



## **DISCLAIMER**

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THIS AGREEMENT is made the 14<sup>th</sup> day of June 2007

**BETWEEN:**

- (1) **PERSIMMON HOMES LIMITED** whose registered office is situated at Persimmon House Fulford York YO19 4PE ("the Owner")
- (2) **ASHFIELD DISTRICT COUNCIL** of Council Offices Urban Road Kirkby-in-Ashfield Nottinghamshire NG17 8DA ("the Council")

**I. Definitions**

IN THIS AGREEMENT the following words and phrases shall have the following meaning:-

- 1.1 "the Act" means the Town and Country Planning Act 1990 (as amended) and terms not otherwise defined in this Agreement have the meaning ascribed to them in the Act unless a contrary intention appears
- 1.2 'Affordable Housing Units' means the Dwellings to be constructed on the Application Site which are designated as the Affordable Housing Units in any approval given to a Subsequent Application and which shall be provided by the Owner in accordance with the terms of Clause 6 and the Fourth Schedule
- 1.3 'non-Affordable Housing Units' means the Dwellings to be constructed on the Application Site other than the Affordable Housing Units
- 1.4 "the Application" means the Planning Application dated 27<sup>th</sup> September 2005 in respect of the Proposed Development to which has been allocated the Council's Planning Application Reference No. 2005/0886

- 1.3 "the Application Site" means the land for which planning permission is sought to carry out the Proposed Development and which is shown for the purposes of identification only edged red on Plan 1
- 1.6 'agreed' or 'approved' means agreed or approved in writing and given for the purpose of this Agreement and where this Agreement requires any matter to be approved by the Council such approval shall not be unreasonably withheld or delayed
- 1.7 'the Yellow Land' means the land edged yellow on the Plan 2
- 1.8 "Commencement of the Proposed Development" or cognate terms means the point at which the Owner has implemented the Planning Permission (or as the case may be the detailed consent pursuant to a Subsequent Application) by carrying out a material operation as defined in Section 56(4) (a)-(d) of the Act provided that the carrying out of development comprising trial holes bore pits or other ground investigation works or any other works relating to archaeology, ground surveys, works of demolition or the erection of advertisement boardings shall not constitute Commencement of the Proposed Development except for the purposes of clause 7.8
- 1.9 "the Council's Surveyor" means a surveyor acting on behalf of the Council to make an inspection of any part of the Application Site in accordance with the Second, Sixth and Seventh Schedules
- 1.10 "the County Permission" means the planning consent for the safe restoration of the colliery spoil heap lying on the Yellow Land given by the Nottinghamshire County Council on 5<sup>th</sup> March 2007 under reference numbers 7/2004/1432 and 4/2004/0844 a copy of which is annexed to this Agreement at Appendix 1
- 1.11 "the Designated Route" means those roads coloured purple on the Routing Map between the A611 at its Hucknall Road junction and the Application Site

- 1.12 "Dwelling(s)" means (s) separate residential unit(s) and shall include both Affordable Housing Unit(s) and non-Affordable Housing Unit(s)
- 1.13 "Heritage Building Consent" means the conditional conservation area consent given by the Council on 18<sup>th</sup> August 2005 to an application for consent to demolish buildings on the Application Site to which the Council allocated planning reference 2005/0230 and a reference to a numbered "HBC Condition" means the condition with that number in the Heritage Building Consent.
- 1.14 "Heritage Works" means the proposed works required to restore the Heritage Buildings as set out in pages 3 to 7 inclusive and the drawings referred to in those pages all of which form part of a report dated May 2006 by Faithful & Gould and the further work referred to (under the heading 'Condition 4') in a letter of 29<sup>th</sup> January 2007 from the Council to Atkins Limited, both of which documents are appended to this Agreement at Appendix 2.
- 1.15 "HGV Construction Traffic" means heavy goods road vehicles having a gross weight of 7.5 tonnes or above which enter or leave or stop in the immediate vicinity of the Application Site for a purpose connected to the carrying out of any work authorized by or pursuant to the Planning Permission.
- 1.16 "HGV Delivery Traffic" means heavy goods road vehicles having a gross weight of 7.5 tonnes or above which enter or leave or stop in the immediate vicinity of the Employment Land for a purpose connected to a business for the time being carried on on the Employment Land.
- 1.17 "Highways Authority" means Nottinghamshire County Council or such other public authority or agency as shall for the time being have the statutory duty to maintain Hucknall Road, Annesley
- 1.18.1 "Plan 1" means the plan attached to this Agreement marked 'Plan 1'

- 1.18.2 "Plan 2" means the plan attached to this Agreement marked "Plan 2".
- 1.19 "the Routing Map" means the map or plan of the area neighbouring the Application Site attached to the Agreement and marked 'Plan 3'.
- 1.20 "the Obligations" means the planning obligations contained or referred to in the several Schedules to this Agreement.
- 1.21 'the Open Space Maintenance Payment' means the sum of £50,000 indexed linked in accordance with the provisions of the First Schedule.
- 1.22 "the Art Feature Payment" means the sum of £130,000 indexed linked in accordance with the provisions of the First Schedule.
- 1.23 "the Annesley Regeneration Payment means the sum of £500,000 indexed linked in accordance with the provisions of the First Schedule but subject also to the provision of the Third Schedule.
- 1.24 "The Employment Land" means the land amounting to approximately 3.16 hectares within the Application Site shown shaded blue on Plan 1 or such variation of it as may be agreed by the Owner and the Council.
- 1.25 "the POS" means the land amounting to approximately 0.48 hectares within the Application Site shown shaded green on Plan 1 or such variation of it as may be agreed by the Owner and the Council which area may include the Maive Land in the circumstances defined in paragraph 2 and / or 4 of the Sixth Schedule.
- 1.26 "the Housing Land" means the land amounting to approximately 4.51 hectares within the Application Site shown shaded pink on Plan 1 or such variation of it as may be agreed by the Owner and the Council.
- 1.27 "the Heritage Buildings means the former bath house and electricians workshop and cartilage coloured brown on Plan 2.

- 1.28 "the Headstocks" means the former crabsme winding gear and associated buildings situated on the Maurye Land
- 1.29 "the Maurye Land" means the land shaded mauve on Plan 1
- 1.30 "the Planning Permission" means the grant of planning permission pursuant to the Application in the form of the draft annexed to this Agreement at Appendix 3
- 1.31 "the Proposed Development" means a mixed use scheme for housing development, employment land and provision of public open space, footpaths, landscaping, access and associated works as more particularly described in the Application
- 1.32 "the Regeneration Land" means approximately one acre of the Employment Land to be ascertained in accordance with Part One of the Third Schedule
- 1.33 "Registered Social Landlord" means a registered social landlord within the meaning of the Housing Act 1996
- 1.34 "a Subsequent Application" means any application for the approval of reserved matters following the issue of the Planning Permission and made pursuant thereto
- 1.35 "a Subsequent Approval" means any approval given by the Council to the Subsequent Application to which it relates

## 2. Recitals

### WHEREAS:-

- 2.1 The Owner is registered at H.M. Land Registry as the proprietor of the Application Site with title absolute under title number NT 313895

- 2.2 Amesley Developments Limited has submitted the Application
- 2.3 The Council is the Local Planning Authority for the purposes of the Act for the area in which the Application Site is situated
- 2.4 The Council's Local Plan Review adopted in November 2002 contains inter alia policies HIG6 (Public Open Space requirements on new housing development) and HIG4 (Affordable Housing)
- 2.5 The Council resolved on 14<sup>th</sup> February 2006 to grant planning permission for the Proposed Development in accordance with the Application subject to conditions and subject to the making of this Agreement without which planning permission for the Proposed Development would not have been granted
- 2.6 The Owner has agreed to enter into this Agreement for the purpose of procuring the issue of the Planning Permission

**A. Enabling Powers**

THE parties hereto enter into this Agreement under and pursuant to Section 106 of the Act.

**4. Planning Obligations**

- 4.1 The Obligations are planning obligations for the purposes of Section 106 of the Act to the intent that the Obligations (subject to the provisions of sub-clauses 7.7 and 7.8 below) shall be binding and enforceable without time limit against the Owner and any persons deriving title to the Application Site from him in the manner specified in Section 106 of the Act PROVIDED ALWAYS that the obligations in this Deed shall not bind the occupiers of individual residential units constructed pursuant to the Planning Permission nor statutory undertakers following the transfer



of statutory apparatus or land on which statutory apparatus is located or is to be located by the Owner to that statutory undertaker

4.2 The Council is the Authority entitled to enforce the Obligations

5 Conditionality

The Obligations are conditional upon the issue of the Planning Permission.

6 Covenants by the Owner

THE Owner hereby covenants with the Council pursuant to Section 106 of the Act that the Application Site shall be subject to the Obligations and that the Owner shall duly carry out and perform the Obligations

7 Agreements and Declarations

It is agreed and declared as follows:

7.1 Any reference to a party to this Agreement shall where the context so admits (in the case of the Owner) include their successors in title and assigns and (in the case of the Council) include its successors in function

7.2 Words importing one gender shall be construed as importing any gender, and words importing the singular shall be construed as importing the plural and vice versa

7.3 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually

7.4 Any reference to a numbered paragraph, schedule or plan is to one in or attached to this Agreement but any reference to a numbered paragraph



IN WITNESS whereof the parties have executed this Agreement as a Deed the day and year first before written

## FIRST SCHEDULE

### COMMUTED SUM PAYMENTS

1. There shall be paid to the Council the Open Space Maintenance Payment in the sum of FIFTY THOUSAND POUNDS (£50,000) (adjusted for inflation in accordance with paragraph 7 of this Schedule) in accordance with paragraph 12 of the Sixth Schedule
2. Subject to paragraph 3 below there shall be paid to the Council the Annesley Regeneration Payment in the sum of FIVE HUNDRED THOUSAND POUNDS (£500,000) (adjusted for inflation in accordance with paragraph 7 of this Schedule) by the following instalments:
  - 2.1 as to the first £250,000 (adjusted for inflation in accordance with paragraph 7 of this Schedule) on the day prior to the Commencement of the Proposed Development
  - 2.2 as to the final £250,000 (adjusted for inflation in accordance with paragraph 7 of this Schedule) on the day prior to the first occupation of the 101<sup>st</sup> Dwelling erected on the Application Site or the last such Dwelling if less than 101 are approved pursuant to a Subsequent Application covering the whole of the Application Site
3. At any time before the payment to be made under sub-paragraph 2.1 falls due the Council may serve written notice on the Owner electing to take in partial satisfaction of the payments under paragraph 2 a transfer of the Regeneration Land in accordance with paragraphs 1 - 14 of the Third Schedule. Once such notice of election has been served the Owners' Obligation to make the payments under paragraph 2 shall be deferred (although interest in accordance with paragraph 7 shall nevertheless continue to accrue) until the transfer of the Regeneration Land is completed, upon which date the Owner shall pay the amount (if any) by which £250,000 adjusted for inflation in accordance with

paragraph 7 at the date of the transfer of the Regeneration Land exceeds the value of the Regeneration Land as agreed or fixed at that date and insofar as the value of the Regeneration Land exceeds that figure the excess shall be offset against the payment required by paragraph 2.2, which shall be paid on the date required by paragraph 2.2 or the completion of the transfer of the Regeneration Land, whichever is the later.

- 4 All sums received by the Council pursuant to Paragraph 2 shall be dealt with in accordance with the terms of Part Three of the Third Schedule
- 5 There shall be paid to the Council the Art Feature Payment in the sum of ONE HUNDRED AND THIRTY THOUSAND POUNDS (£130,000)(adjusted for inflation in accordance with paragraph 7 of this Schedule) on the day prior to the first occupation of the 100<sup>th</sup> Dwelling erected on the Application Site
- 6 All sums received by the Council pursuant to Paragraph 5 shall be dealt with in accordance with the terms of Part Four of the Third Schedule
- 7 Where any amount is payable pursuant to the provisions of paragraphs 1, 2 or 5 of this First Schedule the amount to be paid shall be adjusted for inflation in accordance with the following formula :-

$$(F + A) \times B$$

Where:-

F = the amount payable pursuant to paragraphs 1, 2 or 5 of this First Schedule as the case may be

A = the 'all items' figure of the Retail Price Index published by the Office for National Statistics or any successor body (the 'RPI figure') in respect of the month February 2006

B = the RPI figure for the month in which the relevant Due Date falls

But so that if at any time B shall be less than A, the amount payable pursuant in the relevant paragraphs as the case may be shall nevertheless be paid in full without reduction

*PROVIDED ALWAYS that:*

- (a) if such sum or any part thereof shall not be paid on or before its Due Date it shall carry interest at 4% per annum over the Base Lending Rate for the time being of Barclays Bank plc from the Due Date until actual payment and
- (b) if any payment due under this Agreement is to be paid prior to the first occupation of a particular Dwelling, no more than the number of Dwellings which is the trigger for that payment may be occupied until that payment has been made, and
- (c) payment of any commuted sum shall not in itself constitute commencement of the Proposed Development for the purposes of implementing the Planning Permission

## SECOND SCHEDULE

### PROVISION OF SERVICED EMPLOYMENT LAND

1. In this Second Schedule "the Specification" means the specification which has been agreed by the Council (a copy of which is appended hereto at Appendix 4) for the laying out and construction of the Employment Land as serviced land in readiness for development for employment uses, and any Subsequent Application which includes the Employment Land shall seek reserved matters approval for the Employment Land to be developed to the Specification. Any Condition(s) in a Subsequent Approval to such Subsequent Application which refer to or affect the Employment Land are in the remainder of this Second Schedule referred to as the Relevant Conditions.
2. No more than 50 Dwellings anywhere on the Application Site may be occupied for the first time until the Employment Land has been laid out and constructed in accordance with the provisions of the following paragraphs of this Second Schedule
3. At any time after the Owner shall in its opinion have laid out and constructed the Employment Land as required by the Specification and the Relevant Conditions it may invite the Council in writing to make an inspection of the Employment Land for the purposes of this Second Schedule and the Council shall as soon as practical thereafter arrange for such inspection to be made by the Council's Surveyor
4. The Council shall procure that the Council's Surveyor shall with all reasonable diligence make his inspection and either
  - 4.1 give his written certificate that Specification and the Relevant Conditions have been complied with and that the Employment Land is ready to accommodate development, or

- 4.2. make a written report setting out any respects in which the Specification and the Relevant Conditions have not yet been complied with and the steps which the Owner must make in order to rectify such omissions, and
  - 4.3. forthwith serve his certificate pursuant to paragraph 4.1 or his report pursuant to paragraph 4.2 as the case may be on the Owner and the Council
5. If the Council's Surveyor shall have given his certificate pursuant to paragraph 4.1 then the restrictions imposed by paragraph 2 shall cease but if the Council's Surveyor shall have given a report pursuant to paragraph 4.2 then the Owner shall comply with the requirements of the report and invite the Council in writing to make a further inspection of the Industrial Site whereupon the Council shall as soon as practical thereafter arrange for such further inspection to be made the Council's Surveyor and so on as often as may be necessary (*mutatis mutandis*) until the Council's Surveyor shall give his certificate pursuant to paragraph 4.1
6. For the avoidance of doubt the Council's Surveyor shall act as an expert and not an arbitrator and his opinion shall be binding on the parties
7. The Owner shall pay as a debt to the Council the reasonable costs of the Council's Surveyor incurred in making any inspection of the Employment Land for the purposes of this Second Schedule (and as often as may be necessary in the case of re-inspections), such costs to be paid (exclusive of any VAT) not later than 14 days after the presentation to the Owner by the Council of a copy of the Council's Surveyor's invoice such costs to be limited to £100.00 in respect of any single inspection



## THIRD SCHEDULE

### PART ONE

#### Ascertaining and Valuing the Regeneration Land

1. If a notice shall have been served by the Council pursuant to Paragraph 3 of the First Schedule then the provision of Parts One and Two of this Third Schedule have effect and prior to the Commencement of Development on the Housing Land the Regeneration Land shall be identified in accordance with the following provision of this Part One of the Third Schedule and valued in accordance with paragraphs 4 to 10 of this Part One of the Third Schedule.
2. The Regeneration Land shall be: -
  - 2.1 a single plot lying within the Employment Land or as near as may conveniently be to one acre in area having regard to the need to develop the Employment Land as a whole;
  - 2.2 immediately adjacent to and having access to the road system which is to be laid out on the Employment Land;
  - 2.3 of a convenient shape and location for use for the provision of business premises falling within Use Classes B1, B2 or B8;
  - 2.4 provided with all services including drainage, sewerage, electricity, gas, water and telecommunications save that the Owner shall not be obliged to make connections of such services to the Regeneration Land prior to the provision of such services to the remainder of the Employment Land;
3. The Owner shall prior to the submission of any Subsequent Application in respect of the Employment Land or any part thereof seek to agree the exact location and dimensions of the Regeneration Land with the Council as well as all other matters

to be provided by the Owner to make the Regeneration Land ready for development

4. The value of the Regeneration Land as at the date (immediately prior to its transfer from the Owner to the Council) shall be based on the assumption that it may be used for any purpose falling within Classes B1, B2 or B8 of the Town & Country Planning (Use Classes) Order 1987 as amended and that it is fully serviced as required by sub-paragraph 2.4 above and is provided with all such matters as have been agreed between the Owner and the Council pursuant to paragraph 3 above.
5. For the purposes of this Part One of this Third Schedule:-
  - 5.1 "Dispute" means a failure to agree any matter requiring to be agreed under paragraphs 2 to 4 above which the Parties are unable to resolve.
  - 5.2 "Party" means either the Owner or the Council as the case may be.
  - 5.3 "Specialist" means a person qualified to act as an independent expert in relation to the Dispute having experience in the profession in which he practices for the period of at least 10 years immediately preceding the date of referral.
  - 5.4 "Dispute Notice" means a notice in writing given by either Party to the other requiring a Dispute to be referred to a Specialist.
6. In the event of a Dispute either Party may give to the other a Dispute Notice which shall propose an appropriate Specialist who shall act as an independent expert to resolve it.
7. The Party served shall be deemed to accept the proposals made in the Dispute Notice unless that Party within 10 working days of service of the Dispute Notice gives notice rejecting the proposal and giving reasons for the rejection.
8. If the proposals in the Dispute Notice are rejected by the other Party and cannot be resolved by further negotiation within 5 working days of service of the rejection of

the Dispute Notice either Party may refer the matter to the President or next most senior available officer of the Royal Institution of Chartered Surveyors who will (with the right to take such further advice as he may require) nominate the person who shall seem to him most suited to act as the appropriate Specialist.

8. The Specialist shall then determine the Dispute as an independent expert in the manner following: -

9.1 The Specialist shall when taking up his appointment undertake to use all reasonable endeavours to publish his decision within 6 weeks of his appointment and if he should be unable or unwilling to give such undertaking either Party may invoke the procedure under paragraph 7 *mutatis mutandis* and request that the nominated Specialist be discharged and that a fresh appointment be made;

9.2 Each Party may within 10 working days of the Specialist's appointment make written representations to him and supply a copy to the other Party;

9.3 Each Party shall within a further 5 working days comment on the representations made by the other Party;

9.4 The Specialist will be at liberty to call for such written evidence from the Parties and to seek such legal or other expert assistance as he may require;

9.5 The Specialist shall not be obliged to take oral representations from a Party but if he does he shall allow both Parties the opportunity to be present and to give evidence and to cross-examine each other;

9.6 The Specialist shall have regard to all representations and evidence when making his decision which shall be in writing but he will not be required to give reasons for his decision.

10. The liability for paying all costs of referring a Dispute to a Specialist under this Part One of this Third Schedule including costs connected with the appointment of the Specialist shall be borne equally by the Parties unless the

Specialist in giving his decision shall determine otherwise but the legal and other professional costs of any Party in relation to any Dispute shall be borne by the Party incurring them in any event.

## PART TWO

### *Transfer of the Regeneration Land*

11. No more than 50 Dwellings on the Housing Land may be first occupied until the Regeneration Land has been transferred to the Council in accordance with this Part Two of this Third Schedule.
12. The Regeneration Land shall be transferred with title absolute but subject to a restriction that the same shall only be used for purposes falling within the Classes B1, B2 or B8 of the Town & Country Planning (Use Classes) Order 1987 as amended. The transfer shall be at a nominal consideration of £1 with each party bearing their own costs of such transfer.
13. If at the date of transfer the Regenerated Land cannot be reached by direct access over adopted highways the transfer shall also contain sufficient rights of access on foot and by vehicles to enable public access to the Regeneration Land from the nearest public highway.
14. The value of the Regeneration Land as agreed or fixed pursuant to paragraph 4 above shall be offset against the Annesley Regeneration Payment (such figure to be adjusted in accordance with the indexation specified in the First Schedule at the date the value of the Regeneration Land is agreed or fixed so that the value is offset against the adjusted figure) and the balance (if any) shall represent the Annesley Regeneration Payment save that the parties acknowledge that if the value of the Regeneration Land exceeds the figure of £500,000 adjusted in accordance with the indexation provisions no balancing payment is to be made by the Council to the Owner.

## PART THREE

### Regeneration Payment

15. Where in this Agreement reference is made to the Annesley Regeneration Payment the following provisions shall apply to such payment:
16. The Council shall ring fence the Annesley Regeneration Payment in a bank deposit account so as to earn the highest rate of return reasonably obtainable and all such return is to be credited to the Annesley Regeneration Payment and be spent only in accordance with the following provisions of this Schedule.
17. The Council shall use the Annesley Regeneration Payment only for purposes which will in the opinion of the Council tend to achieve the regeneration of the Electoral Ward of Woodhouse, including its commercial, leisure, transport, cultural and municipal facilities and environmental amenities.
18. Without prejudice to the generality of Paragraph 17 the Council may out of the funds for the time being comprising the Annesley Regeneration Payment held by it:
  - 18.1 Spend any part of the funds on the improvement of any facilities owned by the Council
  - 18.2 Spend any part of the funds on the acquisition of any property to be owned by the Council
  - 18.3 Make a loan of any part of the funds (whether or not on commercial terms and with or without interest) to any person or public or private body for the purpose only of enabling the improvement of any building, structure or grounds within the Electoral Ward of Woodhouse provided that any repayment of such loan (including interest where applicable) shall be paid into the account mentioned in Paragraph 1 and be held as part of the Annesley Regeneration Payment
  - 18.4 Make a grant of any part of the funds (whether or not on commercial terms and with or without interest) to any person or public or private body

for the purpose only of enabling the improvement of any building, structure or grounds within the Electoral Ward of Woodhouse

- 18.5 Purchase and/or build and/or refurbish for resale of any property which in the opinion of the Council tend to achieve the regeneration of the Electoral Ward of Woodhouse provided that any sum received on the resale of such a property shall be paid into the account mentioned in Paragraph 1 and be held as part of the Annesley Regeneration Payment
19. The Council shall continue to hold the Annesley Regeneration Payment (including any repayments made in the circumstances of or similar to Paragraphs 18.3 & 18.5) until it shall be exhausted. The Council shall publish an annual account of all expenditure from the Annesley Regeneration Payment but shall not be under any other obligation to account to the Owner for it nor at any time to return it or any part of it.

## PART FOUR

### Art Feature

20. The Council shall ring fence the Art Feature Payment which shall be spent only in accordance with the following provisions of this Part Four of this Third Schedule.
21. The Owner shall provide that in any Subsequent Application in respect of the POS there shall be provision for the siting of an Art Feature on land to be transferred to the Council pursuant to the Sixth Schedule in a position to be approved by the Council.
22. The Council shall use the Art Feature Payment to commission, construct and install the Art feature in the approved position and for no other purpose.
23. Without prejudice to the generality of Paragraph 22 the Council may out of the funds for the time being comprising the Art Feature Payment held by it:
  - 23.1 Spend any part of the funds on suitable consultants to advise the Council on features to be created, commissioned or purchased as the Art Feature
  - 23.2 Spend any part of the funds on the acquisition of the Art Feature
  - 23.3 Make payment from the funds to any artist or manufacturer working under the direction of such artist for the creation or realisation of the Art Feature
  - 23.4 Spend any part of the funds on the erection of the Art Feature including the provision of any walling or fencing, lighting, drainage or associated highway work
24. At any time prior to the fifth anniversary of the making of the Art Feature Payment the Council shall upon written request by the Owner supply to the Owner reasonable short particulars of any payments made by the Council from the Art Feature Payment pursuant to the provisions of this Part Four of this Third Schedule provided that the Council shall be under no further obligation to answer any such request after they have given sufficient particulars pursuant to this paragraph showing that the whole of the Art Feature Payment has been expended.



- 25 If any part of the Art Feature Payment has not been spent by the Council to by the fifth anniversary of the date on which it was made then upon receipt by the Council of written notice by the Owner requiring the unspent part of the Art Feature Payment to be repaid the Council shall repay it (with the interest accrued thereon) to the Owner (which for the purposes of this paragraph only shall mean the Owner by whom the Art Feature Payment is made and not its successors in title). For the avoidance of doubt, any sum paid out of the Art Feature Payment by the Council after the fifth anniversary of its payment but before the Council is served with written notice pursuant to this paragraph, any amount actually spent by the Council to before receipt of such notice shall not have to be repaid to the Owner.

## FOURTH SCHEDULE

### AFFORDABLE HOUSING OBLIGATIONS

1. Subject to the provisions of this Schedule the Owner shall in every Subsequent Application make provision for not less than 5% of the total Dwellings to be provided pursuant to that Subsequent Application to be constructed as Affordable Housing Units and if approval is given to that Subsequent Application any units designated as Affordable Housing Units in the approval shall be constructed in accordance with the plans submitted with the Subsequent Application and the Owner may not dispose of such units save in accordance with the following terms of this Schedule
2. All Affordable Housing Units shall be provided with a vehicular access and surface water sewers and water gas electricity and telecommunication service systems linking in each case to the estate roads sewers and service systems to be constructed and laid as part of the remainder of the Proposed Development and connected ultimately (unless that the relevant authority shall refuse (except for reasonable cause) to accept their adoption) to highways and sewers maintainable at the public expense.
3. The Owner shall not permit the first occupation of more than 50% of the non-Affordable Housing Units to be built pursuant to any Subsequent Application to which this Schedule applies until the Affordable Housing Units to be erected pursuant to the Subsequent Application have been transferred in accordance with paragraph 5 to a Registered Social Landlord drawn from a list of Registered Social Landlords as may be approved by the Council
4. The transfer to the Registered Social Landlord shall be in a form approved by the Council's Solicitor and on terms that will ensure that 75% of the Affordable Housing Units erected pursuant to the Subsequent Application are made available on a rental basis with the remaining Affordable Housing Units being provided by way of shared ownership leases

5. Beginning not later than the date of Commencement of Development pursuant to any Subsequent Application the Owner shall enter into negotiations with a Registered Social Landlord or Landlords drawn from the Council's approved list or such other Registered Social Landlord(s) as may be approved in writing by the Council for the transfer to that Registered Social Landlord or Landlords of the Affordable Housing Units herein specified on that part of the Application Site. The negotiations shall be pursued by the Owner in good faith and details shall be supplied to the Council upon written request.
6. Provided always that the Owner shall have complied with paragraph 5 in respect of the Affordable Housing Units constructed pursuant to any Subsequent Application but no Registered Social Landlord has been approved by the Council or no Registered Social Landlord is willing to take a transfer of the Affordable Housing Units by the date when 50% of the non-Affordable Housing Units constructed pursuant to that Subsequent Application have been occupied the restrictions on transfer of the Affordable Housing Units (but not the restrictions on occupation of the non-Affordable Housing Units) contained in paragraph 3 may be varied by the Owner giving written notice to the Council that with effect from the date of such notice the provisions of paragraph 7 following shall apply instead of the said paragraph 3
7. From the date of a notice given pursuant to paragraph 6 the Owner may transfer the Affordable Housing Units to any Registered Social Landlord and upon such terms as the Council may agree and upon the making of such a transfer the restrictions on occupation of the non-Affordable Housing Units constructed pursuant to that Subsequent Application shall cease
8. If not less than six months have elapsed from the giving of a notice pursuant to paragraph 6 and the Owner shall have been unable to transfer any of the Affordable Housing Units pursuant to paragraph 7 the Owner shall then be free to make first disposal of dispose of such units to
  - 8.1. a Registered Social Landlord on such terms as may be agreed between the Owner and the Registered Social Landlord; or

8.3. the Council; or

8.3. any other organisation or body whose principal business is the provision of affordable housing on such terms as may be agreed between the Owner and that body

8.4. a person or persons approved by the Council as being on its housing register for the time being or in need of housing accommodation of the type which it is proposed to transfer to him and always provided that any transfer made pursuant to this sub-paragraph 8.4 is of the freehold interest and on the following terms:

8.4.1. the maximum price payable to the Owner in respect of the sale of an Affordable Housing Unit shall not exceed 75% of the Open Market Value as certified by a Surveyor drawn from a list prepared by the Council or in default of preparing or maintaining such a list who practices within a 15 mile radius of the Application Site

8.4.2. The transfer to a person specified in this sub-paragraph 8.4 shall contain a covenant binding on the transferee and all subsequent transferees for a period of thirty years from the date of the first transfer by the Owner that

8.4.2.1. no subsequent transfer shall take place within the said period of thirty years save a disposal of the freehold or leasehold interest in the Affordable Housing Unit at a price or premium which does not exceed 75% of the market value of the said Unit at the date of disposal as certified by a Valuer or Surveyor in the manner described in 8.4.1, and

8.4.2.2. no letting of the Affordable Housing Unit shall take place within the said period except at a rental not exceeding 75% of the market rental income for a property of that type as

certified by a Valuer or Surveyor in the manner above described

8.4.3. The transfer to a person specified in this sub-paragraph 8.4 shall contain a covenant binding on the transferee and all subsequent transferees for a period of thirty years from the date of the first transfer by the Owner that the transferee and any future transferees of the Affordable Housing Unit will procure a direct covenant from each successive transferee in favour of the Council to observe and perform all of the covenants specified in this sub-paragraph 8.4

8.4.4. The transfer to a person specified in this sub-paragraph 8.4 shall contain a covenant binding on the transferee and all subsequent transferees for a period of thirty years from the date of the first transfer by the Owner that the transferee and any future transferees of the Affordable Housing Unit will on each transfer of the Affordable Housing Unit apply to the Chief Land Registrar for the following Restriction to be entered in the Register of the title in the property:-

"Except under an order of the Registrar no transfer, assent or other dealing by the Proprietor of the property is to be registered without the transferee's solicitor producing to the Land Registry a Certificate confirming that the purchase price for the property does not exceed 75% of the Open Market Value as determined in accordance with an Agreement dated [DATE] and made under Section 106 of the Town and Country Planning Act 1990 between Persimmon Homes Limited (1), and Ashfield District Council (2)"

8.4.5 Nothing in the Transfer shall operate to restrict delay limit or prevent the immediate occupation or disposal of any Affordable Housing Units to or by a person and those living with him where such occupation or disposal arises as a result of a Court Order or any other statutory provision or presumption or will or intestacy but subject always to the strict compliance by any transferee of the legal estate with the

provisions of this sub-paragraph 8.4 before any further disposal for value of the legal estate takes place

- 8.3 If all the Affordable Housing Units constructed pursuant to that Subsequent Application as the case may be shall have been transferred pursuant to the provisions of this paragraph 8 the restrictions on occupation of the non-Affordable Housing Units constructed pursuant to that Subsequent Application shall cease
- 9 If not less than twelve months have elapsed from the giving of a notice pursuant to paragraph 6 the Owner may dispose of the freehold interest in any of the Affordable Housing Units constructed pursuant to that Subsequent Application to any person (whether or not that person qualifies with the requirements of sub-paragraph 8.4) provided that the transfer to him complies in all respects with the requirements of the said sub-paragraph 8.4, its sub-sub-paragraphs and sub-sub-sub-paragraphs
- 10 If at any stage the Owner and the Council so agree any of the Affordable Housing Units may be sold in the open market without restriction and the Owner shall be entitled to retain the proceeds of sale there from save that the Owner shall pay to the Council not later than 14 days from the date of the legal completion of the relevant sale a sum equal to 40% of the agreed open market value of the Unit inclusive of standard fixtures and fittings but disregarding the value of any additions made thereto or extras included by the Owner as part of the sale and always provided that
- 10.1 any sums paid to the Council pursuant to paragraph 10 shall be held by them in an interest bearing account and shall be applied solely for the purpose of providing affordable housing be it for rental shared ownership or discounted market sale within the District of Ashfield
- 10.2 if any of the sums paid to the Council for the purpose of providing affordable housing have not been spent within 5 years of the date of the last such payment then those such sums shall be repaid together with interest to the person who paid the sums to the Council and where there is more than one such person the sums paid by each shall be clearly identifiable whether held in the same account or not



## FIFTH SCHEDULE

### ANNESLEY COLLIERY TIP RESTORATION

1. No more than 50 houses built on the Application Site pursuant to the Planning Permission may be first occupied until the development authorized by the County Permission has been substantially completed, which for the avoidance of doubt shall not include:
  - 1.1 the 5 year aftercare management period as required by Condition 27 of the County Permission save for the submission of the aftercare Scheme;
  - 1.2 the restored site management meetings or other matters required by Condition 28 of the County Permission.
  
2. For the purposes of paragraph 1 a certificate in writing signed by a proper officer of Nottinghamshire County Council shall be conclusive evidence of substantial completion. If the Nottinghamshire County Council shall refuse or neglect to issue such a certificate then a written certificate obtained at the expense of the Owner by any member of the most appropriate professional body dealing with mine restoration or as may be agreed between the parties such member to have at least 10 years professional experience in the restoration of mine and quarry workings certifying that in his professional opinion the development is substantially complete and in accordance with the conditions of County Permission shall be conclusive evidence thereof.



## SIXTH SCHEDULE

### PUBLIC OPEN SPACE PROVISION

1. No Development anywhere on the Application Site shall Commence until a specification has been agreed by the Council (the Open Space Specification) for the laying out and construction of the POS and any Subsequent Application which includes the POS shall seek reserved matters approval for the POS to be developed to the Open Space Specification. Any Condition(s) in a Subsequent Approval to such Subsequent Application which refer to or affect the POS are to the remainder of this Sixth Schedule referred to as the Relevant Conditions.
2. If the Owner shall have obtained Conservation Area Consent to demolish the Headstocks prior to the Commencement of Development
  - 2.1 the Open Space Specification shall include details for the demolition of the Headstocks and restoration of the Mauve Land for use as public open space, and
  - 2.2 the Relevant Conditions shall for the purposes of the rest of this Sixth Schedule include any conditions forming part of the Conservation Area Consent.
3. If the Owner shall not have obtained Conservation Area Consent to demolish the Headstocks prior to the Commencement of Development the Open Space Specification shall include details of:
  - 3.1 security fencing and other measures to keep the Mauve Land and the Headstocks as secure as reasonably possible from intrusion and other measures generally to prevent harm arising to lawful users of the POS from the Headstocks.
  - 3.2 the right of way referred to in paragraph 26 //

4. If the Owner shall have obtained Conservation Area Consent to demolish the Headstocks after agreement of the Open Space Specification the Owner may amend the Open Space Specification so as to include the Mauve Land as part of the POS and reduce the area of the POS shown in the original Open Space Specification by the same area subject to:
  - 4.1 the area removed from the POS not impairing the use of the POS as a whole from being used for its stated purpose; and
  - 4.2 the Mauve Land being laid out as part of the POS in accordance with the revised Open Space Specification
5. The POS shall be laid out and completed no later than the occupation of the 100<sup>th</sup> Dwelling erected on the Application Site or 3 years from the date hereof whichever shall be the sooner
6. At any time after the Owner shall in its opinion have complied with the Open Space Specification and the Relevant Conditions it may invite the Council in writing to make an inspection of the POS for the purposes of this Sixth Schedule and the Council shall as soon as practical thereafter arrange for such inspections to be made by the Council's Surveyor.
7. The Council's Surveyor shall with all reasonable diligence make his inspections and either
  - 7.1 give his written certificate that the Specification and the Relevant Conditions have been complied with and that the POS is ready to be transferred to the Council,
  - 7.2 make a written report setting out any respects in which the Specification and the Relevant Conditions have not yet been complied with and the steps which the Owner must make in order to rectify such omissions

- 7.3 forthwith serve his certificate pursuant paragraph 7.1 or their reports pursuant to paragraph 7.2 as the case may be on the Owner and the Council.
8. If the Council's Surveyor shall have given his certificate pursuant to paragraph 7.1 then the Owner shall proceed to transfer the POS to the Council in accordance with paragraphs 11-13 following but if the Council's Surveyor shall have given a report pursuant to paragraph 7.2 then the Owner shall comply with the requirements of the report and invite the Council in writing to make a further inspection of the POS whereupon the Council shall as soon as practical thereafter arrange for such further inspection to be made the Council's Surveyor as often as may be necessary (*mutatis mutandis*) until the Council's Surveyor shall have given his certificate pursuant to paragraph 7.1
9. For the avoidance of doubt the Council's Surveyor shall act for the purposes of paragraph 7 as an expert and not an arbitrator and his opinion shall be binding on the parties
10. The Owner shall pay as a debt to the Council the reasonable costs of the Council's Surveyor incurred in making any inspection of the POS for the purposes of this Sixth Schedule (and as often as may be necessary in the case of re-inspections), such costs to be paid (exclusive of any VAT) not later than 14 days after the presentation to the Owner by the Council of a copy of the Council's Surveyor's invoice such costs to be limited to £100.00 in respect of any single inspection
11. Not later than two months after the Council's Surveyor shall have given the later of their certificates pursuant to paragraph 7.1 the Owner may transfer the freehold interest with Title Absolute of the POS to the Council but reserving nevertheless to the Owner such right of way with and without vehicles across the POS on a defined route to the Mauve Land for the purposes of maintenance of and other necessary access to the Headstocks and such transfer to contain covenants to the following effect:-
- 11.1 The POS shall be used solely for this purpose of providing recreation and amenity space for use by the general public.

11.2 The Council shall take reasonable steps to ensure that use of the POS shall not give rise to a statutory nuisance affecting existing or proposed residential occupiers of the Proposed Development

11.3 No development shall take place on the POS other than for the purpose of facilitating its use for recreation and amenity purposes

and if at the date of transfer the POS cannot be reached by direct access over adopted highways the transfer shall also contain sufficient rights of access on foot and by vehicles to enable public access to the POS from the nearest public highway.

12. On the date of transfer the Owner shall pay to the Council the Open Space Maintenance Payment

13. The Owner shall also on the date of transfer pay the reasonable legal costs of the Council relating to the transfer of the POS

## SEVENTH SCHEDULE

### CYCLE ROUTE

- 1 The Owner shall construct between points A and B on Plan 1 a foot/cycle path 3.3 metres wide and in accordance with the typical design standard set out in the illustrated specification which is attached to this Agreement as Appendix 5 (the Specification) and no more than 100 Dwellings anywhere on the Application Site shall be first occupied until the foot/cycle path has been constructed and (to the extent to which any part of the foot/cycle path is not already on land belonging or dedicated to the Highways Authority) offered for transfer or dedication to the Highways Authority in accordance with the provisions of the following paragraphs of this Seventh Schedule
- 2 At any time after the Owner shall in its opinion have completed the foot/cycle path it may invite the Council in writing to make an inspection for the purposes of this Seventh Schedule and the Council shall as soon as practical thereafter arrange for such inspection to be made by the Council's Surveyor, who shall for the purposes of this Schedule be a person employed by or acceptable to the Highways Authority.
- 3 The Council shall procure that the Council's Surveyor shall with all reasonable diligence make his inspection and either
  - 3.1 give his written certificate that the Specifications and Conditions have been complied with and that the foot/cycle path is ready to be transferred to or adopted by the Highways Authority, or
  - 3.2 make a written report setting out any respects in which the Specification has not yet been complied with and the steps which the Owner must make in order to rectify such omissions, and
  - 3.3 forthwith serve his certificate pursuant paragraph 3.1 or his report pursuant paragraph 3.2 as the case may be on the Owner and the Council

- 4 If the Council's Surveyor shall have given his certificate pursuant to paragraph 3.1 then the Owner shall proceed to offer for transfer or dedication as a highway such part of the foot/cycle path that lies within the Application Site ('the Footpath Corridor') to the Council in accordance with paragraph 7 following but if the Council's Surveyor shall have given a report pursuant to paragraph 3.2 then the Owner shall comply with the requirements of the report and invite the Council in writing to make a further inspection of the foot/cycle paths whereupon the Council shall as soon as practical thereafter arrange for such further inspection(s) to be made the Council's Surveyor and so on as often as may be necessary (*mutatis mutandis*) until the Council's Surveyor shall have given his certificate pursuant to paragraph 3.1
- 5 For the avoidance of doubt the Council's Surveyor shall act for the purposes of paragraph 3 as an expert and not an arbitrator and his opinion shall be binding on the parties
- 6 The Owner shall pay as a debt to the Council the reasonable costs of the Council's Surveyor in making any inspection of the foot/cycle paths for the purposes of this Seventh Schedule (and as often as may be necessary in the case of re-inspections), such costs to be paid (exclusive of any VAT) not later than 14 days after the presentation to the Owner by the Council of a copy of the Council's Surveyor's invoice such costs to be limited to £100.00 in respect of any single inspection
- 7 Not later than two months after the Council's Surveyor shall have given his certificate pursuant to paragraph 3.1 the Owner shall at the option of the Highways Authority offer to transfer the freehold interest with Title Absolute of the Footpath Corridor to the Highway Authority or to dedicate it as a public highway pursuant to the provisions of the Highways Act 1980 at no cost to the Highways Authority

## EIGHTH SCHEDULE

### LORRY ROUTING

1. The Obligations in this Eighth Schedule shall have effect from the Commencement of Development and shall apply to all HGV Construction Traffic until final completion of the Proposed Development and thereafter to HGV Delivery Traffic:
2. The Owner shall issue or cause to be issued directives to all drivers of HGV Construction Traffic entering, leaving or stopping in the immediate vicinity of the Application Site to travel to and from the Application Site only on the Designated Route.
3. The Owner shall use its best endeavours to ensure compliance with such directives and such best endeavours shall include: -
  - 3.1 The inclusion of such routing requirements within the conditions of contract with all haulage contractors and all other bodies of whatsoever description employed or instructed by the Owner employing the HGV Construction Traffic to travel to and from the Application Site;
  - 3.2 The enforcement of such contractual routing requirements where breaches come to the attention of the Owner and such enforcement to include termination of such contracts where applicable;
  - 3.3 Informing the Council when required of the enforcement steps they have taken in accordance with this paragraph;
  - 3.4 The issuing to any drivers of HGV Construction Traffic of a map and lorry routing directive including the Designated Route to be used (and also any prohibited routes) with a written warning that failure on the part of such

drivers to comply with such directive (except in emergencies) will result in disciplinary action:

4. The Owner shall take all steps as are proper and necessary to ensure that all HGV Construction Traffic using the Application Site shall only travel the Designated Route which shall include the provision and maintenance by the Owner of suitable traffic signs and notices at such locations as the Council shall reasonably require.
5. With effect from the completion of the Proposed Development the provisions of paragraphs 2 to 4 inclusive shall apply to HGV Delivery Traffic in respect of the Employment Land *mutatis mutandis* for the period of eighty years.



## NINTH SCHEDULE

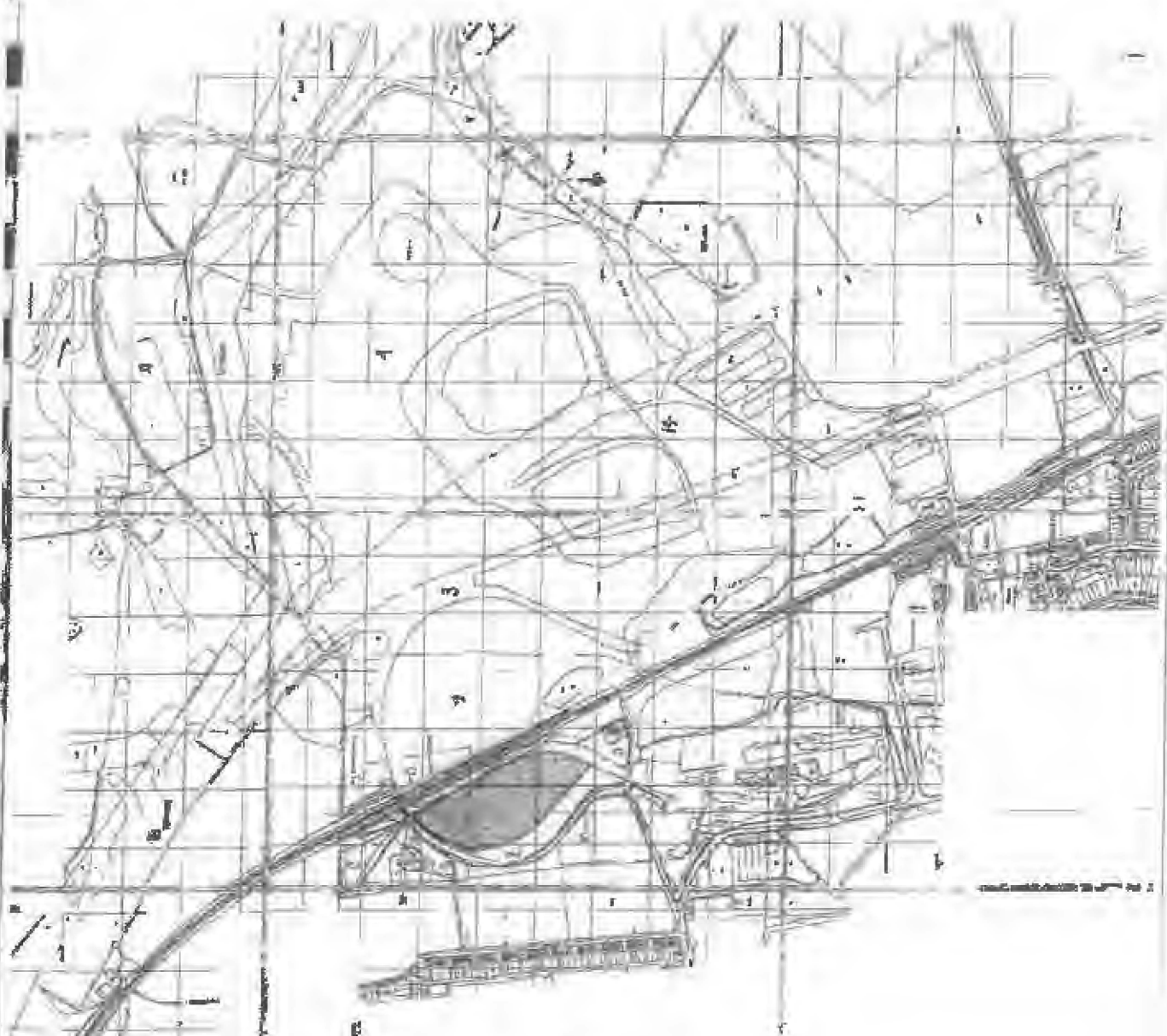
### HERITAGE BUILDINGS

1. Within 6 months of the date hereof the Owner shall carry out the Heritage Works
2. Within 2 months of the date hereof the Owner shall submit in writing to the Council a sales strategy for the sale of each of the Heritage Buildings as required by HBC Condition 2(b). Once the Council has confirmed that the said HBC Condition 2(b) has been discharged any first disposal of the Heritage Buildings (or either or any part of them) shall be made only in strict accordance with the agreed scheme or any variation thereof agreed by the Council.
3. The Owner will notify the Council immediately following a sale or disposal of each of the Heritage Buildings (or any part thereof) and provide details of the new owners

# PLAN 1







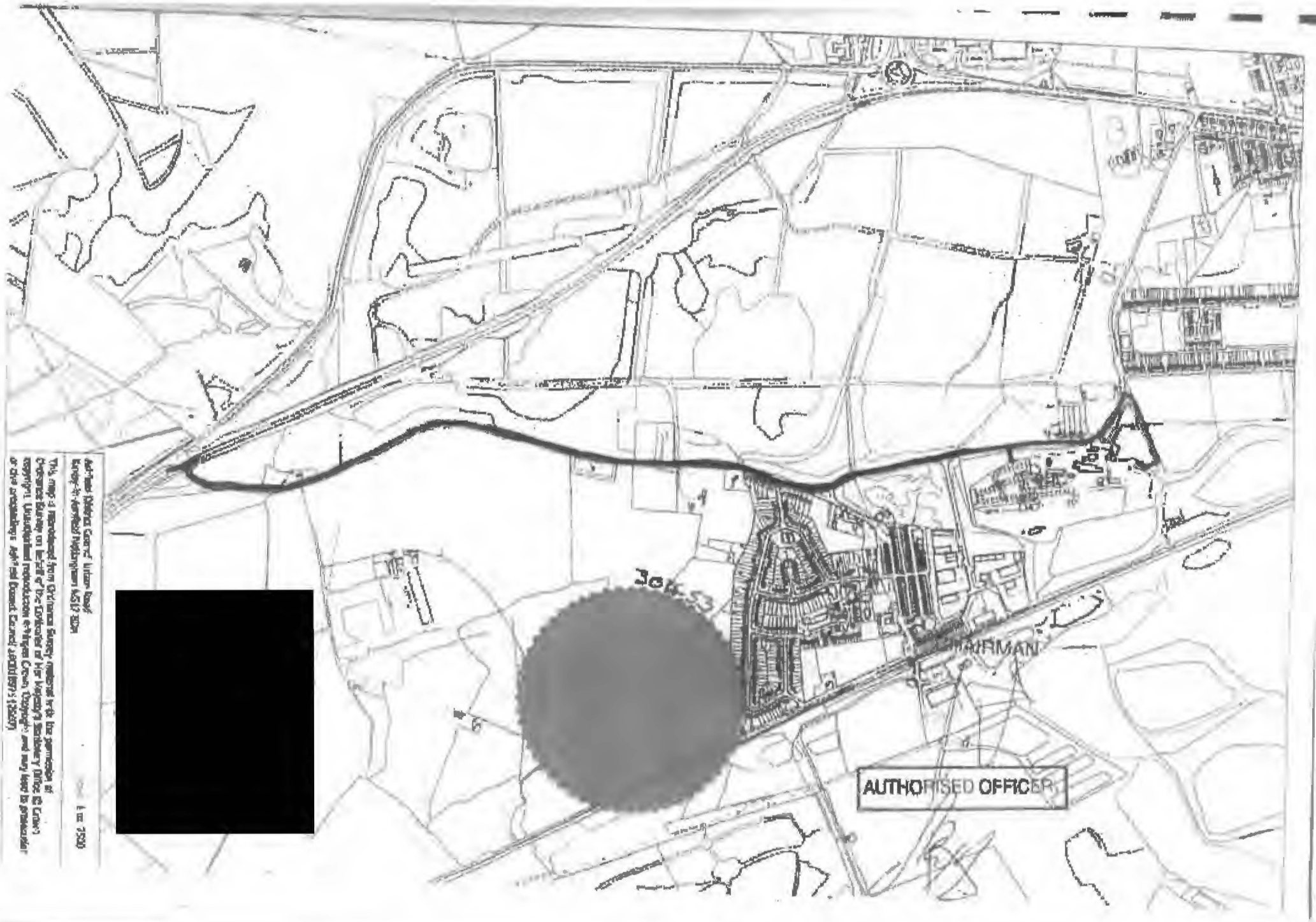
CHAIRMAN



AUTHORISED OFFICER



# PLAN 3



Adrian Hobbs Court Urban Surf  
Map of the site of the proposed ASDP SDN  
This map is reproduced from Ordnance Survey material with the permission of  
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or other proceedings. Adrian Hobbs Court Urban Surf ASDP SDN

1 of 10

**THE COMMON SEAL OF**

**PERSIMMON HOMES LIMITED**

*was affixed to this Deed*

*In the presence of:*



**THE COMMON SEAL OF**

**ASHFIELD DISTRICT COUNCIL**

*was affixed to this Deed*

*In the presence of:*





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# APPENDIX 1

## THE COUNTY PERMISSION



Nottinghamshire  
County Council

# Notice of Planning Decision

Town and Country  
Planning Act 1990

## TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER, 1986 (AS AMENDED)

APPLICATION REF. NO. : 7/2004/1432 & 4/2004/0844

APPLICANT : Annesley Developments Limited

DEVELOPMENT : Reclamation of Former Annesley Colliery Tip  
Annesley

LOCATION : Annesley Colliery Tip

Following consideration of an application for the above development as shown on the submitted plans, NOTTINGHAMSHIRE COUNTY COUNCIL, in pursuance of their powers under the above Act, hereby

### GRANT PLANNING PERMISSION

for the development in accordance with the application, subject to compliance with the attached conditions and for the following reasons.

Failure to comply with the terms of this permission may render the development unlawful.

Date of decision 5 March 2007

  
Authorised to sign on behalf of the Strategic Director Communities

DW1 (FULL P.P.)

Page 1 of 10

(1) If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, he may appeal to the Secretary of State, in accordance with section 70 of the Town and Country Planning Act 1990, within six months of receipt of this notice. Appeals must be made on a form which is obtainable from the Planning Inspectorate, Temple Quay House, 2 The Square, Bristol BS1 6PN. The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for proposed development could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements (\*) to the provisions of the development order, and to any directions given under the order. He does not in practice refuse to entertain appeals solely because the decision of the local planning authority was based on a direction given by him.

(\*) The statutory requirements are those set out in section 79(4) of the Town and Country Planning Act 1990, namely sections 70(1)-(3) and 72(1) of the Act.

(2) If permission to develop land is refused, or granted subject to conditions, whether by the local planning authority or by the Secretary of State and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the Common Council, or on the Council of the County Borough, London Borough or County District in which the land is situated, as the case may be, a purchase notice requiring that council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

(3) In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in section 114 of the Town and Country Planning Act 1990.

**NOTE: THIS PERMISSION REFERS ONLY TO THAT REQUIRED UNDER THE TOWN AND COUNTRY PLANNING ACTS AND DOES NOT INCLUDE ANY CONSENT OR APPROVAL UNDER ANY OTHER ENACTMENT, BYLAW, ORDER OR REGULATION.**

### SUMMARY OF REASONS FOR GRANTING PERMISSION

The County Council is of the opinion that the proposed development gives rise to no material harm, is in accordance with the relevant Development Plan policies and that there are no material considerations that indicate that the decision should be made otherwise. The County Council considers that any potential harm as a result of the proposed development would reasonably be mitigated by the imposition of the attached conditions.

The Development Plan policies and proposals relevant to this decision are as follows:

Policies 1/2, 2/4, 2/5, 2/6, 2/17 of the Nottinghamshire and Nottingham Joint Structure Plan.

Policies M3.20, M3.13, M4.9 of the Nottinghamshire Minerals Local Plan.

### SCHEDULE OF CONDITIONS AND REASONS

#### Commencement

1. The development hereby permitted shall be begun within 3 years from the date of this permission.

*Reason* To comply with the requirements of Section 91 (as amended) of the Town and Country Planning Act 1990.

2. The Minerals Planning Authority (MPA) shall be notified in writing of the date of commencement at least 7 days, but not more than 14 days, prior to the commencement of the development.

*Reason* To enable the MPA to monitor compliance with the conditions of the planning permission.

#### Approved Plans

3. The development hereby permitted shall only be carried out in accordance with the following documents, unless otherwise agreed in writing with the MPA, or where amendments are made pursuant to the other conditions below.

- Drawing No. 5023718/002 Rev A - Application Site Boundary (Figure 2) received by the MPA on the 27<sup>th</sup> December 2006.
- Drawing No. 5023718/003 Rev A - Existing Site Layout and Landscaping (Figure 3) received by the MPA on the 27<sup>th</sup> December 2006.
- Drawing No. 5023718/004 Rev A - Hydrology and Drainage (Figure 4) received by the MPA on the 27<sup>th</sup> December 2006.
- Drawing No. 5023718/005 Rev A - Ecology Plan (Figure 5) received by the MPA on the 27<sup>th</sup> December 2006.

**APPLICATION REF NO. 7/2004/1432 & 4/2004/0844**

- Drawing No. 5023718/006 Rev D – Proposed Landscape and Restoration Scheme (Figure 6) received by the MPA on the 27<sup>th</sup> December 2006
- Drawing No. 5023718/007 Rev B – Proposed Haulage Routes (Figure 7) received by the MPA on the 27<sup>th</sup> December 2006.
- Drawing No. 5023718/020 – Working Areas received by the MPA on the 27<sup>th</sup> December 2006

*Reason For the avoidance of doubt.*

**Material Importation**

4. Prior to the importation of any materials to the site an assessment of available restoration materials originating from within the site shall be carried out. The assessment shall be compiled into a report which shall be submitted to the MPA for its approval in writing. The assessment shall:
  - a. Provide an assessment of the quantity and availability of on-site fill materials to be used for the restoration purposes, identifying where these materials will be excavated from, and where they will be used on the site. The assessment shall ensure that the proposal addresses the safety and tip stability concerns whilst ensuring the extent of the existing habitat that becomes disturbed by restoration operations is minimised.
  - b. Following the conclusions of 4(a), and if importation of materials is necessary, details shall be submitted to the MPA to quantify the amount of material required; set out the types of material proposed to be imported onto the site and provide a method of certification to be used to ensure that the imported material is clean and contaminant free.

If applicable, importation of material onto the site shall not commence until the assessment report has been agreed in writing by the MPA under (a) and (b) above and shall be implemented in accordance with the approved details.

*Reason To provide the optimum reclamation solution for the site thus ensuring compliance with Policy M4.6 of the Nottinghamshire Minerals Local Plan.*

5. Notwithstanding the requirements of Condition 4(b), only soils, concrete, hardcore and other inert construction/demolition waste shall be imported onto the site for restoration purposes. Nothing other than uncontaminated materials shall be imported onto the site. Unless otherwise agreed in writing by the MPA no more than 15,000 cubic metres of such material shall be imported onto the site to facilitate the restoration works

*Reason To provide the optimum reclamation solution for the site thus ensuring compliance with Policy M4.6 of the Nottinghamshire Minerals Local Plan.*

*Hours of Operation*

6. Except in an emergency, which shall be notified to the MPA in writing within no more than 48 hours of its occurrence, works associated with the restoration of the site shall only be undertaken within the following hours:

Operation	Permitted Working Hours
Vehicles associated with the importation of restoration fill material shall not enter or leave the site outside the following hours	<ul style="list-style-type: none"> <li>• Monday to Friday: 07:30hrs to 08:15hrs, 08:00hrs to 15:15hrs &amp; 16:15hrs to 18:00hrs.</li> <li>• Saturdays 08:00hrs to 14:00hrs.</li> <li>• Not at all on Sundays, Bank and other public holidays.</li> </ul>
Restoration operations on the colliery tip	<ul style="list-style-type: none"> <li>• Monday to Friday: 07:30hrs to 18:00hrs.</li> <li>• Saturdays: 08:00hrs to 14:00hrs.</li> <li>• Not at all on Sundays, Bank and other public holidays.</li> </ul>

*Reason* To minimise impacts arising from the operation of the site, and to protect the amenity of nearby residential properties in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan.

*Restoration of the lagoons*

7. Prior to the commencement of the development a scheme detailing the surface water drainage for the site shall have been submitted to and been approved in writing by the MPA. The drainage details shall include:
- a. A drainage plan to identify the location of drainage channels, discharge points and discharge rates.
  - b. The location and method of construction of the lagoon dams, weirs, and headwalls to control water depths within the restored lagoons.
  - c. Location and engineering design for the drainage spillways.
  - d. Cross-sections of drainage channels.
  - e. Details of flood attenuation measures.
  - f. Measures to ensure that the new drainage channels are landscaped and cultivated.

The development shall thereafter be carried out in accordance with the approved details.

*Reason* To ensure that adequate drainage facilities are provided in accordance with M3.8 of the Nottinghamshire Mineral Local Plan.

8. Restoration works undertaken within the central and western lagoon area shall ensure that the maximum water depth within those restored lagoons does not exceed 500mm in depth.

*Reason* To ensure water depths are controlled in the interest of tip stability.

9. The restoration works within the central and western lagoon areas shall ensure that the minimum ground stability over the restored lagoon area shall not be less than  $8\text{Knm}^2$ . Following the completion of the lagoon capping operations a geo-technical report shall be submitted to the MPA for its written approval, the report shall demonstrate whether the required level of ground stability is achieved. In the event that the stability does not achieve the required stability level of  $8\text{Knm}^2$ , the report shall identify the steps to be taken to ensure the required level of stability is achieved. Development shall thereafter proceed in accordance with the report following its approval by the MPA.

*Reason* In the interests of safety.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order) no fences or other means of enclosure shall be erected around the restored lagoons or polishing ponds, unless agreed in writing by the MPA.

*Reason* In the interest of visual amenity and the ecological interest of the site, in accordance with Policy M3.20 of the Nottinghamshire Minerals Local Plan.

#### **Settlement Ponds**

11. Prior to the commencement of the development a scheme for the restoration of the settlement ponds situated on the north-east boundary of the site shall be submitted to the MPA for its written approval. The approved scheme shall be implemented in accordance with the approved details.

*Reason* In the interest of visual amenity and to ensure compliance with Policy M4.4 of the Nottinghamshire Minerals Local Plan.

#### **Ecology**

12. Site clearance operations that involve the destruction and removal of vegetation, including felling, clearing or removal of trees, shrubs or ground cover shall not be undertaken during the months of March to August inclusive, except when approved by the MPA.

*Reason* In the interest of breeding birds, herptofauna, protected species and other habitats in accordance with Policy M3.21 of the Nottinghamshire Minerals Local Plan.

13. Within the 28 day period prior to the date of commencement the developer shall undertake a further survey for protected species. The survey shall be undertaken by a qualified ecologist. The results of the survey shall be submitted to the MPA for its written approval. In the event that the survey identifies any protected species, a working design, method and timetable to

mitigate any undue adverse effects on the species involved shall also be submitted to the MPA for approval in writing. Development shall not commence until such time that the MPA approves in writing the findings of the ecological survey and mitigation scheme, thereafter any mitigation measures shall be implemented as approved.

*Reason* In the interest of protecting species and their habitats in accordance with Policy M3.21 of the Nottinghamshire Minerals Local Plan.

14. Prior to any re-profiling works being undertaken on the land surrounding the western and central lagoons, the existing top surface layer of any area which becomes disturbed as a result of the works hereby approved shall be stripped to a depth of between 50mm to 75mm. The stripped material shall be stored within bunds that shall not exceed 2m in height. The stored material shall thereafter be evenly re-spread over the restored areas at the earliest practical opportunity having regard to the requirements of Condition 15 following the completion of the re-profiling works. The re-profiling works should seek to create shallow scrapes along the edge of the lagoons and further up onto the embankments to create uneven ground outside of the lagoon area to deter unauthorised motor bike access and an uneven landform within the lagoons to provide variety with bio-diversity.

*Reason* To minimise potential disturbance to the ecology of the site, in accordance with Policy M3.20 of the Nottinghamshire Minerals Local Plan.

15. Unless otherwise agreed in writing by the MPA the top surface layer shall only be stripped and replaced when the material and the ground on which it is to be placed is in a dry and friable condition. No movements, re-spreading or levelling shall occur:

- (a) during the months November to March (inclusive), unless otherwise agreed in writing by the MPA;
- (b) when it is raining;
- (c) when there are pools of water on the surface of the storage mound or receiving area.

*Reason* To ensure proper restoration of the site, conserving and managing the top surface layer, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

16. Prior to the commencement of the development hereby approved, seed harvesting of the existing grassland habitats on Annesley Colliery tip shall be undertaken. Unless otherwise agreed in writing by the MPA, sufficient seed shall be harvested to ensure that re-seeding can be undertaken at a rate of 2 grams per metre square on any area which becomes disturbed by the restoration operations. The seed shall thereafter be spread over the restored areas of the site in the first sowing season following the replacement of the top surface as required by Condition 14.



**APPLICATION REF NO. 7/2004/1432 & 4/2004/0544**

*Reason To minimise potential disturbance to the ecology of the site, in accordance with Policy M3.20 of the Nottinghamshire Minerals Local Plan.*

17. The polishing ponds shall be restored to create a water-based habitat in general accordance with the details shown on Drawing No. 05023718/005 Rev D – Proposed Landscape and Restoration Schema. The water-based habitat shall be constructed with shallow shelving edges to facilitate marginal plant growth and deeper water areas in excess of 2m depth within the central area of the water body. The existing fencing surrounding the polishing ponds shall be removed following the completion of restoration operations.

*Reason To provide replacement deep water habitats to compensate for those habitats lost by the restoration of the lagoons, in accordance with Policy M3.20 of the Nottinghamshire Minerals Local Plan.*

**Dust**

18. All possible measures shall be employed to ensure that dust emissions from the site are controlled and fugitive dust is prevented from leaving the site. These shall include taking all or any of the following steps as appropriate:
- a. The use of water bowzers and/or spray systems to dampen stockpiles, the site area and internal haul roads;
  - b. Upon the request of the MPA the temporary cessation of material importation, material movement and site re-profiling during periods of dry and windy weather.

*Reason To minimise potential dust disturbance at the site in accordance with Policy M3.7 of the Nottinghamshire Minerals Local Plan.*

**Noise**

18. All plant, machinery and vehicles (excluding delivery vehicles which are not owned or under the direct control of the operator) used on the site shall incorporate white noise reversing warning devices and be fitted with noise abatement measures and silencers maintained in accordance with the manufacturers' recommendations and specifications.

*Reason To minimise potential noise disturbance at the site in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan.*

**Storage of Oils, Fuels and Chemicals**

20. Any facilities for the storage of oils, fuels, or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity

of interconnected tanks or vessel plus 10% or 25% of their aggregate storage capacity whichever is the greater. All filling points, associated pipework, vents, gauges and sight glasses must be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund.

*Reason* To minimise potential pollution risks in accordance with Policy M3.6 of the Nottinghamshire Minerals Local Plan.

#### *Protection of the Highway*

21. Measures shall be employed to prevent the deposit of mud, clay and other deleterious materials upon the public highway. Such measures shall include the following as appropriate:

- Sweeping and cleaning of internal access and haul roads;
- The regular use of a road sweeper.

In the event that these measures prove inadequate, then within one month of the written request of the MPA additional steps or measures shall be taken in order to prevent the deposit of materials upon the public highway in accordance with details that shall have previously been agreed in writing by the MPA.

*Reason* To prevent mud and other deleterious material contaminating the highway in accordance with Policy M3.12 of the Nottinghamshire Minerals Local Plan.

#### *Protection of Railway*

22. Unless otherwise agreed in writing by the MPA, there shall be no interference with any drain or watercourse belonging to Network Rail, or any drainage rights that Network Rail may enjoy.

*Reason* To ensure that the adjacent railway property and works will not be adversely affected during and after the development.

23. Unless otherwise agreed in writing by the MPA there shall be no increase in existing flow rates into any culvert which passes beneath the railway.

*Reason* To ensure that the adjacent railway property and works will not be adversely affected during and after the development.

24. Cranes and jibbed machines used in connection with the works must be so positioned that the jib or any suspended load does not swing over railway property, or within 3 metres of the nearest rail. All cranes, machinery and construction plant must be so positioned and used to prevent the accidental entry onto railway property.

*Reason* To ensure that the adjacent railway property and works will not be adversely affected during and after the development.

25. Unless otherwise agreed in writing by the MPA there shall be no alterations to existing ground level, including the construction of storage mounds within 10 metres of the railway line.

*Reason* To ensure that the adjacent railway property and works will not be adversely affected during and after the development.

25. A suitable trespass proof fence shall be maintained adjacent to the railway at all times.

*Reason* To ensure that the adjacent railway property and works will not be adversely affected during and after the development.

#### **Aftercare**

26. Following restoration the site shall undergo aftercare management for a 5 year period.

*Reason* To ensure satisfactory aftercare of restored areas in compliance with Policy M4.10 of the Nottinghamshire Minerals Local Plan.

27. Within 1 month of the date of commencement of the development an aftercare scheme shall be submitted to the MPA for its written approval. The scheme shall include but not be restricted to details of the following:-

- a. The spreading of grass seed, as required under Condition 16;
- b. The planting of reed and other emergent planting in the marginal areas of the restored lagoons and polishing ponds. The reed and emergent planting species including stocking levels shall first be agreed in writing with the MPA;
- c. Weed control;
- d. Soil analysis;
- e. Animal stocking rates;
- f. Management practices such as the cutting of vegetation, establishment methodologies and monitoring proposals;
- g. Remedial treatments;

The aftercare scheme shall thereafter be carried out as approved and maintained in accordance with the scheme for a period of 5 years.

*Reason* To ensure satisfactory aftercare of restored areas in compliance with Policy M4.10 of the Nottinghamshire Minerals Local Plan.

#### **Management of the Restored Site**

28. Site management meetings shall be held with the MPA on an annual basis to assess and review the annual programme of aftercare operations referred to in Condition 27, having regard to the condition of the land, progress in its rehabilitation and necessary maintenance, including any alterations resulting

**APPLICATION REF NO. 7/2004/1432 & 4/2004/0544**

from changes to the longer term management proposals for the site. Thereafter any necessary amendments to the aftercare regime shall be implemented in the following years aftercare works.

*Reason To ensure satisfactory aftercare of restored areas in compliance with Policy M4.10 of the Nottinghamshire Minerals Local Plan.*

**NOTES TO APPLICANT:**

1. The development hereby permitted must be carried out in accordance with the conditions attached to this planning permission and any approved plans and details. Failure to implement the permission in accordance with the planning conditions and approved details may render the development unlawful and could lead to enforcement action and prosecution.  
  
If, at any stage, it becomes necessary to vary any of the approved plans or details you should contact the County Planning Authority in advance of implementing any changes to ascertain whether the proposed changes require any further planning approval.
2. Your attention is drawn to the letter and attached plans for Central Networks dated 13<sup>th</sup> July 2005.
3. Your attention is drawn to the attached letter from Network Rail dated 10<sup>th</sup> August 2005. Network Rail advise that the developer must not make use of Bridge No. 22 for the transport of materials onto the tip without entering into an agreement with Network Rail that it is safe to do so and instituting any safety measures required to protect the bridge.
4. Your attention is drawn to the letter and attached plans from Transco dated 16<sup>th</sup> September 2005.
5. The applicant is advised that consent is required for any works within the channel of an 'Ordinary Watercourse' under the terms of the Land Drainage Act 1991, such consents are obtained from the Environment Agency.
6. The site offers an opportunity to improve the local rights of way network, in particular through the provision of a link north-south through the site. If you would like to discuss the development of this route please contact Stephen Tipping within the Councils Rights of Ways section on tel: 0115 9774198.
7. The applicant's attention is drawn to the Industry Standard Guidance Notes regarding the safe restoration of open colliery tailing lagoons, a copy of which is attached.

PSF.NH/AA/DNT-122

## The Abandonment of Tailings Lagoons as Environmental Wetland Features – an update (June 2001)

D. R. LAMONT, Health and Safety Executive, UK, J. R. LEEEMING, Health and Safety Executive, UK and M.H.K. BRUMBY, UK Coal Mining Ltd, Doncaster, UK

### SYNOPSIS

The paper is an abbreviated and updated version of a paper first given to the British Dam Society<sup>1</sup> at Bangor, 1998 and subsequently to The Institution of Mining and Metallurgy (Nottinghamshire and South Midlands Branches)<sup>2</sup>, which describes an agreement between the Health and Safety Executive (HSE) and the principal operator in the coal mining industry (UK Coal Mining Ltd, formerly RJB Mining (UK) Ltd.) concerning proposals for converting colliery tailings lagoons to environmentally diverse water features as an alternative to overcapping them when restoring spoil heaps. The original paper reviews engineering safety issues in more detail.

### INTRODUCTION

Unsurprisingly, the Civil Engineers and Legislators after Aberfan were not immediately exercised by considerations of beneficial land after-use, of environmental enhancement and of aesthetics. However, over the past thirty years the expectations of the public, Environmental organisations and Minerals Planning Officers have changed. At a number of sites, due to closure of mines, there is significant over-capacity of tipping space. Often there is only a fraction of the soils needed for a good quality agricultural restoration. At a time when good agricultural land is being put to rest aside, there is less obvious need to restore land to second rate agricultural use. Conversely, there is increasing demand for sensitively designed restoration schemes, for areas of public access and amenity and for ecological diversity. There is a national and, indeed, international shortage of wetland habitats. Without addressing these aspirations, future Planning Approvals will be increasingly difficult to obtain.

Coal washing and preparation for the market at large coal mines almost invariably produces coal, coarse discard and a tailings fraction, suspended in water. The tailings is predominantly dirt, usually mudstones and shales, and has a particle size range between fine sand, silt & clay (typically of 100% <2mm; 90% <0.5mm and 25% <0.01 mm). Large quantities of this rather problematic material are produced and are normally disposed of by settling out of suspension in lagoons, with cleaned water being recycled.

When a lagoon has filled with tailings, standard practice has been to remove supernatant water, allow the deposits to dry, then to overcap with coarse material. As the tip is developed, a lagoon will finish within the body of the tip. However, overcapping is only possible if sufficient coarse material is available. When a tipping site is nearing capacity, provision is made to stock capping material and to shape the tip to an agreed profile. With the premature closing of a mine, a shortfall in the availability of coarse discard may mean the expensive importation of material to complete the cap. Therefore, proposals to leave parts of lagoons open as water features have in some cases been put forward, with a supporting statement arguing that the resulting feature

would have amenity value once the site has been restored. Such features can be constructed by only partial marginal overtopping of lagoons and by appropriate treatment of adjacent areas.

In the early 1990s, restoration proposals including wetland features on spoil heaps were made at Ledston Luck and Allerton Bywater. British Coal implemented the former and obtained planning permission for the latter. After privatisation, revised restoration proposals incorporating wetland features were submitted for further sites including Askern, Bilthorpe, Clipton (Rufford), Gedling (Stoke Bardolph) and Point of Ayr. These proposals have been accepted and (together with Allerton Bywater) have been implemented. In several cases, vegetation is now well established and the sites are becoming extensively colonised by wildlife.

HSE considered the proposals from the mining industry and agreed to it in principle. It was felt that guidance was required on the minimum engineering standards acceptable for safe abandonment and these were subsequently agreed between both parties.

### TIP AND LAGOON CONSTRUCTION

In distinction to the absent or weak regulatory framework in some other parts of the international minerals extraction industry, tips and lagoons at British coal mines are constructed in accordance with the standards drawn up following lessons learned from the Aberfan disaster and from intensive subsequent technical investigations (NCB Technical Handbook "Spoil Heaps and Lagoons" and "Codes and Rules" (1971)<sup>5</sup>). Tips are now built on level land and are constructed to enhance the strength of deposited material and to minimise water ingress. They are formed in relatively impermeable compacted layers of maximum thickness 1.5m. The structure is anisotropic and drainage paths are predominantly vertical. The external flanks are sloped to shed water in a controlled manner and to facilitate restoration.

Lagoon banks are built up from thinner compacted layers, 0.3m maximum, to ensure greater strength and impermeability. Tailings are deposited from varying discharge points around the lagoon and tend to form layers of different permeability. Overall however the vertical permeability of the tailings in the lagoon body is low and is significantly less than its horizontal permeability. The vertical permeability decreases with time due to consolidation of the deposits.

Significantly, both spoil heaps and lagoons are now designed as Civil Engineering structures and are regularly inspected and reported upon by competent and Chartered Civil Engineers.

### LEGISLATION AFFECTING TIPS

#### The Framework

On 12 October 1966, the major tip slide at Aberfan in Glamorgan claimed 144 lives, 116 of them school children, mostly between 7 and 10 years old. The Tribunal of Inquiry held to investigate this disaster determined that to prevent a recurrence and to ensure stability, the construction and maintenance of tips needed strict regulation<sup>6</sup>. This resulted in the enactment of the Mines and Quarries (Tips) Act 1969<sup>7</sup> "the Act", and subsequently the Mines and Quarries (Tips) Regulations 1971<sup>8</sup> "the Regulations".

#### The Requirements of the Regulations

The Regulations impose general requirements to ensure that tips are made and kept secure. In particular, operations must not cause an accumulation of water in, under or near the tip which may make the tip insecure and the tip must be efficiently drained. In addition, managers must

appoint a competent person to supervise all tipping operations, maintenance, drainage and security at all tips. Defects and incidents must be recorded in a special book.

Before tipping operations commence, a comprehensive report must be made covering the design of the tip, specifying tipping methods and detailing all matters which may affect tip security, including the topography, geology, hydrology and hydrogeology. Capacity in estimated and site preparation, drainage and fencing specified. A tip plan must be constructed showing the details together with previous and planned main workings, water courses and courses and any topographical features which may affect the security of the intended tip. A geological map of the area with sections of the underlying strata showing significant faulting is also produced.

The Regulations also require further comprehensive civil engineering security reports every two years and a supplementary report as soon as practical after any Dangerous Occurrence, or after any change has been made that might affect the stability of the tip. These inspections record the works that have been carried out since the last report, address any changes in situation, specify remedial or maintenance work which must be carried out and show on external works, e.g. underworking, which could affect the stability of the site. The Report must also include an opinion on the present and future stability of the spoil heap. Codes & Rules stipulate that comprehensive reports must be contextualized by a Chartered Civil Engineer and also that a full inspection at monthly intervals is made by the mine Mechanical engineer; at three monthly intervals by the mine manager and a six-monthly over inspection by a competent civil engineer.

Tipping must be controlled by Manager's Tipping Rules, which specify not only the technical specifications for construction but also the supervision, and the nature and frequency of inspections. Regulations require inspections to be carried out weekly by a competent person appointed to carry them out. This inspection is primarily directed at the drawlogs of the tip, and "such other inspections as are required by Tipping Rules."

Although both Tipping Rules and periodic comprehensive reports are primarily designed to satisfy the requirements of the Mine & Quarries (Tips) Act and Regulations, it is normal for them also to address the requirements of other legislation and regulations which may apply, including other Health & Safety, Environmental and Planning requirements.

Closed tips, (which are tips no longer in use but still attached to an active mine) generally pose a lesser threat as no tipping operations are being carried out and, if properly maintained, consolidation of the material and the dissipation of elevated pore pressures will increase stability. Nevertheless the size and location of many closed tips precludes any complacency. The tip must continue to be inspected, now at 5-monthly intervals for liquid tips (laggers) and 12 monthly intervals for solid tips. In addition, a comprehensive civil engineering stability report must be made, now at intervals of 5 years for a liquid tip and 10 years for a solid tip.

Disused tips (whose mine itself is closed) pass into Part II of The M&Q (Tips) Act 1969, which gives Local Authorities (LA's, at County or Metropolitan level) the responsibility of ensuring that the owners of any tip prevent any public danger. The LA is given powers to seek information from the owners, to enter sites to inspect or carry out tests, and to require owners to carry out remedial operations. If the LA believes that any apparent instability constitutes a danger to the public, the LA can carry out the remedial operations itself and recover its expenses from the owner. Again, under the NCB, British Coal and (now) UK Coal Mining Ltd, it is

recognised that the most responsible way of managing disused spoil heaps is in great them as Closed Tips and the inspecting and reporting regime is thus significantly extended.

The reasoning behind all these inspections was to ensure that tips were constructed and maintained in a stable condition. It is worthy of note that since the enactment of the Act and Regulations and following an intensive programme of investigation, analysis and remedial works on tips in the early 1970's, no significant tip stability problems have been reported.

#### TIP ABANDONMENT

With most tips, the final structure is a domed shape, and the land restored to forestry, amenity or agricultural use. Once a tip site has been vacated by the mine or quarry operator, the Local Authority has a responsibility for ensuring the long term stability of the site, and corrective action as required is taken. It is essential that the mine or quarry owner leaves the site in a stable condition when the site is vacated, regardless of whether or not a water feature is planned.

Two important principles have to be satisfied. These are firstly that, as the LA will have limited resources to examine and maintain the site, any water feature should be maintenance free and secondly, that the water feature when in both its intended state and in any condition of overflow, must not compromise the stability of the tip structure as a whole.

As noted above, one factor in ensuring stability is the elimination of perched water tables from the body of the structure. The intentional leaving of a body of water, perched on a tip above natural ground level, therefore raises long term stability questions which have to be addressed.

#### ENGINEERING FACTORS INFLUENCING STABILITY ON ABANDONMENT

Various factors which could adversely affect tip stability must be identified and engineering measures taken to counter them. They are related to the existence on the tip of a body of water subject to changes in level due to climatic variations, and the effects that the margins of this water have by wave action and gully cutting during overflow. In countering them robustness and obviating the need for maintenance must be of primary importance. Factors identified and discussed in the 1998 paper are as follows:

1. Water could percolate into the tip and through the lagoon bank causing eventual failure.
2. Not completing the cap could maintain slurry in a wet state with high pore pressure.
3. Water could migrate beneath the edge of the partially completed cap, liquefying it and causing the feature to grow until potentially it is the size of the original lagoon.
4. There is a possibility of seismic activity or blasting causing liquefaction.
5. Wave action may erode the banks.
6. If overtopped, the flank would be washed away.
7. Leaving a water feature could be considered to breach Regulation 4(2) of the M&Q (Tips) Regulations 1971:- 'Every active and closed tip shall be efficiently drained.'

The conclusions reached after much thought and investigation were that, in general, the factor of safety against failure in a "wetland feature" were likely to be higher than when the lagoon was in service and full. This is also the case for seismic effects and, in any event, "the liquefaction of lagoon sediments (by) ground shaking by (British) earthquakes, is extremely unlikely."<sup>8</sup> Of more concern are the issues of wave action and overtopping, which must be addressed in the same way as they would be for any small reservoir. As far as the application of the Regulations is concerned, it can be argued that providing water levels are controlled and there are no unplanned events, the tip can still be regarded as being efficiently drained.



**ESSENTIAL ENGINEERING CRITERIA**

Following examination of the above concerns, HSE and UK Coal Mining Ltd. agreed on a set of design criteria to ensure long term stability. These form Appendix A to the original paper. The major points of note are:-

1. The embankment shall have been constructed to an appropriate engineering standard.
2. No reduction in embankment width or increase in height of water or lagoon deposits from operational conditions shall be permitted.
3. There shall be no record of instability or significant seepage with the lagoon in reports.
4. The slope of the inner face of the lagoon shall be graded to no steeper than 1 in 5.
5. Crust on deposits should be at least 200mm thick and of 6 kN/m<sup>2</sup> minimum shear strength.
6. Maximum depth of water shall initially be no greater than 1 metre.
7. Scour protection shall be provided around the water's edge by the use of vegetation, by provision of extra soil or stone or by the use of geotextiles.
8. The main spillway shall be a pipe or a channel through the embankment, with vena contracta resistant intake and outfall. All discharges shall be taken to the foot of the embankment.
9. The spillway shall be constructed to prevent scour and be maintenance free.
10. The auxiliary spillway shall be a broadcrested weir set 100 mm above top water level when the main spillway is in operation at design capacity, shall be of capacity equal to the main spillway and shall prevent the top water level rising to within 500 mm of the crest.
11. The normal operational lagoon design freeboard of 1 metre shall be maintained for the entire embankment (other than the auxiliary spillway) at all times. A design check<sup>2</sup> shall be carried out to ensure that this freeboard is adequate. The embankment (including any landscaping fill) on the inner face, shall be at least 10 metres wide at the level of the high water mark with the main spillway operating at design capacity.
12. Additional guidance can be found in publications by CIRIA.<sup>10,11</sup>

**PUBLIC SAFETY**

Any wetland feature in the landscape is a potential hazard to the public. There have been accidents where trespassers have fallen into active lagoons and there is clear evidence at a number of disused spoil heaps that trespassers have for many years been regularly walking or riding motorcycles over uncapped tailings deposits. Such admittedly irresponsible behaviour is not persuasive of the notion that deposits will remain in a state like quicksand in perpetuity!

If a lagoon is to be retained and adapted as a wetland feature with potential for public access, there are certain basic precautions which will minimise risk. All internal slopes should be reduced by the deposit of suitable material, from a typical 1 in 2 to a flatter slope, preferably 1 in 5 or less. This will facilitate any inadvertent trespasser getting out of the lagoon and will also have ecological and aesthetic benefits. Suitable aquatic plants should be established where possible around the margins to increase surface shear strengths by their root systems and to act as a demarcation and barrier to discourage access. Reeds and bulrushes are particularly suitable.

Before any consented access by the public could be contemplated, an adequate crust should have formed on the deposits. Shear strengths of the top 200mm around the perimeter should be at least 6kN/m<sup>2</sup>. This is very weak but is around the minimum desirable strength to permit normal overcapping operations using a LGP dozer. It is also the kind of strength which can be found between high and low tide levels in a tidal estuary and will support the weight of a pedestrian. Even where the deposits are flooded, this strength should develop in a reasonable period and this should be verified using a vane tester.

Consideration must be given to the provision of fencing, warning notices and life-saving equipment where appropriate. Normally, this would be a temporary requirement until shear strengths are adequate. Subsequently, there is no reason to suppose that a wetland feature would be any more hazardous than any river, pond, lake or sea-shore.

#### CONCLUSIONS

Following the announced intention of the mining operator to leave bodies of water in a partially uncapped state on existing tips, work was undertaken to assess the likely hazard and mechanisms of potential failure of the tip structure.

Following this work, it was concluded that providing certain basic design criteria are adhered to, the resulting feature should have no detrimental effect on the stability of the tip structure as a whole. The feature itself should be no more hazardous than any other body of open water to which the public has access. It was concluded that no additional burden will be placed on the LAs by the establishment of these features.

Experience since 1998 has shown that the established wetland features continue to perform as designed from an engineering viewpoint, the overflow arrangements have coped with even the extreme precipitation of November 2000 with ease and minor wave action has apparently reached an equilibrium position due to beaching of marginal erosion material. In most cases aquatic and marginal vegetation is becoming well established and the features have become colonised with a wide variety of wildlife, from insects and invertebrates to heron and swans. It is thus reasonable to hope that a modestly innovative approach to an old problem will, in the fullness of time, lead to an environmental asset.

#### REFERENCES

- 1 British Dam Society "The prospect for reservoirs in the 21<sup>st</sup> century" (Proceedings of the tenth conference of the BDS held at the University of Wales, Bangor on 9-12 September 1998); Ed. Paul Todd; Thomas Telford, 1998. ISBN 0 7277 2704 4
- 2 "International Mining and Minerals"; January 2001 No.37. ISBN 1481-4715
- 3 NCB Technical Handbook "Spill Heaps and Lagoons" (Second Draft (Sept. 1970); National Coal Board.
- 4 NCB (Production) Codes and Rules: Tips. First Draft: 1971; National Coal Board.
- 5 Report of the Tribunal appointed to inquire into the Disaster at Aberfan on October 21st, 1966; H.M.S.O. 1967
- 6 The Mines and Quarries (Tips) Act 1969 (1969 Chapter 10)
- 7 The Mines and Quarries (Tips) Regulations 1971 (SI 1971 No.1377)
- 8 Composition and Engineering Properties of British Colliery Discards; R.K Taylor, N. C.B. 1984
- 9 Inst. of Civil Engineers "Floods and reservoir safety" 3rd Ed; Thomas Telford 1998. ISBN 0 7277 2503 3
- 10 The Construction Industry Research and Information Association "Small embankment reservoirs" Report 181; CIRIA 1996. ISBN 0 86017 461 1
- 11 The Construction Industry Research and Information Association "Design of reinforced grass walkways"; Report 178; CIRIA 1987. ISBN 0 86017 285 8

### ESSENTIAL ENGINEERING CRITERIA FOR THE ABANDONMENT OF TAILINGS LAGOONS AS ENVIRONMENTAL WETLAND FEATURES

#### Stability and Overt Resubmitted Engineering Requirements

- The embankment shall have been constructed to an appropriate engineering standard e.g. in compliance with section 15.4 "Design of Lagoon Banks" in the NCR Technical Handbook "Spill Risks and Lagoons", except that "Design 5" shall not be used. This requirement necessitates that all spoil in the embankment has been placed and compacted in layers not exceeding 300mm thick unless a more permeable filter zone has been specified in the design.
- No reduction in embankment width or increase in height of water or lagoon deposits from operational conditions shall be permitted.
- There shall be no record of instability with the lagoon and the adjacent part of the top indicated in the statutory inspection reports.
- There shall be no significant settlement of embankments reported in statutory inspection reports in preceding 10 years.
- There shall be no record of significant seepage potentially affecting the stability of the embankment, reported in statutory inspection reports in the preceding 5 years.
- On abandonment, the slope of the inner face of the lagoon shall graded (by partial overstepping if necessary) to be no steeper than 1 in 5 and preferably less near water's edge. Any overstepping shall not adversely affect stability.
- Prior to abandonment, crust on lagoon deposits should ideally be 300mm thick and at least 200mm thick and of 6 kN/m<sup>2</sup> minimum shear strength. Nothing shall be done necessarily to disturb the crust on lagoon deposits as part of forming a wetland feature.
- Drawings including cross sections through lagoon shall be prepared as part of a comprehensive Reg 12 or Reg 18 Report, indicating the shape of the lagoons on cessation of operational use and the proposed shape for abandonment.

#### Water Level

- Minimum depth of water shall initially be no greater than 1 metre and consideration shall be given to the increase in depth which will result from re-accumulation of the deposits.
- Prior to abandonment, lagoon deposits forming the base of the wetland feature shall be essentially horizontal.
- Top water level when the main spillway is operating at design capacity, shall be not higher than top water level when lagoon was in operational service.

#### Soil Protection

- Soiler protection shall be provided around water's edge to prevent embankment against wave action. This can be:
  - by the use of vegetation e.g. rushes or grass.
  - by the provision of extra top soil to give more luxuriant vegetation.
  - by the use of stone protection.
  - by the use of geotextiles which should be buried 50 to 150 millimetres below the surface of the ground and protect the zone susceptible to wave action (see *Guidance on engineering standards* below).
- Protection against scour due to surface water run-off shall be provided if necessary.

#### Spillway Capacity

- a) Main spillway (overflow pipe).

- The main spillway shall be a pipe through the embankment or a channel in the embankment crest as required.
- The main spillway shall have properly constructed intake and outfall structures to ends and shall be designed to minimise the risk of interference from vandals.
- All discharges from the main spillway shall be piped or channelled to the foot of the embankment.
- The spillway shall be constructed to prevent cover of the embankment side from leakage or overtopping whilst in use and be engineered to be maintenance free. Care shall be taken in backfilling around any pipe or channel to avoid any possibility of piping failure.

#### b) Auxiliary spillway

- the auxiliary spillway shall be a broadcrested weir set 100 mm above top water level when the main spillway is in operation at design capacity.
- the capacity of the auxiliary spillway shall be not less than that of the main spillway and shall prevent the top water level rising to within 500 mm of the embankment crest.
- adequate scour protection shall be provided to the base and sides of the weir and be extended to the foot of the embankment in the path of the discharge.

#### c) Minimum dimensions

- The normal operational lagoon design freeboard of 1 metre shall be maintained for the entire embankment (other than the auxiliary spillway) at all times. A design check shall be carried out in accordance with the guidance listed below to ensure that this freeboard is adequate considering both the physical characteristics of the wetland feature, its location and the consequences of any overtopping by flood and / or wave action.
- The embankment including any landscaping fill on the inner face, shall be at least 10 metres wide at the level of the high water mark with the main spillway operating at design capacity.

#### Guidance On Engineering Standards

- Guidance on appropriate engineering standards for spillway capacity, scour protection and wave height/freeboard calculations can be found in :
  - "Small embankment reservoirs", published as Report 161 by the Construction Industry Research and Information Association (CIRIA), 6 Storey's Gate, London, SW1P 3AU.
  - "Design of reinforced grass waterways", published as Report 116 by the Construction Industry Research and Information Association (CIRIA), 6 Storey's Gate, London, SW1P 3AU.
  - "Floods and reservoir safety" 3rd Ed., Inst. of Civil Engineers Gt. George St., London SW1P 3AA.

Guidance on appropriate engineering standards for embankment construction can be found in NCB Technical Handbook: "Spoil Heaps and Lagoons" 1970.

Guidance on the drainage of tips can be found in NCB publication "Technical Management of Water in the Coal Mining Industry."

#### General Requirements (For Guidance Purposes Only)

Consideration should be given to the management of authorised traffic on and the exclusion of unauthorised traffic and pedestrians from the lagoon site after abandonment.

Consideration should be given to the siting of appropriate warning signs and the provision of lifesaving equipment adjacent to the water.

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# APPENDIX 2

REPORT BY FAITHFUL & GOULD - MAY 2006

Former Annesley Cottery, Hucknall Road, Annesley  
REPORT & PROPOSED WORKS TO SECURE AND  
PRESERVE RETAINED BUILDINGS  
May 2006



Former Annesley Colliery  
Hucknall Road  
Annesley  
Nottinghamshire

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5010986/003 - Keopstead & Headgear

Photographic Schedule

Former Armesley Colliery  
Huchnall Road, Armesley

Faircliff + Gould

## INTRODUCTION

Faircliff + Gould were commissioned to carry out an inspection of the buildings identified on Ashfield District Council's "Conservation Area Consent Application" planning Ref. 2005/0230 as the buildings to be retained. These buildings are identified as follows:

- The Barke Building (17 - 21)
- Electricity Shop (29)
- Keepsend and Headgear (41)

The purpose of the visit to produce a scheme for the security of the buildings and for their preservation during the course of the demolition and other works to all other buildings contained on the site of the former Armesley Colliery, Huchnall Road, Armesley.

Also as part of the Conservation Area Consent it is noted that "a detailed survey of all materials which might be salvaged from the site" is to be made for the purpose of using such material in the restoration and repair of the buildings to be retained. However from our site inspection it is considered that the extent of suitable materials on site is limited.

The inspections encompass the external elements of the buildings only and are based purely on a visual inspection from ground level with no attempt being made to access the buildings or to inspect roof areas except where these are clearly visible from ground level, particularly an inspection has been carried out to the Hardslocks at high level or the structural steel frame or winding wheels. It is known that the buildings have been vacated for a number of years and as evidenced on our inspection have suffered both deterioration and various damage although with attempts being made to secure the buildings against access.

The inspections were carried out during April 2006 by Faircliff + Gould. Weather conditions were generally good.

The proposed work has been detailed for each individual building and is included within this report together with indicative elevation drawings and photographic schedule.

It should be noted that no surveys have been carried out in respect of this report with regard to potentially hazardous materials which may be present on the site or to the condition of drainage or services.

B. Davies  
Faircliff + Gould  
May 2006



## PROPOSED WORKS

### Electricity Shop - Building 29

#### Refer to Drawing Nr 5010986/001

#### 1.0 Roofing

- 1.1 Replace isolated areas of slate roofing to the front and rear elevations in 5 separate areas; renew any missing slates using similar salvaged slates from the adjacent Building Nr 34 prior to its demolition.
- 1.2 Replace single ridge cap to the gable end using salvaged capping from the adjacent building Nr 34 prior to its demolition.
- 1.3 Redecorate timber fascias and barge boards to all elevations including timber repairs where required.

#### 2.0 Rainwater Goods

- 2.1 Renovate existing rainwater gutter and replace sections as required including brackets, angles, outlets, mop ends and the like; screw to timber; to front and rear elevations
- 2.2 Renovate existing rainwater pipes and replace sections as required including brackets; bands, slines and the like; plugged and screwed to brickwork; to front and rear elevations

#### 3.0 East Elevation

- 3.1 To windows (1, 3, 4, 6 & 8); Take off metal security grills and fixings and remove from site; Remove all broken glass and leave safe on completion; Supply and fit security boarding to external face of metal or timber windows, mastic sealing all joints and edges and including for ventilation holes, supply and fix new security grills to ground floor locations.
- 3.2 To first and ground floor door openings (2 & 7); Take out and remove from site remaining sections of damaged timber frames; Block up opening in 75mm dense aggregate concrete blocks in cement mortar, fair face externally; boarded with crocodile strips to existing brickwork walls; incorporate 2air bricks to each location.

### Electricity Shop - Building 29 (Cont'd)

#### 4.0 North Elevation

- 4.1 To first floor door opening (9); Take out and remove from site remaining sections of existing timber frame; Block up opening in 75mm dense aggregate concrete blocks in cement mortar; fair face externally; bonded with crocodile strips to existing brickwork walls; incorporate 2w air bricks.
- 4.2 To windows (10 & 11); Take off metal security grills and fixings and remove from site; Remove all broken glass and leave safe on completion; Supply and fit security boarding to external face of metal or timber windows, mastic sealing all joints and edges and including for ventilation holes, supply and fix new security grills to ground floor window.

#### 5.0 West Elevation

- 5.1 To first floor window (12); Take off metal security grills and fixings and remove from site; Remove all broken glass and leave safe on completion; Supply and fit security boarding to external face of metal or timber windows, mastic sealing all joints and edges and including for ventilation holes.
- 5.2 To Ground Floor opening (13); Supply and lay 140mm dense aggregate concrete blocks in cement mortar; fair face externally; built in one course to cover existing opening (approx 1m<sup>2</sup>).

#### 6.0 South Elevation

- 6.1 To first floor window (14); Take off metal security grills and fixings and remove from site; Remove all broken glass and leave safe on completion; Supply and fit security boarding to external face of metal or timber windows, mastic sealing all joints and edges and including for ventilation holes.
- 6.2 Above Flat roof area; Re point brickwork to general areas; approx 3m<sup>2</sup>

#### 7.0 Generally

- 7.1 Internally; Clear out and remove all loose debris as necessary and remove from site
- 7.2 Externally; Clear away and remove all loose debris as necessary from the perimeter of the building approximately 3m width.

#### Notes:

- Metal A frame and loading beam left in place
- It is proposed that the existing opening to the East Elevation (5) currently protected by a metal sheet is utilised for emergency access if required.

Baths Building (17 - 21)

Refer to Drawing Nr 5010986/002

1.0 North Elevation (A - B)

- 1.1 To all windows (29m); Take off metal security grills and fixings and remove from site; Remove all broken glass and leave safe on completion; Supply and fit security boarding to external face of metal or timber windows, mastic sealing all joints and edges and including for ventilation holes, supply and fix new security grills to ground floor locations and those areas accessible from the flat roof.
- 1.2 To Ground Floor Doorway (N5); Block up opening in 75mm dense aggregate concrete blocks in cement mortar; fair face externally; bonded with crocodile strips to existing brickwork walls; incorporate 2m air bricks to top and bottom.
- 1.3 Take down existing asbestos cement box gutter; remove existing fixings; Supply and fix new gutting (N10) (13m)
- 1.4 Take down existing asbestos cement rainwater pipe; Supply and fix new rainwater pipe; fixed with brackets to brickwork. (N10) (3m)
- 1.5 Brickwork below window (N12); Repoint brickwork to general areas; approx 5m<sup>2</sup>
- 1.6 To right hand of door (N14); Remove existing section of down pipe; Supply and fix new Upvc hopper head and rainwater pipe to existing flat roof outlet; fixing with brackets to brickwork

2.0 East Elevation (B - C)

- 2.1 Area adjacent existing doors (E5 & E10); Remove all banked up earth down to natural ground level and remove from site; level to below existing dpc
- 2.2 Ground Floor Doorway (E1, E2 & E4); Block up opening in 75mm dense aggregate concrete blocks in cement mortar; fair face externally; bonded with crocodile strips to existing brickwork walls; incorporate 2m air bricks in each location (3m)
- 2.3 Ground Floor windows (E3); Take off metal security grills and fixings and remove from site; Remove all broken glass and leave safe on completion; Supply and fit security boarding to external face of metal or timber windows, mastic sealing all joints and edges and including for ventilation holes; supply and fix new security grills to ground floor locations.  
windows approx size 1300 X 1500mm (6m)
- 2.4 Rainwater pipe (E6); Renovate existing; Replace as necessary including brackets; bends, shoes and the like; plugged and screwed to brickwork

Baths Building (17-21)

- 2.5 Rainwater pipe (E7); Clear out hopper head to existing rainwater pipe, remove debris and leave down pipe free running
- 2.6 Manhole (E8); Clear out all debris and remove from site; Supply and fix light duty access cover and frame; bedding frame in cement mortar (1:3); bedding cover in grease and sand
- 2.7 Break off damaged section of concrete canopy and leave safe (E10)
- 2.8 To parapet wall generally (E11); Supply and fix missing sections of pre-cast concrete coping 300 X 100mm; bedded in cement mortar; approx 30m

2.0 South Elevation (C - A)

- 3.1 Ground Floor windows (S1;2nr & S3;4nr); Take off metal security grills and fixings and remove from site; Remove all broken glass and leave safe on completion; Supply and fit security boarding to external face of metal or timber windows, mastic sealing all joints and edges and including for ventilation holes; supply and fix new security grills.
- 3.2 Ground Floor windows (S2); Re-secure isolated areas of metal steel sheeting to windows and doors generally (12nr)
- 3.3 Open Gulleys (S4); Clear out all debris and remove from site; backfill with hardcore to existing ground level; 2nr locations
- 3.4 Manhole (S5); Clear out all debris and remove from site; Supply and fix light duty access cover and frame; bedding frame in cement mortar (1:3); bedding cover in grease and sand
- 3.5 Top 6 courses to parapet wall (S6); Re point brickwork to general areas, approximately 18m<sup>2</sup>
- 3.6 Low level Brickwork adjacent door (S7); Make good frost affected brickwork as necessary to area approx 2m<sup>2</sup>; re point in cement mortar
- 3.7 To parapet wall (S9); Supply and fix missing sections of pre-cast concrete coping 300 X 100mm; bedded in cement mortar; approx 5m
- 3.8 To left Hand side of door (S10); Remove existing section of down pipe; Supply and fix new Upvc hopper head and rainwater pipe to existing flat roof outlet; fixing with brackets to brickwork

**Baths Building (17 - 21) (Contd)**

- 3.9 Re point brickwork to general areas; approx 5m<sup>2</sup> (S10)
- 3.10 Take down existing asbestos cement box gutter; remove existing fixings; Supply and fix new guttering (S11) (15m)
- 3.11 Take down existing asbestos cement rainwater pipe; Supply and fix new rainwater pipe; fixed with brackets to brickwork. (S11) (3m)

**4.0 Roofing**

- 4.1 Remove all broken glass and leave safe on completion; Supply and fit security boarding, mastic sealing all joints and edges to all roof lights and access points.
- 4.2 Carry out isolated patch repairs to asphalt roof to ensure building is watertight

**5.0 Generally**

- 5.1 Internally; Clear out and remove all loose debris as necessary and remove from site
- 5.2 Externally; Clear away and remove all loose debris as necessary from the perimeter of the building approximately 3m width.

**Notes:**

- It is proposed that the existing openings to the South Elevation currently protected by metal sheet is utilised for emergency access if required.

Keystone & Header (M)

Refer to Drawing No 5018926(10)

1.0 North Elevation

- 1.1 To windows (N1;2nr & N4;1nr); Take off metal security grills and fixings and remove from site; Remove all broken glass and leave safe on completion; Supply and fit security boarding to external face of metal or timber windows, mastic sealing all joints and edges and including for ventilation holes; supply and fix new security grill to ground floor window.
- 1.2 Make good loose brickwork, cut off all reinforcement bars and remove debris from site; Block up opening in 75mm dense aggregate concrete blocks in cement mortar; fair face externally; bonded with crocodile strips to existing brickwork walls (N3)
- 1.3 Rake out joint; provide cement mortar to vertical brickwork abutment (N3) (4m)
- 1.4 Block up opening approx 0.5m<sup>2</sup> in 75mm blockwork
- 1.5 Supply and fix new rainwater pipes and hopper heads; UPVC 69mm nominal size; including brackets; bends, shoes and the like; plugged and screwed in brickwork (N5) (6m)

2.0 West Elevation

- 2.1 Cut off reinforcement bars to line of elevation; Make good section of brickwork between doors approx 2000 x 500mm wide; point in cement mortar (W1)
- 2.2 Remove existing sheeting / security grills; Block up opening in 75mm dense aggregate concrete blocks in cement mortar; fair face externally; bonded with crocodile strips to existing brickwork walls (W1) (2m)
- 2.3 Remove security reinforcement and prop existing concrete lintel during the course of the works; Block up opening in 140mm dense aggregate concrete blocks in cement mortar; fair face externally; bonded with crocodile strips to existing brickwork walls; approx size 3150 x 2070 (W2)
- 2.4 Reset loose brickwork in position above opening; Repoint brickwork to general areas; approx 5m<sup>2</sup> (W2)
- 2.5 Re point brickwork to general areas; approx 8m<sup>2</sup> in 2 separate areas (W3)
- 2.6 Supply and fix new rainwater pipes and hopper heads; UPVC 69mm nominal size; including brackets; bends, shoes and the like; plugged and screwed in brickwork (W4) (9m)

### Roof and Headgear (41) (Contd)

#### 3.0 South Elevation

- 3.1 Supply and fix new rainwater pipes and hopper heads; UPVC 69mm nominal size; including brackets; bends, shoes and the like; plugged and screwed to brickwork (S1) (4m)

#### 4.0 East Elevation

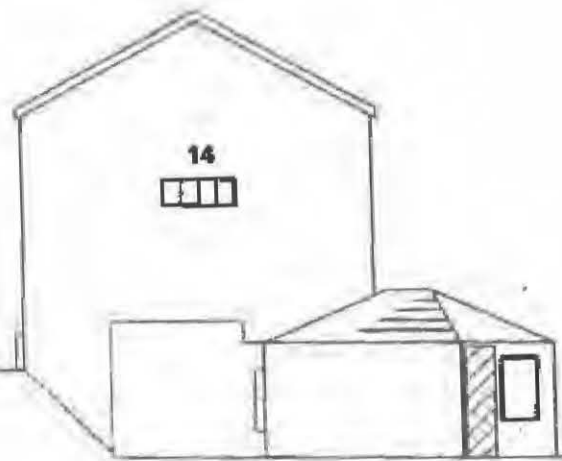
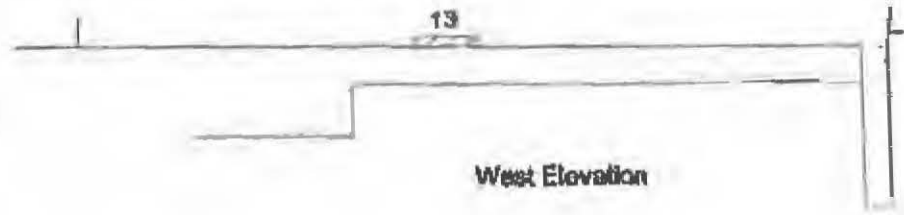
- 4.1 Remove timber frame and prop existing concrete lintel during the course of the works; Block up opening in 140mm dense aggregate concrete blocks in cement mortar; fair face externally; bonded with crocodile strips to existing brickwork walls; approx size 1840 x 1650 (E1)

#### 5.0 Generally

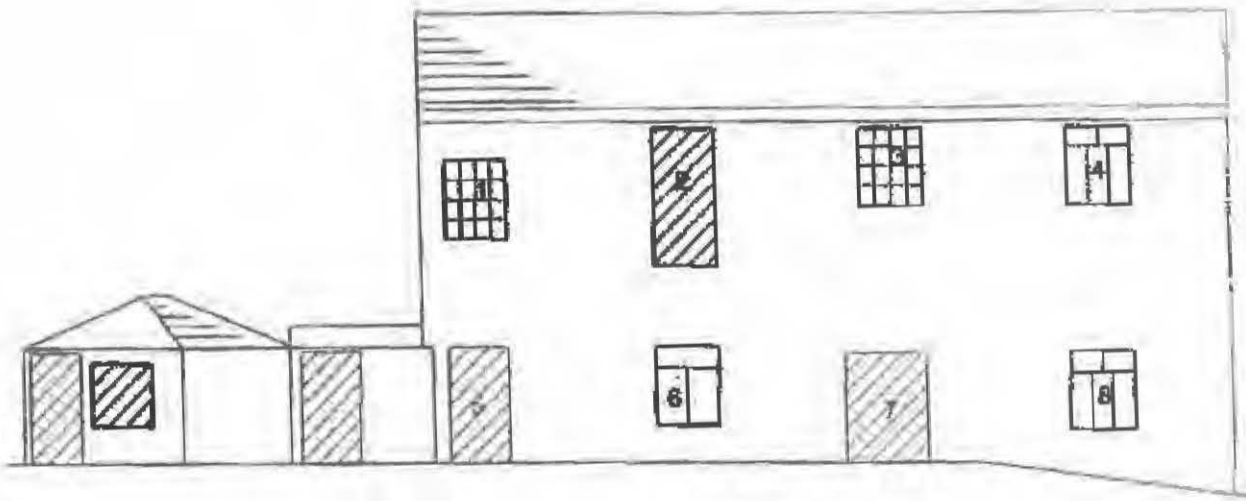
- 5.1 Internally; Clear out and remove all loose debris as necessary and remove from site
- 5.2 Externally; Clear away and remove all loose debris as necessary from the perimeter of the building approximately 3m width.

#### Notes:

- No work included for high level structure or steel frame and winding gear
- It is proposed that either existing ground floor doorways could be utilised for emergency access in lieu of blocking up if required.



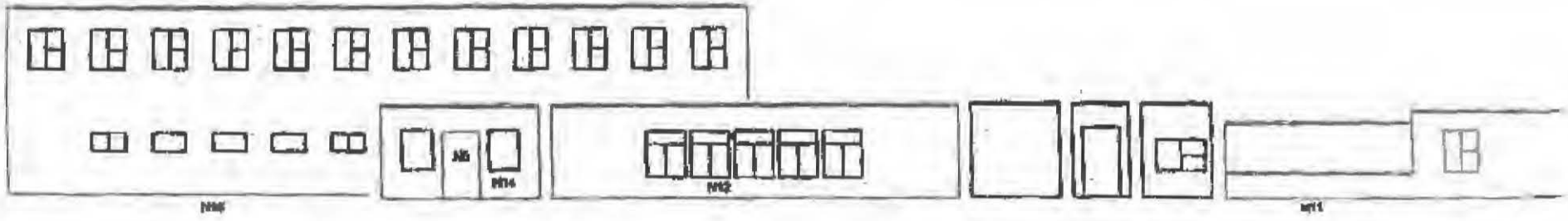
South Elevation



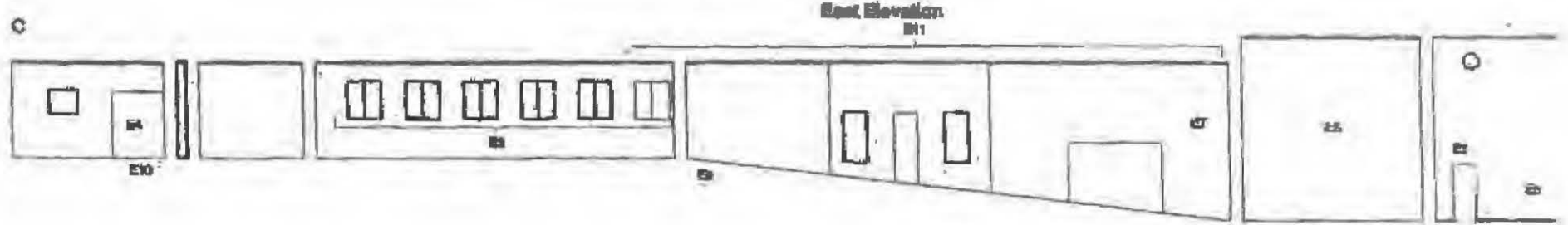
East Elevation



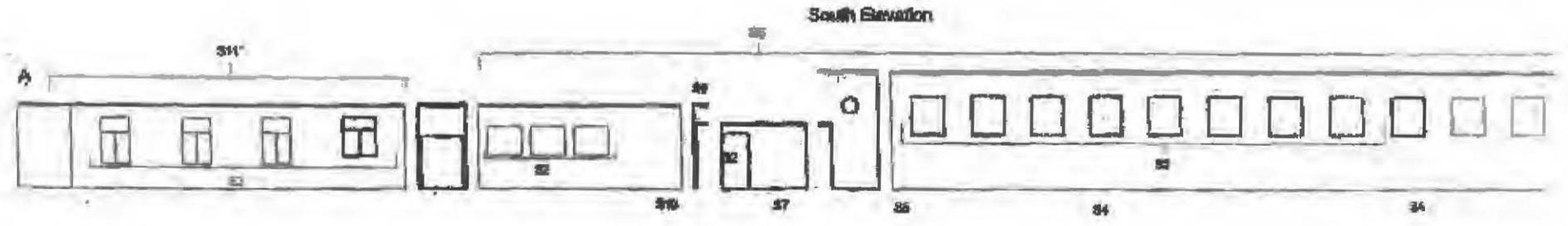
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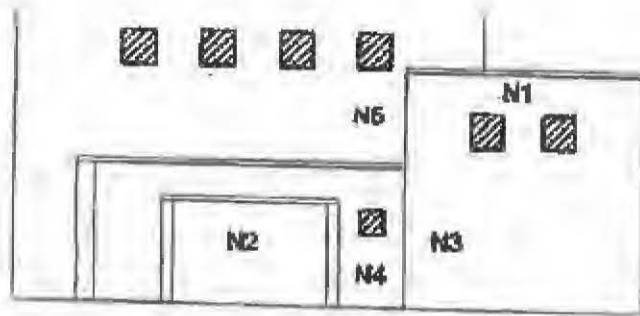


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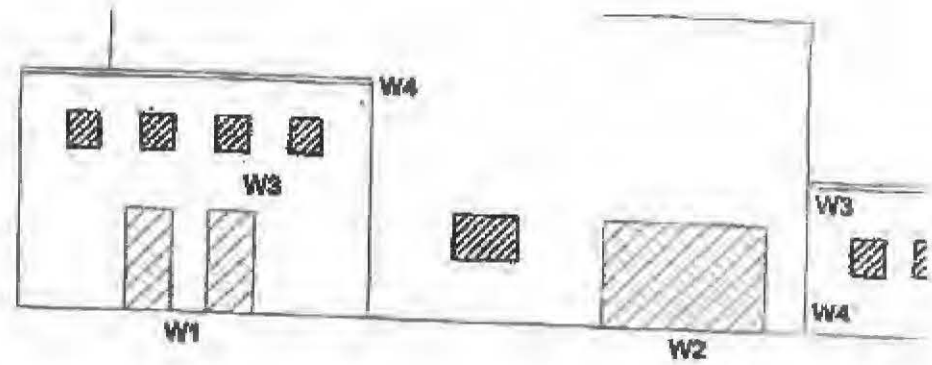


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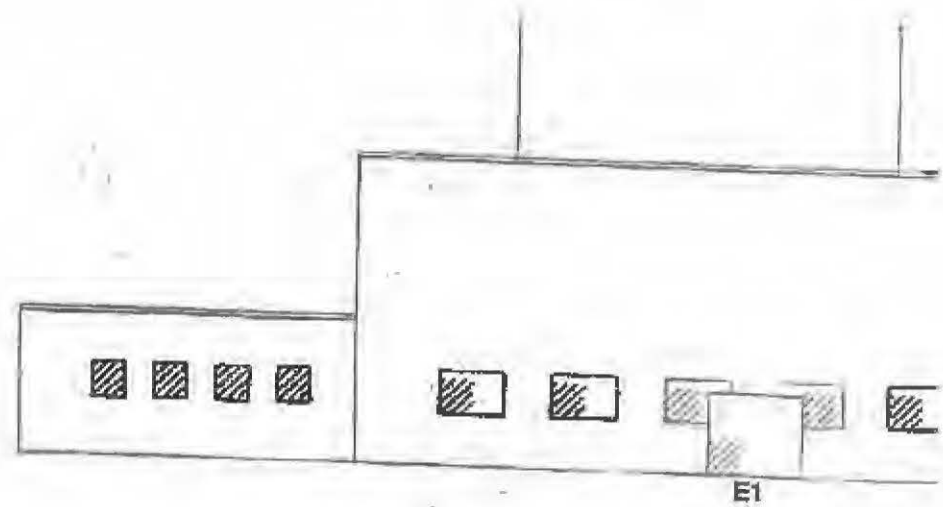
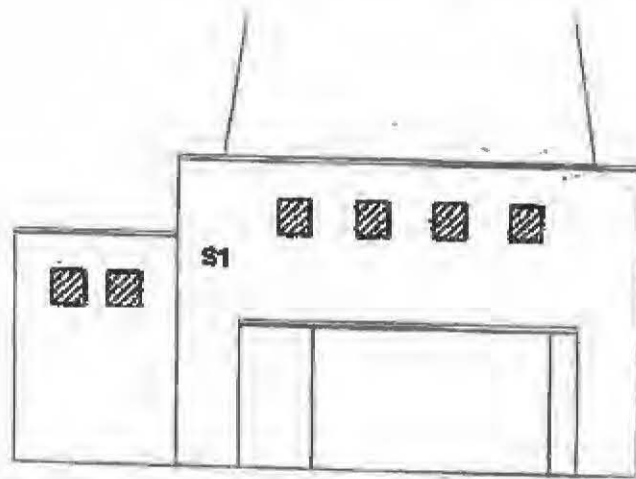




South Elevation

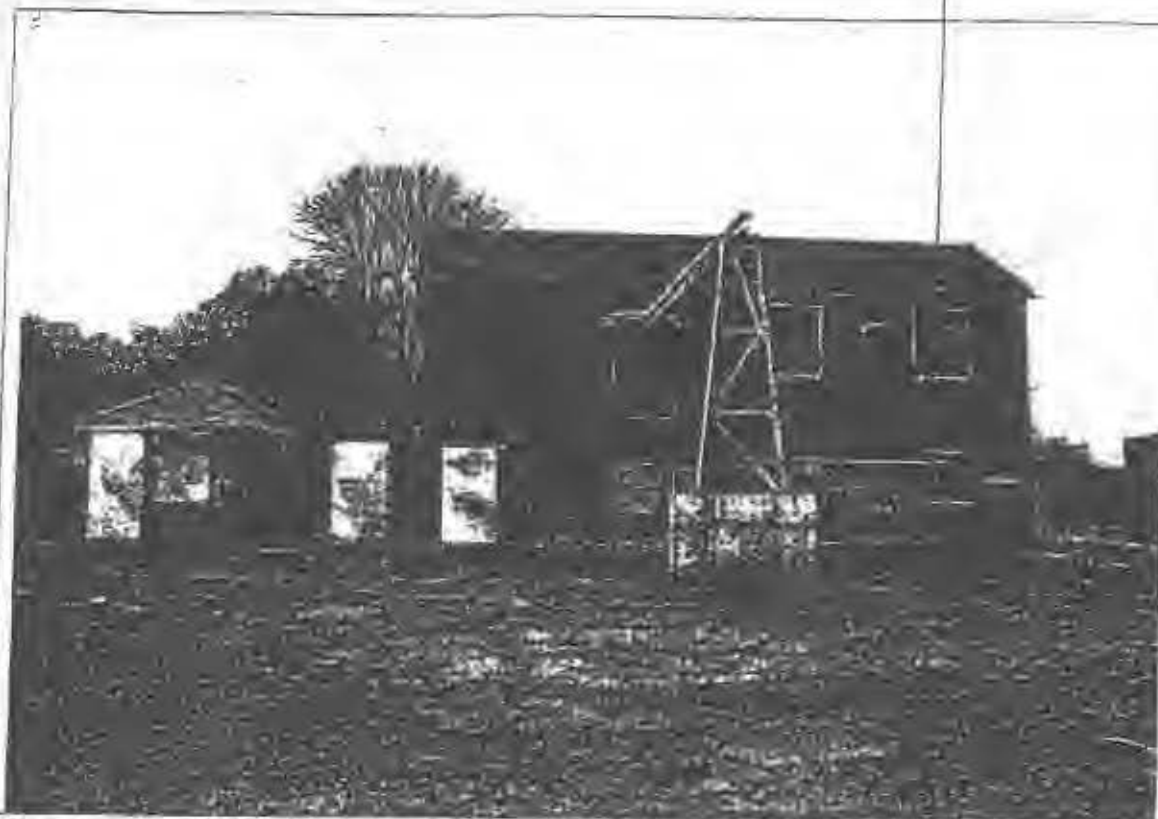


East Elevation



Former Annesley Colliery  
Hocknall Road, Annesley

Faithful+Gould



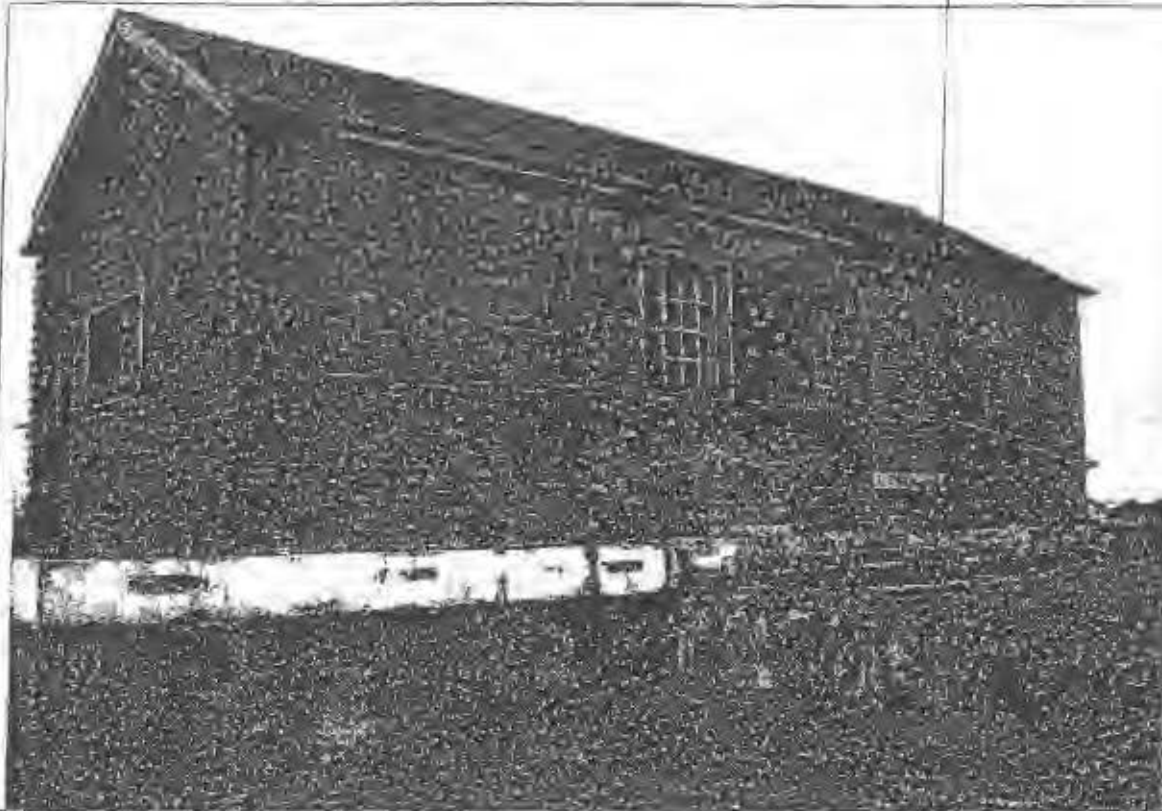
Photograph 1: Electricity Shop East



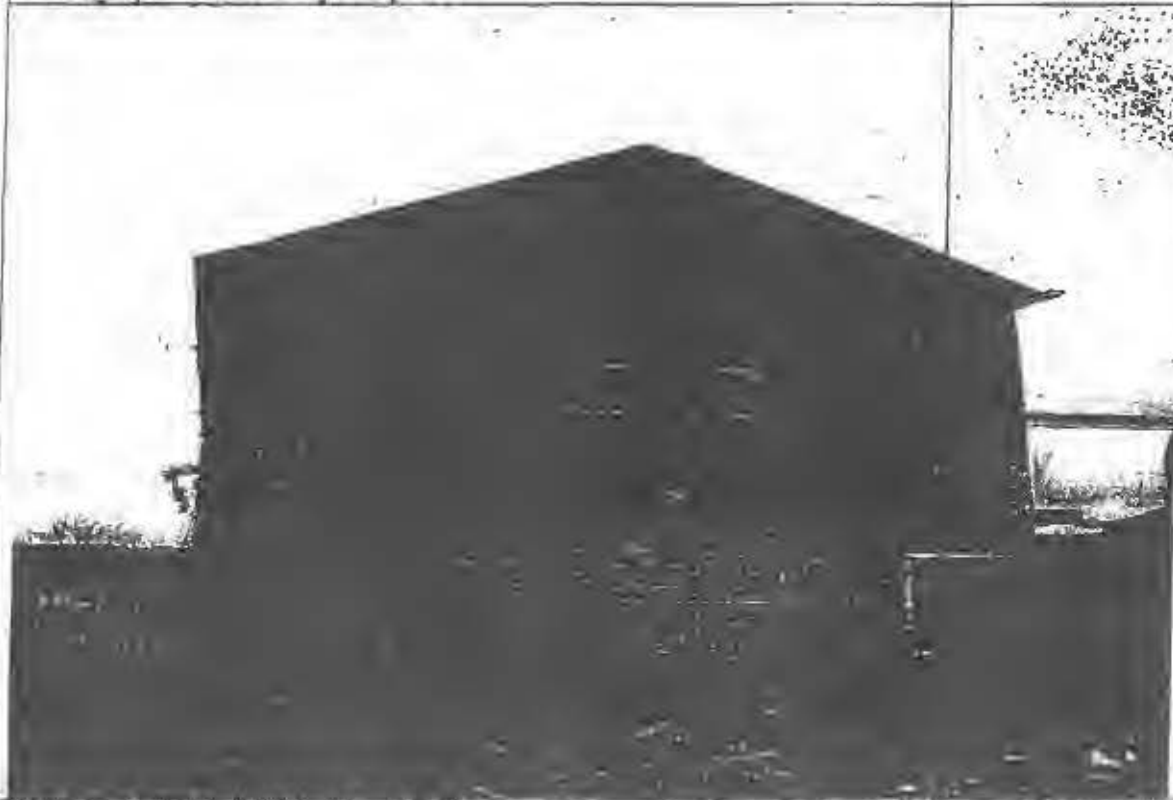
Photograph 2: Electricity Shop North

Former Annesley Colliery  
Huckwell Road, Annesley

Faithful+Gould



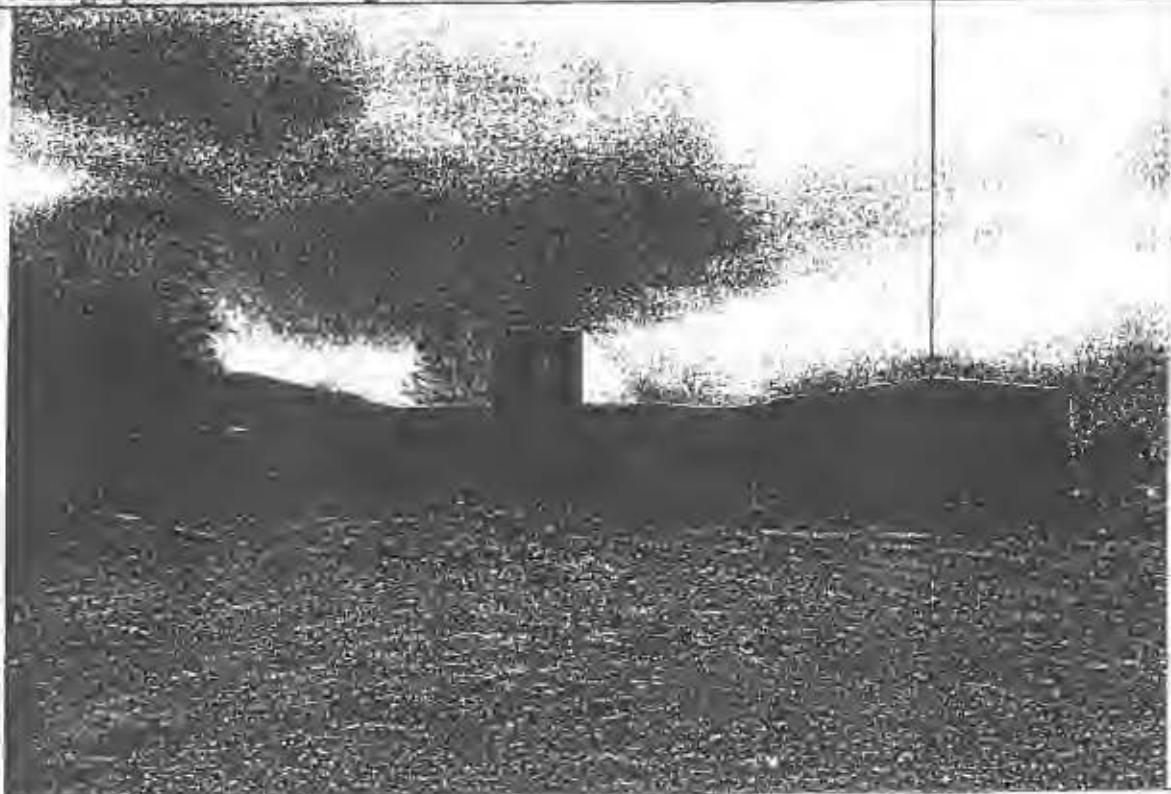
Photograph 3: Electricity Shop West



Photograph 4: Electricity Shop South



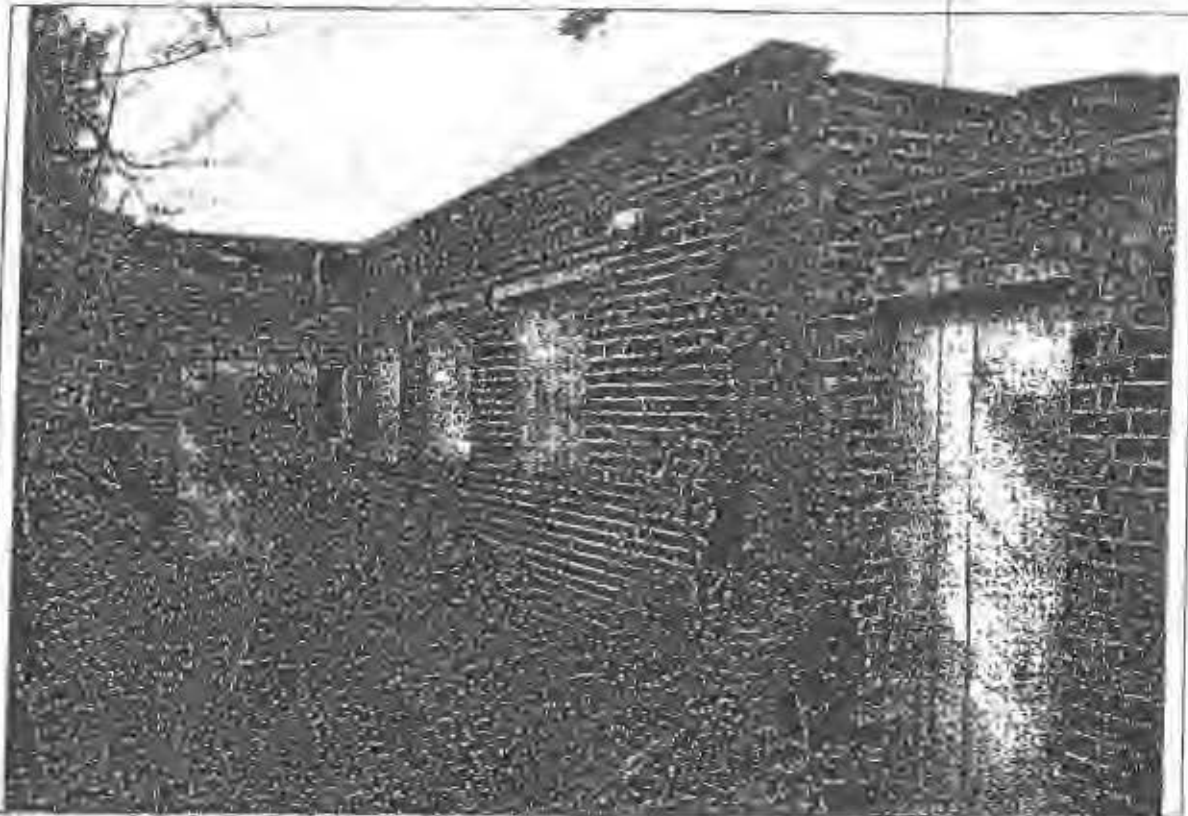
Photograph 5: Baths Building North



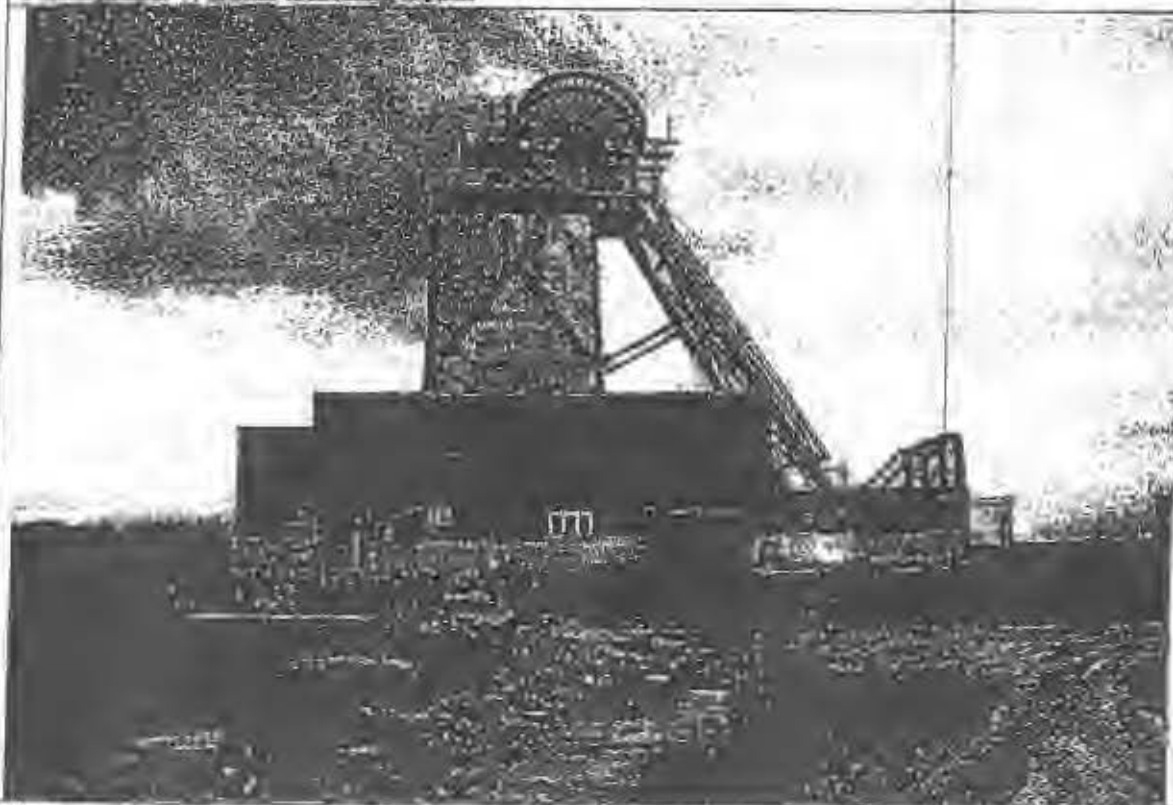
Photograph 6: Baths Building East

Former Annalesey Colliery  
Hucknall Road, Annalesey

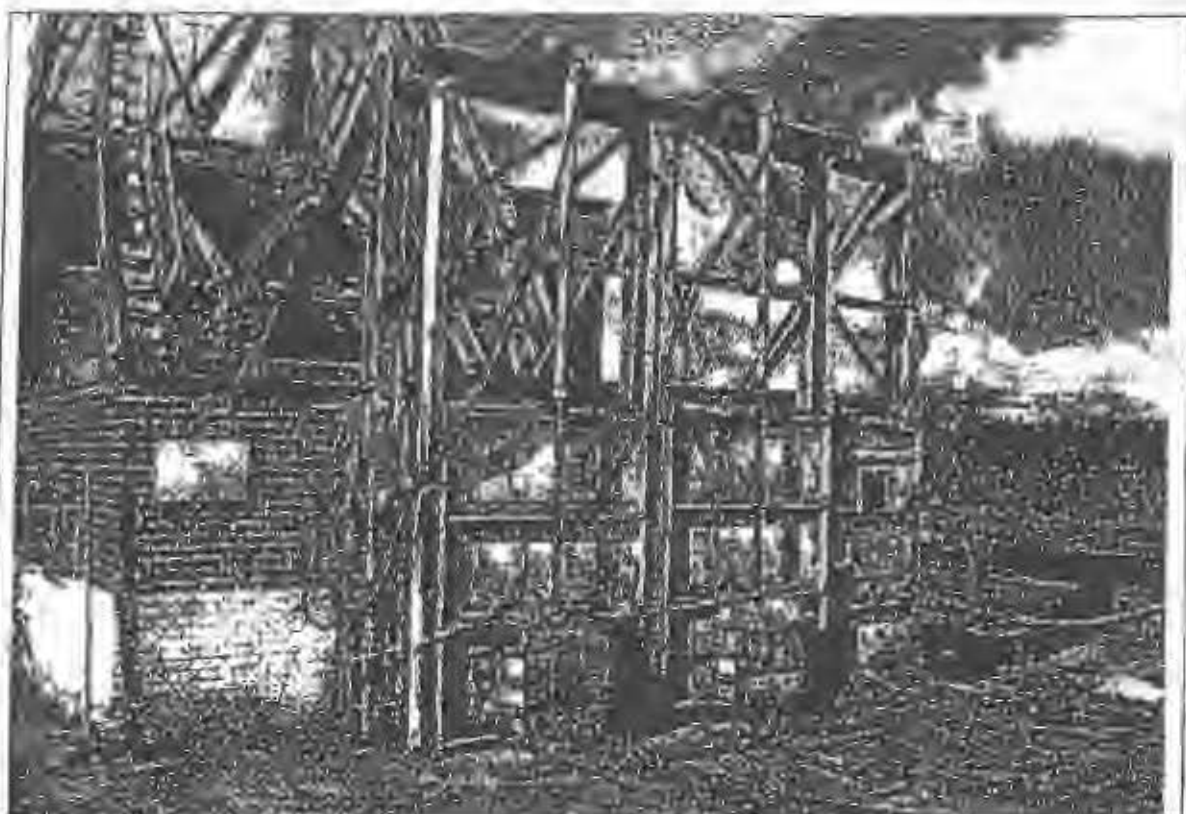
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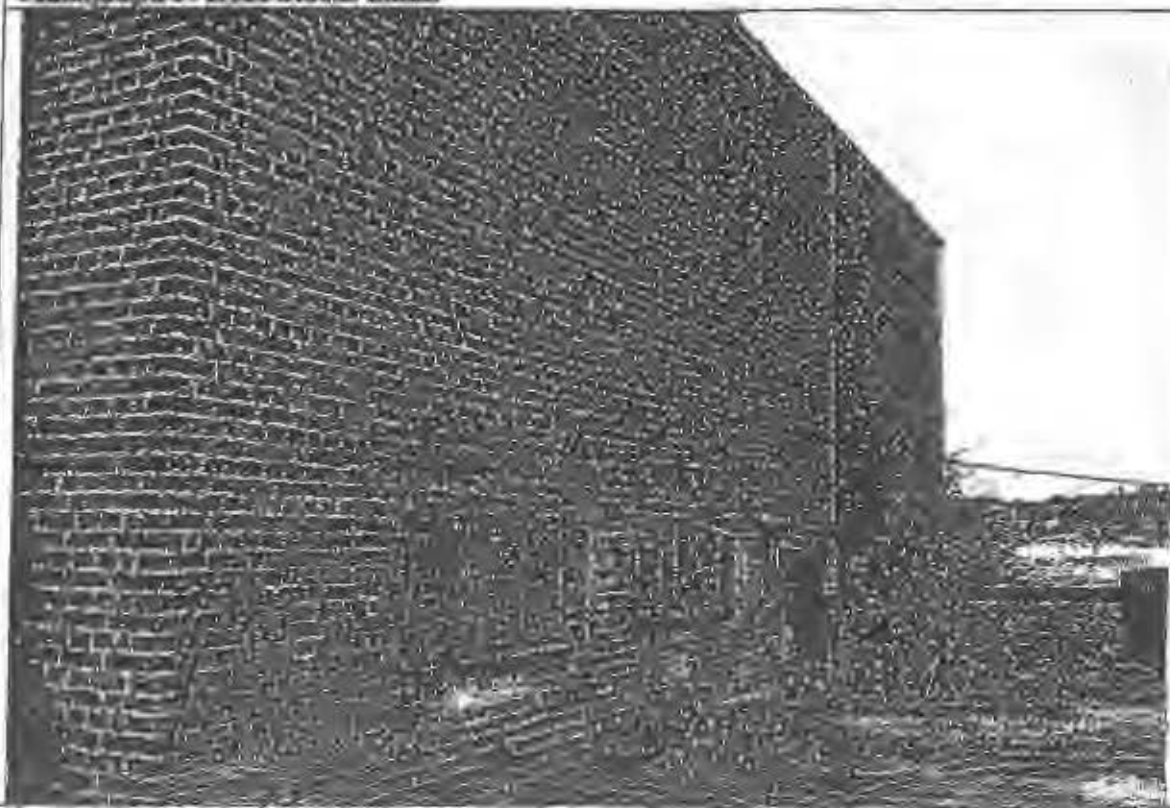
Photograph 7: Baths Building South



Photograph 8: Head Stocks West



Photograph 9: Head Stocks South



Photograph 10: Head Stocks East

# ASHFIELD DISTRICT COUNCIL

Urban Road,  
Kirkby-in-Ashfield,  
Nottingham,  
East Midlands,  
NG17 8DA

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FILE COPY

Atkins Ltd  
Beechdale Court  
Beechdale Road  
Nottingham  
NG8 3LM

Contact: Mr. B. Twigg  
Direct Line: 01623 467378

Our Ref: BT/2005/0230  
5010888.001 (001244500000)  
Your Ref:  
Date: 29<sup>th</sup> January, 2007

Dear Sir,

## CONSERVATION AREA CONSENT: FOR DEMOLITION OF BUILDINGS AT THE FORMER ANNESLEY COLLIERY

I refer to your letter of 18<sup>th</sup> September 2006.

### Condition 2b

With regard to the Headstocks I believe that the whole issue will need to be re examined to reflect the recent interest in the structure by the Friend of Annesley Headstocks. With regard to the remaining structures, the general marketing strategy is considered acceptable, subject to the Council's involvement as described in your letter of 22<sup>nd</sup> May 2006 and also further agreement to the curtilage associated with each of the buildings. This assumes that the marketing will, where necessary, be phased with the possible interest and use of the Bathe building by Perakmon, since it is unlikely that the structure would be available for some years if it is used as a marketing suite. This may also have some influence on the level of refurbishment to the building.

### Condition 4

On the understanding that the works to secure and make the buildings wind and weather tight include pointing and the provision of all water goods and their connection to drainage runs the proposed works are acceptable. This also assumes that repairs will be undertaken where problems may have arisen since the preparation of the original schedule of works. In terms of timing I still require this work to be brought forward and not limited to the preparation of the Section 106 Agreement associated with the mixed use development. I would suggest that a period of six months from the date of this letter would be appropriate.



**Condition 6**

Based on the information accompanying your letter of 9<sup>th</sup> June 2008 the condition is discharged

**Condition 7**

The submitted Asbestos report has identified areas where inspection was not possible. Subject to further surveys and reporting to these areas and a report validating completion of works from survey to final disposal the condition may be treated as discharged.

**Condition 8**

The content of your letter of 18<sup>th</sup> September 2008 is noted.

Yours faithfully,

B. TWIGG  
Area Development and Building Control Manager

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# APPENDIX 3

## PLANNING PERMISSION

# OUTLINE PLANNING APPLICATION

TOWN AND COUNTRY PLANNING ACT 1990

TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER  
1995

PLANNING REF: 2005/0886

The ASHFIELD DISTRICT COUNCIL "Authority" in pursuance of its powers contained within the above mentioned Act and having considered an application for Outline Planning Permission

By Annesley Developments Ltd  
For Mixed Use Development including Residential Development (4.51Ha),  
Employment Development (B1,B2,B8), (3.15Ha), Public Open Space (0.48Ha)  
and Retail (A1) including Health Centre and Visitor Centre  
At Former Annesley Colliery, Hucknall Road, Annesley, Nottinghamshire

as shown on the plans submitted with the application to the Authority on 27/09/2005 hereby make the following decision:

## CONDITIONAL OUTLINE PLANNING PERMISSION

for the development as described in the application subject to compliance with the Conditions imposed and for the Reasons set out below

### CONDITIONS

1. The formal approval of the Local Planning Authority shall be obtained prior to the commencement of any development with regard to the following Reserved Matters:
  - (a) siting
  - (b) design
  - (c) external appearance of the building or buildings, and
  - (d) the proposed landscaping of the site including boundary treatment
2. Application for approval of the Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development to which this permission relates shall be begun not later than the expiration of 2 years from the final approval of the Reserved Matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
4. Notwithstanding the submitted Indicative Layout (Plan B) this permission shall authorise the development of 4.51 hectares of housing land; 3.15 hectares of employment land and 0.48 hectares of Open Space land, the details of which shall be the subject of a further Master Plan to be submitted to and agreed in writing by the Local Planning Authority, prior to the commencement of development.

- a) strategic landscaping areas as detailed in the Annesley Colliery Development Brief
- b) a minimum housing density of 35 dwellings per hectare within the housing area
- c) the provision of affordable housing in accordance with Policy HG 4 of the Ashfield Local Plan Review
- d) the submission of a Green Travel Plan in respect of the proposed employment uses
- e) existing and proposed levels, including sections to illustrate the relationship of the development to the neighbouring land
- f) the retention of the electric workshop and baths building shown on the attached plan; the provision of a outillage to each and the submission of a sales strategy for the retained buildings.
- g) drawings to illustrate the relationship and context of the proposed housing development to the retained heritage buildings identified on the attached plan.
- h) mitigation of the effects of development on the ecology of the area in accordance with the conclusions and recommendations of the Ecological Assessment forming Appendix B of the Planning Supporting Statement submitted with the planning application.

5. Prior to the commencement of any works pursuant to this permission the applicant shall submit the following to the Local Planning Authority (LPA):

- i) a Site Investigation/Phase II Report. The applicant/developer shall submit a detailed Site Investigation/Phase II Report documenting the characteristics of the ground at the site. The Site Investigation should establish the full extent, depth and cross-section, nature and composition of the contamination. Ground gas monitoring and chemical analysis, identified as being appropriate by the Desktop Study, should be carried out in accordance with current guidance using UKAS/MCERTS accredited methods. All technical data must be submitted to the LPA.
- ii) a Scheme of Remedial Works where the Site Investigation has identified the presence of significant levels of harmful ground gas and/or significant levels of chemical contamination. The scheme should include a Remediation Statement and Risk Assessment Strategy to prevent any significant risk arising when the site is being developed or subsequently occupied.

Any variation to the Remediation Scheme shall be agreed in writing with the LPA, in advance of works being undertaken.

All remediation should be carried out safely, ensuring that no significant risk(s) remain. The applicant will need to have a contingency plan should the primary remediation or subsequent construction phase reveal any additional contamination. Where additional contamination is found the applicant must submit in writing, details of the contingency plan for written approval by the LPA.

On completion of remedial works and prior to the occupation/use of the development, the applicant must submit to the LPA:

- iii) a Validation Report with confirmation that all remedial works have been completed and validated, in accordance with the agreed details. The Validation Report must be submitted for the written approval of the LPA prior to the development being put to its intended use.

7. No development shall commence until details of the surface water and foul sewage disposal proposals serving the site and a programme for their implementation has been submitted to and approved by the Local Planning Authority. Any agreed scheme shall be implemented in full.

8. No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been submitted to and approved in

writing by the Local Planning Authority. Such a scheme shall consider the use of Sustainable Drainage Techniques and shall not result in an increase in the rate of surface water discharge to the local land drainage system. The drainage works shall be completed in accordance with the details and timetable agreed.

9. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from the industrial parking areas and hard standings shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.
10. Any facilities for the storage of chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipe work, vents, gauges and sight glasses must be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipe work shall be located above ground and protected from accidental damage. All filling points and tank/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund.
11. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hard standings shall be passed through trapped gullies with an overall capacity compatible with the site being drained.
12. No building shall be erected within 5 metres of either side of the public sewer which crosses the site.
13. Prior to the commencement of development an environmental assessment against the Building Research Establishment Environmental Assessment Method (BREEAM) or equivalent assessment approved by the Local Planning Authority, shall be submitted for the written approval of the Local Planning Authority demonstrating that the development will achieve a very good rating. The development shall then be carried out in accordance with the approved assessment.
14. Details including a timescale for implementation, extent, design, equipment and hard and soft landscaping associated with the Public Open Space shall be submitted to the Local Planning Authority for their approval in writing, prior to the commencement of development. Thereafter the scheme shall be implemented at the developers cost in accordance with the approved details.
15. Notwithstanding the submitted details no development shall take place until:
  - i) the design of the employment site access, which shall incorporate 4.5 x 180 visibility splay, a ghost island right turn with refuges;
  - ii) the residential mini roundabout access at the Annesley Cutting/Newstead Road Junction incorporating the principles illustrated in the attached Drawing No. Figure 2.4, with details of signing, road markings and lighting;
16. Prior to any development taking place, precise details of the highway design including timescale for implementation shall be submitted to and approved in writing by the local planning authority. Such highway design shall conform to the Notts County Council Highway Design Guide and/or in accordance with current ministerial policy and guidelines as may be agreed by the local planning authority.
17. No development shall be permitted to commence on site until a noise impact assessment has been prepared, by or on behalf of the applicant, in accordance with Planning Policy Guidance 24: Planning and Noise. Upon completion, the noise impact assessment shall be submitted to and approved by the Local Planning Authority. Where the noise impact assessment shows that the site falls within NEC B, C, or D as defined in Annex 1 of PPG 24 then no works shall commence on the site until proposals for noise mitigation measures have been submitted to and approved by this Authority.

A noise impact assessment shall also be prepared in accordance with BS4142: Method for rating industrial noise affecting mixed residential and industrial areas. The assessment shall include an assessment of noise from fixed plant plus any delivery and unloading operations. Upon completion the noise impact assessment shall be submitted to the Local Planning Authority for approval.

No development shall commence until noise mitigation measures, shown to be necessary by the noise impact assessment, have been implemented to the satisfaction of the Local Planning Authority.

18. Unless otherwise agreed in writing with the Local Planning Authority there shall be no B2 employment uses within the section of the employment area along the Newstead Road frontage.

18. There shall be no outside storage of plant, machinery, raw materials, packing boxes, pallets, waste materials, other materials, or finished products, except in a screened area, the location of which shall be the subject of written agreement with the Local Planning Authority. Such an agreement shall specify the type and height of the required screening and the details for remedial landscaping and shall be implemented before any outside storage occurs.

20. No fencing shall be erected other than in accordance with details previously to have been agreed in writing with the LPA.

## REASONS

1. To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.
2. To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.
3. To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.
4. To define the terms of the planning permission.
5. To ensure that the development satisfies the requirements of Local Plan Policy and provides a sustainable and environmentally acceptable development, with due regard for heritage and ecological issues.
6. To ensure that contamination is suitably remediated.
7. To ensure the satisfactory disposal of foul and surface waters.
8. To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal.
9. To prevent pollution of the water environment.
10. To prevent pollution of the water environment.
11. To prevent pollution of the water environment.
12. To protect the integrity of the sewer to allow access for maintenance.
13. To ensure the construction of a sustainable form of development.
14. To ensure that the Public Open Space is designed and equipped to an appropriate standard for future adoption by the Council.
15. To ensure satisfactory access arrangements in the interests of highway safety and site permeability.
16. To ensure that the highway system is designed to an acceptable standard.
17. To protect the amenity of residents.
18. To protect the amenity of residents.
19. To protect the visual amenity of the area.
20. In the interests of visual amenity.

## INFORMATIVES

1. A booklet is available which gives details of the contents for reports required by this consent - "Developing Land in Nottinghamshire: A guide to submitting planning applications for land that may be contaminated". This is available from the Environmental Protection Section at Ashfield District Council or from the ADC website using the following link:

[http://www.ashfield-c.gov.uk/community/environment/contam\\_land/developing\\_land.pdf](http://www.ashfield-c.gov.uk/community/environment/contam_land/developing_land.pdf)

An information leaflet is available from the National Society for Clean Air - "Land Quality - Contaminated Land". Copies can be obtained from Environmental Services or downloaded from the NSCA website using the following link:

<http://www.nscac.org.uk/leaflet11.htm>

Where the presence of contamination is found or suspected the developer and/or his contractor should have regard to Health and Safety Executive guidance - "The Protection of workers and the general public during the development of contaminated land".

2. The applicant is advised that a public sewer crosses the site.
3. The Agency accepts the conclusions and recommendations within the FRA submitted with this application, but reiterates that there must be no increase in rate and volume of surface water discharged from the proposed development. The application of the SUDS options in Section 5.3 is welcomed. In addition, no discharge should be made into the Cuttall Brook catchment due to land drainage problems there.

Please note the Environment Agency requests the surface water drainage scheme for the above proposed development meets the following criteria:

- i. the drainage scheme shall utilise sustainable drainage techniques or SUDS;
  - ii any outflow from the site must be limited to the maximum allowable rate, i.e. no increase in run-off (and preferably a reduction);
  - iii the system must deal with the surface water run-off from the site on site up to the critical 1% Annual Probability of Flooding (or 1 in a 100-year flood) event. Drainage calculations must be included to demonstrate this (e.g. Info Works or similar sewer modeling package calculations which include the necessary attenuation volume);
  - iv adoption and maintenance of the drainage system must be addressed and stated.
4. The proposal involves works within the Public Highway which will involve the need for further agreement with the Highway Authority. The applicants are therefore advised to contact the Highway Authority at an early stage.
  5. The applicant is advised that a favourable planning decision does not necessarily imply the infra-structure will be suitable for an adoption agreement under the Highways Act 1980. You are advised to contact Ashfield District Council's Engineering Services to discuss this matter at an early stage.
  6. The applicants attention is drawn to the attached correspondence from:
    - a) The Environment Agency
    - b) Severn Trent Water Ltd
    - c) Nottinghamshire Wildlife Trust
    - d) Ashfield District Council - Environmental Protection
  7. The applicant is advised that the contamination report should also address the issue of asbestos.
  8. The applicant is reminded that the site is located within a Conservation Area. A high standard of design and materials will be required for both the residential and employment developments.

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# APPENDIX 4

## EMPLOYMENT LAND SPECIFICATION



## SPECIFICATION FOR EMPLOYMENT LAND

### To include

- Remediation of contamination in accordance with details to be agreed
- Levelling to agreed levels
- Compaction of ground
- Drainage including foul, surface water and highway drains including diversion where necessary
- Access road to adoptable standard including visibility splays, any modifications to the public highway, refuges and provision of lighting
- Strategic Landscaping
- Provision of services including gas, electric, water, telephone, NTL
- Access to headstocks
- Any cycle path requirements

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# APPENDIX 5

## CYCLE ROUTE SPECIFICATION

2.0

Summary of Design Standards

2.1 General principles

Minimum	Recommended	Maximum
Width required by cyclist	1.0m	0.75m
Length of a standard bicycle	-	1.8m
Handlebar height	-	1.12m+
Average cyclist's eye level	-	1.8m (age dependent) (Note: drivers eye level is 1.05m in most cars)

Minimum	Recommended	Maximum
Visibility splay for cyclists crossing road from cycle track ('x')	4.0m	2.0m
Visibility splay for cyclists crossing road from cycle track ('y')	-	30mph 25mph 20mph
		60m 45m 32m

Visibility splays to be provided in accordance with Design Bulletin 32, Design Manual for Roads and Bridges and NCC Highway Design Guide.

2.2 Cycle lanes

With flow on road cycle lane	1.5m	1.2m
Contra flow on road cycle lane	2.0m	1.5m

2.3 Cycle tracks

On carriageway for cycles only (1 way)	2.0m	1.5m (add 0.25m per side bounded by wall or hedge)
Off carriageway for cycles only (2 way)	3.0m+	2.0m (add 0.25m per side bounded by wall or hedge)

2.4 Shared use paths/ tracks

Segregated shared use pedestrian/ cycle facility (use level change, blocks or thermoplastic line to segregate)	4.0m	3.0m (add 0.25m per side bounded by wall, hedge or lighting column)
Unsegregated shared use pedestrian/ cycle facility (Note: limit dimension should only apply if low pedestrian and/ or cycle flows)	3.0m+	2.0m (add 0.25m per side bounded by wall, hedge or lighting column)

A 'buffer strip', with lining to diagram 1010 (60mm wide, 600mm high, 500mm gap) should be used on shared use paths/tracks abutting roads with a speed limit of 40mph or above. This marking is not required on roads with lower speed limit unless a specific safety reason dictates otherwise.

## 2.5 Advanced Stop Lines

Design Detail	30mph	40mph
Stop line reservoir length	3.0m	4.0m
ASL approach lane width	1.5m	1.0m
ASL approach lane length	A full cycle lane	Stubs/ gaps have been used where full approach not possible but NCC Signals and AIV must be consulted first

## 2.6 Crossings

Design Detail	30mph	40mph
Controlled crossing (toucan)	4.0m+ (at studs)	3.0m (at studs)
Central refuge for cyclists	2.5m	2.0m
Transition dropped kerbs for accessing/ egressing carriageway from shared cycle facility	3.0m+ Ensure dropped kerbs are flush	3.0m Ensure dropped kerbs are flush

## 2.7 Traffic Calming

Design Detail	30mph	40mph
Narrowing at refuge (30mph+)	4.5m	4.0m min
Narrowing at refuge (less than 30mph)	4.0m - 4.5m (3.0m may be used if low traffic speeds)	Avoid 3.1m - 3.9m in all instances
Cycle bypass width	1.5m	1.2m
Speed cushions (gap from edge of cushion to kerb)	1.0m	0.75m

## 2.8 Bridges

Design Detail	30mph	40mph
Parapet height	-	1.4m min (1.6m min for rail bridges)
Bridge approach gradient	-	≤ 5%

## 2.9 Cycle parking essentials (See more detailed comments in Section 11)

### Sheffield Stands

Spacing between stands = 1m. Spacing between stands and a wall = 0.5m+  
 Locate in areas of natural surveillance. Ensure they can be seen at night. Arrange in line with other street furniture to ensure that they are not an obstruction or hazard for visually impaired persons. Preferred design is "Red Route" cycle stands (or similar) in matt black.

### Lockers

To be encouraged at private developments such as new industrial buildings. A location where they can be manned or observed regularly is beneficial (e.g. transport interchanges).  
 Problems encountered with lockers – users keeping a locker to themselves by not removing their lock when not being used, illegal use of space as hideaway, perceived security threat at rail stations

### Other parking

Please do not use butterfly loops for any new installations. If affected by a new scheme they should be removed and replaced with Sheffield stands (or lockers if appropriate)

