ITEM 1

THE RECOVERY OF SECONDARY AGGREGATES, OPENCAST COAL
AND ANCILLARY REDEVELOPMENT HARTINGTON RECLAMATION,
FARNDALE ROAD, STAVELEY
APPLICANT: TAWNYWOOD LTD

Local Plan: Proposed Employment Development Sites
Development in Existing Business and Industrial
Areas
Tree and Woodland Planting
Ward: Barrow Hill and New Whittington
Community Forum: Staveley and Barrow Hill and New Whittington

1.0 PURPOSE OF REPORT

1.1 To consider a consultation from Derbyshire County Council on the
following applications:-

1.2 CHE/11/00707/CPO The recovery of secondary aggregates, opencast
coal and ancillary development. Hartington
Reclamation, Farndale Road, Staveley.
Applicant: Tawnywood Ltd.

1.3 CHE/11/00706/CPO Section 73 application for minor material
amendment to Conditions 35, 36 and 37 of
planning permission CW2/0108/214. Staveley
Land Fill Site, Hall Lane, Staveley.
Applicant: Fitwise Ltd.

1.4 CHE/11/00705/CPO The extraction of brick clay, secondary
aggregates and incidental coal with stockpiling of
brick clay and associated activities - Variation of
Condition 4 (CM2/0707/77). Foxlow Tip and
adjacent land, off Staveley Lane, Staveley.
Applicant: Pheonix Brick Company Ltd.
2.0 **BACKGROUND/SITE HISTORY**

2.1 The primary operation for which permission is sought is CHE/11/00707/CPO, on land formerly used for a combination of the former pit head of Hartington Colliery, former tip for Staveley works and also the siting of industrial buildings (part dismantled).

2.2 The primary operation ‘The recovery of secondary aggregates, opencast coal and ancillary development’ would result in the diversion of the River Rother and the loss of large areas of habitats which have established themselves on the former industrial land.

2.3 As a consequence the proposal includes mitigation in the form of off-site habitat creation and also the translocation of plant species off site to the Staveley Land Fill Site and Foxlow Tip.

2.4 Given that these two sites are already subject to restoration schemes including habitat creation, approved under existing permissions CW2/0108/214 and CM2/0707/77 respectively, two further applications to alter these permissions have also been submitted, namely CHE/11/00706/CPO and CHE/11/00705/CPO (Derbyshire County Council references CM2/0911/80 and CM2/0911/79).

2.5 Derbyshire County Council has determined that the proposal constitutes EIA development and an Environmental Statement has been submitted by the applicant accordingly.

2.6 The main operation for which permission is sought consists of the following:

- Four phases of extraction which cover the recovery of materials in existing foundry tips, mining of shallow coal seams and old coal workings.

- Restoration of the site by forming 19.72ha of cleared, levelled land described as ‘development platform’ and 3.13ha of ‘river environment’.

- Forming of a local liaison group and also providing a ‘community fund’ as part of a Section 106 agreement.

2.7 The amount of materials expected to be recovered and mined is as follows:
- Coal seam workings of 87,119 Tonnes
- Secondary aggregates from foundry tips of 872,247 Tonnes (471,485 cubic metres)
- Overburden extraction of 788,804 cubic metres

2.8 The four phases of operation are intended to be as follows:

- Phase 1: Establishment of site facilities, water treatment area, extraction of ‘Top Hard coal’ (from ‘Area 1’) and forming of a temporary overburden tip in the eastern part of the site. Initial excavation and processing of foundry tips in the south of the western part of the site, progressing northwards.

- Phase 2: Removal of temporary overburden tip and backfilling of coal mining from ‘Area 1’ with construction of a new bridge and diversion of the River Rother in the worked out area. ‘Top Hard coal’ extraction from ‘Area 2’ on the western part of the site, with removal of foundry tip progressing northwards. Forming of an overburden storage tip centrally within the western part of the site.

- Phase 3: Construction of a new access road and initial ‘restoration’ taking place to the newly diverted section of the River Rother in the vicinity of the new bridge and an area in the south west. Extraction of shallow coal seams from ‘Area 3’ and foundry tip removal progression meeting the River Rother.

- Phase 4: Reduction of tip and extraction of coal seam from ‘Area 4’ with use of the new access road. Final ‘restoration’ to remainder of the site.

2.9 The average weekly production of secondary aggregates is estimated at 3,500 tonnes (168,000 tonnes a year). Coal production is anticipated to be intermittent, dependant on the reduction of the foundry tips in advance and the working ‘ratios’ of the different coal areas. It is estimated that the ‘Top Hard’ coal seam will be worked at a rate of 2,000 tonnes per week and other seams at a rate of 500 tonnes per week.

2.10 A mobile crusher will be operated on site as part of the processing of secondary aggregates.
2.11 The access to the site will initially be from Farndale Road utilising the existing private road and bridge across the River Rother. As works progress the coal mining operation will require a new bridge crossing over the River Rother and one will be provided. It will also require a new access road, which also will be provided.

2.12 Vehicles will use Eckington Road (B6053) to travel to the A619 to the south, where the highway network links to Chesterfield and to the M1 junctions of J29A and J30.

2.13 The Heavy Goods Vehicles (HGV’s) transporting aggregates from the site will have an average payload of 25 tonnes, with an estimated average of 28 vehicle movements in and out (56 daily movements total) per day. HGV’s transporting coal from the site will have an average payload of 20 tonnes with an estimated average of 20 vehicle movements daily during the mining of the ‘Top Hard’ coal seam (40 daily in total), reducing to 10 daily movements in total (in and out) during the later mining of shallow seams.

2.14 The estimated maximum total number of daily HGV movements both into and from the site, based on the information provided, would be 96.

2.15 The applicant proposes the following traffic safety measures to be introduced within 6 months of the operations commencing:

- provision of countdown markers or rumble strips to raise awareness of the existing 30mph limit.
- Provision of a ‘slow’ road marking
- Provision of a sign warning of the presence of the Eckington Road/Farndale Road junction

2.16 The haulage routes for the secondary aggregates is not predicated other than a likelihood of demand being greatest in Sheffield and Chesterfield areas. The applicant has stated that they will use their ‘best endeavours’ to minimise the transportation of secondary aggregates through Staveley Town Centre by permitting local deliveries only.

2.17 The haulage route for coal will reflect the anticipated demand from the Ratcliffe on Soar and Cottam power stations in the Trent Valley. The exact split of demand is not yet known. The route to the Ratcliffe on Soar station will be via Farndale Road turning right onto Eckington Road to the new link road and on to J29A of the M1 and then south. The route to
the Cottam station will be via Farndale Road turning right onto Eckington Road, joining the A619 in Staveley and heading towards Barlborough.

2.18 Haulage times will take place between 0700hrs (7.00am) and 1630hrs (4.30pm) Monday to Friday. Haulage vehicles will not be permitted to enter the site before 0700hrs as part of a contractual obligation.

3.0 CONSIDERATIONS

3.1 The County Council is the determining authority and will have regard to Section 54A of the Town & Country Planning Act 1990 as amended by the Planning & Compensation Act 1991 which states that:

“Where, in making any determination under the Planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise”.

3.2 The relevant Development Plan for the area comprises of the East Midlands Regional Plan Spatial Strategy (RSS) published March 2009, the Replacement Chesterfield Local Plan adopted June 2006 and the Derby and Derbyshire Minerals Local Plan (2000).

3.3 The County Council will also have regard to any other relevant material considerations.

3.4 It is considered appropriate for the Borough Council to offer comment on the proposal solely in relation to its Local Plan policies and emerging Core Strategy to avoid duplicating the County Council’s consideration of the proposals against national and regional planning policy.

3.5 The focus of the following consideration is focused on the principle of the development, in order to avoid duplicating the County Council’s duty to consider the more detailed impacts of the proposal, such as impacts on amenity and highway safety.

Local Plan policies

3.5 The Replacement Chesterfield Borough Local Plan (RCBLP) (adopted in June 2006) policies relevant to the decision are;

GEN1 Overall Planning Vision for Chesterfield
GEN2 Economic and Social Regeneration
EMP5 Other Sites for Employment Development
EMP7 Development in Existing Business and Industrial Areas
EMP8 Layout and Design of Employment Development
EVR3 Landscape Character
EVR6 Protection of Habitats
EVR8 Protection of Trees and Woodlands and Hedgerows
EVR10 Development and Flood Risk
EVR13 Canal and River Environments
EVR15 Contaminated Land
EVR23 Pollution and Other Adverse Environmental Impacts
CMT3 Development of Health and Further Education Provision
TRS1 Transport Implications of New Development
TRS11 Travel Plans
TRS12 Provision for Pedestrians and Cyclists

3.6 **Other Relevant Policy and Documents**

3.7 **Supplementary Planning Documents** relevant to the decision are;

- Sustainable Design (adopted October 2008)
- Open Space (adopted September 2008)

3.8 **Chesterfield Borough Draft (Pre-Submission) Core Strategy:**

3.9 Chesterfield Borough Draft (pre-submission) Core Strategy was approved by full Council for public consultation on the 14th December 2011. Whilst at a Draft Stage and carrying relatively little weight it and its evidence base are material to any decision.

3.10 The Draft Core Strategy contains relevant policies which deal with economic growth, infrastructure and environmental protection and also development in the Rother Valley ‘corridor’. In particular, policies S4, S6, S7, CS1, CS3, CS6, CS7, CS8, CS12, CS19 and PS5.

The following elements of the Draft Core Strategy’s evidence base are also considered relevant:

- A Greenprint for Chesterfield (Chesterfield Borough Council et al 2010)
- Chesterfield Green Infrastructure Study (Chesterfield Borough Council May 2009)
- Employment Land Topic Paper (Chesterfield Borough Council September 2011)
- Economic Development Strategy for Bolsover, Chesterfield and North East Derbyshire (2009-2014)
East Midlands Northern Sub-Region Employment Land Review (March 2008)
Chesterfield Strategic Flood Risk Assessment (March 2009)

3.11 **Other relevant Documents**:

3.12 The National Planning Policy Framework is at a draft consultation stage and therefore little weight is to be afforded to it.

3.13 **Local Plan Observations**

3.14 **Flood Risk**

3.15 Significant areas of the proposed reclamation, mining and ‘development platforms’ are located both within Flood Risk Zones 2 and 3 on the most recent Environment Agency Flood Risk Map.

3.16 The landform in the site currently reflects the deposition of foundry waste on the western side of the River Rother and colliery spoil on the eastern bank. The proposed development and restoration will significantly alter levels and the course of the River Rother.

3.17 The applicant has carried out a flood risk assessment which appears to conclude that the resulting land levels will not place the site at greater risk than existing of fluvial (river) flooding. However, there appears to be no conclusion as to what flood risk zones the site would then fall in with the benefit of the information contained in the Flood Risk Assessment.

3.18 If the conclusion of the County Council and Environment Agency is that the site would still lie within flood zones 2 and/or 3, there is a requirement in national planning policy PPS25 for a sequential test to be carried out, and information provided by the applicant to enable the determining authority to carry out the test.

3.19 Should such a test be necessary there would appear to be inadequate information in the supporting information for the determining authorities to assess the development against PPS25.

3.20 The Borough Council’s Strategic Flood Risk Assessment does not provide a sequential testing of allocated employment sites or existing employment areas and no such testing was carried out in the production of the RCBLP.
3.21 Consequently even if the proposal were to accord with RCBLP policies relating to flood risk management (EVR10 and EVR11), the site’s designation as an ‘existing business and industrial area’ and ‘employment development site’, does not in itself serve as an exemption from the PPS25 sequential test.

3.22 **Economic Development**

3.23 The primary operation of reclamation and mining on Hartington Tip consists of a total area of around 19.72ha on a site of 26ha. The majority of this land is located to the west of the River Rother and is designated in the RCBLP as an ‘existing business and industrial area’ (policy EMP7), whilst a smaller part (3ha) is allocated for new employment development (policy EMP5).

3.24 These policies envisage development of ‘employment uses’ in the form of land uses falling within the use classes B1, B2 or B8 and allow a degree of flexibility in respect of other uses (other than non-ancillary retail and leisure uses) subject to a consideration of potential employment generation.

3.25 Whilst the proposed operations would not be for B1, B2 or B8 (‘employment’) land uses, they will generate employment and are ‘economic development’ as defined in paragraph 4 of PPS4 and as such would not conflict with RCBLP policy EMP7.

3.26 The restoration phase of development will provide ‘development platforms’ served by a new road bridge across the River Rother.

3.27 However, there would appear to be no detailed proposals for making the resultant ‘development platforms’ ‘available’, in terms of permissions being put in place and the provision of full infrastructure/servicing. It is also not clear what land use the platforms represent, and whether RCBLP policy EMP8 which applies to the amount, scale, layout, design and landscaping of employment development is relevant.

3.28 In summary the proposal will generate a degree of employment during the operational phase, although the likely impact of this on the local economy is not well analysed, no economic impact assessment having been submitted. The resulting ‘development platforms’ will be relatively level areas, planted with clover and grass, the majority of which will be served by a new vehicular bridge across the River Rother. There appear
to be no proposals to provide fully serviced plots, speculative buildings or a specific end user.

3.29 **River and Canal Environment, and Protection of Habitats**

3.30 The application site includes an area designated in the RCBLP as a ‘River and Canal Environment' policy EVR13 being applicable.

3.31 This policy in effect seeks to prevent any adverse effect on the existing character of the environment, with a requirement for protection of natural features and marginal vegetation. The only exception to protecting such areas from an adverse effect would be where the effect was essential as part of an approved restoration scheme. The RCBLP envisaged ‘approved restoration schemes’ as being related to the ‘Staveley-Chesterfield regeneration route' and ‘A61 Area of Major Change’.

3.32 The current proposal will result in the loss of an existing river environment and therefore could not be considered to constitute an ‘approved restoration scheme' and would be contrary to RCBLP policy EVR13.

3.33 Aside from the loss of the existing river environment there is likely to be a more general adverse impact on biodiversity as a consequence of the proposal, and despite the mitigation proposed a net loss of habitat and tree cover. The habitats affected are identified in the Environmental Statement as being a combination of ‘priority’ habitats of primarily local and some of ‘County’ significance. Such a net loss of habitat would conflict with RCBLP policies EVR6, and EVR8.

3.34 The site where the intended reclamation and mining is proposed appears to have gained local and ‘County’ biodiversity importance and the proposal would detrimentally affect this importance.

3.35 **Site Restoration**

3.36 The submitted information indicates that ‘restoration’ of the 26ha application site would in summary, consist of:

- New permanent vehicular bridge over the River Rother
- Three ‘plots’ of ‘industrial’ land of 16.07ha, 2.62ha and 1.03ha (total of 19.72ha)
- Remaining areas of land with:-
(i) 1.19ha of ‘retained woodland’  
(ii) 0.54ha of ‘retained grassland’  
(iii) 1.77ha of riverine woodland creation’  
(iv) 0.65ha of ‘woodland screen’

3.37 Also proposed is the translocation of selected habitats and species to ‘Foxlowe Tip’ and ‘Hall Lane former Tip’. However this will significantly alter the pre-existing restoration plans of these other sites, with potential for an adverse impact on the habitat formation objectives approved for these sites.

3.38 Despite the proposed restoration and mitigation, with a subsequent likely increase in riverine woodland habitat of 238% (area), improved habitats for bats, and an enhanced river side and aquatic habitat along the remodelled section of the River Rother, the Ecological Impact Assessment concludes that there will be a net loss of the following habitats:

- Open Mosaic Habitat on Previously Developed Land
- Semi-Natural Grassland (Festuca rubra- Holcus lanatus)
- Key Invertebrate Habitat

3.39 The primary reasons for such an impact would be the mineral operations themselves and also the forming of ‘development platforms’ following restoration, which are likely to result in a net loss of around 14.51ha of habitat of ‘local wildlife site quality’.

3.40 **Emerging Core Strategy Observations**

3.41 **Economic Development**

3.42 The site is outside, and has no obvious transport connections to, the Staveley and Rother Valley Area Action Plan. The application site is not within a ‘broad employment area’ and is not identified as a ‘strategic employment site’ in the key diagram with regard to Core Strategy policies CS1 and CS12. The scale of development is such that any future employment use is likely to be eligible for a Community Infrastructure Levy.

3.43 The East Midlands Northern Sub-Region Employment Land Review (2008) together with the 2010 Employment Study carried out by the council’s Economic Development team form part of the Draft Core Strategy’s evidence base. These recommend that Chesterfield Borough
should provide approximately 79ha of new land for Business and Industrial use between 2011 and 2031 in order to provide sufficient jobs for the borough’s population and wider catchment.

3.44 Chesterfield Borough already possesses significant amounts of potential Business and Industrial land, either as vacant previously developed sites or as existing permissions not yet developed (approximately 174ha as at 2006). This supply is potentially sufficient to allow for all the growth to be accommodated within existing areas of planned development such as Markham Vale, Waterside and the Staveley and Rother Valley Corridor, whilst also allowing for the release of some sites for more appropriate alternative uses, retaining some flexibility for specific locational needs and small scale development to support the borough’s smaller communities.

3.45 With respect to the application land it is identified in the East Midlands Northern Sub-Region Employment Land Review (2008) as sites C49 and C3, neither site receiving a high rating in terms of market attractiveness or policy/sustainability compatibility.

3.46 Despite the aforementioned considerations, the Borough Council’s Economic Development Unit would still encourage the development of the site for an end use which generates employment.

3.47 **Green Infrastructure**

3.48 Draft Core Strategy Policy CS8 aims to protect and enhance existing green infrastructure and biodiversity, with an emphasis on no ‘net loss’ of green infrastructure and enhancements in accessibility for recreation and leisure, tree cover and also biodiversity, including linking of habitats, ‘where appropriate’.

3.49 The Chesterfield Borough Green Infrastructure Study (2009) and ‘Greenprint 2010 to 2020’ are material and highlight the importance of there being no net loss of biodiversity in the Borough. In particular with regard to those habitats and species identified in the Lowland Derbyshire Local Biodiversity Action Plan (LDBAP) as a priority.

3.50 The application site currently contains habitats and species identified as priorities in the LDBAP.
4.0 CONCLUSIONS

4.1 The proposal appears to give significant weight to the designation of the site for employment uses in the RCBLP when considering environmental impacts especially with regard to impacts on biodiversity and the extent of habitats.

4.2 It is noted that on page 21, paragraph 7.4.2 in Section 3 of the Supporting Statement, there is reference to the ‘key objective’ of the proposal being:

‘to achieve the reclamation of the site to make it suitable for employment uses as allocated in the RCBLP’ this will assist in achieving the aspiration of the Local Plan in increasing the choice and availability of employment sites in the local authority area’.

4.3 Furthermore the Ecological Impact Assessment refers on several occasions, where an adverse ecological impact is identified, to:

‘an accepted policy need, however, for the Hartington Reclamation site to be restored and available for development’…

4.4 However, the degree to which the proposal will genuinely result in ‘available’ employment land remains unclear, as is the justification for the scale of development platforms proposed, when balanced against the potential adverse impact on biodiversity and extent of habitats.

4.5 It is not clear from the information submitted if the formation of development platforms and any subsequent employment development is necessary to make the minerals extraction viable, or if this is merely supplementary to the minerals operation.

4.6 Also, the Draft Core Strategy and its evidence base appears to warrant an approach which gives less value to the application site’s contribution to employment land supply, and economic growth, than might be assumed from its RCBLP designation and allocation.

4.7 In light of the ecological impact information provided and evidence base for the Chesterfield Borough’s Draft Core Strategy, the applicant’s decision to afford greater weight to the RCBLP designation and allocation in preference to habitat protection and mitigation does not appear well justified.
4.8 Provided that the sequential test in PPS25 does not preclude the site’s future employment development, there appears to be an opportunity to form considerably smaller development ‘platforms’ and significantly greater habitat restoration. New habitats could be linked to the wider ‘green infrastructure’ network to the north and south via the river environment.

4.9 Such a balance would appear to still achieve the overall planning vision for Chesterfield in RCBLP policy GEN1, without significant conflict to other RCBLP policies.

5.0 **RECOMMENDATION**

That the Borough Council respond to the Derbyshire County Council by bringing their attention to the content of this report and also to the Borough Council’s significant concerns that the proposed restoration of the site does not appear to strike a reasonable balance between achieving economic and social objectives and the likely significant adverse impact on biodiversity at a local and ‘County’ scale.