



Report of the Chief Planning Officer

CITY PLANS PANEL

Date: 3rd September 2015

Subject: 14/02521/FU - Site remediation works including demolition of existing buildings, removal of hard standing, extraction of coal, removal of mine shafts and other below ground structures and re-instatement of ground at the former Vickers Factory, Manston Lane, Leeds 15.

APPLICANT

Bellway Homes Ltd (Yorkshire Div) and Zurich Assurance

Electoral Wards Affected:

Crossgates & Whinmoor

Yes Ward Members consulted

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION: Grant planning permission subject to conditions

1.0 INTRODUCTION:

- 1.1 The pre-application proposal for this project was presented to City Plans Panel on the 13th February 2014. A Position Statement report was presented to City Plans Panel on 26th June 2014. The principal reason why this application has not progressed to determination before now has been the very contentious access route proposed for heavy goods vehicles, including those exporting coal from the site.
- 1.2 A resubmission of various statements and plans took place in May 2015, which have been the subject of new publicity and consultations.
- 1.3 The fundamental difference between the current scheme and the scheme presented at the Position Statement stage in June 2014 is that works would not begin until the Manston Lane Link Road [MLLR] has been built and in use so that all heavy goods traffic enters the site and departs from the east.

2.0 PROPOSAL:

- 2.1 This application has two principal elements, with a range of subordinate but still large scale works. (a) The first main activity is the demolition of the existing tank factory building and the breaking up of the concrete slab foundations of this building and in the footprint of other now demolished buildings. (b) The second main activity is the progressive extraction of coal from the site from a coal seam which outcrops beneath the main building concrete slab and dips southward under most of the remainder of the site. Investigations have shown that this coal seam, the Middleton Main, underlies roughly 60% of the site at a shallow depth with an average seam thickness of 1.8m. Previous mining of the area has resulted in voids in the seam causing potential land instability. The applicant proposes to stabilise the site by removing the coal, mine shafts and other below ground structures. The land would then be reinstated to its original level with material arising from the site works. An application [14/02514/OT] to build houses on the site has been submitted. (c) The third main activity which is integral to activity (b) is the decontamination of the site, the removal of buried structures and the making safe of mine workings.
- 2.2 The site area measures approximately 20.2ha, which includes an area of trees on the northern boundary, plus the Barnbow Sports and Social Club to the east which are not subject of the site remediation works. The operations cover an area of 16.94ha. Several weeks after demolition has begun the extraction of coal would commence so that the two activities are concurrent rather than successive. The coaling area is 11.6ha. Demolition and clearing of the buildings would take approximately 14 weeks.
- 2.3 Demolition of the buildings and breaking up of the concrete is clearly necessary in order to be able to redevelop the site for housing. It is less obvious that the coal should be removed. But the coal seam has been partially extracted by underground mining, making the area unsuitable for redevelopment unless the risk of collapsing ground can be eliminated. One widely used method is to drill the site down to the seam on a closely spaced grid and inject a mixture of cement and pulverized fly ash into any spaces in the seam which are encountered. This is called grouting. The other method is to remove all the strata above the coal seam, remove the coal which is found and then put all the strata back in the hole. This is the method chosen by the applicant. At the Position Statement report stage Panel members preferred this to grouting.
- 2.4 The Method Statement explains that after demolition and breaking up of concrete has begun the extraction of coal is proposed to take place in the form of a successive series of 33 large trenches called box cuts moving from west to east across the site. However before this can happen preparations must take place to deal with surface water and any ground water which is released. Water treatment lagoons would be constructed at the eastern end of the site (located over box cuts 30-33)
- 2.5 Once the building and concrete slab have been removed from the area of box cuts 1-5 at the western end the entire strata (clays, shales and mudstones) would be removed down to the coal seam. This removed material would be stored in a 10 metre high mound north of the existing main building. Work and extraction then takes place progressively so that the strata from each cut is placed into a previous box cut and so on across the entire site. As each box cut is filled the material is laid down in layers each 250mm thick and compacted using a heavy vibratory roller. Once a small number of cuts are filled to final levels settlement monitoring would then begin.

- 2.6 When extraction has progressed almost the full extent eastwards there is a large hole in the final area. This is then filled using the mound of material stored north of the where main building stood. This system of working is universal in shallow coal extraction operations.
- 2.7 Extraction works would be limited by a 5m stand-off from the boundary of the permitted housing development to the west (The Limes); approximately a 20m stand-off from Network Rail's operations in the south; and no further north than the existing northern perimeter of the tank factory. The storage mound of excavated strata along northern boundary would help to provide a visual and acoustic screen. Close boarded wooden fencing/bund would be erected to a height of 4 metres along the western boundary and to a height of 3 metres along the northwest boundary
- 2.8 In the course of the progressive coal extraction operations contaminated materials would be selectively removed and treated before being backfilled into the workings. Due to there being a previous tank factory on site before the current one was closed, almost the whole site is concreted over, or has other relic foundations. The concrete would be crushed to provide a re-useable aggregate of which there could be as much as 100,000 tonnes.
- 2.9 The coal is expected to be removed at a rate of 3,000 tonnes per week, which equates to 20 loads being removed per day and 40 HGV trips. In other words, rounding this up, three two-way trips per hour is anticipated. The applicant is proposing to limit the delivery of coal from the site to 7.30am-4.00pm Monday to Friday.

3.0 SITE AND SURROUNDINGS:

- 3.1 The development site is situated on the eastern fringe of Cross Gates. The site is not identified/ allocated for a particular use in the Unitary Development Plan. A large industrial unit (the tank assembly plant) and several smaller properties currently occupy the site, which were associated with the Vickers Tank Factory. The majority of the site is currently vacant with the exception of a company using an area of the large industrial building for overflow storage. To the east of the site there is a currently a Sports and Social club that is intended to remain.
- 3.2 A tree belt partly demarcates the northern boundary with Manston Lane. The land falls away by approximately 2m from Manston Lane to the factory car park. The western most fifth of the original site was previously portioned off to Bellway Homes. A residential development has recently been completed there, known as The Limes. A non-definitive bridleway is situated along the north-eastern/eastern boundary.
- 3.3 The Leeds-York railway line runs along the southern boundary of the application site with Thorpe Park and 'Green Park' beyond.
- 3.4 The site formation comprises up to 3.8 metres depth of what is called *made ground*. This variously comprises of relic foundations, machine pits, tank testing facilities, tipped ground and gravels including several areas termed contamination hotspots, where there is contamination by hydrocarbons and other chemicals including some with asbestos fibres.

4.0 HISTORY OF NEGOTIATIONS AND RELEVANT PLANNING HISTORY:

- 4.1 14/02514/OT: Hybrid application for outline application for up to 385 dwellings, retail development, associated site access, landscaping and site works; full application for 100 dwellings including site access, public open space and landscaping. Under consideration.
- 4.2 PREAPP/14/00080: Demolition of existing buildings, extraction of coal and construction of residential development.
- 4.3 12/05382/FU: Detailed Application for the Manston Lane Link Road (East - West Route). Approved on 28.10.2013
- 4.4 11/02315/RM: Reserved Matters Application for 129 houses and 19 flats. Approved on 02.12.2011
- 4.5 09/04999/OT: Outline application for residential (C3), employment (B1c), health centre (D1), foodstore (A1), ancillary uses (A1/A2/A3/A4), community building (A4/D2), associated car parking, landscaping and infrastructure. Pending decision. It is intended that this application would be withdrawn following the submission of the new hybrid residential application.
- 4.6 08/03440/OT: Outline application for partial redevelopment of the former Vickers tank factory for residential development. Approved on 16.03.2009
- 4.7 32/147/05/FU: Residential development involving 110 dwelling houses and 78 flats to former tank factory site. Refused on 02.05.2007.
- 4.8 32/374/01/FU: Change of use of former tank factory to B8 (storage and distribution). Approved on 26.07.2002

5.0 PUBLIC/LOCAL RESPONSE

- 5.1 The application was advertised via site notice on the 16th May 2014 and in the Yorkshire Evening Post on the 29th May 2014. Correspondence from Cross Gates Watch Residents Association and approx. 2700 other objections from people living in the Manston area, either by own letter, signed standard letter or petition.
- 5.2 Following the submission of further information and amended plans new site notices were posted in May 2015 and liaison with key consultees resumed.
- 5.3 In response to the new sites notices a further letter of objection was received from Cross Gates Watch, though the previous objection based on goods vehicle arriving and departing from the west was withdrawn.
- 5.4 The grounds for objection relevant to planning and to the application as it now stands are as follows
 - The applicant has not provided a strong argument for the removal of coal. Coal should not be extracted from this site as this is unnecessary, and totally unacceptable in the middle of a residential area. This opinion would be further strengthened if the extraction process involved the use of explosives (it does not).
 - This proposal clearly is not environmentally acceptable (noise, dust and litter), practicable and feasible (in the sense of the economic and social benefits being

markedly in excess of the economic and social costs) and we cannot see what the community benefits will be. No argument has been made for any community benefits. The use of acoustic fencing is not effective.

- Starting work at 0730 within a residential area is early and working till 1800 equates to a long day that residents would have to suffer from dust and so on. Would the developer be seeking to work bank holiday weekends? The predicted duration of the coal extraction is also too long and likely to exceed these optimistic timescales. The movement of HGVs is proposed to be between 7:30am and 4pm on work days only. However, what hours would other vehicles associated with the development work to?
- Strict conditions must be in place to control noise and dust pollution for residents in the immediate vicinity.
- The consultation leaflet was misleading as it was not clear to the extent of the proposed remediation work. Also, the event was held on a winters evening at a time when people would be picking children up from school, coming home from work and was not held in an accessible venue.
- There may be unexploded ordnance buried on site
- Unpredictability. The proposed timescale assumes nothing will cause delay. This is not realistic.
- Lack of a formal environmental impact assessment
- The council lacks the resources to regulate the site operations

6.0 CONSULTATION RESPONSES

6.1 Statutory

- *Coal Authority*: The Coal Authority encourages and supports this planning application, which is seeking to work coal in environmentally and socially acceptable ways to meet the market requirements. The site remediation works will also ensure that the risks of land instability associated with past shallow coal mining activities are removed to enable the site to be safely redeveloped in the future.
- *Environment Agency*: No objection subject to further information concerning water quality and conditions.
- *Highways*: No objection. Certain conditions requested if approval given.
- *Network Rail*: No objection in principle and subject to conditions and safeguards.

6.2 Non-Statutory

- *Conservation*: No objection.
- *English Heritage*: No objection. The application(s) should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.
- *Environmental Health*: Concerned at the potential for both noise and dust nuisance especially to residents The Limes.

- *Flood Risk Management*: No objection,
- *Landscape*: Concern over loss of trees.
- *Land Contamination*: No objection. Further information is sought but conditions can be imposed.
- *Local Plans*: In principle there are no policy objections to the remediation and prior removal of coal from this site.
- *Ecology* : No objection, subject to condition.
- *Public Health*: No objection.
- *Public Health England*: No objection.
- *West Yorkshire Archaeology Advisory Service*: The heritage statement details the history of the former tank factory. This establishes that there is little of archaeological significance within the site. The WYAAS feel that no further research or archaeological recording is necessary.
- *Yorkshire Water*: No objection.

7.0 PLANNING POLICY

7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for Leeds currently comprises the Core Strategy 2014, the Natural Resources and Waste Local Plan 2013 and the saved policies of the Leeds Unitary Development Plan Review 2006.

7.2 Core Strategy

- **General Policy:** The Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework;
- **Spatial Policy 1:** Location of development - to deliver the spatial development strategy based on the Leeds settlement hierarchy;
- **Spatial Policy 4:** Regeneration priority programme areas. Priority will be given to developments that improve ... access to employment and skills development, enhance green infrastructure and greenspace, upgrade the local business environment...;
- **Spatial Policy 13:** Strategic green infrastructure;
- **Policy P10:** Design. New development for buildings and spaces, and alterations to existing, should ... provide good design that is appropriate to its location, scale and function; protect amenity including privacy, noise, air quality...;
- **Policy P12:** The character, quality and biodiversity of Leeds' townscapes and landscapes, including their historical and cultural significance, will be conserved and enhanced to protect their distinctiveness through stewardship and the planning process;
- **Policy T2:** New development should be located in accessible locations that are adequately served by existing or programmed highways, by public transport and with safe and secure access for pedestrians, cyclists and people with impaired mobility;
- **Policy G8:** Protection of important species and habitats;
- **Policy EN5:** Managing flood risk;
- **Policy EN7:** Proven mineral resources of surface coal will be protected from sterilisation by the designation.

7.3 Natural Resources and Waste Local Plan

- General Policy 1: Presumption in favour of sustainable development.
- Minerals 3: Mineral safeguarding areas – surface coal extraction
- Minerals 9: Detailed considerations concerning the application, highway safety and amenity considerations.
- Minerals 10: Restoration scheme
- Water 6: Flood risk assessments
- Water 7: Surface water run-off
- Land 1: Contaminated land
- Land 2: Development and preservation of trees

7.2 Leeds Unitary Development Plan Saved Policies:

- GP5: General planning considerations.
- GP7: Use of planning obligations.
- GP9: Community Involvement
- GP11/GP12: Sustainable development.
- N23/N25/N26: Landscape design and boundary treatment.
- N29: Archaeology.
- N39a: Sustainable drainage.
- N49: Protection of the districts wildlife.
- E7: Loss of employment land.

National Planning Policy Framework and Technical Documents:

7.3 The National Planning Policy Framework (NPPF) includes policy guidance on sustainable development, economic growth, transport, design, enhancing the natural and historic environment, minerals extraction and climate change. The Framework advocates a presumption in favour of sustainable economic development to deliver homes, business and industrial units, infrastructure and thriving local places. However, this should be achieved through encouraging effective use of land (including not sterilising mineral resources) with high quality design and a good standard of amenity for all existing and future occupants.

8.0 ISSUES TO CONSIDER IN A DETERMINATION OF THIS APPLICATION

Principle of development/Policy

8.1 At the heart of the National Planning Policy Framework (NPPF) is a presumption in favour of sustainable development. The Government outlines 12 core principles that should underpin planning and decision making. This includes proactively driving and supporting economic development to deliver thriving local places that the country needs and encouraging the effective use of land by reusing land that has been previously developed.

8.2 The NPPF sets out ways to conserve and enhance the natural environment. Paragraph 111 strongly encourages LPAs to promote the re-use of previously developed land through decision making. Furthermore, the NPPF outlines that Minerals are essential to support sustainable economic growth. Minerals are a finite natural resource that can only be worked where they are found so it is important to make best use of them. For this reason, the NPPF requires the LPA to encourage prior

extraction of minerals if it is necessary for non-mineral development to take place and can be achieved in an environmentally friendly manner or can be made so by planning conditions or obligations. Recent advice given by the Coal Authority suggests that small scale, short term recovery operations by opencast methods are possible on small sites within heavily developed areas through utilising best practices methods and appropriate planning conditions.

- 8.3 The Core Strategy recognises the importance of coal resources and ensures their protection through Policy EN7. The full extent of the surface coal field in Leeds has been identified as the Coal Mineral Safeguarding Area. These areas have been identified to protect proven deposits of coal from developments that could jeopardise future working.
- 8.4 The Natural Resources and Waste Local Plan (NRWLP) policy Minerals 3 requires that the opportunity to recover any coal present at the site be considered. There is a presumption in favour of extracting any coal from a site unless the applicant can demonstrate (i) it is not economically viable to do so; (ii) not environmentally sustainable; (iii) the need of the development outweighs the need to extract the coal; or, (iv) the coal would not be sterilised by the proposal.
- 8.5 As outlined above, the previous mining of the site has created a risk of land instability. The land can be stabilised by either drilling/grouting into the coal seam void spaces or recovery of the remaining coal, removal of voids and replacement of excavated materials. This process will also locate and remove buried structures and contamination hotspots. The grouting option has been discounted by the applicant as it would sterilise the mineral resource, is uneconomic and would require approximately 24 months to complete with approximately 14000 vehicle trips.

Highway and Access

- 8.6 As originally submitted all site traffic would be using Austhorpe Lane/Manston Lane from the west. This aspect of the scheme was by far the main reason for objections to the application. At the Position Report stage members were firmly of the opinion that the MLLR should be completed first so that all heavy traffic could access the site from the east. It is now proposed that working would not start until the MLLR is open.
- 8.7 The coal is expected to be removed at a rate of 3,000 tonnes per week and would be taken from the site Monday to Friday between the hours of 0730 and 1600. This equates to 20 loads being removed per day and 40 HGV trips.

Environmental Considerations

- 8.9 The demolition works, removal of hard standing and extraction of coal will introduce additional noise, vibration and dust. Local planning policy Minerals 9 requires that the applicant demonstrates that harm to amenity would not be introduced by the proposed development.

Noise

- 8.10 LPAs should consider whether noise from a proposal would give rise to significant adverse effects. Note that the NPPF technical guidance outlines that short term higher noise levels are often unavoidable during site set up, but temporary ought not to mean longer than eight weeks.
- 8.11 Baseline noise surveys were conducted on the 17th December 2013. The nearest sensitive addresses subject to surveys are No.10 Ethel Jackson Road, The Cottage

and Chrisann, No.1 Manston Cottage and Lazencroft Cottage. The most sensitive location is adjacent to The Limes. Predicted noise levels are based on the plant working at the closest point to the nearest sensitive receptor and with the proposed mitigation measures being in place.

- 8.12 National guidance on noise from mineral working distinguishes between the first 8 weeks life of a site and the remainder of the working period, when noise suppression is expected to be better. Within the first 8 weeks the main source of noise would be the breaking of the concrete slabs with the general noise of plant and machinery associated with coal extraction tending to be subordinate.
- 8.13 Taking the break up of the concrete slabs first. To help understanding of this it is accurate to say that houses at The Limes have been constructed with small gardens right up to the edge of the concrete slab, in the knowledge that the slab would have to be broken at a later date, i.e. when the houses were occupied. This is the starting point for considering how to progress the works.
- 8.14 The method statement envisages that an earth mound with a fence on top totalling 4 metres high would be built immediately behind gardens at The Limes to provide some noise (and visual) defence. Even for this some concrete has first to be broken and removed. Different methods of doing this have been looked at and there is now a detailed amended statement of how this would be done to reduce noise levels further including noise monitoring and liaison with residents. The method statement and acoustic report for the remainder of the concrete slabs envisages that they would be broken into sections using a piece of plant known as a guillotine breaker. It is claimed this equipment can deal with up to 5,000 square metres of concrete per day, which sounds a very large area (over 1 acre in old money). The broken sections would then be lifted into a truck and taken to the middle of the site for crushing. Clearly, if this rate of working were to transpose to reality then concrete breaking would very soon move away from people's houses. The scheme is predicated on this being the case. It is very likely that noise levels associated with early concrete breaking will exceed the "extra noise latitude" allowed in the guidance in terms of the level of noise, though not the 8 week duration.
- 8.15 Turning now to coal extraction, this follows on from concrete breaking by a few days. A maximum predicted noise level has been made for each of the sensitive receptors. The predicted worst case noise levels from coal extraction and re-compaction operations very slightly exceed the maximum recommended in guidance in two places but for two weeks only. After that the operation will have moved sufficiently away from these properties that the noise level would be within the standard limit of 55 dB(A) if not lower.

Dust

- 8.16 The generation of and dispersal of dust is highly dependent upon the weather conditions prevalent at the time. Dust nuisance in the community is normally perceived as a deposit on surfaces such as washing, window ledges, paintwork and other light coloured horizontal surfaces, e.g. car roofs. Within the area around the site, the existing deposited dust levels are influenced by road traffic, industrial and agricultural activity. The amount of dust deposited in this way is significant
- 8.17 The closest dust sensitive locations to the site are residential properties to the west, north and east of the site. The dust assessment identifies that these properties will be subject to up to thirty five dry windy working days per annum, when the wind is blowing from the west. with sufficient strength to carry coarse particles. When conditions for dry windy working days occur, the applicant says that best practice

techniques would be employed to prevent dust leaving the site. In the event of a failure of dust mitigation measures, for example in extreme weather conditions, the dust generating activity would be suspended until dust mitigation is implemented or until a change in weather condition occurs. These measures would be embraced through planning condition if members were minded to approve the application.

Vibration

- 8.18 Vibration can be generated within the ground by a dynamic source of sufficient energy. These seismic waves will spread radially from the vibration source decaying rapidly as distance increases. The operation of the vibratory compactor working in each box cut will generate localised vibration which have been considered at the closest vibration sensitive receptors.
- 8.19 British Standard 7385 states that there is little possibility of fatigue damage occurring in residential building structures due to vibration. All research and previous work undertaken has indicated that vibration induced damage would occur immediately if the damage threshold had been exceeded. There is no evidence of long term effects.
- 8.20 The levels of ground vibration were monitored using instruments which were sited at between 2 and 20 metres from the operational compactor in order to establish the rate of vibration decay from the operation.
- 8.21 At the closest of residential properties, on The Limes development, when working at the closest approach within the cut a most likely vibration level below recognised cautionary levels is predicted. The maximum likely vibrations at The Cottage, Chrisann, 1 Manston House and Lazencroft Cottage in all instances are also below the relevant criteria of BS 5228: Part 2 2009 and BS 7385 Part 2:1992 and hence safe for adjacent property.

Visual Amenity

- 8.22 As can be imagined, the demolition and extractions works would transform the visual appearance of the area and there can be no pretense the operations would be out of sight. Building the mound alongside Manston Lane from strata removed from the first box cuts would be clear to see, but would only take a few weeks and after that would block some views into the site until the time to remove it. Existing trees would help a little to screen views from Manston Lane especially in summer. A cross section through the workings shows the site is generally lower than Manston Lane. With the entire operation taking only a year the visual impact of the activities on site can be given only limited weight.
- 8.23 A soil bund and an acoustic fence (measuring 4m in height) are proposed to the western boundary, which is shared with The Limes housing estate, to primarily reduce the noise impacts. A benefit would be to assist with minimising visual impact on the residents of the new estate.

Drainage

- 8.24 The depth of excavation will vary from 3m to over 25m metres. As the excavations would be below ground water level pumping water from the excavation will be needed. This water will need to be settled before it can be discharged to the tributary of Cock Beck. The method of dealing with this essentially is to pass it through a series of surface lagoons.

Ecology and Landscape

Ecology

- 8.25 There are no national or designated sites within 2km of the site boundary or local designations in or adjacent to the site. Provided clean water only is discharged from the site there would be no effect on Barnbow Common SEGI.
- 8.26 The submitted Habitat, Bat and Bird Survey Results and Mitigation Strategy identified that Great Crested Newts (GCNs) were found within a nearby pond to the south-east of the site (just beyond the railway line) during the 2013 surveys. A population assessment revealed a total of two adult GCNs over the six survey visits. Prior to works beginning on site, further survey work would be undertaken and the necessary license applied for from Natural England. An important consideration for the applicant is that a license cannot be granted without a pp already granted. It can take up to a year to comply with the terms of a license and operations would be delayed until the terms of the license had been met.
- 8.27 No evidence of badger activity was found within the site boundary during the 2009, 2013 or 2014 surveys. However, outside the site boundary footprints were recorded in soft mud in 2013. It is likely that badgers may use this area for foraging although no snuffle holes were found.
- 8.28 The majority of the buildings on site have negligible bat roost potential. Their loss will have no significant impact on the small local bat population which uses the site. The outbuilding to the south of the site has a low bat roost potential. A single Common Pipistrelle bat was seen to enter the building for approximately 20 seconds during the dusk survey. It is considered highly unlikely that this, or any other building on the site, supports a roost. Immediately prior to the demolition commencing the building will be thoroughly inspected by a suitably licensed ecologist.
- 8.29 Despite the lack of roosting opportunities within the trees on site, the linear features present (e.g. tree lines) provide valuable linkages between potential roost sites within the off-site residential properties and the surrounding farmland. Only a very low number of Common Pipistrelle bats were observed, all commuting along the railway line. On two separate occasions up to two Common Pipistrelles were observed feeding off-site. Prior to the site clearance a total of nine bat boxes will be erected on trees that are to be retained along the southern boundary of the site. The bat boxes would be erected in groups of three to provide a variety of habitats. Lighting during the coal extraction and development work on the site will be downward directional and no lights being directed towards the railway corridor or tree lines along the southern boundary of the site.
- 8.30 There are a number of measures proposed that are long-term and so would be delivered as part of the residential use of the site i.e. plans for a number of ponds and other landscaping at the eastern end of the site.

Landscaping

- 8.31 A comprehensive tree preservation order was made for the site shortly after the application was submitted. The northern boundary is demarcated by a significant tree line that offers a high level of visual amenity value and these trees are unaffected, though many will need to be protected for the duration of the works. This is also the case for the trees positioned along the southern boundary. The trees to the south-west boundary are considered to be important in providing a buffer to the railway line

and to the proposed public park (Green Park) to the south. However many of these trees are growing on a mound of spoil, which has tested positive for asbestos and so will have to be removed and buried. There is a further group of trees within the area of remediation and coaling.

- 8.32 Clearly, a number of trees are identified in the TPO which are not compatible with the proposed extraction or the necessary remediation for contamination. It is a requirement of a TPO that if trees need to be removed then there is a scheme for fully compensatory planting. Initially the applicant proposed to defer the planting until completion of house building. At one level this seems sensible but has two problems. First it is contrary to the terms of a TPO and secondly the replanting could be up to a decade away – time for trees to grow several metres. Permission is therefore recommended on the basis that compensatory planting must take place under this application.

Others

EIA

- 8.33 The objectors feel that the applicant should have submitted a full environmental impact assessment. Under the regulations the submission of an EIA would only be necessary at the insistence of the local planning authority. It is a popular misconception that if someone thinks a scheme is big or has lots of impacts then it ought to be subject to EIA. But the regulations don't work at that simple level. EIAs are not something which a local authority should request simply because they sound a good idea or if there is pressure to do so. In this case, looking at the proposal and what the regulations say, it was concluded that this is not an EIA development. It should be noted that even if it were EIA development this would not have given the council any more information *in this case*.

Timescale

- 8.34 Objectors suggest the timescale set down in the application method statement is fanciful - it has no contingency for anything not being what it currently seems and taking longer to achieve. It is true that a lot has to happen in 12 months and it is true that there is scope for delay – even if only bad weather. Modern machinery has high productive outputs and some lost time could be made up. Nevertheless it is probably wise to treat the 12 month timetable as having a potential to over or even under run by a few weeks.

Ordnance

- 8.35 The potential for there to be unexploded ordnance has been raised and the objectors think the application deficient in this regard. However, no-one can say if there are any buried munitions, or where they are if they exist. There is no evidence there could be any. Clearly, it is best to find them, if there are any, before building houses.

Contamination

- 8.36 In addition to the identified contamination on site there is anecdotal evidence that there are buried and concealed contaminated materials and these include asbestos. It should be noted that the proposals have been carefully assessed and planning conditions are recommended which are appropriate to the nature of the activities likely to take place on site, whether they be expected or with unexpected discoveries.

Stability

- 8.37 The steepness of the proposed excavation side walls is a source of potential instability to gardens at the western end of the site and to the York-Leeds rail line. The applicant was asked to review the calculations. Whereas all the calculated factors of safety were satisfied a slightly less steep side wall in one location has resulted. The details have been reviewed by the council's Geotechnical Team. Network Rail is satisfied it will be able to agree a method statement.

Planning obligations

- 8.38 A community benefit fund of 25 pence per tonne of coal extracted is offered to fund local community projects. In the past other coal extraction projects have attracted larger sums, such as 45 pence per tonne. However, the value of coal on the open market has dropped in this time and is now close to its lowest value for many years.

9.0 SUMMARY

- 9.1: As the land is to be used for housing rather than employment then very extensive and intensive demolition and remediation works are unavoidable. The site could not be re-used without these works taking place. Setting aside the planned coal extraction these demolition and remediation works involving the digging out of relic foundations, processing of concrete and processing and cleaning up of contaminated made ground would be a major operation in their own right. A wide range of excavation and haulage machinery would be required with large heaps of material being created and processed. Without coal extraction, grouting of the mine working would also be needed, involving the use of large quantities of pulverized fly ash and cement brought to the site and the drilling of thousands of boreholes.
- 9.2 It is possible to deal with all the difficulties and challenges of the site without coal extraction. But the applicant has proposed to take out the coal and is entitled to a decision on this as much as the other works. The principal benefit to the developer is that coal extraction provides an income but also helps reduce or avoid some of the costs of remediation. It also provides more certain resultant ground conditions. Except where coal extraction would be environmentally unacceptable the applicant is entitled to a permission under council and national planning policy. It is not possible to say on the evidence that the coal extraction would create environmental issues of a scale and nature unacceptably worse than would exist via the more conventional route of demolition and remediation of this site without coal extraction.
- 9.3 By constructing homes at The Limes so close to the western edge of the application site Bellway Homes has introduced people into areas closer to the working area than was wise. It would be better not to have done so. The people who live there are among the most exposed to noise, dust and visual intrusion. The best that can be said is that the worst exposure would be over in a few weeks. A proposed condition obliges the operator to liaise closely with residents in Ethel Jackson Road.
- 9.4 The applicant has provided a Unilateral Undertaking to make a Community Benefit Fund payment of 25 pence per tonne of coal removed from site. This is to offset the harm to the amenity of residents, notably noise.

10.0 RECOMMENDATION

- 10.1 That planning permission is granted subject to the following conditions.

Approve:- Subject to the following condition(s) and reason(s)

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason : Imposed pursuant to the provisions of Section 91 of the Town and Country Planning

Act 1990.

2) The development hereby permitted shall be carried out in accordance with the Method Statement dated 18th May 2015, except where any condition below specifies differently, and the following approved plans and statements:- HRM1026/202 Rev D, 203 Rev.C, 204 Rev.A, 205 Rev. A , 207 Rev.B and 210, HRM1026/211, HRM 1026/303-P1, method statement for breaking concrete hardstanding dated 29th June 2015 and tree planting scheme ref JCA 11425-H/AJB.

Reason : For the avoidance of doubt as to which are the approved plans and documents.

3) The Local Planning Authority shall be notified in writing of the intended start date at least 7 days beforehand.

Reason : To help the local planning authority ensure that the development is carried out in accordance with this permission.

4. All remediation and mineral extraction works shall be completed within 52 weeks of development commencing. Completion shall comprise the achievement of final levels as shown on the approved plans.

Reason : Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

5. All addresses in Ethel Jackson Road shall be given at least 48 hours and not more than 72 hours notice in writing of the exact time it is intended to begin operations to break areas of concrete at the permitted site. The developer shall also provide contact details including a site telephone number on a notice board displayed at the site entrance prior to work commencing.

Reason : In the interest of the amenity of residents.

6. The breaking of concrete hardstanding adjacent to The Limes shall take place in accordance with the Method Statement dated 29th June 2015

Reason : To reduce noise levels at nearby properties.

7) No development shall take place until the details of all protection zones around trees shown as being retained on the approved plans have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason : In order to protect trees to be retained in accordance with policy GP5 of the Leeds Unitary Development Plan.

8. No development shall take place until a method statement including full details of excavations and proposed earthworks to be carried out near the railway undertaker's boundary fence, including the use of vibro compaction equipment, has been submitted for

the written approval of the Local Planning Authority. The works shall only be carried out in accordance with the approved details.

Reason : In the interest of the safety, operational needs and integrity of the railway line

9. The approved Phase I Desk Study report indicates that a Phase II Site Investigation is necessary, and therefore development shall not commence until a Phase II Site Investigation Report has been submitted to, and approved in writing by, the Local Planning Authority. Where remediation measures are shown to be necessary in the Phase II Report and/or where soil or soil forming material is being imported to site, development shall not commence until a Remediation Statement demonstrating how the site will be made suitable for the intended use has been submitted to, and approved in writing by, the Local Planning Authority. The Remediation Statement shall include a programme for all works and for the provision of Verification Reports.

Reason; To ensure that the presence of contamination is identified, risks assessed and proposed remediation works are agreed in order to make the site 'suitable for use' in accordance with policies Land 1 of the Natural Resources and Waste Local Plan 2013 and GP5 of the Unitary Development Plan Review 2006.

10. If remediation is unable to proceed in accordance with the approved Remediation Statement, or where significant unexpected contamination is encountered, the Local Planning Authority shall be notified in writing immediately and operations on the affected part of the site shall cease. An amended or new Remediation Statement shall be submitted to, and approved in writing by, the Local Planning Authority prior to any further remediation works which shall thereafter be carried out in accordance with the revised approved Statement.

Reason; To ensure that any necessary remediation works are identified to make the site suitable for use in accordance with policies Land 1 of the Natural Resources and Waste Local Plan 2013 and GP5 of the Unitary Development Plan Review 2006.

11. Remediation works shall be carried out in accordance with the approved Remediation Statement. On completion of those works, the Verification Report(s) shall be submitted to the Local Planning Authority in accordance with the approved programme. The site or phase of a site shall not be brought into use until such time as all verification information has been approved in writing by the Local Planning Authority.

Reason; To ensure that the remediation works are fully implemented as agreed and the site has been demonstrated to be suitable for use in accordance with policies Land 1 of the Natural Resources and Waste Local Plan 2013 and GP5 of the Unitary Development Plan Review 2006.

12. Development shall not commence until a survey of the condition of the vehicular highway within the application site, with any necessary mitigation works, has been submitted to and approved in writing by the Local Planning Authority. The approved mitigation works shall be fully implemented prior to occupation of the development.

Reason ; To ensure the free and safe use of the highway in accordance with adopted Leeds UDP Review (2006) policy T2.

13. Development shall not commence until details of access, storage, parking, loading and unloading of all contractors' plant, equipment, materials and vehicles (including workforce parking) have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be provided for the duration of construction works.

Reason; To ensure the free and safe use of the highway in accordance with adopted Leeds UDP Review (2006) policy T2.

14. No vehicles over 3 tonnes net weight shall access or depart from the site except from the east via the Manston Lane Link Road.

Reason : To minimise the risk of congestion in Austhorpe Road and in the interest of public safety.

15) The formation of the overburden storage mound adjacent to Manston Lane shall be completed within 6 weeks of the start of the development. On completion of formation it shall be contoured and trimmed smooth by machinery and thereafter shall not be disturbed in anyway until it is required to be removed in the reinstatement of the final excavation void.

Reason : In the interest of visual amenity.

16) No trees, shrubs or hedges within the site shall be lopped, topped or felled, pruned, sustain severance of roots or have their roots overtipped unless shown as being removed in accordance with the approved plans referred in Condition 2 above.

Reason : To ensure protection of trees, hedges and plants to be retained in the interests of general amenity.

17) No development shall take place until nine no. Schwegler 2F or technically the same bat boxes have been affixed to trees which are to be retained on the south boundary of the site, in three groups of three, the exact location to be agreed by an ecologist.

Reason: In recognition of the possible loss of bat roosts and the more confined foraging habitat.

18). A stability analysis supported by monitoring information for the western side wall shall be submitted for the consideration and written approval of the local planning authority. The scheme shall include site specific parameters and groundwater assessment and confirm that site stability will be maintained before, during and after the surface mining operations. The scheme shall be submitted in time to establish baseline conditions based on two or more recording occasions prior to development commencing and working shall not commence until written approval has been given by the local planning authority. Once approved the scheme shall be carried out in accordance with the approved details.

Reason : To confirm that public safety will be maintained throughout the working period and afterwards.

19) Dust generated by vehicles on roads, haul routes and circulation areas within the site shall be suppressed in accordance with a Dust Control Plan which shall be submitted for the consideration and written approval of the local planning authority prior to work starting on

site. The Plan shall be carried out in accordance with the approved details. All loaded lorries leaving the site carrying minerals shall be securely sheeted.

Reason : To suppress dust in the interests of amenity.

20) Prior to development commencing, a scheme to measure and monitor noise levels during site operations shall be submitted to the Local Planning Authority. The scheme shall include: i) noise monitoring locations; ii) maximum noise levels predicted for each location; iii) frequency of measurements and reporting of same; iv) procedures to be adopted if noise levels exceed those predicted . On approval of the scheme, the noise monitoring measures shall be implemented.

Reason : In the interests of the residential amenity of occupants of nearby property.

21) No operations shall take place on the site before 0730 hours on weekdays and 0730 hours on Saturdays nor after 1900 hours on weekdays and 12.30 hours on Saturdays and not at all on Sundays and Bank Holidays. Screen mound construction operations, excavation and demolition works shall not commence before 0800hrs any day.

Reason: In the interests of residential amenity of occupants of nearby property.

22) No operations shall take place outside the hours specified in condition 21 except for pumping and essential maintenance work.

Reason: In the interests of the residential amenity of occupants of nearby property.

23) Blasting shall not be carried out at any time.

Reason : In the interests of the residential amenity of occupants of nearby property.

24) All plant and machinery and vehicles utilised at the site shall be fitted with efficient silencers. Equipment which develops any fault and as a result is audible at the site boundary shall be removed from use until the fault is remedied. Constant running static equipment shall be shielded by earth or other means of acoustic screening.

Reason: In the interests of the amenity of occupants of nearby property.

25) Equipment to enable the mud and grit to be removed from the wheels, tyres and underside of vehicles prior to their entering the public highway shall be provided and utilised at the site and maintained in working order at all times when traffic is leaving the site. The site access road shall be maintained in a clean condition when traffic is leaving the site.

Reason: To ensure that mud is not deposited on the road in the interests of amenity and highway safety.

26) No waste material shall be burnt within the boundary of the site.

Reason : In the interests of the amenity.

27) Broken concrete, stone and brick together with ash, gravels and any other granular material recovered on site shall not be removed from site at any time unless it can be demonstrated to and agreed by the local planning authority, in writing, that a surplus exists and it is not necessary to retain the materials for the development of the site.

Reason : In the interest of sustainability and minimising transport to and from the site.

28) In the event of any stockpiles of construction materials remaining after working is completed and final levels achieved these shall be shaped into contoured mounds not exceeding a height of 6 metres.

Reason : In the interests of visual amenity.

29) Any above ground oil or liquid chemical storage tanks shall be located at least 10 metres from any watercourse and within a bund having a capacity of not less than 110% of the capacity of the largest tank or, if tanks are connected by pipework to allow equalisation of the level of the contents, then the bund capacity should be 110% of the largest combined volume. The floor and walls of the bund shall be constructed of brick, concrete or steel to be impervious to oil and water and resistant to any stored chemicals. Inlet, outlet, vent pipes and gauges must be within the bunded area, and any tap or valve shall be so arranged as to discharge vertically downwards and shall be kept locked shut when not in use. The disposal of contaminated surface water from within the bund shall be in a manner previously agreed with the Local Planning Authority. There shall be no uncontrolled discharge from the bunded area.

Reason : To prevent pollution.

30) Water entering onto or arising within the site shall not be discharged to a drain, sewer, culvert or watercourse unless it has first been settled and cleared of suspended materials. Residual solids and sludges shall be prevented from entering any drain, sewer, culvert or watercourse.

Reason : To minimise the risks of polluting or silting up or nearby watercourses.

31) Drainage works shall be carried out as shown on the approved plans. Except where shown otherwise, all ditches, streams, watercourses or culverts passing through or adjacent to the permitted site shall be protected and no works shall impair the flow nor render less effective the drainage onto or from adjoining land.

Reason : To avoid ponding and damage to features within the site or on adjoining land.

32) All lighting of operational areas shall be via directional down lighting with no lighting directed toward the southern site boundary.

Reason; To minimise the impact on foraging by bats.

33) Trees and shrubs shall be planted on site at the earliest opportunity; in the first season after the start of development for planting into undisturbed ground and for other planting not later than the end of the first tree planting season following achievement of final levels within the area to be planted. The area to be planted where ground has been disturbed shall comprise of a minimum 1.0 metres depth of topsoil and soil making materials suitable in promoting the healthy growth of trees.

Reason : To provide for biodiversity and in the interest of amenity.

34) Trees and shrubs which, within a period of five years of planting in accordance with condition 33 above, are removed, die or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that the approved landscape scheme is implemented and maintained.

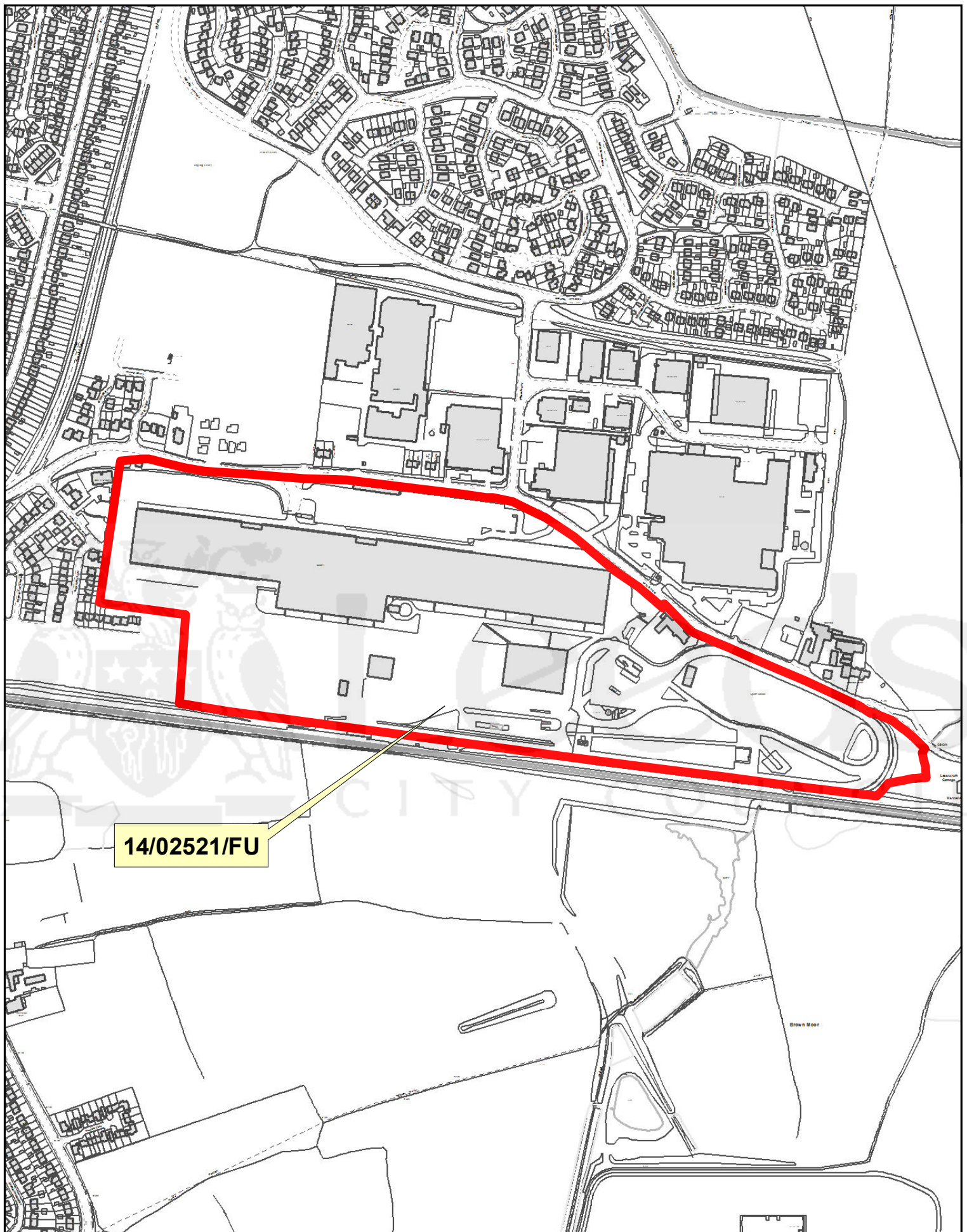
35) On completion of the remediation development with respect to the achievement of final levels and excluding tree planting all buildings, plant and equipment shall be removed from site and the site vacated.

Reason : In the interests of visual amenity.

Background Papers:

Application submissions and plans.

Certificate of Ownership – Signed by owners



14/02521/FU

CITY PLANS PANEL

