

Development Control Committee
Meeting to be held on 19 October 2011

Electoral Division affected: Burnley Rural

Burnley Borough Council 12/11/0368
Variation of condition 1 of permission 12/04/0813 to allow continuation of coal mining and associated operations until 2 August 2018 at Hill Top Colliery, Sharneyford, Bacup

Contact for further information:
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Executive Summary

Application for the variation of condition 1 of permission 12/04/0813 to allow continuation of coal mining and associated operations until 2 August 2018 at Hill Top Colliery, Sharneyford, Bacup.

Recommendation – Summary

That, subject to the applicant first entering into a Section 106 Agreement to secure a restoration bond to ensure satisfactory restoration of the surface working area at the site, planning permission be granted subject to conditions controlling time limit, working programme, access, sheeting of vehicles, drainage, monitoring report, hours of operation, safeguarding watercourses, silencing of plant and equipment, storage or deposit of materials, no retail sales, no blasting, removal of permitted development rights, and the removal of redundant material and restoration.

Applicant's Proposal

Hill Top drift mine has previously operated with the benefit of planning permission but which expired on 2 August 2011(ref 12/04/0813). Planning permission is now sought to extend the operational life of the mine for a further seven year period to 2018.

The drift mine has coal reserves extending over a total underground working area, as projected to the surface, of approximately 9 hectares. The above ground development occupies a surface area of approximately 0.5 hectares. This includes two drift mine entrances, associated plant, materials storage and a site office. The coal is extracted and removed off site for processing. Extraction has taken place on a relatively limited part time basis (up to four people working at the mine during mornings only). However, the applicant envisages that a maximum of 90 tonnes of coal a day could be mined employing up to eight people working full time. The coal

would be transported from the colliery by up to three HGV's trips (6 movements) per day.

Hours of operation would be 0900 to 1700 week days and 0900 to 1300 on Saturdays with no working on Sundays.

Initially the application was to extend the period of extraction to 2021. However, this has since been revised by the applicant to 2018 following confirmation of the remaining coal reserves in relation to the extraction licence issued by the Coal Authority.

Description and Location of Site

Hill Top Colliery is an active coal drift mine located approximately 800 metres from the A681 (Bacup Road at Sharneyford) in an isolated moorland location. The pit head is located on sloping land on the south side of the Cliviger valley approximately 3.5km from Bacup town centre.

The nearest residential property is located some 700m SW of the site. Public Footpath No 70 runs north to south across the moorland above the underground workings and which forms part of the Cliviger riding circuit (a promoted route). Public Footpath No 69 crosses the northern part of the site in a north easterly direction.

The former Hill Top Landfill site is located 134m to the south of the mine surface development site; this has been restored and integrated into the moorland landscape.

The mine does not fall within or affect an area covered by any national or international ecological or landscape designations. However, the below ground permitted working area as projected to the surface falls within a Biological Heritage Site (Heald Moor and Deerplay Moor; Cliviger).

Background

History

Planning permission for the sinking of two new drifts for coal and surface installations was granted in August 1989 (ref 12/89/0268). However, the commencement was delayed and an application for a renewal of that permission was granted in 1997(ref 12/94/0338).

Planning permission to vary condition 7 of permission 12/94/0338 to allow mining to continue until August 2011 was granted in September 2005 (ref 12/04/0813).

When planning permission was initially granted in 1989 it was subject to a restoration bond under Section 111 of the Local Government Act 1972. Subsequent permissions have been granted subject to the applicant first entering into a Section 106 agreement under the Town and Country Planning Act 1990 to provide a restoration bond. The agreements have been progressively reviewed and updated to reflect the circumstances at the time.

Planning Policy

Minerals Policy Statement 1 – Planning and Minerals.
Minerals Planning Guidance 3 - Coal Mining and Colliery Spoil Disposal.

Regional Spatial Strategy

Policy EM7 Minerals Extraction

Lancashire Minerals and Waste Local Plan

Policy 2 Quality of Life
Policy 7 Open Countryside and Landscape
Policy 37 Strategic Road Network
Policy 65 Coal – Underground mines
Policy 106 Reclamation of Minerals and Landfill Sites
Policy 107 Proposed Reclamation Schemes
Policy 112 Standards of Operation

Burnley Local Plan

Policy GP2 Development in Rural Areas
Policy E 2 Nature Conservation –County Biological and Geological Heritage Sites
and Local Nature Reserves Landscape Character

Joint Lancashire Minerals and Waste Development Framework Core Strategy DPD

Policy CS1 Safeguarding Lancashire's Mineral Resources

Consultations

Cliviger Parish Council - No observations received.

Burnley Borough Council - No observations received.

Assistant Director - No objection as the colliery has not historically caused problems to the highway.

United Utilities - No observations received.

Environment Agency- No objection but the extension to time has the potential to increase the volume of water that will drain through the workings in to the adjacent Deerplay Minewater Treatment system and to create other polluting discharges in the area following abandonment. Therefore, a condition is recommended to require further details to be submitted relating to the control of surface water during the mining and how the coal seams will be sealed to prevent the ingress of surface water in to the mine system.

Coal Authority - The Coal Authority supports the application. It will contribute to the Government's policy framework for a diverse and secure energy supply in line with the policy objectives in Minerals Policy Statement 1 (MPS1). Minerals Planning Guidance Policy Note 3 sets out the most challenging standards for Coal Mining and it is essential that the planning process takes account of the fundamental principle of minerals planning - that minerals can only be worked where they occur. The Coal Authority previously issued a licence for Hill Top Colliery which expired on the 2 August 2011. It is expected that the applicant will obtain a further licence for the continued period in due course.

Natural England- No objection, but expect the LPA to assess and consider the possible impacts on protected species, local wildlife sites, and the opportunity for biodiversity enhancements.

Calderdale MBC - No observations received.

Public Rights Of Way - No observations received.

Rossendale Borough Council - No objection to the time extension. At its recent rate of working the mine has not generated any complaints that the council has had to investigate. The access road is used over part of its length by walkers and others for informal recreation, and in part is within an Access Area. Given the joint use and condition of the road the number of daily lorry movements permissible should be restricted to minimise conflict between vehicles accessing the site and recreational users of the area.

BHS Bridleway Officer (Burnley and District) – No objection subject to there being no damage or disruption to the surface or use of the bridleway including the parking of vehicles or storage of supplies for the mine.

Ramblers Association - No objection.

Representations – The application has been advertised by press and site notice, and neighbouring residents informed by individual letter. No representations have been received.

Advice

Director of Environment and Public Protection Services– Observations

Planning permission is sought for an extension of time to continue to extract coal from Hill Top Colliery until 2018. The colliery is a small drift mine located in an elevated position on isolated moorland on the edge of the Cliviger Valley, adjacent to the boundary with Calderdale Council.

The main issues raised by the application concern the visual impact of continued operations in this location (most of the underground working areas as projected to the surface fall within a Biological Heritage Site) and the need to secure restoration upon cessation of mining.

The principle of the extraction of coal in this location has already been long established. In 1997 the Coal Authority granted a licence for the extraction of 110,000 tonnes of coal. However, the low rate of coal production has led to only 2,900 tonnes being extracted to date. The coal is mined using a mixture of manual and mechanical techniques through a pillar and stall method of working in which coal is left behind as pillars to support the roof and above ground. No blasting operations occur.

The applicant has advised that the mine has been operated in a sporadic way due to a combination of reasons, including the circumstances of those involved, the identification of old workings not recorded on mine surveys, work to manage mine drainage and the market for coal. The applicant has advised that, based on the present information, it is estimated there are approximately 260,000 tonnes of coal reserves remaining within the permitted underground working area and that subject to planning permission being granted, the Coal Authority will licence the extraction of a further 111,000 tonnes of coal. The applicant has advised that the operations at the mine could be developed and which may facilitate the extraction of up to 90 tonnes of coal a day based on the maximum of up to three HGV movements and increased levels of employment; planning permission is sought for a further 7 years to facilitate such.

Minerals Planning Guidance Note 3 provides the national framework against which proposals for coal mining coal should be assessed. The guidance states that impact is largely determined by size, location and duration. The principle impacts arising from ancillary surface development at underground mines could include: visual intrusion; noise; dust; traffic; the location and design of buildings and storage areas; coal washing and lagoons; and site restoration; together with the potential effects of subsidence, including the potential hazard of old mine workings, the treatment and pumping of underground water, monitoring and preventive measures for potential gas emissions, and the method of disposal of colliery spoil.

The drift mine and associated surface development is small and has been operational for many years. Given the low intensity of the activities and its remote location away from properties, it is considered that continued mining at the current or anticipated rates would have limited environmental impacts in terms of noise, dust and traffic on the area. Rossendale Council has requested that the number of vehicle movements be restricted due to the poor access track and that the track is used for recreational purposes as it falls within an 'Access Area'. Although the Assistant Director has not raised any objection on highway matters on the basis of existing operations, a condition is proposed restricting the number of HGVs leaving the site to three per day (six movements) in order to protect local amenity, which could otherwise be compromised by an intensification of coal extraction.

Mining operations have the potential to impact upon both surface and ground water resources. The Environment Agency has stated that the proposal has the potential to increase the volume of water that will drain through the workings into the adjacent Deerplay Minewater Treatment system and to create other polluting discharges in the area following abandonment. Water flows within the mine are currently regulated by the Coal Authority. However, a condition is proposed requiring further details to be submitted relating to the control of surface water during mining operations and

how the drift entrances would be sealed on completion of mining operations to prevent the ingress of surface water into the mine system.

It is accepted that there would be some continued visual intrusion attributable to the presence of the above ground development and activities and access thereto. The surface development extends to approximately 0.5 ha but falls outside of the boundary of the moorland area designated as a Biological Heritage Site. However, Public Footpath No 70 which links to Bridleway 114 is located adjacent to the surface development. The previous planning permission was subject to a condition requiring the removal of unnecessary items from the surface operations that are associated with the operations and for those buildings retained on the site to be painted green to minimise the visual impact of the development within the landscape; subject to the re-imposition of such a condition and the painting of any buildings green, the impact of the surface development could be controlled and which would contribute to minimising the visual impact of the surface development to an acceptable level. A further condition to the previous planning permission required the construction of bunds and trees to be planted to screen the surface development. However, these were not constructed and planting was not carried out. It is now considered that due to the remote location of the surface development and the elevation and exposure on the moor, that it would be inappropriate to insist on bunds and tree planting which it could be considered would be visually incongruous in a moorland landscape setting and where planting may not succeed.

The original planning permission for the site (ref 12/89/0268) included a condition (number 5) which provided for the tipping of excavated spoil on an adjacent area of land used as a landfill site. This condition was carried forward through subsequent permissions relating to time extensions for working the site. However, the neighbouring landfill site has now been restored and this condition is now considered inappropriate. Furthermore, the applicant has advised that they generate negligible excavated waste material and if encountered in future, it would be exported off site. Therefore, there is no requirement to re impose this condition.

There are no specific policies within the Joint Lancashire Minerals and Waste Development Framework Core Strategy DPD 'Managing our Waste and Natural Resources' relating to the extraction of coal. Policy CS1 seeks to safeguard Lancashire's mineral resources and supports the extraction of minerals where they meet a proven need relative to their particular specifications. The Coal Authority supports the proposal advising that it would contribute to the Governments policy framework for a diverse and secure energy supply in line with the policy objectives in Minerals Policy Statement 1(MPS1). It is considered that the proposal complies with the national guidance set out in MPS1, MPG 3, the policies of the Lancashire Minerals and Waste Local Plan and Policy CS1 of the Joint Lancashire Minerals and Waste Development Framework Core Strategy DPD.

Previous planning permissions have been the subject of a restoration bond (financial guarantee) to ensure the removal of all above ground plant and equipment on completion of underground mining operations. The most recent planning permission required the applicant to enter into a Section 106 agreement providing for the sum of £9,065 to be secured for restoration purposes should the company abandon the site before appropriate restoration has taken place. The applicant has confirmed in

writing to the County Council that the company is willing to re-enter into such an agreement for the purposes of this application, the sum of which is still considered appropriate to facilitate the restoration of the site.

In view of the location of the mine and small scale development it is considered that no Convention Rights set out in the Human Rights Act 1998 would be affected.

Summary of Reasons for Decision

The proposed seven year time extension would allow remaining reserves of coal to be extracted. There would be no unacceptable impact on the local Biological Heritage Site, visual amenity, water resources or the highway network subject to conditions and the applicant first entering into a S.106 Agreement to secure a restoration bond would ensure the restoration and landscaping of the site once mineral extraction has ceased. The development complies with the policies of the development plan. The policies of the development plan relevant to this decision are:

Regional Spatial Strategy

Policy EM7 Minerals Extraction

Lancashire Minerals and Waste Local Plan

Policy 2	Quality of Life
Policy 7	Open Countryside and Landscape
Policy 65	Coal – underground mines
Policy 37	Strategic Road Network
Policy 106	Reclamation of Minerals and Landfill Sites
Policy 107	Proposed Reclamation Schemes
Policy 112	Standards of Operation

Burnley Local Plan

Policy GP2	Development in Rural Areas
Policy E 2	Nature Conservation –County Biological and Geological Heritage Sites and Local Nature Reserves Landscape Character

Joint Lancashire Minerals and Waste Development Framework Core Strategy DPD

Policy CS1 Safeguarding Lancashire's Mineral Resources

Recommendation

That, subject to the applicant first entering into a Section 106 Agreement to secure a restoration bond to ensure satisfactory restoration of the surface working area at the site, planning permission be **granted** subject to the following conditions:

Time Limits

1. This permission shall relate only to the mining of coal; the mining operations authorised by this permission shall be discontinued by the 2 August 2018. The site shall thereafter be restored in accordance with the conditions to this permission within a further period of one year from 2 August 2018 or from the cessation of mining operations whichever is the sooner. For the purposes of these conditions cessation of mining operations shall be taken to mean not carrying out of any operations to mine coal for a period of six months.

Reason: Imposed pursuant to schedule 5 of the Town and Country Planning Act 1990 and to conform with Policies 2, and 7 of the Lancashire Minerals and Waste Local Plan.

Working Programme

2. The development shall be carried out, except where modified by the conditions to this permission in accordance with the following documents:
 - a) The Planning Application and supporting statement received by the County Planning Authority on 26 July 2011 as amended by the letter from Jim Metcalf dated the 17 of September 2011.
 - b) Submitted Plans and documents:

Location Plan dated the 26 of July 2011
Hill Top Mine Plan dated the 17 of September 2011
 - c) All schemes and programmes approved in accordance with this permission.

Reason: For the avoidance of doubt, to enable the County Planning Authority to adequately control the development and to minimise the impact of the development on the amenities of the local area, and to conform with Policies 2, and 7 of the of the Lancashire Minerals and Waste Local Plan.

Highway Matters

3. The sole access to the site shall be taken from the A681.

Reason: In the interests of highway safety and to safeguard the amenity of local residents and adjacent properties /landowners and land users and to conform with Policy 37 of the Lancashire Minerals and Waste Local Plan 2006.

4. No more than 3 heavy goods vehicles as defined in this permission shall leave the site edged red on the plan attached to and forming part of this planning permission on any one day.

Reason: To safeguard the amenities of the area and landowners/landusers of the area to conform with Policy 37 of the LMWLP and Policy E2 of Burnely Local Plan Second Review.

5. All vehicles transporting minerals or colliery spoil from the site shall be securely sheeted.

Reason: In the interests of highway safety and the amenity of local landowners and land users and to conform with Policies 2 and 37 of the LMWLP.

6. Within 3 months of the date of this permission details of a scheme and programme for the management of mine water shall be submitted to the County Planning Authority for approval in writing. The scheme and programme shall include details of the following:

- a) Details of the proposed method of working
- b) A method statement detailing how surface water shall be managed throughout the duration of the mining operations. The method statement shall include measures to prevent surface water to enter the workings. Any drainage from the moor top which passes over excavated backfill shall be conveyed in a lined channel to prevent drainage percolating through excavated backfill into the mine system, and ultimately entering the Deerplay Minewater Treatment system.
- c) A method statement detailing how the openings into the coal seams will be sealed upon completion to prevent the ingress of surface water into the mine system.
- d) Details of the phasing of the implementation of the approved scheme

Reason: To ensure that the development does not increase flows into the Deerplay Minewater Treatment System by allowing surface water to drain into mine workings and to comply with Policy 23 of the Lancashire Minerals and Waste Local Plan.

7. A monitoring report shall be submitted to the County Planning Authority on 1 December 2011 and thereafter at annual intervals until the cessation of mining operations. The report shall contain the following:

- a) A description of the operations carried out on and under the land during the previous 12 months in respect of mineral extraction, including the volume/tonnage of mineral extracted.

- b) Details of water management including significant inflows, outflows or the transfer of water by pumping or gravity during the operation of the mine, with particular reference to the level and position of discharges within the mine which relate to ordnance datum.
- c) Details of the amount of spoil deposited and the extent of progressive restoration of the spoil material for the purposes of condition 6.

Reason: To enable the development to be monitored and the pollution risks associated with abandonment of the mine to be properly assessed and to safeguard local watercourses and drainages and avoid the pollution of any watercourse or groundwater resource or adjacent land and to conform with Policy E 2 of the Burnley Local Plan Second Review and Policy 2 of the Lancashire Minerals and Waste Local Plan.

8. Mining operations, the removal of plant and machinery, restoration works and the movement of goods vehicles to and from the site shall not be carried out except between the hours of 7.30am to 5.30pm Monday to Friday inclusive (except Public Holidays) and 7.30am to 1.00pm on Saturday and at no time on a Sunday or Public Holiday.

Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with Policy 2 of the Lancashire Minerals and Waste Local Plan.

9. All plant, equipment and machinery used in connection with the operation and maintenance of the site shall be equipped with effective silencing equipment or sound proofing equipment to the standard of design set out in the manufacturer's specification and shall be maintained in accordance with that specification at all times throughout the development.

Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with Policy 2 of the Lancashire Minerals and Waste Local Plan.

10. No storage or deposit of materials or equipment shall take place on the site other than within the service yard and concrete loading area as identified on drawing no. 634/03 forming part of planning permission 12/04/0813. Storage of liquids required in connection with the operation of plant and machinery shall be within sealed bunded areas of a capacity equivalent to 100% of the quantity stored.

Reason: To safeguard local watercourses and drainages and avoid pollution of any watercourse or groundwater resource or adjacent land and to conform with Policy 23 of the Lancashire Minerals and Waste Local Plan.

11. No blasting shall take place at the site.

Reason: To safeguard local amenity and to conform with Policy 2 of the Lancashire Minerals and Waste Local Plan.

12. No retail sales or coal stocking operations shall be carried out from the site other than the storage, supply or delivery by the mine operator of coal arising solely from the mining operations authorised by this permission.

Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with Policy 2 of the Lancashire Minerals and Waste Local Plan and Policy E27 of the Burnley Local Plan Second Review.

13. The provisions of Part 19 Class A / Class B of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 or any amendment, replacement or re-enactment thereof are excluded and shall not apply to this development. Any development referred to in that part shall only be carried out pursuant to a planning permission granted under Part III of the Town and Country Planning Act 1990 or any amendment, replacement or re-enactment thereof.

Reason: To maintain the Mineral Planning Authority's control of the development and to safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with Policies 2, 107 and 112 of the Lancashire Minerals and Waste Local Plan and Policy E14 of the Burnley District Local plan.

14. There shall be no discharge of foul or contaminated drainage from the site.

Reason: To safeguard local watercourses and drainages and avoid the pollution of any watercourse or groundwater resource or adjacent land and to conform with Policy 23 of the Lancashire Minerals and Waste Local Plan.

15. Within 3 months of the date of this permission a scheme and programme providing for the removal from the colliery compound of buildings, plant and machinery, scrap metal and other waste materials that are surplus to the operation of the colliery shall be submitted to the County Planning Authority for approval in writing. The approved scheme and programme shall be implemented in its entirety within 3 months from the date of approval. Thereafter, on each anniversary of the date of approval of the original scheme and programme, a subsequent scheme and programme for the removal of buildings, plant and machinery, scrap metal and other waste materials from the colliery compound that are surplus to the operation of the colliery shall be submitted to the County Planning Authority for approval in writing. Every subsequent approved scheme and programme shall be implemented in its entirety within 3 months from the date of approval.

Reason: To provide for the completion and final restoration of the site within the approved timescale in the interest of visual amenity and to secure the proper restoration of the site and to conform with Policies 2, 7, 106, 107 and 112 of the Lancashire Minerals and Waste Local Plan.

16. All buildings retained on the site shall be painted dark green within one month of the date of this permission and thereafter be retained in that colour while they remain on the site.

Reason: in the interest of visual amenity and to conform with Policies 2, 7 and 112 of the Lancashire Minerals and Waste Local Plan.

17. Within 6 months of the date of this permission a scheme and programme providing for the final restoration of the site shall be submitted to the County Planning Authority for approval in writing. The scheme and programme shall provide for the following:

- a) The removal of all plant and equipment, buildings, shelters, stockpiles of coal, vehicles and other items from the site.
- b) The closure of the mine entrances.
- c) The removal of the site compound and internal haul roads from the main access track.
- d) The measures to be taken to relieve ground compaction and to prepare the site for seeding and landscaping, including the spreading of soils stockpiled on the site.
- e) A restoration plan at a scale of 1:250 indicating those areas to be restored to grassland and those areas to be tree planted, and;
- f) A timetable for the above operations.

The scheme and programme shall be carried out in its entirety within 12 months from the 2 August 2018 or within one year of the cessation of mining operations whichever is the sooner.

Reason: To provide for the completion and final restoration of the site within the approved timescale in the interest of visual amenity and to secure the proper restoration of the site and to conform with Policies 2, 7 and 107, and of the Lancashire Minerals and Waste Local Plan.

Local Government (Access to Information) Act 1985 List of Background Papers

Paper	Date	Contact/Directorate/Ext
12/11/0368 12/04/0813	26/07/2011	Catherine Lewis/Environment/30490

Reason for Inclusion in Part II, if appropriate
N/A