

Response to documents and information submitted by Provectus Remediation Ltd in July 2016

What is the real purpose of the Hilltop Scheme?

The arguments in the recent Consultation Response from Provectus Remediation Ltd are both muddled and inconsistent.

On the one hand, the applicant argues that the site will be solely restored to a mix of arable and grassland agricultural land with ecological enhancements.

This is followed by a discussion of potential housing development and the need to avoid sterilising coal reserves.

Are we at last seeing Provectus Remediation Ltd in its true colours?

Is the real reason for the opencast scheme to pave the way for housing development rather than the improvement of agricultural land?

If so this application has been a deceit from the start.

The very description of the scheme - '**Surface coal mining scheme with restoration to agriculture with nature conservation benefits**' - is a lie. It should be '**Surface coal mining scheme to extract coal reserves prior to housing development**'.

This would mean that the restoration plan submitted in the application is at the very least misleading. It states that the ground contours will be restored to a level some 2m above existing levels. This implies minimal compaction of the overburden as it is reinstated and the resultant long term settlement of the ground. This would be adequate for agricultural use but would preclude any building for many years.

They can't have it both ways.

Furthermore, this threat of housing development is a blatant attempt at scaremongering.

The applicant identifies two areas that are included in the North East Derbyshire Local Plan 2011-2031 (Schedule of Potential Housing Sites).

The one adjacent to Hilltop Farm is site CX/1608 with the potential for 359 houses. There is a requirement for 521 dwellings in the Clay Cross area and sites for 1990 dwellings have been put forward. Hence only 1/4 of those put forward will be required. As CX/1608 lies wholly within the Recommended Local Settlement Gap, it has a very low chance of ever being granted planning permission.

The sites to the south of the proposed opencast site (CX/1604, CX/1605, CX/1606, CX/1609) are a red herring as they lie totally outside the boundary of this application and are therefore of no relevance.

Need and market for coal

No indication is given of the quantities of each size of coal likely to be produced.

Market for the 0-30mm coal seems doubtful at best - what happens to this coal if there is no buyer in the energy sector?

Does supplying coal to the steam train market really justify the disruption of the lives of the thousands of residents living within 1km of the Hilltop site?

Domestic Market

The next thing they will be suggesting is packaging the coal in small plastic bags and selling it from vending machines alongside the milk and cream at the farm gate.

Regeneration and economic development

This whole section is nothing but conjecture and the opinions of the applicant. There is nothing in the way of hard evidence.

They state:

To add credence to the above, Inspectors considering surface coal mine schemes at Appeal have acknowledged the positive contribution that surface coal mine schemes make to the local economy.

This makes a very large assumption about the relevance of historical appeal decisions by the Planning Inspectorate. In recent years the climate (in all senses - political, economic, climate change and the need to reduce carbon emissions) has changed.

Would those Inspectors make the same pronouncements today?

The applicant does not cite the actual appeals, but it is unlikely that they involved comparable schemes. The Hilltop proposal is relatively minor in terms of the amount of coal it could produce but it will disrupt the lives of many thousands of people living in close proximity to the site. Most opencast sites were much larger, with their output of far greater economic importance, yet directly impacted on far fewer people.

The applicant goes on to say:

Therefore, the positive economic benefits that will be delivered by the proposed scheme are evident and have been made clear by both National Planning Policy and by a number of Planning Inspectors.

At best the National Planning Policy says that positive economic benefits MAY arise from such a scheme. It certainly does not say that the Hilltop scheme will result in such benefits.

To date, we are not aware that Planning Inspectors have been in any way involved in this application, so it is disingenuous to say that a number of them have made it clear that the Hilltop scheme would have positive economic benefits.

We would urge the Planning Committee to give far greater credence to the concerns of those with local knowledge and the responsibility for bring the Clay Cross Regeneration Scheme to fruition -North East Derbyshire District Council, Clay Cross Parish Council and St Modwen (developers of the Biwater Site).

Dewatering aspects of the scheme

We note that Network Rail continues to express concerns about consequences of dewatering old mine workings. Their concern is the stability of Clay Cross Tunnel.

We raised similar concerns in our objection to the original application CM4/1014/79 'Geological and Hydrogeological Issues' of December 2014.

The full extent and state of these old pillar and stall excavations have not been investigated by the applicant. It must therefore be considered that they extend beyond the western boundary of the site and will drain into the excavations. This will cause further drawdown of groundwater and lowering of the water table.

Properties to the west of the site are built on clay soils which are susceptible to swelling and shrinkage. Changes to the water table will have a disastrous impact on foundations - a number of properties in the area have had to undergo underpinning work in the past.

The fact that the applicant has dismissed the hydrological impacts of deep excavations on surrounding properties are grounds to refuse this planning application.

This was reiterated in our objection to the current application in March 2016.

Provectus Remediation Ltd have assiduously ignored this valid concern of local residents as well as that of Network Rail. Local residents would also expect an Asset Protection Agreement.

Flood Risk Assessment

Provectus Remediation Ltd and their Flood Risk Assessment consultants (AECOM) were requested to provide further information under Regulation 22 of the Town And Country Planning (Environmental Impact Assessment) Regulations 2011 which takes 'account of the new anecdotal evidence and the data held by the County Council.

The revised FRA states:

Through ongoing consultation in the area, DCC received anecdotal evidence that suggests that there is a potential third watercourse located in the centre of the site to the west of Hilltop Farm. The potential watercourse runs from NGR SK 388 642 in a northerly direction, passing through a culvert under the old Ashover Light Railway embankment before finally disappearing into a culvert at NGR SK 388 645.

The report talks of a site walkover undertaken by Provectus on the 23rd October 2015 and describes the section of the watercourse to the south of the Ashover Light Railway track.

It does not mention the length of the water course to the north of the Ashover Light Railway track to the point where it enters cistern and culvert at NGR SK 388 645. This cistern and culvert have become obscured by brambles in the last few years and are not readily visible. There has been no attempt to clear the undergrowth to examine the culvert. We, therefore, conclude that despite being asked to investigate this watercourse and culvert, they have not done so.

There has still been no attempt to properly examine the outflow of Watercourse 2 at the south of the site. Surely in the last two years there has been plenty of opportunity to overcome the 'Health and Safety' issues that prevented a proper assessment on the initial site visit.

Consequently the FRA cannot be considered adequate on the basis of these omissions.

Interestingly on page 4 of the FRA , in section 2.2 The Proposed Scheme it states:

Access to the site is currently via two T- junctions east of the site from the "Incomol building" located next to the A61 at S45 9AG. The southern part of the T-junction will be reconfigured and upgraded to a bellmouth junction to allow for access and egress to and from the site.

Firstly, there is no mention of how this will be affected by the new roundabout currently being completed by the developers of the Biwater site.

Secondly, we understand that there have been no discussions between the applicant and the owners of the Incomol site about using it for access to the Hilltop site and that such permission is unlikely to be granted.

Conclusion

It has now been almost two years since Provectus Remediation Ltd first submitted their application to Derbyshire County Council.

In that time

- **the application has had to be withdrawn and resubmitted due to a failure to meet legal requirements**
- **the Planning Authority has twice had to request further information under Regulation 22 of the Town And Country Planning (Environmental Impact Assessment) Regulations 2011**
- **there have been 4 rounds of public consultation.**

Yet still, the application has many inadequacies and leaves questions unanswered.

Provectus Remediation Ltd have had long enough get things right and it is now time to move directly to the determination of this matter.

After nearly 5 years of waiting, since exploratory drilling was carried out, the local communities now expect the proposals to be put to the Planning Committee so that our councillors can make their decision and end this uncertainty for residents and businesses in the Clay Cross area.
