5 metre layer of compacted clay will reduce the pathway for any contaminants to enter the aquifer, which is an improvement when compared with the situation prior to reclamation works taking place.

Need for the Development

The existing site has planning permission. As previously stated the purpose of the Section 73 Application is to fully reclaim the derelict site at Eppleton Quarry. The scheme is, therefore, primarily a reclamation scheme but sand and limestone were extracted as part of this so as not to sterilise the minerals through the development of the site as a country park. Therefore, if the application is permitted the reclamation of the site will be continued in order to achieve an improvement to the derelict site which was present prior to the currently approved development.

Basal permian sand is the primary mineral for extraction, however, this mineral lies underneath magnesian limestone, therefore, it is necessary to remove limestone to facilitate the extraction of sand as set out on Drawing Number EPX/5/1 (displayed in the committee room). The demand for overlying limestone dictates the rate of production of sand.

NERAWP states that although it cannot comment on the need for permian sand as it is a specialist type of material, in more general terms, if the proposals at Eppleton are not approved, there will only be two quarries in Tyne and Wear producing sand and gravel.

In addition, crushed rock is only produced at Eppleton and Marsden within Tyne and Wear. NERAWP have concerns that if Eppleton ceases to produce limestone, Marsden will not be able to produce enough to meet the Tyne and Wear crushed rock apportionment figures.

In terms of basal permian sand (yellow sand) the Applicant provided a letter on the 10 March 2010 which sets out the market for yellow sand in the north east. Under normal trading conditions Eppleton Quarry produces 250,000 tonnes per annum which accounts for 60% of the market in the north east. Aside from Eppleton four other quarries in the north east produce the remaining 40% of yellow sand which are Witch Hill, Quarrington, Raisby and Thrislington. The Applicant has highlighted concern over the continuity of production of

yellow sand to meet the 'established need' in the north east should the Application be refused.

Following a drilling programme in 2007 it has been estimated that sand and limestone reserves are more extensive than was previously thought. It is estimated that 1.5 million tonnes of recoverable materials remained to be worked at April 2008. If the extension of time is not granted permission 1.5 million tonnes of materials may be sterilised, and this would be contrary to Policy M3 Safeguarding Minerals against Unnecessary Sterilisation by Development. However, as previously stated, all of the limestone has already been extracted and some of the sand throughout the determination of this application, therefore, the figure which may be sterilised will be lower.

Although SCC's Core Strategy has not yet been adopted, the policies outlined within it are material considerations in the determination of the planning application. Policy CS18 outlines a Mineral Safeguarding Area around mineral deposits that are considered to be of current or future economic importance in the broad locations of Eppleton and Great Eppleton to safeguard the deposits against unnecessary sterilisation. This policy states that these areas have been designated in order that proven resources are not needlessly sterilised by non-mineral development; although there are no presumptions that resources identified will be worked.

The Proposed Time Period

To determine the proposed extension of timescales the Applicant has stated that as of April 2008 1.5 million tonnes of recoverable materials (1.3 million tonnes of sand and 0.2 million tonnes of limestone) remain within the Quarry.

Average production rates have been calculated by the Council from analysis of the 6 month progress report for Eppleton Quarry dated November 2007. A number of other progress reports have been received by the Council, the most recent being May 2009. The most recent reports have shown a decrease in production due to the economic downturn.

This figure was then used to calculate the timescales for remaining mineral extraction on site, working on the assumption that there is 0.2 million tonnes of limestone at April 2008. It is considered it will take approximately 2 years to remove limestone on site, from April 2008. The limestone reserves within the Section 73 Application area have now been extracted; however, the need to maintain limestone to established markets has resulted in the Applicant's working regime being amended on site and resources being worked from the eastern face.

Working on the assumption that there is 1.3 million tonnes of sand remaining and using the production rates provided in the planning application (250,000 tonnes per annum) it is considered it will take approximately 5.25 years to remove sand on site, from April 2008.

Therefore, the proposed extension of extraction until July 2013 and reclamation to overburden level by December 2013 is considered a sufficient time period to undertake the proposed development. As previously stated this has been revised from the Description of Development shown on the application forms and the amendment was confirmed in writing by the Applicant on 07 July 2008.

Restoration and Maintenance

At present the development at Eppleton Quarry has approval for extraction which should have ceased in April 2008 and restoration to overburden level by September 2008 under

Planning Permission Reference: 99/791/FUL. Restoration completed as part of this permission will include woodland, grassland, amenity open space and a small pond/ wetland area as shown on Drawing Number Epp6/1, the existing restoration plan.

However, an additional restoration scheme was submitted with this application as shown on Drawing Number EPP/6/1/A (displayed in the committee room). Should this Section 73 Application be granted permission, it is considered an improved restoration scheme will be delivered with increased woodland and improved features as amended through discussions between the Applicant and the Council. The site will be restored as an extension to Hetton Lyons Country Park.

The development is also in accordance with UDP Policy B1 where visually prominent sites, especially next to areas of older housing with poor quality surroundings, should be given priority in securing improvements.

In the longer term, once site operations have ceased, the affects of the development are considered to be beneficial and will accord with Policy CN15 which states that development which assists in creating the Great North Forest should be permitted if in accordance with other policies. Further to this, the majority of trees proposed are in the western area of the site, as mineral extraction has ceased in this area the benefits will be apparent in the shorter term.

The Great North Forest is a major objective in the long term restructuring of the countryside of South Tyne and Wear and North East Durham towards a robust and attractive well-wooded landscape, providing opportunities for recreation, education, nature conservation and farming. The development is in accordance with the long term objectives of the 'Forest Plan' which is a 40 to 50 year initiative.

The Applicant is under no obligation to provide maintenance costs for the site under the current planning permission and none are proposed under this Section 73 Application. The Applicant has costed the maintenance of the site at £11,597.41 per annum. Following 5 years from the completion of the restoration scheme, the statutory aftercare period, in accordance with the Section 106 Agreement, the site should be transferred back to the Council in order for them to maintain it in the future. However, the Section 106 Agreement states that 'unless and until' this time the site shall be maintained beyond the aftercare period to the satisfaction of the Council by the owners of the land or the Applicant. The securing of maintenance beyond the 5 year aftercare period is, therefore, in place through the Section 106 Agreement, by either the Applicant or the Council.

Should the restoration and long term maintenance of the site be secured this will be in accordance with Policy L3 of the UDP which seeks to encourage recreational developments of a regional nature where there is adequate access. The UDP states that an attractive countryside and urban environment, well provided for in recreational facilities, not only improves quality of life of residents, but also helps to promote the area to potential investors, tourists and visitors.

Policy L4 of the UDP involves increasing long term standards for access to outdoor sport and recreation and this proposal will increase standards in the area. Should this application be granted, opportunities for recreation will be increased through the provision of the restoration scheme described above.

The HDAAP has not yet been adopted as it is "on hold" at present pending the resolution of issues associated with the Council's school place planning programme. The HDAAP must still be considered when assessing this application as it sets out the Council's plans for

future development in the area.

The proposals accord with Policies HD18 and HD21 of the HDAAP which support and promote the development of appropriate leisure and recreational facilities on the extension of the Hetton Lyons Country Park. The document also encourages a programme of intensive planting of tree belts and woodland using native species in Hetton Lyons Country Park extensions through the Great North Forest objective.

However, the HDAAP was based on the assumption that quarrying activities would cease by 2009. The extension, therefore, may have an adverse effect on the delivery of the HDAAP, within these timescales.

Eppleton Quarry is considered to be a weakness by the HDAAP. The document states that the quarry has a '*highly visible and negative effect on town fringe with additional quarrying taking place*'.

CONCLUSION

The site currently has planning permission, granted in February 2006, for the reclamation of the disused quarry and colliery by the extraction and processing of minerals; coal washing; construction of a new access road; importation of inert construction waste and soil; restoration to a country park and 5 year aftercare. Mineral extraction is permitted to April 2008 and the period for restoration to overburden level is permitted to September 2008.

Following a drilling programme on site, sand and limestone reserves were assessed and found to be more extensive than was previously thought. A Section 73 Application was then submitted to extend the period for mineral extraction to April 2011 and to extend the period for restoration to September 2011. Following an assessment of rates of extraction by the Council, this Section 73 Application was amended to allow mineral extraction to July 2013 and restoration to overburden level by December 2013.

The original intention by the Council was that the Applicant would take on a derelict site and reclaim it at no cost to the Council, whilst extracting all minerals so as not to unnecessarily sterilise reserves on site.

The permitted scheme has an approved restoration scheme and the Applicant has begun restoring the site. However, the Applicant submitted an alternative restoration scheme with the application. This scheme through discussion with the Applicant has been further amended and is considered by the Council to be an improvement on the agreed scheme.

It is, therefore, considered by the Officers that this will be an improvement on the previous scheme which was the basic reclamation of a derelict quarry site. The continuation of mineral extraction will also avoid sterilisation of minerals unnecessarily through the reclamation of the site as a country park. The consequences are that the intended 4 year reclamation scheme from the original year of commencement in 2001 is now a 12 year scheme in total if this Section 73 Application is approved.

The Section 106 Agreement previously referred to which was entered into as part of the original planning permission Reference: 99/00791/FUL will remain in place, under which it is intended that the site will be maintained for 5 years by the Applicant and then transferred to the Council along with the maintenance obligations. However, 'unless and until' this time the site shall be maintained beyond the aftercare period to the satisfaction of the Council. Either way the site will be maintained as a country park beyond the aftercare period either by the

Council or the Applicant.

All relevant policies have been assessed with regard to the development and the development has been recommended for approval as it is in accordance National Planning Policies (PPS1, 7, 9 & 23 and PPG 13) and Mineral Planning Policies (MPS 1, 2, & 7). The development is also in accordance with UDP Policies B1, CN15, CN23, EN15, L3, L4, L5, M8, M9, M12 and M13 as well as Core Strategy (Preferred Options) Policy CS18. The development is also in accordance with the principles of Policies HD18 and HD21 included in the Hetton Downs Area Action Plan (Preferred Options), however, this development will delay the use of the site for recreation purposes by 2009 which is against the timescales set out within the policies. The HDAAP is on hold at present, therefore, this is not considered to be of significant concern until the document is formally adopted.

All statutory consultees that responded have no objections to the development.

All material considerations regarding the development have been assessed and the key issues for consideration highlighted within the report. The development is again considered acceptable as there is a proven need for the development, to reclaim the site from its original derelict state and in order to help meet the region's need for sand and gravel and apportionment for hard rock.

Objections from local residents have also been considered. Appropriate mitigation measures put in place through planning conditions would allow the development to accord with appropriate legislation and guidance in terms of issues such as blasting and highways. Members are, therefore, recommended to approve the application subject to the following conditions.

Reason for Approval

All relevant policies have been assessed with regard to the development and the Application has been recommended for approval as it is in accordance National Planning Policies (PPS1, 7, 9 & 23 and PPG 13) and Mineral Planning Policies (MPS 1, 2, & 7). The development is also in accordance with UDP Policies B1, CN15, CN23, EN15, L3, L4, L5, M8, M9, M12 and M13 as well as Core Strategy (Preferred Options) Policy CS18. The development accords with the above policies as the Application will see an improvement on the previous restoration scheme bringing greater community benefits to the area. The continuation of mineral extraction will also avoid sterilisation of minerals unnecessarily through the reclamation of the site as a country park. The development is again considered acceptable as there is a proven need for the development, to reclaim the site from its original derelict state and in order to help meet the region's need for sand and gravel and apportionment for hard rock.

Appropriate mitigation measures put in place through planning conditions would allow the development to accord with appropriate legislation and guidance in terms of issues such as blasting and highways. Members are, therefore, recommended to approve the application subject to the following conditions.

RECOMMENDATION: APPROVE SUBJECT TO CONDITIONS

CONDITIONS

GENERAL

1. The development to which this permission relates shall be carried out in complete accordance with the approved plans and specifications of Planning Application 99/00791/FUL, 05/00384/LEG and 02/01686/VAR. (1)
2. From the commencement of the development to its completion, a copy of this permission including all documents hereby approved and any other documents subsequently approved in accordance with this permission, shall always be available on the site for inspection during normal working hours. (2)
3. Every 6 months from the date of this permission until the completion of the restoration a written report setting out the progress on both the minerals extraction and the restoration, to overburden level shall be submitted to and agreed in writing by the Local Planning Authority, in order that the Local Planning Authority may retain control of the development.

MATTERS REQUIRING SUBSEQUENT APPROVAL

4. *The development hereby approved shall only be carried out in accordance with a scheme or schemes to be agreed with the Mineral Planning Authority which shall, include provision for:*
 - a) *Details of siting, design, external appearance and materials of all buildings in excess of 50m² associated with the development shall be submitted to and approved by the Mineral Planning Authority before the scheme commences; (6)*
 - b) *Details of the proposed surface water drainage to be provided including:*
 - i) *The siting of the lagoon/ soakaway with the dimensions, and specifications of connecting pipes and cut-off ditches around the perimeter of the site and operating areas;*
 - ii) *Specifications of temporary sump structures or holding ponds for the treatment of surface water entering excavations;*
 - iii) *The plant and machinery associated with the coalwashing and the discharge of water; (8 & 23)*
 - c) *Details of wheel cleaning equipment and its location within the site; (9)*
 - d) *Details for the type and height of fencing and other means of enclosure to be provided for:*
 - i) *The perimeter of the site;*
 - ii) *Security fencing around lagoons; (6 & 19)*
 - e) *Details of the new haul road from the site to the B1404 to the north include:*

- i) Fencing and drainage details;*
- ii) Location and design of entrance gates, boundary treatment;*
- iii) A visibility splay of 4.5m x 215m at the junction with the B1404 wherein there is no obstruction in excess of 1 metre;*
- iv) Metalling of the road with a minimum width of 7.3m and gradient not in excess of 4% for the first 50m from the B1404; a minimum width of 4m for the rest of the road and an appropriate number of passing places;*
- v) Details of the engineering construction for crossing Rough Dene Burn;*
- vi) Longitudinal and cross sections;*
- vii) Details of the after use and downgrading of the haul road when the importation and exportation of materials from the site has ceased;*

Shall be submitted for the consideration of the Mineral Planning Authority and the approved details so implemented. (2,6 & 7)

f) Details of the planting specifications including the woodland/ hedgerow planting to be carried out in accordance with the Restoration Scheme on Drawing Number (EPP/6/1/A) shall include:

- i) The species to be planted and the percentage of the total to be accounted for by each species; (3, 6)
- ii) The size of each plant and the spacing between them; (3)
- iii) The preparations to be made to the ground before planting; (3)
- iv) The fencing off of planted areas by stockproof/ rabbit proof fencing; (3)
- v) Subsequent maintenance arrangements for five years after the planting has been carried out which shall include the weeding of the planted area, repairing any damaged fencing and the replacement of any plants which die; (3)
- vi) Details of the planting specification outside of the planning application boundary to the west of the site as shown on Drawing Number EPP/6/1/A shall include details relative to Condition 4 f i) to v). (3)

g) The restoration of the site, which shall include:

- i) The final contours for the site (at 2 metre intervals), indicating how such contours tie in with the existing contours on adjacent land, but more detailed contours (at 1 metre intervals) near sensitive development adjacent to property and wetland features to be shown on a plan; (3)
- ii) The drainage details of the restored site; (3, 7, 8)
- iii) The erection of fences; (3)
- iv) The planting of trees shrubs and hedges and their subsequent maintenance for

five years; (3, 6)

v) The formation of wetland areas/ ponds including details of the design and depths of all ponds including the required liner and associated aquatic plants and the subsequent formation; (3, 6)

vi) Specification of width and construction and surface treatment of main and secondary footpaths, bridleways and cycle routes. (11)

h) The aftercare of the restored land after the replacement of topsoil in accordance with Condition 68, to bring the land to a condition where it is fit for the specified uses (amenity, forestry, agriculture), such after care to include:

i) Preparing the land for cultivation, which shall include sub-soiling, preparation of seed beds and application of fertilisers; (20)

ii) Grass seeding of the site and the establishment and maintenance of satisfactory sward; (20)

iii) The provision of a field water supply other than the woodland areas; (20)

iv) The provision of an under drainage system, other than the woodland areas; (20)

v) Where necessary the inoculation of soils with earthworms; (20)

vi) Arrangements for reviewing the progress of after-care treatment with the Mineral Planning Authority and the Department for Environment, Food and Rural Affairs; (20)

i) Details of all methods to be used to suppress dust emissions from the site in accordance with the requirements of Condition 41 and The City Health and Housing Services, Pollution Control Section including an action plan specifying all activities to be undertaken to suppress dust emissions;

Such a scheme shall include where necessary details of:

- Site layout;
- Soil handling and storage;
- Overburden handling and storage;
- Loading/ unloading activities;
- Materials storage;
- Transport by vehicles within and off the site;
- Water supply arrangements;
- The provisions of mobile bowsters, vapour mats and wheel washers; and
- Mechanical road sweeping equipment for land surface areas/ roads.

j) Notwithstanding details already submitted, a detailed scheme for the design, construction, conversion and equipping of the proposed site support area to include its location, appearance, materials and internal layout, shall be agreed with the Mineral Planning Authority;

k) A scheme for the treatment of contaminated land within the site, including a contingency plan should any areas of contamination be discovered; (8, 19 & 23)

l) A noise monitoring scheme in accordance with the requirements of the City of

Sunderland Health and Housing Services, Pollution Control Section. (5)

5. A scheme or schemes required by condition 4 a,b,c,d,e,l,j,k and l shall be submitted to the Mineral Planning Authority before works commence. In the area within the 1st phase a scheme required by conditions 4 f, g(i), g(ii), h shall be submitted to the Mineral Planning Authority within 6 months of the date of commencement. For the remaining area of the site schemes under condition 4 f, g(i), g(ii), h shall be submitted within 12 months of commencement. Schemes required for 4 b(iii), shall be submitted to the Mineral Planning Authority if applicable at least 28 days prior to the date of commencement. (1)

COMMENCEMENT

6. The development hereby approved must commence not later than 12 months from the date of this decision. (21)

COMPLETION

7. All mineral extraction shall cease no later than 31st July 2013 unless otherwise agreed in writing by the Mineral Planning Authority. (1 & 4)
8. The site shall be restored to overburden level as far as required by the Mineral Planning Authority by December 2013, unless as otherwise agreed in writing by the Mineral Planning Authority. (4)

WORK REQUIRED BEFORE SOIL STRIPPING OPERATIONS COMMENCE

9. *Before substantive soil stripping (other than for preliminary works themselves) begins, the following measures shall be carried out:*

a) Perimeter stockproof/ security fencing as required, in accordance with details required by condition 4 (d); (2)

b) A temporary fence shall be erected at a distance of not less than 5 metres from the base of any tree or at the outside edge of the tree canopy, whichever is greater, of any tree on or adjacent to the site, or adjacent to any hedgerow on or adjacent to the site which is to be retained during the development, in order to protect them from damage during the development; except where hedgerows are protected by site boundary fencing to be erected inside the hedgeline. No site operations shall take place within 6 metres of the site boundary except for the construction, maintenance and restoration of the drainage ditches and access to the baffle mounds for maintenance; (6 & 16)

c) The provision within the site of a sufficient number of water bowsers and/ or dust suppression equipment in accordance with the agreed dust suppression scheme required by Condition 4 (i); and (8 & 23)

d) Adequate settlement lagoons in accordance with Condition 4 b(i) shall be agreed in writing with the Mineral Planning Authority. (8 & 23)

HEDGEROWS

10. *The 'gapping up' of hedgerows around the site boundary in the first appropriate season shall be carried out in accordance with a specification to be agreed in*

advance with the Mineral Planning Authority. (6)

WORKS REQUIRED BEFORE EXTRACTION COMMENCES

11. Before any mineral extraction begins, the following works shall be carried out:

a) The erection of appropriate warning signs to both pedestrians and drivers at the point where diverted public right of way crosses the site access as detailed in paragraph 18.2.2 of the Environmental Statement; (9)

b) The formation of the site compound on a drawing to be submitted with a surface formed of tarmacadam, concrete or consolidated clean stone laid to a fall to prevent the ponding of water; (8 & 23)

c) The formation of the site access in full accordance with the agreed details required by Condition 4e; (2, 6, 7 & 9)

d) The provision of a notice board at the site access to be clearly visible to all drivers of mineral haulage vehicles leaving the site, instructing them to turn left upon leaving the site and inform them of there designated haulage route for all mineral haulage vehicles; (9)

e) The installation of the wheel cleaning equipment in accordance with the specification agreed with the Mineral Planning Authority and required by Condition 4 c to prevent the transfer of mud onto the public highway; (9)

f) The provision of a notice board of durable material and finish at the entrance to the site indicating the name of the site and the name and address and telephone number of the company or person responsible for the operation of the site together with the City of Sunderland indicating that there is a joint land reclamation and mineral recovery scheme; (2)

g) Details of mobile coal washery and means of water disposal in accordance with Condition 4 b (iii); (8 & 23)

h) Formation of top soil and sub soil mounds; and (22)

i) During the soil stripping operations the provision of the drainage works described in paragraphs 14.14.1.1 to 14.14.1.6 of the Environmental Statement and in accordance with the details agreed in writing with the Mineral Planning Authority in accordance with condition 3 b. (8 & 23)

HOURS OF WORKING

12. Mineral extraction operations authorised by this consent, shall be restricted to the period 0700 hours to 1900 hours Monday to Friday and 0700 hours to 1300 hours on Saturdays. All mineral laden vehicles entering and leaving the site shall be restricted to the period 0700 hours to 1730 hours Monday to Thursday, 0700 hours to 1700 hours on Fridays and 0700 hours to 1200 hours on Saturdays. (5)

13. No site operations other than necessary pumping or emergency work shall be undertaken on Sundays, Public or Bank Holidays.

a) No coal other than working stocks shall be kept on site unless otherwise

agreed with the Mineral Planning Authority.

- b) All overburden excavation by means of shovel and dump-truck shall only take place between 0700 hours and 1900 hours Monday to Friday and between 0700 hours and 1300 hours on Saturday.
 - c) The operation of the barrel washery and all associated activities shall be restricted to 0700 hours and 2300 hours Monday to Friday and 0700 hours to 1300 hours on Saturday. (2,5 & 6)
14. Except for routine maintenance on the washery or any equipment or pumping, there shall be no working of reserves or stockpiles or any outdoor on site activity outside the hours described in Conditions 12 and 13. (5)

VEHICLE ENTERING AND LEAVING THE SITE

15. Vehicular access to and from the site shall only be via the approved site access to the B1404 and lorry route shown on submitted Drawing No. Epp/2/3b (Amendment A).
16. All mineral laden vehicles leaving the site will exit at the junction with the B1404 turning left onto Gillas Lane and adjacent the residential area of Houghton le Spring on Seaham Road, turning left to join the A690.
17. Return traffic will follow the same route. HGVs are not permitted to use any other route to and from the site. (5 & 9)
18. All mineral laden vehicles leaving the site must be sheeted. (5)
19. Not more than 10 HGVs per hour shall enter or leave the site on any working day (as specified in Condition 12), unless otherwise agreed in writing with the Local Planning Authority. A record of the number of lorry loads leaving the site shall be maintained on site and made available for inspection by the Minerals Planning Authority during normal working hours of the site. (5)
20. A scheme for protecting the drivers of vehicles from stray golf balls where the private haul route runs alongside Houghton Golf Course shall be submitted for the consideration of the Mineral Planning Authority and the agreed shall be so implemented. (19)
21. Wheel cleaning equipment installed in accordance with Condition 11 e shall be used when required to ensure all vehicles leaving the site are thoroughly cleaned before entering the public highway. The surface of the site road between the wheel washing facilities and the public highway shall be kept clear of mud, dust or debris at all times. (5)

BLASTING

22. Blasting shall not take place more than twice in any four-week period unless otherwise agreed in writing by the Mineral Planning Authority. (5)
23. Blasting should only be conducted between 10.00 and 15.00 hours Monday to Friday. No blasting shall take place on Saturdays, Sundays or public holidays. (5)
24. Details of the means of visible and audible warnings which shall be made before any blast takes place shall be submitted to the Minerals Planning Authority for

consideration and the agreed measures shall be so implemented. (5)

25. No component of the peak particle velocity attributable to any blast shall exceed a peak particle velocity of 6mm-1 for 95% of blasts when measured at any sensitive receptor location. (5)
26. The programme of blast monitoring undertaken and set out in Planning Application 07/05523/FUL should be continued. The results of which will indicate whether or not there is a compliance with approved vibration criteria. (5)

SOIL STRIPPING

27. No soil stripping shall take place before the provision of adequate settling ponds, which shall be created during the soils stripping phase of the operation, the details of which shall be agreed with the Mineral Planning Authority. (22)
28. The Mineral Planning Authority shall be given at least 48 hours notice (excluding Sundays), of any intended phase of topsoil or subsoil stripping; such works to proceed only subject to their approval. (22)
29. All topsoil shall be stripped from any areas to be excavated, or used for the stationing of plant and buildings, or the storage of subsoil and overburden or haul roads or other areas to be traversed by heavy machinery, and stored until required for restoration. (22)
30. No plant or vehicles shall cross any areas of unstripped topsoil except for the purpose of stripping operations. (22)
31. Sufficient subsoil or similar material agreed to by the Mineral Planning Authority shall be stripped from any areas to be excavated or used for the stationing of plant and buildings, the storage of overburden or haul roads or other areas to be traversed by heavy machinery. This is to ensure that a minimum of 1 metre depth of material is available for replacement uniformly over all stripped areas, and stored until required for restoration. (22)
32. The stripping and movement of topsoil and subsoil shall only be carried out under sufficiently dry conditions when topsoil is in a friable state (soil dryer than its lower plastic limit). Appropriate methods of soil tripping should be separately agreed with the Mineral Planning Authority, specifically for any permanently wet or waterlogged areas of the site. (22)
33. Topsoils, subsoils and other soil making materials shall be stored according to their quality or any approved soils stripping plan, on separate heaps which do not overlap. The maximum size of individual tops soil/ soil heaps shall not exceed 5 metres in height to be illustrated on a plan to be submitted for the consideration of the Mineral Planning Authority, in accordance with Condition 35 following. (22)
34. The outer slopes of the overburden mound shall be created and hydroseeded as soon as practicable in accordance with the scheme to be agreed beforehand with the Mineral Planning Authority and shall be subsequently be kept in a tidy conditions free from litter and weeds. (6)
35. No topsoil or subsoil shall be removed from the site unless otherwise agreed in

writing with the Mineral Planning Authority.

36. Within three months of the formation of topsoil and subsoil heaps the Mineral Planning Authority shall be supplied with a plan indicating the area stripped of topsoil and subsoil, the location of each heap and the quantity of material in it. (2 & 3)

METHOD OF WORKING

37. Extraction shall be carried out in stages as shown on plans Epp/5/5 to Epp/5/11 and as described in Section 5 of the Environmental Statement submitted with Planning Application 99/00791/FUL. (4,5,6 & 18)
38. The Mineral Planning Authority shall be given at least 48 hours notice (excluding Sundays) of the commencement of extractive operations. (2)
39. A strip of land at least 12 metres wide shall be maintained at existing ground levels (except for any topsoil and subsoil stripped from the surface) adjacent to any highway. (9)
40. Overburden shall only be stockpiled in the areas shown on plans submitted to a height not exceeding 20 metres. (6)
41. In each phase the final layer of overburden backfilled into voids of completed workings shall be graded and back-bladed to prevent the material becoming saturated and waterlogged. (3)

PLANT MACHINERY AND BUILDINGS

42. Any buildings, fixed plant, structures and fixed machinery erected in accordance with Part 19(a) of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 shall be located on site within the site compound area or such area to be agreed in writing by the Mineral Planning Authority. (5 & 6)
43. Plant and machinery on the site shall not be used to process, treat or otherwise refine materials other than those extracted from the site unless as otherwise agreed in writing by the Mineral Planning Authority. (5)

ENVIRONMENTAL PROTECTION

44. Noise emitted from the site shall not exceed the following levels:
- a) 55db (A) Leq 1hour (free field) between the hours of 07.00hrs and 19.00hrs (23.00 hrs for the barrel washer) Monday to Friday and Saturday 07.00hrs – 13.00hrs, measured 3.5 metres from the façade of any noise sensitive property or dwelling adjacent to the site.
45. Monitoring of noise in accordance with condition 4 (1) shall be carried out by the operator on a monthly basis and within 48 hours of any written request. (5)
46. The results of all monitoring shall be provided to City Health and Housing Services, Pollution Control Section on a monthly basis and within 48 hours of any written request. (5)
47. At all times during mineral extraction measures shall be taken to minimise site noise

as listed in paragraph 13.10 of the Environmental Statement of Planning Permission
Reference: 99/791/FUL. (5)

48. Advance notifications of changes in the agreed working programme shall be given to the Mineral Planning Authority. (2 & 5)

DUST

49. The dust control equipment installed in accordance with Condition 49 shall be used at all times to suppress dust on site arising from all operations including vehicular movement and excavation operations and mineral and overburden stockpiling arrangements. At such times when the equipment provided is not sufficient to suppress dust arisings from the site, operations shall cease until additional equipment is provided and found to be adequate. (5 & 10)
50. Before any mineral extraction commences it will be necessary to provide water supply and dust suppression equipment, in accordance with the agreed scheme under Condition 4 (i).

Dust suppression measures employed will include, where necessary:

- a) The provision of mobile water bowzers and vapour mats;
 - b) The use of dust filters on all fixed plant and machinery;
 - c) All haul roads and areas used for the storage of soils and overburden, and excavation areas shall be watered during dry and windy weather conditions as required by the Action Programme;
 - d) The hydroseeding of the overburden mound. (5, 7 & 19)
51. Continuous monitoring of dust levels will be carried out by the operator at 4 locations agreed by the Mineral Planning Authority.
- a) Maudlin Street
 - b) Blossom Street
 - c) Eppleton Terrace
 - d) Great Eppleton Farm (5,7 & 19)
52. Monitoring shall be carried out at the locations listed in Condition 50 three times per week. On request, the operator shall supply the Mineral Planning Authority with the particulars of the measurements recorded by the equipment. (5, 7 & 19)

GROUND WATER AND SURFACE WATER PROTECTION

53. All water from the site shall be discharged into the approved water treatment areas / settlement ponds prior to discharge into any ditch, stream, water course, culvert or pipe outside the development site. (8 & 23)
54. All measures as may be determined by the Mineral Planning Authority shall be taken to ensure that no flooding and no silting, pollution or erosion of any watercourse or adjoining land is caused by any operations on the site. (8 & 23)
55. Oil, petrol, diesel oil, lubricant, paint or solvent shall only be stored within the site within an impervious bund or enclosure, the volume of which shall be at least 110% of the capacity of the largest storage tank. Bund walls and floors should be impermeable to water and oil and there should be no drain for the removal of

contained liquids. The discharge of such material to any settlement pond, ditch, stream, watercourse or other culvert shall not be permitted. Any bund contents shall be boiled or pumped out under manual control and disposed of safely. All filling and distribution valves, vents and site glasses associated with the storage tanks shall be located within the bunded area. (8 & 23)

56. There must be no connection from the soakaway with any watercourse or land drainage system. (8 & 23)
57. Facilities shall be made available in order to provide extra treatment where necessary (e.g. addition of coagulant) and shall be used so that any discolouring effect of the discharge is controlled to a level acceptable to the Mineral Planning Authority. (8)
58. Upon cessation of mineral extraction, all settlement ponds shall (unless to be retained in accordance with the approved restoration plans) be emptied and filled with suitable dry inert material. (8 & 23)
59. During the aftercare period, temporary drainage works (e.g. ditches, watercourses, settling lagoons) shall be provided as necessary to prevent flooding of land within or outside the development site or the erosion or silting up of existing channels within or outside the site. (8 & 23)

SITE MAINTENANCE

60. From the commencement of development until restoration of the site, the following shall be carried out:
- a) The maintenance of fences in a stockproof condition between any areas used for development authorised by this planning permission and any adjoining agricultural / housing land (18);
 - b) The retention of fencing around trees and hedgerows provided in accordance with Condition 9 of Planning Permission 99/791/FUL (6);
 - c) The maintenance of all hardstanding areas and surfaced roads over which licensed road vehicles operate clean from mud (2);
 - d) The clearance of mud and silt from settlement ponds to avoid reducing their capacity for retaining water (7 & 8);
 - e) The treatment of trees affected by disease (6).

ITEMS OF ARCHAEOLOGICAL OR SCIENTIFIC INTEREST

61. Any item of archaeological or scientific interest discovered during the course of excavations shall be reported to the Mineral Planning Authority and a reasonable opportunity shall be afforded for them to respond if notified. (15)

COLLIERY SPOIL

62. Should planning permission be granted for the extension of Eppleton Quarry Planning Permission 07/05523/FUL, backfilling using Colliery Spoil under this application will cease before commencement of the extension application. (10 & 23)

LAND FILL

63. Unless otherwise agreed in writing by the Mineral Planning Authority, waste materials

imported onto the site for landfill purposes shall not be worked, blended or recovered for export from the site. Landfill materials shall be restricted to on-site colliery spoil and inert construction waste only. (4 & 23)

RESTORATION

Removal of Plant, Machinery and Buildings

64. All plant, machinery and buildings erected in accordance with this permission or in accordance with the Town and Country Planning (General Permitted Development) Order 1995 and not required for the aftercare scheme, shall be removed from the site by the end of the restoration completion period in Condition 8. (4)

Removal of site compound and access and haul roads

65. Upon cessation of mineral extraction, all areas of hardstanding, including site compounds, access road excluding the length of road to be from the B1404 to be retained as an agricultural access road.

Removal of settlement ponds

66. Upon cessation of mineral extraction, all settlement ponds shall, unless to be retained in accordance with the approved restoration plans, be emptied of slurry, filled with dry inert material and restored to the satisfaction of the Minerals Planning Authority. (3)

Replacement of overburden

67. The final layer of overburden backfilled and the resultant landforms should be consistent with the Restoration Plan EPP6/1/A. (3)
68. After cessation of mineral extraction, overburden and imported waste materials shall be replaced to such levels to afford a 1 metre cover and in such a way so that, after the replacement of subsoil and topsoil the contours of the restored land conforms with restoration contours in accordance to Drawing Number EPP/6/1/A or as otherwise agreed with the Minerals Planning Authority.
69. The Minerals Planning Authority shall be notified when Condition 66 has been complied with and shall be given an opportunity to inspect the surface before further restoration work is carried out. (3)

Replacement of Subsoil

70. The topsoil and subsoil stripped and stored shall only be respread when it (and the ground onto which it is to be placed) are in a sufficiently dry condition. (3)
71. After Condition 68 has been complied with, the material stripped and stored in accordance with Condition 30, shall be respread in two layers of equal thickness, each layer to be agreed beforehand with the Minerals Planning Authority. (3)
72. Each layer formed in accordance with Condition 70 shall be cross-rooted to its full depth and into the underlying layer by a heavy duty subsoiling implement with winged times set no less than 600mm apart and any non-subsoil type material or rock,

boulder or stone larger than would pass through a wire screen mesh with a spacing of 150mm shall be removed from the surface and not buried within the respread subsoil. (3)

73. All areas of exposed subsoil, not previously excavated, shall be rooted to 450mm depth at 600mm spacings, to relieve compacting surface picked to remove any obstructions to cultivation as defined by Condition 71. (3)
74. The Minerals Planning Authority shall be given the opportunity to inspect each stage of the work completed in accordance with Condition 70 and 71 prior to further restoration being carried out and should be kept informed as to the progress and stage of all works. (3)
75. Following compliance with Conditions 71 and 72 the surface shall be graded to ensure that, after replacement of topsoil in accordance with Condition 70, the contours of the landform conform with restoration contours shown on plan EPP6/1/A and in accordance with Condition 4 (g) or as otherwise agreed with the Minerals Planning Authority.

Replacement of Topsoil

76. The respreading of topsoil shall only be carried out when the material and the ground which it is to be placed are in a dry and friable condition (i.e. soil drier than its lower plastic limit).
77. After Condition 74 has been complied with, topsoil shall be respread to an average depth of 200mm over the whole area stripped in accordance with Condition 8 and be graded to the contours shown on the approved restoration plan. In the areas to be used for the Amenity and Agriculture a uniform depth of 300mm shall be provided or as otherwise agreed by the Mineral Planning Authority. (3)
78. The Minerals Planning Authority shall be given the opportunity to inspect the topsoil respread in accordance with Condition 76 prior to further cultivations being prescribed and carried out. (3)

V. AFTERCARE

Annual Review

79. Before 31 August of every year during the aftercare period, a report shall be submitted by the developer to the Minerals Planning Authority recording the operations carried out on the land during the previous 12 months and setting out the intended operations for the next 12 months. (20)
80. Every year during the aftercare period, the developer shall arrange a site meeting to be held before 31 November to discuss the report prepared in accordance with Condition 78 to which the following parties shall be invited:
- a) the Mineral Planning Authority;
 - b) the Department for Environment, Food and Rural Affairs;
 - c) all owners of land within the site;
 - d) all occupiers of land within the site. (3 & 20)

Cultivation after Replacement of Topsoil

81. As soon as the ground is sufficiently dry after compliance with Condition 76 the land shall be subsoiled, using an agricultural winged tined subsoiler, operating at a depth and time spacing agreed beforehand with the Minerals Planning Authority. (3)
82. Any stones lying on the surface after compliance with Condition 80 and which are larger than would pass a wire screen mesh with a spacing of 50mm together with any other objects likely to obstruct future cultivation, shall be removed from the site. (3)
83. Following compliance with Condition 81, the land shall be worked to prepare a seedbed suitable for the sowing of grass seeds. During the cultivation process any stones lying on the surface which are larger than would pass a wire screen mesh with a spacing of 50mm, together with any other objects likely to obstruct future cultivation, shall be removed from the site. (3)
84. By no later than the end of September following compliance with Condition 82, the land shall be sown on the following basis –
- i) Perennial grass and white clover on the land to be restored for agricultural;
 - ii) Hard wearing amenity grass mature on the land to be restored to amenity;
 - iii) Low maintenance type grass mixture on the land to be restore to woodland.

Details of the mixture including species and seed rate shall be agreed with the Minerals Planning Authority before sowing takes place. (3)

85. Where adverse weather conditions or other delays prevent compliance with Condition 83, alternative treatment of the restored soils shall be agreed with the Minerals Planning Authority, to stabilize these over the winter period. (4)

Drainage/Water Supply

86. During the aftercare period, temporary drainage works (e.g. ditches, watercourses, settling lagoons) shall be carried out as necessary to prevent soil erosion, flooding of land within or outside the site or the erosion or silting up of existing drainage channels within or outside the site. (2,8 & 23)
87. Within the first two years of the aftercare period, a field water supply system shall be installed to areas other than the woodland areas and amenity grassland area. (3)
88. A comprehensive field drainage system for the agricultural and amenity areas, conforming to the normal design criteria for restored land, and in accordance with a scheme to be approved beforehand by the Minerals Planning Authority, shall be installed at a time to be agreed no earlier than the first annual aftercare meeting, and no later than 4 years following compliance with Condition 66. (2)
89. At least 48 hours notice (excluding Sundays) of the intention to carry out approved under-drainage, works shall be given to the Minerals Planning Authority, such works to proceed only subject to their approval. (2)
90. Within 6 months following the installation of the approved under-drainage, two copies of the final drainage record plan shall be forwarded to the Minerals Planning Authority. One of which shall be passed to the Department for Environment, Food and Rural Affairs.

91. Any polluting leachate produced during or within 5 years after the life of the site shall be prevented from leaving the site, treated and disposed of to the satisfaction of the Minerals Planning Authority. (8&23)

Cultivation after installation of field drainage

92. As soon as the ground has dried sufficiently after compliance with Condition 68, the land shall be subsoiled, using an agricultural winged timed subsoiler operating at a depth and time spacing agreed beforehand with the Minerals Planning Authority. (3)
93. At least 48 Hours (excluding Sundays) notice of the intention to carry out the work required by Condition 91, shall be given to the Minerals Planning Authority, such works to proceed only subject to their approval. (2)
94. Any stones lying on the surface after compliance with Condition 91 and which any larger than would pass a wire screen mesh with a spacing of 50mm together with any other objects likely to obstruct future cultivation, shall be removed from the site. (3)
95. Following compliance with Condition 93 the land shall be worked to prepare a seedbed suitable for the sowing of grass seeds. During the cultivation process any stones lying on the surface which are larger than would pass a wire screen mesh with a spacing of 50mm, together with any other objects likely to obstruct future cultivation shall be removed from site. (3)
96. By no later than the end of August following compliance with Condition 94, the land shall be sown with a seeds mixture included in Condition 83, details of the mixture including species, and seed rate shall be agreed with the Minerals Planning Authority before sowing commences. (3)
97. Following compliance with Condition 95 areas agreed in advance with the Mineral Planning Authority shall be inoculated with earthworms where necessary in accordance with the aftercare scheme agreed in advance with Mineral Planning Authority. (20)

Establishment and maintenance of grass sward

98. During the aftercare period the following shall be carried out:-

- a) Other than in the woodland areas, soil shall be tested, fertilizers and lime shall be applied to the land at a rate targeted to achieve the following nutrient levels in accordance with the Index system described in Ministry of Agriculture, Fisheries and Food Leaflet 655.

Any nutrient deficiencies to be rectified with applications of fertilizers, the quantities of which shall be approved by the Minerals Planning Authority.

		<u>Agriculture</u>	<u>Amenity</u>
Potash	-	Index 2	Index 1
Phosphate	-	Index 2	Index 1

Soil testing and applications of lime and fertilizers shall be made at the time of reseeded in compliance with Condition 83 and subsequently at intervals not exceeding 12 months thereafter. (3)

- b) Reseeding any areas where a grass sward fails to become well established with the approval species mixture. (3)
- c) Application of weed control spraying as necessary to prevent the land becoming infested with weeds. (3)
- d) No vehicles, (with the exception of low ground pressure types required for agricultural work) machinery or livestock shall be kept or permitted on the land during the months of November, December, January, February and March, without the prior consent of the Minerals Planning Authority.

Maintenance of hedges and trees

99. Hedges and trees planted in accordance with Condition 4 f shall be maintained during the aftercare period in accordance with good woodland practice, such maintenance to include the following.

- a) Replacing all plants which die or are lost during the first year of maintenance and an overall 90% success rate at the end of the 5 year after care period. (3)
- b) Herbicide (500mm radius) early in each growing season, and as necessary thereafter to prevent the growth of the plants being retarded. The types and rate of herbicide and time of each application to be agreed by the Mineral Planning Authority in advance of work commencing. (3)
- c) Adequate measures to be taken to prevent inter rows becoming a fire hazard. (3)
- d) Maintaining any fences around planted areas in stockproof condition. (3)
- e) Appropriate measures to combat all other pests and/or diseases which significantly reduce the viability of the planting scheme. (3)

REASONS FOR CONDITIONS

- 1) To ensure the development is carried out in accordance with the approved document.
- 2) To ensure the development is carried out in an orderly manner
- 3) To ensure the site is satisfactorily restored
- 4) To avoid unnecessary delay in the restoration of the site
- 5) In the interests of residential amenity
- 6) In the interests of visual amenity
- 7) To protect land outside the site
- 8) To prevent adversely affecting watercourses passing through or outside the site
- 9) In the interests of highway safety
- 10) To avoid adversely affecting the surrounding environment
- 11) In the interests of visitors to the countryside
- 12) To ensure the stability of the land concerned
- 13) To avoid any adverse effect upon the installation of statutory undertakers
- 14) To avoid any adverse effect upon authorised mining operations in the vicinity
- 15) In the interests of archaeology
- 16) In the interests of nature conservation
- 17) To enable the mineral planning authority to consider the implications of any proposal to expand the activities which take place within the site

- 18) In the interests of agriculture
- 19) In the interests of public safety
- 20) 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 the Town and Country Planning (Minerals) Regulations 1995.
- 21) To ensure that the development is commenced within a reasonable period of time given the current state of the site.
- 22) In order to avoid soil smearing and compacting and to ensure that all available soil resources are recovered without unnecessary damage.
- 23) To prevent groundwater pollution.

Reference No.: 07/05523/MID Full Application

Proposal: Eppleton Quarry Extension. Extraction of sand and limestone, importation of soils for restoration of existing quarry only. Restoration as extension to Hetton Lyons Country Park.

Location: Eppleton Quarry/ Eppleton Colliery, Downs Pit, Hetton Le Hole, Sunderland

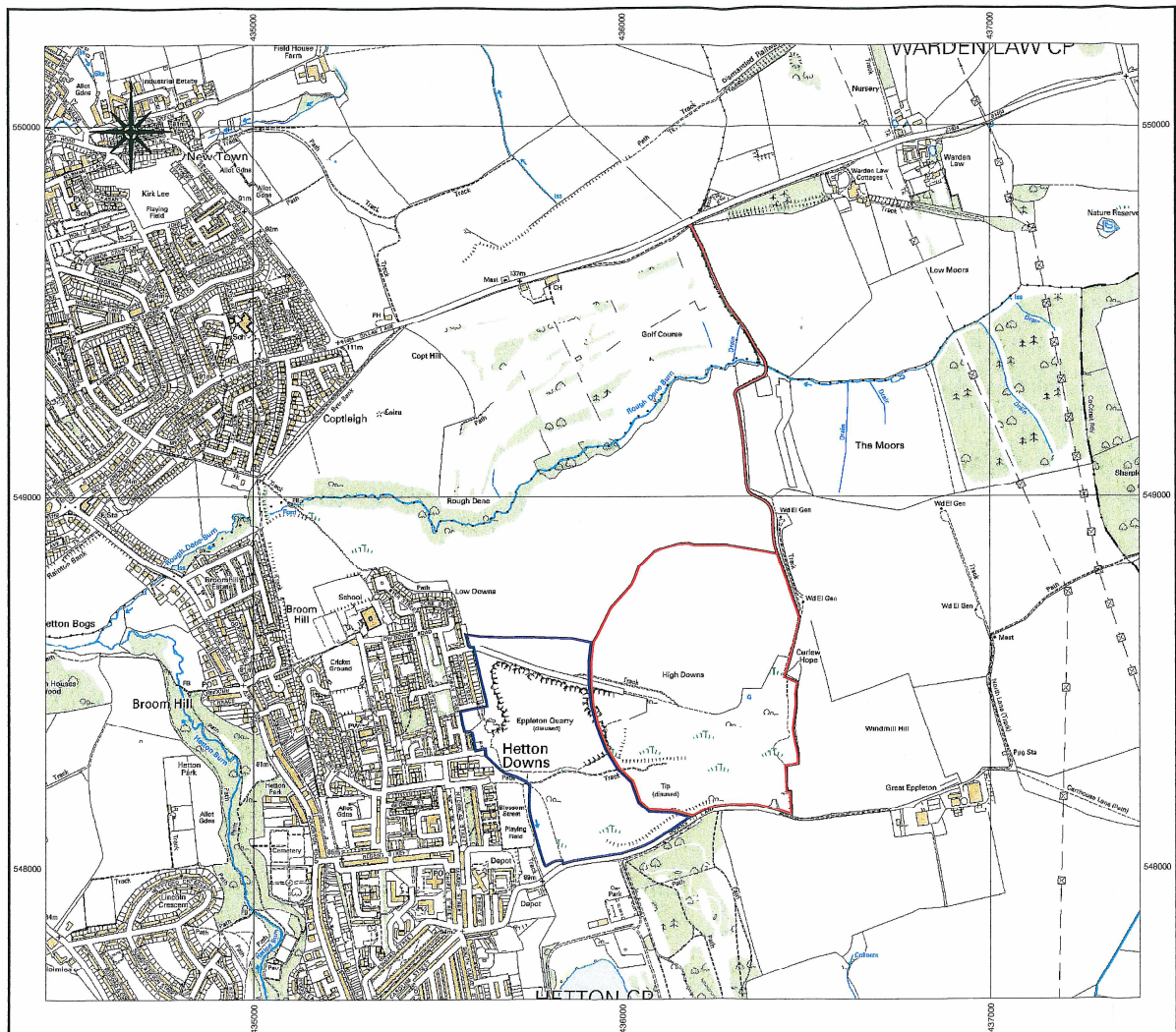
Ward: Copt Hill

Applicant: Hall Construction Services Ltd

Date Valid: 19 December 2007

Target Date: 7 April 2008 (Extended by Sunderland City Council (SCC) to 30 July 2010) and agreed by the Applicant in a letter dated 08 June 2010. A letter has been sent to the Applicant to extend the determination period to 31 August 2010. A response is awaited from the Applicant.

Location Plan



PROPOSAL:

Eppleton Quarry Extension. Extraction of sand and limestone, importation of soils for restoration of existing quarry only. Restoration as extension to Hetton Lyons Country Park.

The Application relates to the continuation of mineral extraction and site operations in the eastern part of the existing Eppleton Quarry area as well as the continuation of sand and limestone extraction northwards, as shown on Drawing Number EPX/5/1 (displayed in the committee room). The processing of colliery spoil which was previously permitted will not be undertaken as part of this application.

Basal permian sand is the primary mineral for extraction, however, this mineral lies underneath magnesian limestone, therefore, it is necessary to remove limestone to facilitate the extraction of sand. The demand for the overlying limestone dictates the rate of production of sand.

The site covers a total area of 35 hectares, with 16 hectares included within the eastern area of the existing site operating under Planning Permission 99/00791/FUL, an application for the reclamation of the disused quarry by: extraction and processing of minerals; coal washing; construction of a new access road; importation of inert construction waste and soil; restoration to a country park and 5 year aftercare. A Section 73 Application (07/05522/VAR) to extend the period for mineral extraction and restoration to overburden level is currently being considered in parallel to this application.

Currently the southern section of the application site is part of the existing quarry and the northern part of the site is arable agricultural land containing no trees, hedgerows or other boundary features. A footpath currently runs along the northern boundary of the site.

The Application was submitted in 2007 and was accompanied by an Environmental Statement. The development falls within Schedule 1 of The Town and Country Planning Environmental Impact Assessment (EIA) (England and Wales) Regulations 1999 as a quarry where the surface area of the site exceeds 25 hectares. Schedule 1 developments automatically require an EIA and an accompanying Environmental Statement. The Environmental Statement assessed the likely environmental impacts as a result of the development and suggested mitigation measures to reduce this which are outlined in detail below.

Following the submission of the Environmental Statement and discussions with the Applicant and Sunderland City Council the restoration proposals originally submitted with the application have been revised. Further to this additional ecological information has also been submitted which will be outlined in more detail later in this report.

The following report has been set out to firstly describe the development in detail as included in the Environmental Statement, followed by a brief planning history of Eppleton Quarry including the previous Section 73 Applications.

Publicity undertaken by the Council as part of the Application has been outlined as well as a list of consultees and their responses. An assessment of relevant national and local planning policy is also included and the development has been considered in detail below.

Site Establishment

Prior to commencement of operations the site will be secured by a stock-proof perimeter fence and the existing permissive footpath which runs along the northern boundary of the existing site will be diverted around the northern boundary of the extension scheme.

Extraction

As set out within the Environmental Statement, the scheme, referred to throughout this report as the extension scheme, will involve the extraction of 6 million tonnes of sand and 6 million tonnes of limestone including 2.25 million tonnes of sand and 0.4 million tonnes of limestone within the existing operational area. The minerals in the existing operational area will remain if this application is not permitted as the minerals are contained within a batter which cannot be removed without the operation of the extension scheme.

The Application states that based on current production levels of sand (250,000 tonnes per annum) and the rate at which the overlying limestone will need to be removed to access the sand (250,000 tonnes per annum) the total estimated annual mineral production would be 500,000 tonnes. At this production rate the extension scheme would have an estimated production life of 24 years. Allowing plus or minus three years for fluctuations in demand and one year for completion of restoration, the extension scheme would have an estimated working life of between 21 and 27 years.

6 monthly progress reports are produced by Halls Construction and the most recent available progress report produced in May 2009 states that due to the economic downturn production rates have reduced.

The extension scheme will be worked in a similar way to the existing site. Members will be aware that the existing site is subject to a Section 73 Application (Reference: 07/05522/VAR) to extend the period for mineral extraction and restoration to overburden level by 2013. Under this Application (Reference 07/05523/FUL) the processing of coal and red shale (colliery spoil) will cease early if permission is granted for the extension scheme.

The site will be worked using hydraulic excavators and dump trucks with blasting used, not more than once a month, to fracture limestone.

Limestone and sand will be worked in a series of benches progressing northwards and the excavated material will be transported to the crushing/ processing area by dump truck.

Material will be drawn as required from a stockpile by a wheeled front loading shovel into the screening system. Stockpiles are currently located in the south east corner of the site and will remain in this location. All processed material will be loaded by front loading shovels into HGVs for transport off site.

Transport and Access

Within the Application for the extension scheme three traffic route options were outlined. Option 1 (permitted route) will see vehicles exiting the haul road and turning left (west) on to the B1404 Gillas Lane. At the junction with the B1260 Gillas Lane East, Gillas Lane becomes Seaham Road and the HGVs will take this route northwards.

Seaham Road then connects to the A690 north bound slip road via the roundabout junction of the B1404/ A690/ A182. Southbound HGVs must use the above roundabout to connect to the roundabout of the A1052/ A182/ A690. Vehicles will be instructed by the Applicant to use

the same route to the site from the A690.

Option1a uses the above route but also proposes the inclusion of traffic calming measures on the B1404 Seaham Road in the form of horizontal features, such as pinch points and chicanes. It is estimated within the Environmental Statement that the introduction of horizontal measures would cost up to £55,000.00.

Option 2 will see vehicles exiting the haul road and turning right (east) along the B1404 then left onto Salter's Lane/ Hangman's Lane following the road to Stoneygate Junction to join the A690. Vehicles will be encouraged by the Applicant to use the same route to the site.

Option 3 will introduce a one way system where outgoing vehicles will exit right onto the B1404 Gillas Lane and use the Option 2 route to the A690. Incoming vehicles will use the Option 1 route from the A690 to the site.

Vehicular access from the highway will be via the existing site access road running north to the B1404 Gillas Lane through agricultural land.

The Applicant has stated that they are willing to continue to use the existing route and implement traffic calming measures outlined in Option1a; however, Option 3 is the Applicants preferred route. The Application states that the overall level of traffic on the B1404 will be reduced with this route although this would require alterations to the highway in order to make the route acceptable for HGVs. Therefore, the Applicant has decided not to pursue Option 3 as the costs estimated by the Applicant of highway alterations are prohibitive.

After consultation with Sunderland City Council Transportation Section the existing route (Option 1) is considered the most appropriate, which vehicles will continue to use if permission is granted. The Council do not consider that it is necessary to include traffic calming measures at present; however, the Applicant has confirmed that they would be willing to fund the improvements at a later date, details of which will be agreed with the City Council.

The permitted scheme allows not more than 10 HGVs to leave the site per hour on any working day averaged over a 6 month period. The Applicant has confirmed that HGV movements will not increase as a result of the development. Light Goods Vehicles were not covered under the conditions relating to the permitted scheme.

Hours of working

Hours of working will remain the same as the permitted scheme with mineral extraction, all working of reserves, stockpiles or any outdoor site activity (except for routine maintenance) restricted to the period 07.00 hours to 19.00 hours Monday to Friday and 07.00 hours to 13.00 hours on Saturdays.

All vehicles entering and leaving the site shall be restricted to the period of 07.00 hours to 17.30 hours Monday to Thursday, 07.00 hours to 17.00 hours on Fridays and 07.00 hours to 12.00 hours on Saturdays. This is the same hours of working that are permitted under the original planning application (Reference 99/00791/FUL).

No site operations other than necessary pumping or emergency work shall be undertaken on Sundays, Public or Bank Holidays.

Screening Mound

In the first year of the scheme, overburden and soils from the extension area will be stripped and placed along the site boundary to create the screening mound. If it is found that there are insufficient soils and overburden to create the screening mound, limestone from the extension area will be used on a temporary basis. This mound will be formed working from south to north in a clockwise direction along the western boundary of the site and during this period extraction will take place within the north eastern section of the existing quarry.

The height of the screening mound will vary in different sections; the highest point in relation to surrounding levels is along the western boundary where levels rise by up to 30 metres. The southern screening mound will be around 7.5 metres above surrounding levels and the northern screening mound, in places, is 5 metres above surrounding levels. The construction of the screening mound is anticipated to take 18 months.

The screening mound will be cultivated and grass seeded and will be maintained by mechanical cutting at least five times a year. The proposed excavation area, now stripped of soils and overburden will have a cover of soil making material and will also be cultivated and seeded.

The screening mound will be removed on completion of mineral extraction in order to backfill the quarry void to achieve the restoration landform starting in the north eastern part of the site and working around to the western side and then the southern screening mound. The Application states that this will be undertaken in Phase 9: from 90 to 138 months from commencement of development.

Importation of soils

The extension area to the north of the site is currently in agricultural use and the soils on this area will be used in the screening mound as previously stated. There are no soils on the existing site to achieve a satisfactory restoration scheme and the current planning permission allows the importation of soil and soil making material to place on the restored surface in order to provide a suitable substrate for the growth of trees, shrubs and grassland.

The extension scheme, therefore, includes provision for the continuation of the importation of soils for restoration purposes on the existing site area only. Stripped soils from the extension area will be returned to the same area to form the final restoration landform. Inert fills and soils under the permitted scheme will be imported into the site at a rate of 3,400 tonnes per week (624,000 tonnes in total).

Restoration

As previously stated, the landscape restoration scheme has been subject to detailed discussion between Sunderland City Council and the Applicant and revised plans submitted (Drawing Number EPP/7/1 displayed in the committee room). The proposed restoration scheme is as follows:

The whole of the extension scheme would be restored as a further extension to the Hetton Lyons Country Park.

An ephemeral (only exists for a short period following rainfall) wetland area will be provided within the centre of the site surrounded by grassland and areas of tree planting. The eastern area will also be compartmentalised into a number of sections to allow rotational grazing. The areas will be bound by hedgerows and footpaths which will allow public access to the restored quarry. A small parking area will be provided from Downs Pit Lane.

The topography of the restored site will be such that the ephemeral pond will be at the base

of the site, with slopes on all sides planted in part with trees. To the north of the extension area where the slope is steeper the land is mostly comprised of grassland.

The subsoil surface will be stepped in the northern and north eastern restoration slopes to prevent slippage and movement of topsoil.

On completion of soil replacement a surface water drainage system will be installed to control water-flow and erosion. The drainage system will be directed into the proposed pond in the south west corner of Eppleton Quarry outside of the application site and the ephemeral pond in the centre of the extension scheme.

A 2.2ha fishing lake will also be provided to the south west of the site. In addition to the recreational use there will be an ecological aspect to the south east of the pond in order to increase biodiversity on site. This ecologically improved area will not be used for fishing and will have gentler sloping sides than the fishing area to encourage an increase in flora and fauna in this area. A further parking area will also be provided off Downs Pit Lane. Proposals for restoration include dense woodland covering the majority of the site interspersed with small areas of open space and multi-user routes.

It is considered that once the extension scheme is implemented the western area containing the 50 peg fishing lake will have been restored in the most part.

The restoration in this area will be undertaken as part of, and as a result, of planning permission being granted for this application. If permission is not granted for the extension scheme, the restoration proposals for the western area of the site will depend on Member's consideration of the Section 73 Application 07/05522/VAR. If the extension of time is granted then a new restoration scheme without a 50 peg fishing lake but with increased informal open space will be delivered. If the Application is not approved the site will be restored in accordance with the original restoration plan which accompanied Planning Application 99/00791/FUL.

Tree and Shrub Planting

Trees and shrubs will be planted in the first available planting season (November to March inclusive) after the completion of soils restoration. The tree and shrub mix will comprise of native deciduous species.

Aftercare

The Environmental Statement states that the site will be subject to a 5 year aftercare period, but in the case of woodland this will be extended to 10 years.

Long Term Maintenance

The long term maintenance of the site under the permitted scheme will be controlled by an existing Section 106 Agreement which is set out later in the report. The Environmental Statement makes no mention of the long term maintenance of the site if the application is approved but it is considered that this will be controlled through a new Section 106 Agreement, subject to approval, prior to commencement of any development on site.

PLANNING HISTORY

The area surrounding the application site has historically been subject to coal mining and is associated with the former Eppleton Colliery and Quarry.

On 28th June 1999 Hall Construction Services Ltd (Halls) submitted a full planning application (accompanied by an EIA) for the reclamation of the disused quarry and colliery by the extraction and processing of minerals; coal washing; construction of a new access road; importation of inert construction waste and soil; restoration to a country park and 5 year aftercare on 37.76ha of land (Application Reference: 99/00791/FUL). Sunderland City Council approved the application on 26th February 2001 subject to 90 Conditions and a Section 106 Agreement.

The Section 106 Agreement was entered into between the owners of the land at Eppleton Quarry, Minivest (Eppleton) Limited, Halls and SCC. The obligations under this agreement were:

- HGV access to and from the site shall only be via the approved site access to the B1404, turning left to the mini-roundabout (now the B1260/ B1404 junction), turning right along Seaham Road (B1404) to join the A690. Returning traffic will follow the same route;
- At the conclusion of the restoration period public access shall be permitted along all footpaths and bridleways for recreational purposes only;
- At the conclusion of the aftercare period specified in the planning permission the land shall be transferred to the Council for a nominal consideration of £1.00, subject to a clawback provision in favour of the transferor in respect of any increase in value of the land which may accrue during the period of 80 years from the date of transfer as a result of planning permission being granted; and
- Unless and until the transfer above is effected the site shall be maintained beyond the aftercare period to the satisfaction of the Council.

Condition 7 stated that all mineral extraction should cease no later than 4 years from commencement of operations on site. Operations on site commenced in April 2001 with an end date of April 2005.

Condition 8 stated that the restoration to overburden level should be completed within 3.5 years from the date of commencement of soil stripping or if the period above extends beyond the end of September then by the end of the following May.

Condition 40 of the original permission stated that no blasting was to be allowed on site. The details of the original planning permission relative to blasting were later sought to be amended within a Section 73 Planning Application (Application Reference:02/01686/VAR) submitted on the 16th August 2002. This Application was then granted permission on 24th September 2003.

A further Section 73 Planning Application was then submitted in February 2005 (Application Reference: 05/00384/VAR) to vary Conditions 7 and 8 of the existing Planning Permission (Application Reference: 99/00791/FUL) to extend the period for mineral extraction to April 2008 and to extend the period for restoration to overburden level to September 2008. This Application was granted permission in September 2006 subject to the signing of a Section 106 Agreement and undertaking the above clauses. The Section 106 Agreement was dated 20th February 2006 and was between SCC and Halls. Halls were obligated to pay the sum of £5,000.00 to the Council as a financial contribution towards providing a vehicle activated speed warning sign on Seaham Road/ Market Place in Houghton-le-Spring. This speed warning sign is now in place on Seaham Road.

A Section 73 Planning Application to further modify Conditions 7 and 8 of the original Planning Permission (Reference: 99/791/FUL) as modified by the subsequent Planning Permission (Reference: 05/384/LEG) which extended the period for Mineral Extraction to July 2013 and to extend the period for restoration to overburden level to December 2013 was submitted on 19th December 2007 and is currently before the committee pending determination (Reference: 07/05522/VAR).

TYPE OF PUBLICITY:

Site Notice Posted 17th January 2008
Press Notice Advertised (Sunderland Echo) 5th January and 18th January 2008
Neighbour Notifications by letter (January and July 2008)
Public Exhibitions held on 27th and 28th August 2008

CONSULTEES:

County Archaeologist
Hetton Town Council
Director of Community and Cultural Services (now Director of City Services Pollution Control)
Environment Agency
Gateshead Council
Durham County Council
Durham City Council
North East Regional Assembly
National Grid Transco
North East Regional Aggregates Working Party
Northern Electric
Government Office for the North East
Defra
UK Gas Business
Councillors
HSE - Health and Safety Executive
Property Services Manager
Sunderland City Council Planning Policy
Sunderland City Council Transportation Section
Sunderland City Council Environmental Health
Sunderland City Council Landscape and Reclamation
Durham Wildlife Trust
Easington District Council
Natural England
Great North Forest
Northumbrian Water
South Tyneside Council

REPRESENTATIONS:

5 letters of objection have been received in relation to the application. The main concerns raised relate to quarry traffic and blasting and are summarised below:

- Lorries are not operating within the timescale from 7.00am – 6.00pm;
- There are more HGVs than the maximum permitted amount (10 per hour) travelling along Seaham Road to the Quarry;

- Lorries are not always sheeted;
- Damage to private motor cars from material blown from or deposited by the HGVs;
- Noise and vibration from HGVs carrying loads to and from the quarry;
- Speed of lorries travelling along Seaham Road;
- Damage to the public roads by the HGVs;
- Damage to house foundations, water mains and gas mains from vehicle vibrations; and
- Damage caused to homes by blasting.

All of the objectors have indicated measures which they consider would help alleviate the current problems, including:

- Lorries should only travel down Seaham Road when they are empty;
- Numbers of HGVs travelling along Seaham Road should be monitored;
- HGV traffic should be re-routed making use of Warden Law or the B1404 through Seaton;
- Reduce traffic flows by a half;
- Lift the weight restriction at Seaham to allow Quarry vehicles to access the A19;
- Change operating hours to 8.30am – 5.00pm with no work taking place at the weekend;
- Houses to be assessed for structural damage (any found should be corrected); and
- A geological survey should be carried out to discover whether aftershocks are travelling along a disused mine shaft.

Public exhibitions were also held on the 27th and 28th August 2008 at Hetton Centre and Houghton Library respectively to give the public the opportunity to view proposals and to comment on them. A consultation report was produced outlining the outcomes of the exhibitions and is available online. A summary of the issues is outlined below:

- Issues of ‘dust problem and duration’ of the scheme;
- The quarry itself being ‘an eye sore’;
- ‘Loss of amenity, destruction of the environment and traffic problems in Houghton Market Place’; and
- The changing nature of the new Full Application was also outlined, in that the Section 73 Application and previous applications were for a reclamation scheme, whereas the Full Application is for mineral extraction.

The overriding comments regarding the Full Application were also timescales. The majority of those at the Exhibitions considered that the proposed timescales for the development would have too much of a detrimental effect on surrounding residential properties in terms of amenity value, dust problems and issues with traffic.

CONSULTEE RESPONSES:

The **County Archaeologist** has commented that although there are no known archaeological features within the site, there is a possibility that archaeological remains could be present within the extension area. Further archaeological work has been recommended including field walking to enable the collection of artefact scatters and a geophysical survey to identify any buried archaeological features, as well as evaluation trial trenching over 2 % of the site.

National Grid Transco has responded and considers that the risks associated with the development are negligible.

The **North East Regional Aggregates Working Party** (NERAWP) has responded and cannot comment on the need for Permian Sand as this is a specialist type of material. However, in more general terms, if the proposals at Eppleton are not approved, there will only be two quarries in Tyne and Wear producing sand and gravel. Therefore, the impact of this in Tyne and Wear must be considered. In addition, crushed rock is only produced at Eppleton and Marsden Quarries within Tyne and Wear. NERAWP have concerns that if Eppleton ceases to produce limestone, Marsden will not be able to produce enough to meet the Tyne and Wear crushed rock apportionment figures.

The **North East Regional Assembly** commented that there are no significant issues of non conformity with Regional Planning Policy and the broad objectives for minerals. However, they recommend that the Local Authority should assess the proposals and outcomes of the Environmental Statement against the Local and Regional Planning Policies, as well as the need and justification for further extraction.

As will be outlined later, it should be noted that following the consultation process the RSS has been revoked. Therefore, conformity with regional planning policy is no longer a material planning consideration for this application.

Sunderland City Council Transportation Section has advised that there are no significant highway issues to justify a variation from the existing route, therefore the currently approved route is considered to be appropriate. This recommendation is on the basis that the existing condition limiting the number of large goods vehicles exiting the site be maintained.

Sunderland City Council Environmental Health have no objections to the scheme but have requested limitations on the development to offset possible noise, dust and vibration impacts on surrounding residential areas.

Sunderland City Council Landscape and Reclamation Team have stated that the restoration proposals for the extension scheme are the preferred landscape solution for the western area of the site. In terms of landscape and visual impact the scheme is considered acceptable and there are no objections to the scheme. This includes the mitigation proposed throughout the working life of the quarry.

Sunderland City Council Planning Policy Manager states that the closure of Eppleton Quarry is likely to have an impact on the supply of sand and crushed rock within Tyne and Wear as well as a wider impact on the provision of yellow sand in the North East. It is considered that if no other reserves are permitted Tyne and Wear will fall short in the production of sand and gravel to meet the 2021 RSS apportionment.

However, this needs to be balanced with the planning objectives and deliverability of the HDAAP for the area. It is considered that the proposal to extend operations by 24 years would have an impact on the long-term implementation of the HDAAP. However, the HDAAP was due to be adopted in 2010 but is now “on hold” at present pending the resolution of issues associated with the Council's school place planning programme, it is, therefore, considered that this document, although a material consideration, should not be a reason for refusal.

Durham City Council have no objection or comments to make.

The **Environment Agency** originally objected to the proposals as they considered the proposals did not fully comply with the Water Framework Directive (2000/60/EC) and Planning Policy Statement 23 – ‘Planning and Pollution Control’ (PPS23) because there was insufficient information to demonstrate that there was no risk of pollution to controlled waters.

This was due to the processing of colliery spoil on the existing site to remove coal and red shale and the depositing of the remainder in the quarry void. The Environment Agency did not have any information regarding the chemical properties of the processed material and found that the deposited colliery spoil presented a contamination risk to the underground aquifer which is in the Environment Agency's Groundwater Source Protection Zone III. Such details as requested were submitted to the Environment Agency in May 2008 and they have now withdrawn their objection, colliery spoil will not be processed under this application.

The **Government Office for the North East** were consulted on the application and stated that the Environmental Statement was at present a matter for the Local Planning Authority.

Comments have been received from **Natural England** regarding biodiversity, access and recreation issues, and on behalf of Defra regarding agriculture, soil resource protection and associated reclamation considerations.

Natural England expressed concerns over Protected Species and Biodiversity Action Plan (BAP) Species that may be affected by the development, most notably great crested newts, badgers and nesting birds. Natural England considered that additional information should be provided to demonstrate whether the development would have an adverse affect.

The Environmental Statement stated that a risk assessment was undertaken which scoped out the presence of Protected and BAP Species, however, Natural England stated that information was required regarding how this risk assessment was undertaken.

A mitigation strategy, based on the risk assessment, was requested which was fully informed by survey results undertaken as part of the EIA. The Applicant provided the mitigation strategy and this has been forwarded to Natural England by the Council. A further response was received from Natural England which stated that they had no additional comments to make.

Further to this, Natural England welcome the principles for restoration including areas of hedgerows, woodland, wetland and magnesian limestone grassland. However, the Applicant is proposing a mix of amenity and downs grassland as they consider that magnesian limestone grassland will not establish on site. It should be noted that there is an existing area of magnesian grassland on site which will be unaffected by the development. **The Council have stated that if magnesian limestone grassland cannot be established then lowland heath (downs grassland substitute) would be acceptable.**

Natural England also welcome the principle of access to the nature conservation based recreation at the site (as outlined on plan EPP/7/1 displayed in the committee room), however, they have stated that access should be monitored and if necessary managed to ensure that fragile habitats such as the existing magnesian limestone grassland are not adversely impacted. It is considered that this will be included within the management plan.

Regarding soils and recreation, Natural England on behalf of Defra, have stated that they have no objection to the scheme. However, they would like to be identified as an interested party in the aftercare process. Agriculture as a partial after use is thought to be appropriate.

South Tyneside Council were consulted on the application as the adjoining authority. Acting under delegated powers the Area Planning Group Manager raised no objections to the proposal.

Councillor Wakefield responded and outlined his concerns with the scheme regarding the effect this will have on the local residents in terms of continued loss of quality of life. Councillor Wakefield states that the Applicant should fund or part fund the signalisation of

the A690 junction with High Lane and Salter's Lane or part fund a roundabout at the same location offering a viable solution to problems associated with the Quarry.

The following consultees did not respond, therefore, it has been anticipated that they have no comments on the application.

- Director of Community and Cultural Services;
- Gateshead Council;
- Northumbrian Water;
- Easington District Council;
- Hetton Town Council;
- Durham County Council;
- Great North Forest;
- Durham Wildlife Trust;
- HSE - Health and Safety Executive;
- UK Gas Business;
- Property Services Manager; and
- Northern Electric.

POLICIES:

National Policy

Planning Policy Statement 1 - 'Delivering Sustainable Development' (PPS1)

Paragraph 19 of PPS 1 states that Planning Authorities should seek to enhance the environment, as part of development proposals. Significant adverse impacts on the environment should be avoided and alternative options which may reduce or eliminate those impacts considered.

The impacts of the proposed development are assessed in the Environmental Statement which accompanies this Planning Application. This included landscape and visual amenity, noise, dust, blasting, ecology, soils and agriculture, hydrology and hydrogeology, archaeology and cultural heritage, site stability and transport. The Environmental Statement concludes that with sufficient mitigation and relevant conditions attached to any subsequent planning permission, there will be no significant adverse environmental impacts caused by the development.

It is noted in PPS1 that the condition of our surroundings has a direct impact on the quality of life and the conservation and improvements of the natural environment brings social and economic benefit for local communities. It is considered that the benefits to the local community will be apparent once the restoration scheme in western section of the site is complete through recreation and leisure opportunities which were not available in the area before.

Developments must also be sustainable in an economic sense and planning should recognise the wider sub-regional, regional or national benefits of economic development and consider these alongside any adverse local impacts. PPS1 states that planning should ensure that suitable locations are available for developments so that the economy can prosper.

Planning Policy Statement 5 – Planning for the Historic Environment (PPS 5)

Policy HE6.1 states that where an application site includes, or is considered to have the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where desk-based research is insufficient to properly assess the interest, a field evaluation.

The County Archaeologist has stated that field-walking, a geophysical survey and evaluation trial trenching is required prior to commencement of development. If trial trenching reveals archaeological deposits, excavation will be enlarged to ensure all archaeological remains are fully recorded.

Planning Policy Statement 7 - 'Sustainable Development in Rural Areas' (PPS7)

PPS7 encourages sustainable development in rural areas which contributes to the economy. The Supporting Statement considers that development will provide continued employment for the 42 people currently employed by Eppleton Quarry Products. This includes 26 HGV drivers who work full time and 4 head office/ ancillary staff working at Rushyford in County Durham and additional HGV drivers that sometimes work out of Eppleton Quarry.

The Supporting Statement also states that there are indirect employment benefits from the quarry which include those other companies who provide regular services to the site operations and supporting employment in the construction industry throughout the North East. It is considered that this may be the case; however, it is difficult to quantify the benefits associated with this.

It should be noted that, PPS4 'Planning for Sustainable Economic Growth' was published in December 2009 and supersedes the economic development section of PPS7. However, the key principle referred to above remains in place.

Planning Policy Statement 9 - 'Biodiversity and Geological Conservation' (PPS9)

The proposals include the restoration of the site as an extension to Hetton Lyons Country Park and, therefore, are in line with PPS9 as they will make a contribution to the UK Biodiversity Action Plan as implemented through the Durham Biodiversity Action Plan.

PPS 9 states that opportunities for the incorporation of beneficial biodiversity and geological features within the design of development should be promoted. The restoration proposals include water features, woodland, grassland and open space providing a variety of habitats which will be a benefit to biodiversity on site.

Enhancing biodiversity in green spaces and among developments should be encouraged so that they are used by wildlife and valued by people, recognising that healthy functional ecosystems can contribute to a better quality of life and to people's sense of well-being.

Planning Policy Guidance 13 - 'Transport' (PPG13)

Paragraph 46 of PPG13 states that conditions should be imposed on developments to reduce the level of disturbance to residents as a result of noise and dust emissions from transport.

Paragraph 47 suggests that when dealing with waste and minerals sites it is important to look at more sustainable methods of transporting materials to and from the site. In terms of Eppleton Quarry this is not an option as there is no viable alternative facility for transporting minerals by either water or rail.

Planning Policy Statement 23 - 'Planning and Pollution Control' (PPS 23)

PPS 23 'Planning and Pollution Control' gives a broad requirement stating that for developments such as mineral workings, consideration must be given to the potential cumulative impacts on the surrounding area including noise and air pollution. Such assessments have been included within the supporting information to the application and conditions are attached to the existing permission ensuring that appropriate mitigation is put in place.

Minerals Planning Statement 1 - 'Planning and Minerals' (MPS1)

MPS1 includes guidance on the principles of sustainable development with regards to minerals development, as well as supply, environmental issues, landscape, agriculture and water resource considerations.

Paragraph 40 of MPS1 states that *'minerals can only be worked where they naturally occur. Potential conflict can therefore arise between the benefits to society that minerals bring and impacts arising from their extraction and supply'*.

In particular, developments must ensure that the environmental impacts caused by minerals operations and the transport of materials are kept as far as possible to an acceptable minimum. The Environmental Statement concludes that with sufficient mitigation and relevant conditions attached to any subsequent planning permission, there will be no significant adverse environmental impacts caused by the development.

MPS1 has four annexes which focus on matters specific to four sectors of the minerals industry: aggregates; brick clay; natural building and roofing stone and onshore oil and gas. Annex 1: Aggregates, sets out Government policy for the supply of Aggregates in England. Paragraph 4.1 states that *"Mineral Planning Authorities should use the length of the landbank as an indicator of when new permissions for aggregates extraction are likely to be needed. The landbank indicators are at least 10 years for crushed rock. A longer period may be appropriate to take account of the need to supply a range of types of aggregates, locations of permitted reserves relative to markets, and productive capacity of permitted sites. A landbank below these levels indicates that additional reserves will need to be permitted if acceptable planning applications are submitted"*.

Minerals Planning Statement 2 – 'Controlling and mitigating the environmental effects of mineral extraction in England' (MPS2)

MPS2 states that planning should secure working practices on developments which prevent or reduce impacts on the environment and human health arising from the extraction, processing, management or transportation of minerals.

Where significant development of agricultural land is unavoidable, Developers should seek to use areas of poorer quality land in preference to that of a higher quality, except where this would be inconsistent with other sustainability considerations. Agricultural land in the extension scheme is Grade 3b (moderate quality) in the majority, with land of Grade 3a (good quality) to the north east of the site. Natural England on behalf of Defra has stated that development of this quality of land is considered acceptable.

With regards to a development once extraction has ceased, the overall quality of the environment must be protected and enhanced through high standards of restoration.

The positive or negative effects that minerals operations may have on rural communities and the extent to which adverse impacts of such operations could be moderated must be considered. However, developments can often also offer opportunities for these communities especially at the restoration stage.

Annex 2 of MPS2 relates to noise from minerals workings and how this should be dealt with by MPAs in considering planning applications and outlines the *'key planning principle is that noise emissions should, as far as possible, be controlled, mitigated or removed at source'*. Planning conditions should be used to apply absolute controls on noise emissions with limits normally being set at particular noise-sensitive properties. Appropriate noise levels are set out within the document.

Minerals Planning Guidance 5 – Stability in Surface Mineral Workings and Tips (MPG5)

The Environmental Statement has considered guidance in MPG5 and has been drawn upon whilst formulating the Eppleton Extension Scheme.

The Environmental Statement states that to date there have been no stability problems at the quarry that might endanger site operatives or third party properties, however, a Geotechnical Stability Assessment will be undertaken subject to this application being approved to ensure no third party properties will be at risk. A structural survey has been offered on one property on Eppleton Terrace West or Eppleton Terrace East in order to allay any resident's fears which may remain regarding structural damage to properties.

Minerals Planning Guidance 7 – 'Reclamation of Mineral Workings' (MPG7)

Reclamation provides the opportunity to return land either to its original, or an alternative, use of benefit to the local or wider community. Opportunities exist, for example, to enhance the recreational or nature conservation resource of an area by restoring for amenity purposes, or to contribute to initiatives such as community forests.

The proposals include the reclamation of the site as an extension to Hetton Lyons Country Park and, therefore, are in line with MPG7 which states that *'Mineral workings reclaimed to amenity use can therefore contribute to Government policies in respect of recreation and nature conservation, including making a contribution to the UK Biodiversity Action Plan.'*

The site will be reclaimed in accordance with the previously outlined proposals as an alternative use to the existing land use. It is considered that the proposals will positively enhance the environment with areas for both recreation and nature conservation. The 50 peg fishing lake proposed within the extension scheme will provide local and wider community benefit and, although the lake is outside of the red line planning application boundary, it is a direct gain which will result from the approval of this application. It should be noted that, should this application be approved the restoration scheme outlined will supersede the restoration scheme included as part of the Section 73 Application.

The Application states that following restoration the site will then be subject to a 5 year aftercare period with 10 years for trees. Following this 5 year period the site will be transferred to the Council. The Applicant has offered a sum of £55,000.00 per annum index linked for maintenance of the site. The payment of which will start once extraction of minerals commences from the batter that supports the red line application boundary for the extension area. This amount would be paid at the end of the first year of operation of the extension area and every subsequent year for the entire life of the quarry (24 years plus or minus 3 for years fluctuations in demand). This equates to a maximum of 28 years and £1,540,000.00 for the entire life of the site.

Regional Policy

At the time of the application the Regional Spatial Strategy (RSS) was in draft form and outlined figures for crushed rock apportionment in Tyne and Wear at 4.6 million tonnes over the period 2001 to 2016. The RSS was then adopted in July 2008 and the apportionment figures were updated to outline that a landbank of 6 million tonnes of crushed rock is required in Tyne and Wear between 2001 and 2021 which is outlined through Policy 43 'Aggregates Minerals Provision'. The RSS also addresses minerals through Policy 42 the 'Overall Minerals Strategy'.

On 6th July 2010 the Secretary of State announced the revocation of RSS with immediate effect. RSSs have been revoked under s79(6) of the Local Democracy Economic Development and Construction Act 2009 and no longer form part of the development plan for the purposes of s38(6) of the Planning and Compulsory Purchase Act 2004. However, there is now a period between revocation of RSSs and the legislation which is required to abolish them altogether. Guidance has been provided by DCLG which informs MPAs on the correct way to proceed.

As outlined within the DCLG letter dated 6th July 2010:

"Minerals planning authorities will have responsibility for continuing to plan for a steady and adequate supply of aggregate minerals to support economic growth. They should do this within the longstanding arrangements for minerals planning. Technical advice provided by the Aggregate Working Parties, including their current work in sub-apportioning the CLG guidelines for 2005 – 2020 to planning authority level will assist this."

The North East Regional Aggregate Working Party (NERAWP) work on apportioning CLG guidelines from 2005 to 2020 has not yet been completed. The most recent guidelines are the NERAWP document 'Annual Aggregates Monitoring Report 2008' which sets out the sub regional apportionment for Tyne and Wear for crushed rock at 4.6 million tonnes over the period 2001 to 2016.

NERAWP, of which SCC is a member of, are the advisory body in relation to the production of aggregates, the resources covered by valid planning permissions and the landbanks of reserves in the north east. The Council have been party to all apportionment discussions which have taken place, including the move to gradually split the long standing reliance on the production of crushed rock within County Durham to serve markets within Tyne and Wear.

Local Policy

Sunderland's UDP was adopted in 1998 and was intended to cover a period up to the year 2006. On commencement of the Planning and Compulsory Purchase Act (September 2004), the policies in the UDP were automatically saved up until September 2007. SCC in accordance with Government guidance saved a number of policies beyond this period.

The site is subject to the following policies adopted on 27th September 2007:

B_1_ Priority areas for environmental improvements

The City Council will implement a programme of environmental improvements with priority given to visually prominent and / or in the areas of greatest environmental degradation.

B_14_ Area of Potential Archaeological Importance

The City Council will require an archaeological assessment/ evaluation to be submitted as part of the planning application. Planning permission will not be granted without adequate assessment of the nature, extent and significance of the remains present and the degree to which the proposed development is likely to affect them.

CN_15_ Creation of the Great North Forest

The City Council will permit developments which assist in creating Great North Forest (on land between and around the main urban areas) and which are in accordance with other policies of this plan.

CN_23_ Measures to conserve/ improve wildlife corridors

Within Wildlife Corridors measures to conserve and improve the environment will be encouraged using suitable designs to overcome any potential user conflicts. Development which would adversely affect the continuity of corridors will normally be refused. Where, on balance, development is acceptable because of wider plan objectives, appropriate habitat creation measures will be required to minimise its detrimental impact.

L_3_ Encouragement to regional recreation developments in appropriate locations

Only where adequate access to strategic road network and public transport facilities can be provided.

L_4_ Standards for outdoor sport and recreation

Particular attention will be focussed on providing locally accessible outdoor sport and recreation facilities for the city population.

M_3_ Safeguarding Minerals against Unnecessary Sterilisation by Development

Land with specific resources at Eppleton will be safeguarded against unnecessary sterilisation by development. Mineral working will not normally be permitted during the plan period unless essential to meet regional requirements.

M_8_ Mineral Extraction

Proposals for mineral extraction must have regard to effects on local communities, landscape and the environment, conservation and transport.

This includes following best practice and includes satisfactory provision for phasing (where appropriate), restoration and aftercare.

M_9_ Operational Controls

This includes suitable screening of the operational works, controls on matters such as working hours, traffic routes and ensuring the restoration of land affected by extraction to enable a beneficial use in accordance, where practicable, with a phased programme of extraction, restoration and aftercare.

M_10_ Piecemeal Working of Sites

The piecemeal working of sites which are part of a larger reserve will not normally be permitted.

M_11_ Concurrent Working

Operators shall make provision for the appraisal and proper utilisation of other minerals occurring on prospective extraction sites where these can be won in viable quantities, provided that it causes no significant additional environmental disturbance and does not impede the proper restoration of the site.

In the Sunderland City Council Core Strategy (Preferred Options) the site is subject to the following policies:

CS_18_ Mineral Safeguarding Areas

Safeguard mineral deposits that are considered to be of current or future economic importance.

In the Sunderland City Council Hetton Area Action Plan (HDAAP) (Preferred Options) the site is subject to the following policies:

HD_18_ Hetton Lyons Country Park Extension

The City Council will support and promote the development of appropriate leisure and recreational facilities on the extension of Hetton Lyons Country Park.

HD_21_ Great North Forest

The City Council will encourage a programme of intensive planting of tree belts and woodland using native species in the following locations through the Great North Forest.

With regard the minerals, the UDP states that the appropriate local area to work out apportionment of sand and gravel for quarries in Sunderland is Tyne and Wear. For the period 1992 to 2006 the apportionment of aggregates output is 8 million tonnes. The County land bank of 7 years supply was considered applicable.

For crushed rock (magnesian limestone) the UDP stated that due to the highly urbanised nature of Tyne and Wear it was necessary to combine figures with those for County Durham. The apportionment of aggregates output for the period 1992 to 2006 is 59.1 million tonnes. A land bank of at least 10 years extraction is considered appropriate for crushed rock.

However, the UDP states that its assumptions will need to be kept under review to ensure that they remain valid in the context of the sub- regional apportionment.

KEY ISSUES:

The key issues to consider in determining the application are as follows:

- Need;
- Employment;
- Landscape\ Visual Impact and Restoration;
- Contamination from Colliery Spoil;
- Noise;
- Dust;
- Blasting;
- Soils and Agriculture;
- Hydrology and Hydrogeology;
- Archaeology; and

- Transport.

Need

In order to assess the need for the aggregates within the proposed development, relevant policies, including national policies and saved UDP policies as well as documents and guidance from the NERAWP have been used.

As previously stated the Application is for the removal of 6 million tonnes of sand and 6 million tonnes of limestone including 2.25 million tonnes of sand and 0.4 million tonnes of limestone within the existing operational area.

Basal Permian Sand

Basal permian sand (yellow sand) is a niche market, therefore, the aggregate cannot be considered in terms of regional apportionments. However, the Applicant provided a letter on the 10 March 2010 which sets out the market for yellow sand in the north east.

Under normal trading conditions Eppleton Quarry produces 250,000 tonnes per annum which accounts for 60% of the market in the north east. Aside from Eppleton four other quarries in the north east produce the remaining 40% of yellow sand which are Witch Hill, Quarrington, Raisby and Thrislington. All of these quarries are located within County Durham. The Applicant has highlighted concern over the continuity of production of yellow sand to meet the 'established need' in the north east should the Application be refused.

Magnesian Limestone

There are two quarries within Tyne and Wear which produce crushed rock: Marsden Quarry and Eppleton Quarry. The output of the two quarries is confidential, however, commercial targets set out within the mineral companies planning applications are 0.15 million tonnes per annum at Marsden Quarry and 0.25 million tonnes per annum at Eppleton Quarry. This gives a total of 0.4 million tonnes per annum in Tyne and Wear.

National guidance set out in Annex A of MPS1 states that MPAs should address a landbank indicator of at least 10 years for crushed rock.

The Applicant has stated that at April 2008 there were 0.2 million tonnes of limestone reserves at Eppleton Quarry. In 2010 all of the limestone reserves have now been exhausted. At Marsden Quarry there are approximately 1.8 million tonnes of limestone reserves remaining at 2010. This gives a 4.5 year land bank for crushed rock, based on the above aspirational production rates.

National and regional guidelines for aggregates provision in England for the 16 year period from 2001 to 2016 were published by DCLG in June 2003. NERAWP then apportioned the requirements to the sub-regional area. The most recent NERAWP document 'Annual Aggregates Monitoring Report 2008' sets out the sub regional apportionment for crushed rock at 4.6 million tonnes from 2001 to 2016. Therefore, from 2010 to 2016, 2.02 million tonnes of crushed rock would be required based on a pro rata production rate of 0.288 million tonnes per annum.

The RSS states that a landbank of 6 million tonnes of crushed rock is required between 2001 and 2021. Therefore, from 2010 to 2021, 3.15 million tonnes of crushed rock would be required based on a pro rata production rate of 0.286 million tonnes per annum.

The UDP (adopted in 1998) stated that at that point in time it was necessary to combine

Tyne and Wear apportionment figures with those for County Durham. The apportionment of crushed rock output for the period 1992 to 2006 is 59.1 million tonnes. A land bank of at least 10 years extraction is considered appropriate for crushed rock. However, the UDP states that its assumptions will need to be kept under review to ensure that they remain valid in the context of the sub- regional apportionment.

If the Full Planning Application is not approved the following scenarios would apply:

- Based on National guidance within MPS1 and commercial targets set out within the planning applications Tyne and Wear would be short of the 10 year land bank by 2.2 million tonnes of crushed rock which equates to 5.5 years production;
- Based on the apportionment requirements set out within the 2008 NERAWP document, Tyne and Wear would be 0.22 million tonnes under the requirements;
- Based on the apportionment requirements set out within the RSS, Tyne and Wear would be 1.35 million tonnes under the guidance set out within the document;
- The UDP has no specific figures in relation to crushed rock in Tyne and Wear but does relate back to the 10 year land bank requirement of MPS1.

Approving this Application will help meet Tyne and Wear's requirements for crushed rock as addressed in MPS1, the 2008 RAWP document and the RSS. However, the life of Eppleton Quarry is for 24 years until 2034 if works commence in 2010 and it should be noted that apportionment timescales are only presently set out until 2021.

Beyond this period, the Council will have to take a view as to the continuity of supply of crushed rock, against a background of the probable exhaustion of Marsden Quarry leaving Eppleton Quarry as the only known supply located in Tyne and Wear.

Members should be aware that, should the application be approved, it is recommended that a Condition is attached to the permission which limits the extraction of minerals to 2034. This allows the flexibility of an additional 3 years which may be required dependent on fluctuations in production and demand.

Employment

The Environmental Statement considers that the extension scheme will provide continued employment for the 42 people currently employed by Eppleton Quarry Products. This includes 26 HGV drivers who work full time and 4 head office/ ancillary staff working at Rushyford in County Durham. The supporting statement also states that additional HGV drivers sometimes work out of Eppleton Quarry.

There may also be indirect employment benefits from the quarry which include those other companies who provide regular services to the site operations and supporting employment in the construction industry throughout the North East.

This is in line with PPS7 as the continued employment and support to the economy will be sustained for the lifetime of the scheme.

Landscape and Visual Impact and Restoration

In accordance with Policy M_8_ of the UDP when considering applications for mineral extraction the effects on surrounding residential areas must be considered, this includes visual intrusion. The Council's Landscape and Reclamation Team has no objection to the proposals.

The Landscape and Visual Impact Assessment submitted with the Environmental Statement

is outlined below.

During the initial stages of the development it is considered that there will be a temporary adverse visual impact from the movement of spoil prior to the creation of the landscaped screening mound which will take up to 18 months to complete.

On completion of the screening mound it will then be grass seeded reducing the impact on surrounding residential areas. However, this will be further offset through the restoration of the area to the west of the mound which will be restored to grassland, woodland, informal leisure and a fishing lake. This is in accordance with the UDP Policy B_1_ where visually prominent sites, especially next to areas of older housing with poor quality surroundings, should be given priority in securing improvements. The reclamation to the west of the site is already underway, as mineral activities in this area have ceased and restoration already begun, which will reduce some of the negative impacts associated with the quarrying activities. Improvements to the remainder of the site will take place on completion of the proposed extraction.

The Application states that in the longer term, once site operations have ceased, the effects of the development are considered to be beneficial and will accord with Policy CN_15_ which states that development, which assists in creating the Great North Forest, should be permitted if in accordance with other policies.

The Great North Forest is a major objective in the long term restructuring of the countryside of south Tyne and Wear towards a robust and attractive well-wooded landscape, providing opportunities for recreation, education, nature conservation and farming. The development is in accordance with the long term objectives of the 'Forest Plan' which is a 40 to 50 year initiative.

The restoration of the site is also in accordance with Policy L_3_ of the UDP which seeks to encourage recreational developments of a regional nature where there is adequate access. The UDP states that an attractive countryside and urban environment, well provided for in recreational facilities, not only improves the quality of life of residents, but also helps to promote the area to potential investors, tourists and visitors.

Policy L_4_ of the UDP involves increasing long term standards for access to outdoor sport and recreation and this proposal will increase standards in the area. Should this application be granted, opportunities for recreation will be increased through the provision of a 50 peg fishing lake on the western area of the existing site. This is also the Council's preferred landscape solution to the western part of Eppleton Quarry outside of the extension area.

The HDAAP has not yet been adopted but must be considered when assessing this application as the document sets out the Council's future plans for development in the area.

The proposals accord with Policies HD_18_ and HD_21_ of the HDAAP which support and promote the development of appropriate leisure and recreational facilities on the extension of the Hetton Lyons Country Park. The document also encourages a programme of intensive planting of tree belts and woodland using native species in Hetton Lyons Country Park extensions through the Great North Forest objective.

However, the HDAAP was based on the assumption that quarrying activities would cease by 2009. Eppleton Quarry is considered to be a weakness by the HDAAP. The document states that the quarry has a '*highly visible and negative effect on town fringe with additional quarrying taking place*'. The HDAAP is "on hold" at present pending the resolution of issues associated with the Council's school place planning programme.

Maintenance

Should permission be granted for the extension scheme, the Applicant will provide a sum of money which contributes towards maintenance of both the existing scheme and the extension scheme. The Applicant is under no obligation to provide maintenance costs for the Section 73 area following the 5 year aftercare period.

Further to this, should permission be granted for the extension scheme an alternative restoration scheme will be implemented in the Section 73 area as shown on Drawing Number EPP/7/1 (displayed in the committee room) which includes a 50 peg fishing lake. Restoration in this area has already commenced which will culminate in recreational benefits to the local community and visual improvements to the area in the shorter term.

The Applicant has offered a sum of £55,000.00 per annum index linked for maintenance of the site. The payment of which will start once extraction of minerals commences from the batter that supports the planning application boundary for the extension area i.e. the area which does not fall under the approved development, this will be identified on a plan to avoid any doubt.

This amount would be paid at the end of the first year of operation of the extension area and every subsequent year for the entire life of the quarry (22 - 28 years). This equates to a possible maximum of £1,540,000.00 for the entire life of the site.

Halls would also maintain the extension site for 5 years following completion of restoration (the aftercare period); therefore, SCC would start incurring costs following this period. The maintenance costs and the 5 year maintenance by the Applicant will be secured via a Section 106 Agreement.

Contamination from Colliery Spoil

The Environment Agency were consulted on the proposed development as well as the previous planning application for the extension of time for the reclamation of Eppleton Quarry (07/05522/VAR). The Environment Agency consider that the proposals to use colliery spoil as backfill will not cause contamination to ground water. However, colliery spoil will not be used as back fill under this planning application.

Noise

In accordance with UDP Policy M_8_ proposals must have regard to the effects of a development on local communities including the effects of noise. A survey of noise levels was undertaken at noise sensitive receptors on Coptleigh, Dene Street, and Great Eppleton Farm in August 2007. Monitoring was undertaken during proposed operational hours of 07.00 and 19.00 and found that background noise levels were under those recommended in MPS2. A worst case scenario was calculated taking into account all potential noise sources on site including mobile plant and vehicles on site and road traffic noise associated with the quarry.

Further to the three noise sensitive receptors above, a fourth location was previously monitored in 1998, prior to the original planning application which was implemented in 2001. The background noise levels recorded at Maudlin Street were found to be almost exactly the same as those recorded at Dene Street in 2007, demonstrating that noise levels in this area are similar with or without the development.

Compliance monitoring was also undertaken in four locations at the existing site between

September 2003 and March 2004. The levels recorded were again below the nationally recommended levels in MPS 2 Annex 2.

It is considered that noise from the development site will not cause unacceptable disturbance to local residents and levels recorded are below the national guidance. Further to this, excavation activities are moving in an easterly then northern direction, i.e. away from residential properties and so noise at the properties will be further reduced.

The Application states that a screening mound will be constructed which will be 12 metres above excavations. However, in some areas the screening mound would be up to 30 metres above excavations, as shown Drawing Number EPX/5/1 displayed in the committee room. The Environmental Statement states that it is generally assumed that where intervening landform removes the line of sight between a sensitive receptor and the most significant noise generating activity the noise is further reduced.

However, it is considered noise from HGVs using the local road network is perceived as an important issue to local residents as demonstrated through letters of objection. As previously demonstrated the noise levels are below the national guidance as set out in MPS 2 Annex 2 and, therefore, the development it is considered acceptable in terms of noise.

Dust

There are many activities on site which have the potential to create dust and the impact of this should be considered in accordance with UDP Policy M_8_. A dust impact assessment was undertaken to assess the impacts of fugitive dust from quarrying operations on surrounding sensitive receptors including surrounding residential areas and Great Eppleton Farm.

A minimum stand off of 100 to 200 metres is recommended from significant dust sources to sensitive premises as stated by Defra. The nearest sensitive receptor is Great Eppleton Farm under 300m away, followed by the golf course to the north of the site at 300m, followed by Hetton-le-Hole at 330m away.

The Air Quality Assessment within the Environmental Statement outlines that there is no statutory criterion for nuisance dust deposition and it is inadvisable to set definitive standards or guidelines through planning conditions.

Mitigation measures will be put in place, which have been outlined in the Environmental Statement and it is considered these measures will ensure dust is not a significant impact on surrounding areas. Further to this, a Dust Management and Monitoring Scheme will also be implemented which monitors weather conditions as well as monitoring fugitive dust on the western boundary of the site.

Blasting

A blast induced vibration study was undertaken in September 2006. It concluded that all vibration will be of a relatively low order of magnitude and would be completely safe. All vibration will be well below levels recommended for blast induced vibration in accordance with British Standards. A programme of blast monitoring on site will be continued. The report concludes that there are no negative impacts associated with the blasting occurring on site as the vibrations are below the recommended limits.

Concerns have been raised by residents and Local Councillors relating to blasting that currently takes place on site. It was requested that further testing be carried out to assess the possibility of vibrations travelling along faults in the rock and underground workings.

The Applicant clarified that the vibration assessment carried out and submitted as accompanying information to the application recorded all vibration at surrounding properties including surface waves and those travelling along faults and underground workings. The Applicant also concludes that old mine workings in the area do not increase the transmission of vibration waves in the surrounding area. The Applicant states that the vibration criteria outlined within the Application is safe with respect to the possibility of the most cosmetic of plaster cracks and consequently against any structural damage.

Eppleton Quarry Products have, however, stated that they will undertake one structural survey of a property on either Eppleton Terrace West or Eppleton Terrace East to be agreed with local residents and Sunderland City Council (letter 28 May 2010). The structural survey has been offered in order to allay any resident's fears which may remain regarding structural damage to properties.

Soils and Agriculture

An Agricultural Land Classification Survey was carried out and found the majority of the soils to be classified at Grade 3b of moderate quality agricultural land capable of producing moderate yields of a narrow range of crops or lower yields of a wider range of crops.

An area to the north and east of the site was classified as Grade 3a, good quality agricultural land capable of producing moderate to high yields of a narrow range of arable crops or moderate yields of a wider range of crops.

Policy M_8_ of the UDP states that there is no irreversible loss of the best and most versatile agricultural land (Grade 2 and 3a). Natural England, on behalf of Defra, have no objection to the scheme and consider the proposed after uses to be appropriate.

Hydrology and Hydrogeology

At present, surface water drains well and the site is not at risk from flooding from surface watercourses. The Applicant has stated that no flooding has occurred during the operation of Eppleton Quarry.

Upon restoration the natural drainage paths will be restored across some parts of the site but it is anticipated that much of the surface water will be retained within the proposed landform, i.e. the large basin and the ephemeral pond.

A large proportion of the surface water will drain to the pond in the south west corner of Eppleton Quarry, outside of the application boundary. Output of water from this pond will be restricted to Greenfield run off rates, i.e. to rates the same as prior to the development, which ensure there is no increased risk of flooding downstream. The Applicant has also agreed to include a geo-membrane liner in order to prevent leakage from the pond which will ensure it remains full of water throughout the year. It should be noted that the fishing pond would not be "full" of water when first completed but would be at the end of the extraction/restoration period when fed by the site's complete new drainage system.

The Environment Agency classifies the Permian Raisby Formation as a major aquifer, on which the site is located, which is capable of supporting large abstractions for public water supply and other purposes. The extension site lies within Source Protection Zone III as designated by the Environment Agency. These zones show the risk of contamination from any activities which might cause pollution in the area. Zone III is the total catchment area needed to support removal of water from the borehole, and to support any discharge from the borehole. There is no evidence to suggest the development will lead to the

contamination of any ground water downstream.

Further to this, the Environmental Statement states that there is no evidence to say that any leachate is migrating towards Eppleton Quarry from landfill elsewhere as there is no plausible migration path.

Archaeology

Policy B_14_ of the UDP states that planning permission will not be granted without adequate assessment of the nature, extent and significance of archaeological remains present and the degree to which the proposed development is likely to affect them.

Within the wider vicinity of the assessment site is evidence of prehistoric settlements and Anglo Saxon burial using Copt Hill Barrow, Medieval and Post Medieval activity and industrial features in adjacent areas from Eppleton Colliery, Great Eppleton, Eppleton and Curlew Hope quarries.

However, according to the Environmental Statement there are no sites of cultural heritage importance known to exist within the application boundary. There is however the potential for the survival of ephemeral features (of fast deteriorating importance or temporary in nature) such as artefact scatters, pits and other earthworks.

The Environmental Statement states that there are no serious visual implications with the proposed development. The Copt Hill 'Seven Sisters' monument is clearly visible from the site although is deemed to be well within acceptable visual levels.

Further archaeological work has been recommended by the County Archaeologist of field walking to enable the collection of artefact scatters revealed by the plough and a geophysical survey to identify any buried archaeological features, as well as evaluation trial trenching over 2 % of the site. This will be undertaken prior to the commencement of development on site and will be controlled by an appropriate planning condition.

Ecology

Policy CN_23_ of the UDP states that the site is within a wildlife corridor, therefore, measures should be taken to conserve and improve the environment using suitable designs to overcome any potential user conflicts. Appropriate habitat creation measures will be required to minimise its detrimental impact.

An ecological assessment was undertaken on site and concluded that the development will involve the removal of arable land which has little ecological value. Species rich magnesian limestone grassland was found on site but the Environmental Statement states this will not be affected by the development.

The Environmental Statement stated that a risk assessment was undertaken which scoped out the presence of Protected and BAP Species, however, it was stated that information was required regarding how this risk assessment was undertaken.

A mitigation strategy, based on the risk assessment, was requested which was fully informed by survey results undertaken as part of the EIA. The Applicant provided the mitigation strategy and this has been forwarded to Natural England by the Council. A further response was received from Natural England which stated that they had no additional comments to make.

Further to this, Natural England welcome the principles for restoration including areas of

hedgerows, woodland, wetland and magnesian limestone grassland. However, the Applicant is proposing a mix of amenity and downs grassland as they consider that magnesian limestone grassland will not establish on site. The Council have stated that if magnesian limestone grassland cannot be established then lowland heath (downs grassland substitute) would be acceptable.

The Environmental Statement states that the restoration would significantly improve the ecological value of the area and a management plan should be drafted to facilitate the restoration of the grassland area.

Transport

As part of the review of the application, three transport routes have been considered, with the most appropriate being the existing transport route (Option 1) which will continue to be used throughout the life of the development. This route will see vehicles exiting the haul road and turning west on to the B1404 Gillas Lane. At the junction with the B1260 Gillas Lane East, Gillas Lane becomes Seaham Road and the HGVs will take this route northwards.

Seaham Road then connects to the A690 north bound slip road via the roundabout junction of the B1404/ A690/ A182. Southbound HGVs must use the above roundabout to connect to the roundabout of the A1052/ A182/ A690. Vehicles will use the same route to the site from the A690.

Detailed below are the findings of the investigations into each of the route options:

Option 1

The established route via the B1404 Gillas Lane and Seaham Road is a distance of 2.2km (1.4 miles) to the junction with the A690. This route follows a classified 'B' category road and is of suitable width and construction to carry large goods vehicles (HGVs). Footways and street lighting are present on this section of the route.

Traffic survey data supplied in support of the application indicates that based on two-way traffic flow, 11% of traffic using the B1404 Seaham Road comprises of HGVs. Based on information relating to traffic movements to and from the quarry, in the region of 53% of the HGVs using the B1404 Seaham Road are associated with the quarry traffic (i.e. 5.5% of the total traffic flow). If the quarry traffic were to be diverted, a significant number of HGVs (199 HGVs per 12 hours between 7am to 7pm) would still use this road for other reasons.

Personal injury accidents have been assessed between April 2001 and the present date and there is no specific road safety reason to justify a change of route. Records covering a period of the last ten years since the quarry opened do not show a history of accidents along this route which could be specifically associated with HGVs (either from the quarry or otherwise).

On the 18th September 2007 a traffic survey was undertaken which found that the speed limit of 30mph was regularly exceeded on Seaham road, but this was found to be happening with cars more frequently than HGVs. A vehicle actuated traffic sign was installed outside of 34 / 35 Seaham Road in December 2007. The aim of this measure is to reduce vehicle speeds. Since installation of the sign there has been a drop in the three year accident statistics following the approval of the scheme in 2004. This has been monitored and at present it is considered that there is no justification to implement further traffic calming measures, although this will continue to be reviewed.

Option 1a

As previously stated the Applicant has offered to fund traffic calming measures on Seaham Road, which is considered unnecessary at present. The Applicant would be willing to fund the improvements in the future. Subject to meeting the relevant criteria, the offer of a financial contribution could be controlled by use of a Section 106 agreement.

Options 2 and 3

The alternative route is a distance of 4.8km (2.9 miles) to the junction with the A690 which includes unclassified sections of highway and narrows in width in sections with restricted forward visibility at certain locations along the route. It is further constrained by vertical and horizontal alignment along sections of the road given the rural nature of these roads. The current road construction would be unlikely to withstand an increase in traffic loading associated with additional HGV movements, and would be liable to road surface deterioration and carriageway failure.

The un-named section of road between Hangman's Lane and the A690 does not have any footway provision, and there is no street lighting present for the majority of the alternative route. There would be concerns with regard to the safety of other road users, such as walkers, cyclists and horse riders should large goods vehicles be directed along this route.

A derestricted speed limit of 60mph applies on this route, which is classed as single carriageway road.

In summary, following an assessment of the accident history, findings indicate that the existing HGV route on the B1404 Seaham Road remains the preferred means of access to the A690. The other options of HGV routing which have been proposed would involve a more circuitous arrangement and would significantly increase the amount of heavy traffic on Hangman's Lane and the un-named road to Stoneygate junction on the A690. Even if the Stoneygate junction was to be upgraded to improve safety, it is considered that the increase in vehicle mileage on roads which are sub-standard in terms of width, horizontal and vertical alignment would be detrimental to road safety, as well as increasing turning movements on the junctions of Hangman's Lane. It should also be noted that the benefit of diverting the quarry traffic route would only reduce the amount of HGV traffic on the B1404 Seaham Road by approximately half.

It is considered that the proposals are acceptable on the basis that there will be no net increase in HGV movements, and that vehicles will continue to use the existing route as part of the site operations controlled by the conditions imposed on the 1999 consent.

Heads of Terms

The Application is recommended for approval subject to a Section 106 Agreement. As outlined within this report a number of aspects of the proposed development will be controlled via the Section 106 Agreement. The Heads of Terms will address the following:

- The transfer of ownership of the land, following the 5 year aftercare period, to the Council;
- The maintenance of the site by the Applicant for a period of 5 years, with 10 years maintenance for the woodland;
- The provision of a sum of £55,000.00 per annum index linked by the Applicant for maintenance of the site. The payment of which will start once extraction of minerals commences from the batter that supports the northern red line planning application boundary for the existing area and every subsequent year for the life of the quarry;
- The planting of trees outside of the red line planning application boundary shown on Drawing Number EPP/7/1B;

- That public access to the land shall be permitted along all multi-user routes and footpaths with access being limited to recreational purposes only;
- Prior to the conclusion of the 5 year aftercare period the haul road connecting the site to the B1404 shall be changed to a multi-user route;
- The Applicant shall fund traffic calming measures on the B1404 Seaham Road (Option 1a set out within Chapter 21 the Environmental Statement) should they be considered necessary by the Council during the lifetime of the development.

Conclusion

An existing planning permission for the reclamation of the disused Eppleton Quarry and Colliery by the extraction and processing of minerals; coal washing; construction of a new access road; importation of inert construction waste and soil; restoration to a country park and 5 year aftercare, is currently in operation in the area, under Planning Permission 99/00791/FUL.

Mineral extraction is currently permitted to April 2008 and restoration to overburden is permitted to September 2008. A Section 73 Application has been submitted to the Council to extend the period for mineral extraction to July 2013 and restoration to overburden level by December 2013. An amended restoration scheme was also submitted with the application which the Council consider to be an improvement on the approved plans. The application is the subject of a separate committee report and Officer's have recommended the application for approval.

The planning application boundary for the extension scheme overlaps the eastern part of the existing operations described above. The extension scheme involves the extraction of sand and limestone at Eppleton Quarry and restoration to grassland, woodland and public access as an extension to Hetton Lyons Country Park. The scheme will involve the extraction of 6 million tonnes of sand and 6 million tonnes of limestone including 2.25 million tonnes of sand and 0.4 million tonnes of limestone within the existing operational area. The estimated working life of the scheme is between 22 and 28 years depending on fluctuations in demand.

The Application relates to the continuation of mineral extraction and site operations in the eastern part of the existing Eppleton Quarry area. The extension of sand and limestone extraction will then continue northwards out of the existing quarry area. Basal permian sand is the primary mineral for extraction, however, this mineral lies underneath magnesian limestone, therefore, it is necessary to remove limestone to facilitate the extraction of sand. The demand for overlying limestone dictates the rate of production of sand.

The Application states that the site will be restored as an extension to Hetton Lyons Country Park. The site will then be subject to a five year aftercare period. Following this period the site will be transferred to the Council. The Applicant has offered a sum of money to be paid annually to the Council, under the terms previously stated, for the long term maintenance of the site.

It is considered that adequate information has been provided by the Applicant in order to determine this Applicant, therefore, a Regulation 19 (Town and Country Planning (Environmental Impact Assessment (England and Wales) Regulation 1999)) request for 'further information' has not been considered necessary.

All relevant policies have been assessed with regard to the development including National Planning Policies (PPS1, 7, 9 & 23 and PPG 13) and Mineral Planning Policies (MPS 1 & 2 and MPG 5 & 7). The development has also been assessed in accordance with UDP Policies B1, CN15, CN23, EN15, L3, L4, L5, M8, M9, M10, M11, M12 and M13 as well as Core Strategy (Preferred Options) Policy CS18. It is considered that the development is in

line with the above policies.

The development is also in accordance with the principles of Policies HD18 and HD21 included in the Hetton Area Action Plan (Preferred Options), however, this development will delay the use of the site for recreation purposes by 2009. The document is “on hold” at present pending the resolution of issues associated with the Council's school place planning programme, therefore, it is not considered that the policies set out above should be a reason for refusal.

All statutory consultees that responded now have no objections to the development. Concerns were highlighted by a number of consultees and all issues are now resolved.

All material considerations regarding the development have been assessed and the key issues for consideration highlighted within the report. The Council consider that the Application will not create any significant negative environmental effects, for example in relation to noise and dust. Any impacts will be controlled to an acceptable level by mitigation measures and by planning conditions. The perception of negative impacts for the local community will be prolonged by the development, however, in the western area, nearest to the housing on Maudlin Terrace, restoration has already commenced which will culminate in recreational benefits (including the provision of a 50 peg fishing lake) to the local community and visual improvements to the area in the shorter term.

Permitting the application will also ensure that Tyne and Wear will meet its requirements for sand and gravel and its apportionment figure for crushed rock production.

Reason for approval:

All relevant policies have been assessed with regard to the development and the Application has been recommended for approval as it is in accordance National Planning Policies (PPS1, 7, 9 & 23 and PPG 13) and Mineral Planning Policies (MPS 1 & 2 and MPG 5 & 7). The development has also been assessed in accordance with UDP Policies B1, CN15, CN23, EN15, L3, L4, L5, M8, M9, M10, M11, M12 and M13 as well as Core Strategy (Preferred Options) Policy CS18. The development accords with the above policies as the Application will not create any significant negative environmental effects, for example in relation to noise and dust. Any impacts will be controlled to an acceptable level by mitigation measures and by planning conditions. The perception of negative impacts for the local community will be prolonged by the development, however, in the western area, nearest to the housing on Maudlin Terrace, restoration has already commenced which will culminate in recreational benefits (including the provision of a 50 peg fishing lake) to the local community and visual improvements to the area in the shorter term.

Permitting the application will also ensure that Tyne and Wear will meet its requirements for crushed rock production. Members are, therefore, recommended to approve the application subject to the following conditions.

RECOMMENDATION: APPROVE SUBJECT TO CONDITIONS AND A SECTION 106 AGREEMENT

CONDITIONS

GENERAL

- 1 The development to which this permission relates shall be carried out in complete accordance with the approved plans and specifications of Planning Application 07/05523/FUL. (1)
- 2 From the commencement of the development to its completion, a copy of this permission including all documents hereby approved and any other documents subsequently approved in accordance with this permission, shall always be available on the site for inspection during normal working hours. (2)
- 3 Every 6 months from the date of this permission until the completion of the restoration a written report setting out the progress on both the minerals extraction and the restoration to overburden level shall be submitted to and agreed in writing by the Mineral Planning Authority. (3)

MATTERS REQUIRING SUBSEQUENT APPROVAL

- 4 The development hereby approved shall only be carried out in accordance with a scheme or schemes to be agreed with the Mineral Planning Authority which shall include provision for:
 - a) Details of the proposed surface water drainage to be provided including:
 - i) The siting of the lagoon/ soakaway with the dimensions and specifications of connecting pipes and cut-off ditches around the perimeter of the site and operating areas; and
 - ii) Specifications of temporary sump structures or holding ponds for the treatment of surface water entering excavations. (2)
 - b) Details for the type and height of fencing and other means of enclosure to be provided for:
 - i) The perimeter of the site; and
 - ii) Security fencing around lagoons. (6 & 19)
 - c) Details of the after use and downgrading of the haul road when the importation and exportation of materials from the site has ceased shall be submitted for the consideration of the Mineral Planning Authority and the approved details so implemented. (2, 6 & 7)
 - d) Details of the planting specifications including the woodland/ hedgerow planting to be carried out in accordance with Chapter 6 of the Environmental Statement and Drawing Number (EPP/7/1/B) which shall include:
 - i) The species to be planted and the percentage of the total to be accounted for by each species; (3 & 6)

- ii) The size of each plant and the spacing between them; (3)
 - iii) The preparations to be made to the ground before planting; (3)
 - iv) The fencing off of planted areas by stockproof/ rabbit proof fencing; and (3)
 - v) Details of the planting specification outside of the planning application boundary to the west of the site as shown on restoration plan number EPP/7/1B shall include details relative to Condition 4 f i) to iv). (3)
- e) Subsequent maintenance arrangements for five years after the planting has been carried out which shall include the weeding of the planted area, repairing any damaged fencing and the replacement of any plants which die; (3)
- f) Detailed restoration plans, 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, but more detailed contours (at 1 metre intervals) near sensitive development such as adjacent to property and wetland features to be shown on a plan; (3)
 - ii) The drainage details of the restored site; (3, 7 & 8)
 - iii) The erection of fences; (3)
 - iv) The planting of trees shrubs and hedges and their subsequent maintenance for five years; (3, 6)
 - v) The formation of wetland areas/ ponds including details of the design and depths of all ponds, required liners and associated aquatic plants and the subsequent formation; (3 & 6)
 - vi) Specification of width and construction and surface treatment of main and secondary footpaths, bridleways and cycle routes. The access road and car parking shall be constructed in tarmac with pin and highway kerb where appropriate. The footpath network shall be constructed in crushed concrete; and (11)
 - vii) Seats, litter and dog bins, signage, barriers and other ancillaries. (11)
- g) The aftercare of the restored land after the replacement of topsoil in accordance with condition 68, to bring the land to a condition where it is fit for the specified uses (amenity, forestry, agriculture), such after care to include:
- i) Preparing the land for cultivation, which shall include sub-soiling, preparation of seed beds and application of fertilisers; (20)
 - ii) Grass seeding of the site and the establishment and maintenance of satisfactory sward; (20)
 - iii) The provision of a field water supply other than the woodland areas; (20)
 - iv) The provision of an under drainage system, other than the woodland areas; (20)
 - v) Where necessary the inoculation of soils with earthworms; and (20)

- vi) Arrangements for reviewing the progress of after-care treatment with the Mineral Planning Authority and the Department for Environment, Food and Rural Affairs. (20)
 - h) Details of a scheme to ensure surface water associated with the site is limited to greenfield run-off rates and details of flood risk management for the site and surrounding area; (7, 8 & 19)
 - i) A Geotechnical Stability Assessment for the proposed extension site including the landscape bund in accordance with Chapter 20 of the Environmental Statement; and (19)
 - j) An archaeological report in accordance with Condition 59. (24)
 - k) An appropriate management plan including measures to resource the management of the site and monitor access to the site.
- 5 A scheme or schemes required by condition 4 a,b,c,d,e,f,g,h,i, j and k shall be submitted to and approved by the Mineral Planning Authority before works commence. (1)

COMMENCEMENT

- 6 The development hereby approved must commence not later than 3 years from the date of this decision. (21)

COMPLETION

- 7 All mineral extraction shall cease no later than 31st April 2034 unless otherwise agreed in writing by the Mineral Planning Authority. (1 & 4)
- 8 The site shall be restored to overburden level as far as required by the Mineral Planning Authority by 31st December 2034, unless as otherwise agreed in writing by the Mineral Planning Authority. (4)

SOIL STRIPPING OPERATIONS

- 9 Before substantive soil stripping (other than for preliminary works themselves) begins, in the extension area the following measures shall be carried out, to be agreed in writing by the Mineral Planning Authority:
- a) Perimeter stockproof/ security fencing in accordance with details required by Condition 4 (b) and the re-route of the permissive footpath which runs along the northern boundary of the site; (2)
 - b) A temporary fence shall be erected at a distance of not less than 5 metres from the base of any tree or at the outside edge of the tree canopy, whichever is greater, of any tree on or adjacent to the site, or adjacent to any hedgerow on or adjacent to the site which is to be retained during the development, in order to protect them from damage during the development in line with BS:5837 '*Trees in Relation to Construction*'; except where hedgerows are protected by site boundary fencing to be erected inside the hedgeline. No site operations shall take place within 6 metres of the site boundary except for the construction, maintenance and restoration of the drainage ditches and access to the baffle mounds for maintenance; (6 & 16)
 - c) The provision within the site of a sufficient number of water bowsers and/ or dust

suppression equipment in accordance with the agreed Dust Management Plan and Monitoring Scheme Appendix EPX14.1; (8 & 23)

d) Adequate settlement lagoons in accordance with Condition 4 (a) shall be agreed in writing with the Mineral Planning Authority; and (8 & 23)

WORKS REQUIRED BEFORE EXTRACTION COMMENCES

10 Before any mineral extraction begins, the following works shall be carried out:

a) The erection of appropriate warning signs to both pedestrians and drivers at the point where diverted public right of way crosses the site access; (9)

b) The provision of a notice board at the site access to be clearly visible to all drivers of mineral haulage vehicles leaving the site, instructing them to turn left upon leaving the site and inform them of the designated haulage route for all mineral haulage vehicles; (9)

c) The installation of the wheel cleaning equipment in accordance with the Dust Management Plan and Monitoring Scheme Appendix EPX14.1 to prevent the transfer of mud onto the public highway; (9)

d) The provision of a notice board of durable material and finish at the entrance to the site indicating the name of the site and the name and address and telephone number of the company or person responsible for the operation of the site together with the City of Sunderland indicating that there is a mineral extraction and restoration scheme in place; (2)

e) Formation of top soil and sub soil mounds; and (22)

f) During the soil stripping operations the provision of the drainage works in accordance with the details agreed in writing with the Mineral Planning Authority in accordance with Condition 4 (a). (8 & 23)

HOURS OF WORKING

11 Mineral extraction operations authorised by this consent, shall be restricted to the period 07.00 hours to 19.00 hours Monday to Friday and 07.00 hours to 13.00 hours on Saturdays. All vehicles entering and leaving the site shall be restricted to the period 07.00 hours to 17.30 hours Monday to Thursday, 07.00 hours to 17.00 hours on Fridays and 07.00 hours to 12.00 hours on Saturdays. (5)

12 No site operations other than necessary pumping or emergency work shall be undertaken on Sundays, Public or Bank Holidays.

13 All overburden excavation by means of shovel and dump-truck shall only take place between 07.00 hours and 19.00 hours Monday to Friday and between 07.00 hours and 13.00 hours on Saturday.

14 The operation of the barrel washery and all associated activities shall be restricted to 07.00 hours and 23.00 hours Monday to Friday and 07.00 hours to 13.00 hours on Saturday. (2,5 & 6)

15 Except for routine maintenance on the washery or any equipment or pumping, there shall be no working of reserves or stockpiles or any outdoor on site activity outside the hours

described in Condition 11. (5)

VEHICLES ENTERING AND LEAVING THE SITE

- 16 Vehicular access to and from the site shall only be via the approved site access to the B1404 and vehicles must turn left when leaving the site;
- 17 Not more than 10 HGVs per hour shall enter or leave the site on any working day (as specified in Condition 11), unless otherwise agreed in writing with the Local Planning Authority. A record of the number of lorry loads leaving the site shall be maintained on site and made available for inspection by the Minerals Planning Authority during normal working hours of the site. (5)
- 18 All mineral laden vehicles must be sheeted when leaving the site. (5)
- 19 Wheel cleaning equipment installed in accordance with the Dust Management and Monitoring Scheme shall be used when required to ensure all vehicles leaving the site are thoroughly cleaned before entering the public highway. The surface of the site road between the wheel washing facilities and the public highway shall be kept clear of mud, dust or debris at all times. (5 & 10)

BLASTING

- 20 Blasting shall not take place more than twice in any four-week period unless otherwise agreed in writing by the Mineral Planning Authority. (5)
- 21 Blasting should only be conducted between 1000 and 1500 hours Monday to Friday. No blasting shall take place on Saturdays, Sundays or public holidays. (5)
- 22 Details of the means of visible and audible warnings which shall be made before any blast takes place shall be submitted to the Minerals Planning Authority for consideration and the agreed measures shall be so implemented. (5)
- 23 No component of the peak particle velocity attributable to any blast shall exceed a peak particle velocity of 6mm-1 for 95% of blasts when measured at any sensitive receptor location. (5)
- 24 The programme of blast monitoring undertaken and set out in Planning Application 07/05523/FUL should be continued. The results of which will indicate whether or not there is a compliance with approved vibration criteria. (5)
- 25 The Applicant shall undertake a structural survey of one property on either Eppleton Terrace West or Eppleton Terrace East at the request of Sunderland City Council. (5)

SOIL STRIPPING

- 26 No soil stripping shall take place before the provision of adequate settling ponds, the details of which shall be agreed with the Mineral Planning Authority. (22)
- 27 The Mineral Planning Authority shall be given at least 48 hours notice (excluding Sundays), of any intended phase of topsoil or subsoil stripping; such works to proceed only subject to their approval. (22)
- 28 All topsoil shall be stripped from any areas to be excavated or used for the storage of subsoil and overburden or other areas to be traversed by heavy machinery, and stored

until required for restoration. (22)

- 29 No plant or vehicles shall cross any areas of unstripped topsoil except for the purpose of stripping operations. (22)
- 30 The stripping and movement of topsoil and subsoil shall only be carried out under sufficiently dry conditions when topsoil is in a friable state (soil dryer than its lower plastic limit). Appropriate methods of soil stripping should be separately agreed with the Mineral Planning Authority, specifically for any permanently wet or waterlogged areas of the site. (22)
- 31 Topsoils, subsoils and other soil making materials shall be stored within temporary storage mounds pending construction of the screening mounds. (22)
- 32 The screening mound will be formed in accordance with Drawing Number EPX/5/6 and the method described in Chapter 5 of the Environmental Statement. (5 & 6)
- 33 The outer slopes of the screening mound shall be created and sown with grass as soon as practicable in accordance with the scheme to be agreed beforehand with the Mineral Planning Authority and shall be subsequently be kept in a tidy conditions free from litter and weeds. (6)
- 34 No topsoil or subsoil shall be removed from the site unless otherwise agreed in writing with the Mineral Planning Authority.

METHOD OF WORKING

- 35 Extraction and restoration shall be carried out in stages as shown on plans EPX/5/1 to EPX/5/13 and as described in Section 5 of the Environmental Statement submitted with Planning Application 07/05523/FUL. (4,5,6 & 18)
- 36 The Mineral Planning Authority shall be given at least 48 hours notice (excluding Sundays) of the commencement of extractive operations. (2)
- 37 A strip of land at least 12 metres wide shall be maintained at existing ground levels (except for any topsoil and subsoil stripped from the surface) adjacent to any highway. (9)
- 38 In each phase the final layer of overburden backfilled into voids of completed workings shall be graded and back-bladed to prevent the material becoming saturated and waterlogged. (3)

PLANT MACHINERY AND BUILDINGS

- 39 Any buildings, fixed plant, structures and fixed machinery erected in accordance with Part 19(a) of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 shall be located on site within the site compound area or such area to be agreed in writing by the Mineral Planning Authority. (5 & 6)
- 40 Plant and machinery on the site shall not be used to process, treat or otherwise refine materials other than those extracted from the site unless as otherwise agreed in writing by the Mineral Planning Authority. (5)

NOISE

41 Noise emitted from the site shall not exceed the following levels:

- a) 55db (A) Leq 1 hour (free field) between the hours of 0700hrs and 1900hrs (23.00 hrs for the barrel washer) Monday to Friday and Saturday 0700hrs – 1300hrs, measured 3.5 metres from the façade of any noise sensitive property or dwelling adjacent to the site.

42 Monitoring of noise emissions shall be carried out by the operator on a monthly basis and within 48 hours of any written request. (5)

43 The results of all monitoring shall be provided to Environmental Health on a monthly basis and within 48 hours of any written request. (5)

44 Advance notifications of changes in the agreed working programme shall be given to the Mineral Planning Authority. (2 & 5)

DUST

45 The dust control equipment installed in accordance with the Dust Management and Monitoring Scheme Appendix EPX14.1 shall be used at all times to suppress dust on site arising from all operations including vehicular movement and excavation operations and mineral and overburden stockpiling arrangements. At such times when the equipment provided is not sufficient to suppress dust arisings from the site, operations shall cease until additional equipment is provided and found to be adequate. (5 & 10)

46 Before any mineral extraction commences it will be necessary to provide water supply and dust suppression equipment. Dust suppression measures employed will include, where necessary:

- a) The provision of mobile water bowsers and vapour mats;
- b) The use of dust filters on all fixed plant and machinery;
- c) All haul roads and areas used for the storage of soils and overburden, and excavation areas shall be watered during dry and windy weather conditions; and
- d) The hydro-seeding of the screening mound. (5, 7 & 19)

47 Continuous monitoring of dust levels will be carried out by the operator at 4 locations agreed by the Mineral Planning Authority.

- a) Maudlin Street
- b) Blossom Street
- c) Eppleton Terrace
- d) Great Eppleton Farm (5,7 & 19)

48 Monitoring shall be carried out at the locations listed in Condition 47 three times per week. On request, the operator shall supply the Mineral Planning Authority with the particulars of the measurements recorded by the equipment. (5, 7 & 19)

GROUND WATER AND SURFACE WATER PROTECTION

49 All water from the site shall be discharged into the approved water treatment areas / settlement ponds prior to discharge into any ditch, stream, water course, culvert or pipe outside the development site. (8 & 23)

- 50 All measures as may be determined by the Mineral Planning Authority shall be taken to ensure that no flooding and no silting, pollution or erosion of any watercourse or adjoining land is caused by any operations on the site. (8 & 23)
- 51 Oil, petrol, diesel oil, lubricant, paint or solvent shall only be stored within the site within an impervious bund or enclosure, the volume of which shall be at least 110% of the capacity of the largest storage tank. Bund walls and floors should be impermeable to water and oil and there should be no drain for the removal of contained liquids. The discharge of such material to any settlement pond, ditch, stream, watercourse or other culvert shall not be permitted. Any bund contents shall be boiled or pumped out under manual control and disposed of safely. All filling and distribution valves, vents and site glasses associated with the storage tanks shall be located within the bunded area. (8 & 23)
- 52 There must be no connection from the soakaway with any watercourse or land drainage system. (8 & 23)
- 53 Facilities shall be made available in order to provide extra treatment where necessary (e.g. addition of coagulant) and shall be used so that any discolouring effect of the discharge is controlled to a level acceptable to the Mineral Planning Authority. (8)
- 54 Upon cessation of mineral extraction, all settlement ponds shall (unless to be retained in accordance with the approved restoration plans) be emptied and filled with suitable dry inert material. (8 & 23)
- 55 During the aftercare period, temporary drainage works (e.g. ditches, watercourses, settling lagoons) shall be provided as necessary to prevent flooding of land within or outside the development site or the erosion or silting up of existing channels within or outside the site. (8 & 23)

SITE MAINTENANCE

- 56 From the commencement of development until restoration of the site, the following shall be carried out:
- i) The maintenance of fences in a stockproof condition between any areas used for development authorised by this planning permission and any adjoining agricultural / housing land (18);
 - ii) The maintenance of all hardstanding areas and surfaced roads over which licensed road vehicles operate clean from mud (2);
 - iii) The clearance of mud and silt from settlement ponds to avoid reducing their capacity for retaining water (7 & 8); and
 - iv) The treatment of trees affected by disease (6).

ECOLOGY

- 57 No trees or shrubs shall be removed between 1 March and 1 September unless an ecologist has confirmed to the Local Planning Authority that no active bird's nests, eggs or dependent young will be harmed.

ACCESS

- 58 The applicant will monitor and manage access to the site to ensure that fragile habitats are not adversely impacted.

ITEMS OF ARCHAEOLOGICAL OR SCIENTIFIC INTEREST

- 59 Prior to works commencing in the extension area a programme of archaeological work (to commence with field walking, a geophysical survey and evaluation trial trenching of 2% of the site area) will be completed. This shall be carried out in accordance with a specification(s) provided by the County Archaeologist. The archaeological report(s) shall be submitted to and approved by the Local Planning Authority before works commence. (24)
- 60 Any item of archaeological or scientific interest discovered during the course of excavations shall be reported to the Mineral Planning Authority and a reasonable opportunity shall be afforded to anybody acting at the request of the Minerals Planning Authority. (15)

COLLIERY SPOIL

- 61 Backfilling using colliery spoil is not permitted under this application. Any backfilling using colliery spoil on site permitted under the previous permission will cease before commencement of the extension permission (Ref: 07/05523/FUL). (10 & 23)

RESTORATION

Removal of Plant, Machinery and Buildings

- 62 All plant, machinery and buildings erected in accordance with this permission or in accordance with the Town and Country Planning (General Permitted Development) Order 1995 and not required for the aftercare scheme, shall be removed from the site by the end of the restoration completion period. (4)

Removal of site compound

- 63 Upon cessation of mineral extraction, all areas of hardstanding, including site compounds shall be removed from site by the end of the restoration completion period. (4)

Removal of settlement ponds

- 64 Upon cessation of mineral extraction, all settlement ponds shall, unless to be retained in accordance with the approved restoration plans, be emptied of slurry, filled with dry inert material and restored to the satisfaction of the Minerals Planning Authority. (3)

Removal of Screening Mound

- 65 The screening mound will be removed following the final phase of mineral extraction and overburden, topsoil and subsoil restored in accordance with Drawing Number EPX/5/10.

Replacement of overburden

- 66 The final layer of overburden backfilled and the resultant landforms should be consistent with the Restoration Plan EPP/7/1/B. (3)
- 67 After cessation of mineral extraction, overburden shall be replaced to such levels to afford a 1 metre cover and in such a way so that, after the replacement of subsoil and topsoil the contours of the restored land conforms with restoration contours on restoration plan EPP/7/1/B or as otherwise agreed with the Minerals Planning Authority.

- 68 The Minerals Planning Authority shall be notified when Condition 65 has been complied with and shall be given an opportunity to inspect the surface before further restoration work is carried out. (3)

Replacement of Subsoil

- 69 The topsoil and subsoil stripped and stored shall only be re-spread when it (and the ground onto which it is to be placed) are in a sufficiently dry condition. (3)
- 70 After Condition 67 has been complied with, the material stripped and stored shall be re-spread in two layers of equal thickness, each layer to be agreed beforehand with the Minerals Planning Authority. (3)
- 71 Each layer formed in accordance with Condition 69 shall be cross-rooted to its full depth and into the underlying layer by a heavy duty subsoiling implement with winged tines set no less than 600mm apart and any non-subsoil type material or rock, boulder or stone larger than would pass through a wire screen mesh with a spacing of 150mm shall be removed from the surface and not buried within the re-spread subsoil. (3)
- 72 All areas of exposed subsoil, not previously excavated, shall be rooted to 450mm depth at 600mm spacings, to relieve compacting surface picked to remove any obstructions to cultivation as defined by Condition 70. (3)
- 73 The Minerals Planning Authority shall be given the opportunity to inspect each stage of the work completed in accordance with Condition 69 and 70 prior to further restoration being carried out and should be kept informed as to the progress and stage of all works. (3)
- 74 Following compliance with Conditions 70 and 71 the surface shall be graded to ensure that, after replacement of topsoil in accordance with Condition 69, the contours of the landform conform with restoration contours shown on plan EPP7/1/B and in accordance with Condition 4 (d) or as otherwise agreed with the Minerals Planning Authority.

Replacement of Topsoil

- 75 The resspreading of topsoil shall only be carried out when the material and the ground which it is to be placed are in a dry and friable condition (i.e. soil drier than its lower plastic limit).
- 76 After Condition 73 has been complied with, topsoil shall be resspread to an average depth of 200mm over the whole area stripped in accordance with Condition 8 and be graded to the contours shown on the approved restoration plan. In the areas to be used for the Amenity and Agriculture a uniform depth of 300mm shall be provided or as otherwise agreed by the Mineral Planning Authority. (3)
- 77 The Minerals Planning Authority shall be given the opportunity to inspect the topsoil resspread in accordance with Condition 75 prior to further cultivations being prescribed and carried out. (3)

Restoration and Reclamation

- 78 The site shall be fully restored and reclaimed no later than 30 April 2036 in accordance with Drawing Number EPP/7/1B and a scheme to be submitted and approved in writing by the MPA as required by Condition 4 (f). (25)

- 79 The restoration and reclamation proposed within the western area of the site outside of the planning application boundary shown on Drawing Number EPP/7/1B, including the 50 peg fishing lake, shall be undertaken within 5 years of the date of this decision. (25)
- 80 The planting of trees, shrubs and hedges within the western area of the site outside of the planning application boundary, approved in accordance with the scheme submitted as required by Condition 4 (iv), shall be undertaken within the first available planting season commencing November 2010. (25)
- 81 In the event of a premature but permanent cessation of extraction, a revised scheme of restoration and aftercare shall be submitted for the approval of the Mineral Planning Authority within 12 months of such cessation. Restoration of the site shall thereafter proceed in accordance with the revised scheme and shall be completed within 12 months of the date of the approval of the revision. (25)
- 82 If, within the Annual Monitoring Report prepared 3 years prior to 30 April 2034, it is evident that mineral extraction will not be complete prior to 30 April 2034, the Applicant shall submit to the Mineral Planning Authority, within 12 months of the Annual Monitoring Report, a revised restoration and reclamation scheme to allow the site to be restored to overburden level by 31 December 2034. The restoration and reclamation scheme, once approved in writing by the Mineral Planning Authority, shall be completed by 30 April 2036. (25)

AFTERCARE

- 83 The site shall be maintained on an annual basis throughout the aftercare period. An annual site visit from Sunderland City Council will be necessary to define the required works with a subsequent visit to confirm their completion. (3)

Annual Review

- 84 Before 31 August of every year during the aftercare period, a report shall be submitted by the developer to the Minerals Planning Authority recording the operations carried out on the land during the previous 12 months and setting out the intended operations for the next 12 months. (20)
- 85 Every year during the aftercare period, the developer shall arrange a site meeting to be held before 31 November to discuss the report prepared in accordance with Condition 77 to which the following parties shall be invited:
- a) the Mineral Planning Authority;
 - b) the Department for Environment, Food and Rural Affairs;
 - c) all owners of land within the site;
 - d) all occupiers of land within the site. (3 & 20)

Cultivation after Replacement of Topsoil

- 86 As soon as the ground is sufficiently dry after compliance with Condition 75 the land shall be subsoiled, using an agricultural winged tined subsoiler, operating at a depth and time spacing agreed beforehand with the Minerals Planning Authority. (3)
- 87 Any stones lying on the surface after compliance with Condition 77 and which are larger than would pass a wire screen mesh with a spacing of 50mm together with any other

objects likely to obstruct future cultivation, shall be removed from the site. (3)

88 Following compliance with Condition 86, the land shall be worked to prepare a seedbed suitable for the sowing of grass seeds. During the cultivation process any stones lying on the surface which are larger than would pass a wire screen mesh with a spacing of 50mm, together with any other objects likely to obstruct future cultivation, shall be removed from the site. (3)

89 By no later than the end of September following compliance with Condition 91, the land shall be sown on the following basis –

- i) Lowland heath on the land to be restored for agricultural;
- ii) Hard wearing amenity grass mature on the land to be restored to amenity;
- iii) Low maintenance type grass mixture on the land to be restore to woodland.

Details of the mixture including species and seed rate shall be agreed with the Minerals Planning Authority before sowing takes place. (3)

90 Where adverse weather conditions or other delays prevent compliance with Condition 87, alternative treatment of the restored soils shall be agreed with the Minerals Planning Authority, to stabilize these over the winter period. (4)

Drainage/Water Supply

91 During the aftercare period, temporary drainage works (e.g. ditches, watercourses, settling lagoons) shall be carried out as necessary to prevent soil erosion, flooding of land within or outside the site or the erosion or silting up of existing drainage channels within or outside the site. (2,8 & 23)

92 Within the first two years of aftercare period, a field water supply system shall be installed to areas other than the woodland areas and amenity grassland area. (3)

93 A comprehensive field drainage system for the agricultural and amenity areas, conforming to the normal design criteria for restored land, and in accordance with a scheme to be approved beforehand by the Minerals Planning Authority, shall be installed at a time to be agreed no earlier than the first annual aftercare meeting, and no later than 4 years following compliance with Condition 65. (2)

94 At least 48 hours notice (excluding Sundays) of the intention to carry out approved under-drainage, works shall be given to the Minerals Planning Authority, such works to proceed only subject to their approval. (2)

95 Within 6 months following the installation of the approved under-drainage, two copies of the final drainage record plan shall be forwarded to the Minerals Planning Authority. (One of which shall be passed to the Department for Environment, Food and Rural Affairs).

96 Any polluting leachate produced during or within 5 years after the life of the site shall be prevented from leaving the site, treated and disposed of to the satisfaction of the Minerals Planning Authority. (8&23)

Cultivation after installation of field drainage

97 As soon as the ground has dried sufficiently after compliance with Condition 71, the land shall be subsoiled, using an agricultural winged timed subsoiler operating at a depth and

time spacing agreed in writing with the Minerals Planning Authority. (3)

- 98 At least 48 Hours (excluding Sundays) notice of the intention to carry out the work required by Condition 100, shall be given to the Minerals Planning Authority, such works to proceed only subject to their approval. (2)
- 99 Any stones lying on the surface after compliance with Condition 96 and which any larger than would pass a wire screen mesh with a spacing of 50mm together with any other objects likely to obstruct future cultivation, shall be removed from the site. (3)
- 100 Following compliance with Condition 98 the land shall be worked to prepare a seedbed suitable for the sowing of grass seeds. During the cultivation process any stones lying on the surface which are larger than would pass a wire screen mesh with a spacing of 50mm, together with any other objects likely to obstruct future cultivation shall be removed from site. (3)
- 101 By no later than the end of August following compliance with Condition 99, the land shall be sown with a seeds mixture included in Condition 88, details of the mixture including species, and seed rate shall be agreed with the Minerals Planning Authority before sowing commences. (3)
- 102 Following compliance with Condition 98 areas agreed in advance with the Mineral Planning Authority shall be inoculated with earthworms where necessary in accordance with the aftercare scheme agreed in advance with Mineral Planning Authority. (20)

Establishment and maintenance of grass sward

- 103 During the aftercare period the following shall be carried out:-
- a) Reseeding any areas where a grass sward fails to become well established with the approval species mixture. (3)
 - b) Application of weed control spraying as necessary to prevent the land becoming infested with weeds. (3)
 - c) No vehicles, (with the exception of low ground pressure types required for agricultural work) machinery or livestock shall be kept or permitted on the land during the months of November, December, January, February and March, without the prior consent of the Minerals Planning Authority.

Maintenance of hedges and trees

- 104 Hedges and trees planted in accordance with Condition 4 f shall be maintained during the aftercare period in accordance with good woodland practice, such maintenance to include the following.
- a) Replacing all plants which die or are lost during the first year of maintenance and an overall 90% success rate at the end of the 5 year after care period. (3)
 - b) Herbicide (500mm radius) early in each growing season, and as necessary thereafter to prevent the growth of the plants being retarded. The types and rate of herbicide and time of each application to be agreed by the Mineral Planning Authority in advance of work commencing. (3)
 - c) Adequate measures to be taken to prevent inter rows becoming a fire hazard. (3)
 - d) Maintaining any fences around planted areas in stockproof condition. (3)
 - e) Appropriate measures to combat all other pests and/or diseases which significantly reduce the viability of the planting scheme. (3)

REASONS FOR CONDITIONS

- 1) To ensure the development is carried out in accordance with the approved document.
- 2) To ensure the development is carried out in an orderly manner
- 3) To ensure the site is satisfactorily restored
- 4) To avoid unnecessary delay in the restoration of the site
- 5) In the interests of residential amenity
- 6) In the interests of visual amenity
- 7) To protect land outside the site
- 8) To prevent adversely affecting watercourses passing through or outside the site
- 9) In the interests of highway safety
- 10) To avoid adversely affecting the surrounding environment
- 11) In the interests of visitors to the countryside
- 12) To ensure the stability of the land concerned
- 13) To avoid any adverse effect upon the installation of statutory undertakers
- 14) To avoid any adverse effect upon authorised mining operations in the vicinity
- 15) In the interests of archaeology
- 16) In the interests of nature conservation
- 17) To enable the mineral planning authority to consider the implications of any proposal to expand the activities which take place within the site
- 18) In the interests of agriculture
- 19) In the interests of public safety
- 20) 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 the Town and Country Planning (Minerals) Regulations 1995.
- 21) To ensure that the development is commenced within a reasonable period of time given the current state of the site.
- 22) In order to avoid soil smearing and compacting and to ensure that all available soil resources are recovered without unnecessary damage.
- 23) To prevent groundwater pollution.
- 24) The site is located within an area identified as being of potential importance. The investigation is required to ensure that any archaeological remains on the site can be preserved wherever possible and recorded.
- 25) In the interests of the proper restoration and aftercare of the site.

PLANNING AND HIGHWAYS COMMITTEE – 20TH JULY, 2010

REPORT OF THE DEPUTY CHIEF EXECUTIVE

TOWN AND COUNTRY PLANNING ACT 1990 – SECTIONS 198 AND 201

THE CITY OF SUNDERLAND TREE PRESERVATION ORDER (NO.166) AT LAND TO THE WEST OF IRENE AVENUE, JOAN AVENUE AND TARN DRIVE, SUNDERLAND, 2010.

1.BACKGROUND

- 1.1 A local planning authority may make a Tree Preservation Order TPO) when it is believed there is a risk of a tree being adversely affected in ways that would have a significant impact on the amenity of the area. The draft TPO, which is the subject of this report, was created further to a request from a local resident in direct response to an application for outline planning permission (ref. 08/01059/OUT) for the erection of two dwellings within the subject area of trees which was refused by the Council. Since it was considered that these trees were directly under threat, TPO 166 was initiated to secure the trees' long-term protection. A TPO allows the Authority to strictly control any removal or pruning of trees on the site.
- 1.2 The site on which the subject trees are located is situated within Leechmere Industrial Estate, as identified by the adopted Unitary Development Plan proposal's map, adjacent to the Estate's eastern boundary which adjoins a residential area. The substantial number and considerable density of trees which exist within the site, provide an effective 'buffer zone' which protects the amenities of residents of Irene Avenue, Joan Avenue and Tarn Drive by means of providing a visual screen and noise attenuation of the Industrial Estate, hereby separating typically non-compatible land uses. Cumulatively, the trees within the identified area are considered to make an important positive contribution to the visual amenities of the area.

2. MAKING OF THE TREE PRESERVATION ORDER

A Provisional Tree Preservation Order No. 166, was made on 11th February, 2010, under the provisions of Sections 198 and 201 of the Town and Country Planning Act 1990. Given the nature of the situation and the fact that the trees were at risk of being felled, it was considered that an Area Order should be made in order to give comprehensive protection.

The statutory objection period to the Provisional Order has now expired and two objections have been received in respect thereof.

A copy of the plan showing the location of the area of trees is attached marked as Appendix 1.

A copy of the Tree Preservation Order No.166, at Land to the West of Irene Avenue, Joan Avenue and Tarn Drive, Sunderland 2010 is attached marked as Appendix 2.

3. OBJECTION 1

An objection to the proposed Order has been received from Mr. K. McCririck, of 38 Joan Avenue, Sunderland.

4. REASON FOR OBJECTION

- 4.1. The trees fail to provide an effective barrier from the industrial estate because they drop their leaves in winter.
- 4.2. The trees do not provide noise reduction
- 4.3. The trees do not provide an important positive contribution to the visual amenities of the area.
- 4.4. The trees restrict light to his property, specifically the garden.
- 4.5. The trees cause moss build-up on paths in the garden, making them slippery and unsafe and cause a strong, damp smell .
- 4.6. The trees are too high.
- 4.7. The price of his property could be affected by the problems with the trees, as referred to above.

Copies of four letters from Mr. McCririck are attached marked as Appendix 3, 3a, 3b and 3c.

5. COMMENTS ON THE OBJECTION

- 5.1. It is acknowledged that the belt of trees protected by the proposed Order do not provide screening throughout the year, particularly during winter when the foliage of the trees is diminished. However, during summertime in particular, it is considered that they provide an effective visual screen of the Industrial Estate.
- 5.2. It is acknowledged that noise levels from the Industrial Estate are currently relatively low. The Local Planning Authority (LPA) are however limited in the control of operators within the Estate, provided that no change of use or physical development is proposed. As such, noise levels may become notably higher in future, which would pose a significantly higher degree of disturbance to neighbouring residents should the subject trees be removed or killed.
- 5.3. The trees are publicly visible and contribute significantly to the aesthetic, amenity and landscape value of the local area whilst providing screening from the adjacent Industrial Estate. Section 198(1) of the Town and Country Planning Act 1990 states that a TPO may be made 'if it appears to a LPA that it is expedient in the interests of amenity to make provision for the preservation of trees or woodland in their area'. The Act does not define amenity, nor does it prescribe the circumstances in which it is expedient in the interests of amenity to make a TPO. In the Secretary of State's view, a TPO should be used to protect selected trees and woodland if their removal would have a significant impact upon the local environment and its enjoyment by the

public. Local planning authorities should be able to show that a reasonable degree of public benefit would accrue before the TPO is made or confirmed. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath. Trees may be worthy of preservation for, amongst other reasons, their contribution to the landscape. Therefore, the legislation makes no distinction between species or size of trees. It may also be expedient to make a TPO if the LPA believe there is a risk of the trees being cut down or pruned in ways which would have a significant impact on the amenity of the area. It is not necessary for the risk to be immediate. In some cases the LPA may believe that certain trees are at risk generally from developmental pressures. The LPA may have some other reason to believe that trees are at risk; changes in property ownership, and intentions to fell trees are not always known in advance, and so the protection of selected trees by a precautionary TPO may sometimes be considered expedient, as in this case.

- 5.4. There is no automatic right to light.
- 5.5. Whilst the trees may be a contributing factor to the moss accumulation, there is no guarantee that the removal of the trees would prevent the problem of moss and damp issues. However, such concerns have been duly noted and, accordingly, the eastern boundary of the area covered by the proposed TPO has been amended to a distance of three metres from the boundaries of the adjacent dwellings in Irene Avenue, Joan Avenue and Tarn Drive. It is considered that such an arrangement, by allowing residents to prune overhanging branches of the trees closest to their houses without the need to apply to the Council, will not further restrict natural light into the curtilage of adjacent residential properties.
- 5.6. With regard to the maintenance and height of the trees, regardless of whether a TPO is made, the management of the trees remains the duty of the owner of the land upon which the trees are situated. The LPA will allow any works which are considered to be reasonable and necessary but, given that the strip of land adjacent to Mr. McCririck's property is not within Council ownership, the Council cannot be held responsible for the state of the land. Whereas a resident would normally have the right to cut back overhanging branches to the boundary line, in the case of protected trees subject to a TPO, consent for any works would have to be obtained from the LPA. Anyone can apply to undertake works to a protected tree, however any consent granted does not imply that consent would be forthcoming from the landowner. A neighbour may prune overhanging branches of protected trees back to the boundary line, but no further, providing consent has been obtained from the LPA. There is no fee incurred to submit an application for works to protected trees or a limit on applications made. The LPA would not unreasonably withhold consent for tree works which accord with good arboricultural practice or where there is a perceived risk that a tree is dead, dying or dangerous. Should consent be refused, an applicant has the right of appeal against the decision.
- 5.7. The possible effect of a town planning decision on the value of an adjacent property is not a material consideration in reaching that decision. Changes to residential amenity, however, which might

incidentally affect the value of properties are material considerations. Trees can make an important positive contribution to the amenity of a development and surrounding area.

A copy of the letter of reply from the Head of Planning and Environment is attached marked as Appendix 4.

6. OBJECTION 2

An objection to the proposed Order has been received from Mr. M. Strong, of 37 Irene Avenue, Sunderland.

7. REASON FOR OBJECTION

The trees are not maintained by the current owners and overshadow nearby properties. As indicated at 5.5 above the reduction in area will facilitate residents' pruning overhanging branches where necessary

A copy of the letter of objection from Mr. Strong is attached marked as Appendix 5.

8. COMMENTS ON THE OBJECTION

The responsibility for maintenance of the land on which the trees are situated and also for the trees rests with the landowner. Please refer to Section 5.6, above.

A copy of the letter of reply from the Head of Planning and Environment is attached marked as Appendix 6.

In conclusion it is considered that the objections have been fully addressed.

9. RECOMMENDATIONS

It must be noted that the proposed TPO has been made pursuant to the request of local residents in order to ensure that their amenity is protected from the adjacent industrial estate. In accordance with one of the reasons provided by the Council for refusing an application (ref. 08/01059/OUT) for residential development within part of the area in question, and reiterated by the Inspector at appeal, it is agreed that the trees within the site offer valuable amenity value to residents, in particular by providing a buffer from the adjacent industrial units. To this regard, these trees, collectively, provide significant visual screening of the industrial estate and can also be considered as providing effective noise abatement from potentially loud industrial processes.

The boundary of the area defining the extent of the TPO has been altered in light of objections to the order, in particular in response to issues relating to the management of the subject area, to allow such residents to freely maintain the land immediately adjacent to their properties without requiring formal consent from the Council. It is therefore considered that the concerns of all

residents, whether in favour or in opposition to the proposed TPO, have been satisfied.

Accordingly, it is recommended that the Committee considers the contents of this report and the objections received and indicates its support or otherwise to the view of the Deputy Chief Executive that Tree Preservation Order 166 at land West of Irene Avenue, Joan Avenue and Tarn Drive, Sunderland, 2010, be confirmed as amended?

BACKGROUND PAPERS

The Plan (Appendix 1)

Provisional Tree Preservation Order (No. 166) (Appendix 2)

Letters of objection from Mr. K. McCririck (Appendices 3, 3a, 3b and 3c).

Letter from Planning and Environment to Mr. McCririck addressing the objection (Appendix 4).

Letter of objection from Mr. N. Strong (appendix 5)

Letter from Planning and Environment to Mr. Strong addressing the objection (Appendix 6).

Janet Johnson
Deputy Chief Executive



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Key



Trees to be included in the Order



Trees to be omitted from the Order



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City of Sunderland Tree Preservation Order no. 166

**Tree Preservation Order at Land At
Joan Avenue and Irene Avenue
Sunderland**

Scale 1:1000

Date July 2010

TPO 166