



TOWN AND COUNTRY PLANNING ACT 1990

Application by West Cumbria Mining Ltd

**Development of a new underground metallurgical coal mine
and associated development at Former Marchon Site, Pow
Beck Valley and area from Marchon Site to St Bees Coast**

Planning Inspectorate Reference: APP/H0900/V/21/3271069

Local Planning Authority Reference: 4/17/9007

Date of Inquiry: 7 September 2021

OPENING STATEMENT
of
SOUTH LAKES ACTION ON CLIMATE
CHANGE TOWARDS TRANSITION (SLACC)

7 September 2021

Introduction

1. A powerful myth has been spun around the proposed new coal mine that is the subject of this inquiry: that it would represent a secure indigenous coking coal supply for the UK steel industry, thereby providing considerable national benefits,¹ displacing the transport emissions of coal coming from the US or elsewhere into the UK,² and providing much needed local jobs.³
2. The reality is very different. The reality is that vast majority of WCM's coal has always been destined for outside the UK;⁴ WCM has confirmed in its evidence that its main market is "Europe", which is defined to include non-European countries such as Turkey, Bosnia and Herzegovina and Serbia,⁵ and failing that the possibility of Japan or India have been floated.⁶ The reality is that once the mine is built and the coal is being extracted, the coal can be sold on the world market and there is no mechanism for preventing that. Little reliance can be placed on the WCM myth of local coal to supply local demand. I'll address the other myth, of greenhouse gas savings from WCM coal substituting perfectly for US or other coal, later.
3. Turning to local jobs, WCM's case to the Council was that the total number of employees when the mine reached peak production was expected to be 518,⁷ and its promotion of the mine was as 500 jobs for 50 years, mostly to people resident in the area.⁸ Of course, that changed to 25 years. The job number changed too, now claimed as "up to" 532 permanent staff.⁹ But at no point has there been any methodology for those employment numbers. The vast majority of jobs at the mine – some 429 – require previous relevant experience meaning that WCM's claim that 80% of the operational workforce will be sourced locally is unlikely to be fulfilled.¹⁰ WCM's own survey of local labour supply found under 3% of those local residents

¹ Officer's Report 2/10/20 CD4.5, §7.248.

² Ibid §7.84.

³ Ibid §7.250.

⁴ CD 1.145 ES Chapter 19 §22: 360,000t of the 2.78mtpa of coal is destined for use in the UK steel industry."

⁵ WCM/JT/1 §5.5.

⁶ WCM/JT/3 §3.4.

⁷ Officer's Report 2/10/20 CD4.5 § 7.233.

⁸ Ibid §7.237.

⁹ WCM/MAK/1 §8.1.

¹⁰ CD1.86, pg 26.

expressing an interest in working at the mine have sufficient experience.¹¹ The likelihood is that the jobs would be filled by non-local people.

4. WCM's case to the Council was that the company "planned to offer 50 apprenticeships" (emphasis added).¹² Even now, scant detail has been provided and there is no evidence as to when, in the 25 year lifetime of the mine the apprenticeships would be provided, with WCM's CEO Mr Kirkbride making clear in his evidence that the apprenticeships will be "based on WCM's future need",¹³ meaning they would be locked into a development limited to 2049 and a technology the need for which is rapidly diminishing.
5. The narrative that has grown up around the mine of British coal being used for British steel production is false, as is the myth of local coal to supply the local industry and provide local jobs.

There is No Need For the Coal

6. Given the importance of this issue, some detail is necessary. On WCM's case as the Council considered it, at maximum, UK sales represent 6-13% of the proposed total output of the mine. That is up to only 13% of the UK's imports of coking coal.¹⁴ That is not a secure indigenous coking coal supply for the UK.
7. Furthermore, there is considerable doubt that even the 6-13% of the mine's coal intended for the UK can be sold in the UK, because of the composition of the coal. As evidence provided by the British steel industry to the Council in 2020 and by the Materials Processing Institute ("**MPI**") and Prof Haszeldine for SLACC in this inquiry show, the sulphur content of the coal is critical to whether it is able to be used in the UK (ie whether it falls within the regulatory requirements for steelmaking purposes).

¹¹ Ibid.

¹² Officer's Report 2/10/20 CD4.5 §7.233.

¹³ WAM/MAK/1 §8.2.

¹⁴ WCM's Statement of Case §11 cites a figure of 2.69mtpa of coal imported by the UK.

8. WCM's position on the composition of the coal keeps shifting. WCM's original application had a definition of "metallurgical coal" from 1.25% sulphur,¹⁵ but was described by the Council as having a "cut off" of 1.4% sulphur in the coal, allowing for a product of 1.3% or 1.4% sulphur to be produced.¹⁶ In April 2020, WCM amended the application, amending the definition of "metallurgical coal" from 1.25% sulphur to a maximum sulphur content of 2%¹⁷ but stating that a new wash plant would produce coals of up to 1.8% sulphur,¹⁸ while also committing to a condition to maintain the sulphur content to a maximum sulphur content of 1.6% and an average (mean) sulphur content of no more than 1.4%.¹⁹
9. WCM provided the Council with an Indicative Specification showing a Total Sulphur specification of <1.4% and Ash specification of <4%.²⁰
10. In its Statement of Case WCM appeared to be promoting that application (ie with the limits the Council specified in the conditions), but its position was caveated.²¹ In its evidence, for example via Mr Kirkbride, that caveated position remains, such that WCM now claims a condition is not necessary (and so are now refusing to commit to a specific sulphur level or any other specification) while indicating it would accept such a condition if necessary.²²
11. In its Schedule of Issues and Uncertainties, the Council flagged that the definition of the coal provided by Mr Kirkbride in his evidence – an Indicative Specification²³ – was different from that with which the Council was provided when corresponding with steel manufacturers and the coal broker, Javelin. That specification shows Total Sulphur of <1.5% and Ash of <5% (with other values also changing).

¹⁵ CD 1.59 Table 6.1

¹⁶ Officer's Report 2/10/20 CD4.5 §7.88.

¹⁷ CD 1.59 pg 51.

¹⁸ Officer's Report 2/10/20 CD4.5 §7.89

¹⁹ Ibid, condition 1 pg 70; conditions 4 and 77.

²⁰ Provided by the Council with the recent set of Conditions (27/8/21).

²¹ CD 15.1 §131.

²² WCM/MAK/3 §4.16.

²³ WCM/MAK/2 Appendix 3 pg 73.

12. Mr Truman in his evidence also introduces the possibility that WCM's coal will be blended to adjust the overall sulphur content and may be blended with Australian coal.²⁴
13. So we are confronted with a very unsatisfactory position. SLACC emphasised at the outset of its Statement of Case in May 2021 that it was uncertain whether WCM would be promoting at the inquiry the proposal as recommended to the Council's Development Control and Regulation Committee in October 2020 or the proposal as made in April 2020. The truth is that both, and neither, are being promoted. Both, because WCM resists the condition defining the coal as High Vol A Coking Coal while also indicating openness to that condition; and neither because a wholly different specification of coal is relied on in WCM's evidence.
14. In light of SLACC's evidence from the MPI and from Prof Haszeldine that a sulphur content for high quality marketable metallurgical coal (High Vol A coal) is 1.0-1.1%, with 1.3% being considered "poor to marginal", it is questionable whether even the proposed 6-13% of WCM's coal could be sold in the UK.
15. So where might it be sold? WCM relied on coking coal being classed as a critical raw material by the EU, provided the Council with figures on EU steel production and evidence, via Dr Bristow, about current and future demand for steel in the EU.²⁵ WCM's position was that the coal not sold in the UK would be sold in the EU, and Mr Kirkbride's evidence is that "around 85% [of the coal will be] exported into the EU."²⁶ Mr Truman's evidence, however, is that the majority of the coal will be sold into "Europe", which he defines to include Turkey, Bosnia and Herzegovina and Serbia.²⁷ And, as I have already mentioned, in rebuttal Mr Truman introduces the possibility of Japan²⁸ and gives the inquiry of his views on need in China and India.²⁹
16. SLACC's evidence, given by Prof Nilssen, Professor of Environmental and Energy Systems Studies at Lund University, is that there is widespread expert consensus

²⁴ WCM/JT/1 §5.4.

²⁵ Officer's Report 2/10/20 CD4.5 §§7.10-7.22

²⁶ WCM/MAK/1 §9.7.

²⁷ WCM/JT/1 § 5.5; WCM/JT/2 pg 12 Figure 1.6 and §§2.28-2.29.

²⁸ WCM/JT/3 §3.4.

²⁹ WCM/JT/1 Section 4.

that (i) steelmaking using recycled steel scrap will increase significantly over the coming decades, (ii) natural gas direct reduction already exists and hydrogen direct reduction is developing rapidly, (iii) there is increasing demand for low-carbon steel and (iv) policies to implement emissions reduction targets will rapidly affect what constitute ‘viable commercial production’ methods.³⁰

17. Both the UK and EU have set targets that will mean that the use of coking coal should be significantly reduced or eliminated and is unlikely to remain central to steel production in future. Prof Ekins’ modelling of the UK/EU iron and steel sector shows it is likely there will, essentially, be no demand for coal in steel making after 2035-40.
18. In a nutshell, there is no need for this new coal mine to produce coking coal; and even if there were, the coal it will produce would not be of sufficient quality to meet any need in the UK or EU.

The Pipe-Jacking Amendment of the Application

19. In planning terms, there are few protections stronger than that given to ancient woodland: development resulting in the loss or deterioration of “irreplaceable habitat” such as ancient woodland “should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists”: paragraph 180(c) of the NPPF, emphasis added.
20. Furthermore, any harm to ancient woodland caused by the proposed development would be key to considering whether the proposal is environmentally acceptable or could be made so, under local plan policy DC12 and paragraph 217 NPPF.
21. It is thus central to the inquiry (1) whether there will be “loss or deterioration” of ancient woodland and (2) if so, what wholly exceptional reasons exist and what suitable compensation strategy is proposed.

³⁰ SLACC/LN/1.

22. On 3 September 2021, SLACC provided summary written submissions setting out how WCM had amended its application from a development that included a “sub-surface conveyor installed by a cut and cover method”,³¹ meaning that there would be excavation of a trench through what WCM then accepted was one ancient woodland: Bellhouse Gill Wood,³² to one which includes a sub-surface conveyor installed partly by a cut and cover method and partly via trenchless tunnelling using pipe jacking, though what is now acknowledged to be three ancient woodlands: Roskapark Wood, Benhow Wood and Bellhouse Gill Wood.³³
23. The amendment was made incrementally, first via a single sentence in WCM’s Statement of Case introducing trenchless crossing,³⁴ unheralded and unacknowledged as an amendment; and then in a single paragraph of Mr Thistlewaite’s evidence introducing pipe jacking, unheralded and unacknowledged as an amendment.³⁵
24. This amounts to a substantial amendment to the application, to which SLACC drew the Inspector’s attention on 23 and 25 August and 2 September 2021. That correspondence and those submissions referred to SLACC’s earlier correspondence with WCM on 10 June; 5 July; 24 July and 27 July taking issue with the amendment and asking for factual clarification on what it entails and what its impacts would be. WCM chose to drip-feed skeletal information about trenchless construction in June and July; provided on 24 August (only after a serious intervention by SLACC) a “Work Package” first obtained by WCM in April 2021, which focuses on health and safety and is general in nature; and at 19h26 on 3 September 2021, ie one working day before the Inquiry opened, to provide an updated ecology assessment with some information about hydrogeology; some information about contractor capability and some information about the pipe jacking design and methodology. There are still no plans showing the pipejacking construction in comparison to ground levels or the steep topography.

³¹ CD 1.66 pg 6; CD 1.83 §5.3.79-5.3.85; CD 1.84; CD 1.67.

³² CD 1.109, set out at SLACC/PB2/2 pgs 34 and 36.

³³ WCM/PS/1 §5.3.

³⁴ CD 15.1 §118(a).

³⁵ WCM/ST/1 §5.131.

25. WCM's behaviour is substantively and procedurally unreasonable, but it also puts the Inspector in a very difficult position, because of the legal constraints on his power to consider substantial amendments and the legal requirements for inquiries to be conducted fairly in relation to the main parties and interested parties. SLACC is grateful for the opportunity, later today, to make legal submissions on these matters.
26. Stepping back, it is important to note that the result of the way WCM has behaved is that, compared to the scheme as it was when the Secretary of State called it in, WCM comes to this inquiry promoting a different scheme, to extract a different product to sell to a different market.

Ecological Harms

27. Dr Tony Martin's evidence set out why WCM's evidence as it stood at 31 August 2021 did not show that there would not be loss or deterioration of ancient woodland if the Pipe-Jacking Scheme were considered, and set out why there would be loss and deterioration if the Cut-and-Cover Scheme were considered.
28. Furthermore, Dr Martin set out in detail why WCM's evidence that the scheme will result in biodiversity net gain was not reliable and that it was likely a substantial biodiversity net loss would result, meaning WCM would be required to provide off-site compensation in order to provide the net gains for biodiversity required in paragraph 174(d) of the NPPF.
29. At 19h26 on 3 September 2021, ie one working day before the Inquiry opened, WCM provided an updated Ecology report attaching what may be a further Biodiversity Net Gain Assessment, on which SLACC has not been able to take expert advice from Dr Martin. SLACC thus reserves its position on the issue of biodiversity net gain and on the other ecological harms/missing information highlighted by Dr Martin.

The Mine will Exacerbate Dangerous Climate Change

30. It is well understood and well known – so much so that it has become something of a colloquialism – that “our house is on fire” – the IPCC made that point again, very

clearly, in its recent report, rightly dubbed the “Code Red” report. There is a climate emergency, recognised at local and national level in the United Kingdom, which prompted the adoption of the obligation to achieve net zero by 2050. But the oft-repeated mantra of the climate emergency, can, sometimes, drain it of its true force. That must be guarded against. The fact that the parties in this inquiry agree that climate change is real; that its effects could be catastrophic and that urgent action must be taken to avert dangerous climate change, must intensify rather than blunt the force of that point.

31. Climate change could not be more locally and nationally relevant, and it is central to the determination of this appeal. Prof Sir Robert Watson sets out the unchallenged position: the UK is currently significantly off track to meet the Fourth, Fifth and Sixth Carbon Budgets

32. We will in our lifetimes experience many severe impacts from the climate crisis, including increased risk from floods and more severe heat, resulting in higher heat-related morbidity and mortality and increasing loss of biodiversity. We will also experience the economic and social costs of the climate crisis, including the negative economic impact of stranded assets. The most significant environmental and economic impacts will, however, inevitably fall on those who are now young and on future generations. The National Planning Policy Framework’s focus on sustainable development obliges, in paragraph 7, that current need must be met in a way that does not compromise the ability of the young and of future generations to meet their needs. A proposed new coal mine, opening in the decade when greenhouse gas emissions must fall rapidly for any hope of holding temperature rise to 1.5°, and then operating all the way up to 2049, is the starkest example of compromising the ability of the young and future generations to meet their needs; based on a myth of current need.

33. WCM’s answer to this is, in short, that its new coal mine will have “the lowest carbon footprint of any equivalent operation in the world”³⁶ and that the building of a new

³⁶ WCM/ST/1 § 5.192.

coal mine, and the extraction and burning of over 60 million tonnes of coal³⁷ from 2025 to 2049 will not actually cause additional GHG emissions. This is achieved through the magic of almost perfect mitigation of fugitive methane; a whole new proposal on methane capture and two new proposals on offsetting; and a “perfect substitution” argument, which sees WCM’s new coal substituting for US coal (ie assuming competitor mines overseas produce less coal because WCM arrives on the scene).

34. WCM’s case is smoke and mirrors. The incongruousness of a new coal mine that is good for climate change is achieved through ignoring GHG emissions; wrongly minimising impacts. The following headline points can be made:
- a. WCM ignores the GHG emission from combustion of the coal, which would be 8.8 million tonnes CO₂e per annum, or 220 million tonnes CO₂e³⁸ over the lifetime of the mine;
 - b. One of the reasons the Applicant ignores these emissions is that they assume WCM coal will substitute for US coal, so reducing transport emissions, but:
 - i. On the Applicant’s own figures, that only works if the substitution is 99% effective.³⁹ If the substitution is “just” 90% effective, this would result in an additional 790,000 tonnes CO₂e per annum, which shows just how unreal the perfect substitution argument is.
 - ii. In any event the Applicant fails to identify a single mine that would close or reduce production because of WCM bringing new coal to the market.
 - iii. The proposition that this would happen is wholly contrary to basic economics, which applies as much to coal mines: as Prof Ekins shows, the result of WCM producing more coal is that more coal would be consumed; other producers would just find markets elsewhere.

³⁷ WCM/CL/2 Ecolyse Table 2.2.

³⁸ Note that SLACC reserves the right to amend this figure in light of the further Ecolyse report provided by WCM at 19h26 on 3/9/21.

³⁹ WCM/GB/1 §7.6-7.9 and Table 1.

- iv. The calculation is asymmetrical and incomplete: whilst referring to the net savings of importing coal from the US, WCM have failed to consider the transport emissions of the coal to its alleged 'European' destinations in the course of evaluating the extent of any net emissions benefit. That is not least because the destination of the coal, whether European, European+ (ie including Turkey), or Japanese, Chinese or Indian, remains unknown.
 - c. WCM's own figures from the report which formed the basis for the Council's decisions in 2020 shows that just the operational emissions of the mine (ie ignoring the 220 million tonnes of CO₂e from burning the coal) would eclipse the Climate Change Committee's projections for all operational coal mines in the UK. This would be from the start of WCM's operations. If the mine were to open, just this one development would completely rule out one of the CCC's pathways to net zero and would make the other pathways much more difficult to achieve.
 - d. WCM ignores the fact that Lord Deben, chair of the Climate Change Committee, noted that the mine was projected to increase UK emissions by a level greater than all the annual emissions from all operational coal mines in the UK that the Committee projected on its net zero pathway, and raised concern about the proposed mine in an open letter to the Secretary of State.⁴⁰ This is unprecedented and shows just how deeply concerned the Climate Change Committee is about the proposal.
35. WCM relies on the case of *R(Finch) v Surrey County Council* [2020] EWHC 3566 (Admin) (*Finch*) to justify excluding from the assessment of the environmental impact of the proposal on climate change the GHG emissions from the burning of the coal, but has recognised that those impacts are capable of amounting to material planning considerations.⁴¹
36. As to the first proposition, there is a significant difference between oil extraction, where the oil needs to be refined before it is combusted, meaning an interposing

⁴⁰ CD 8.13.

⁴¹ WCM/ST/1 §5.140; new Chpt 19 ES (3/9/21) §16.

process between extraction and burning, and the situation with the coal, where there is nothing of substance between its extraction and processing by WCM, and its use by a steel producer, other than shipping. The GHG emissions of use the coal in this context are thus plainly an effect of the development, unlike the product in *Finch*, and if that use takes place in Europe or further afield, then the emissions are a transboundary effect.

37. In any event, *Finch* is under appeal, on the basis that the proper test under the EIA Regulations is a practical approach to EIA based on what is reasonably capable of assessment in light of what is known about the likely impacts of a project (note, not the impacts of the grant of planning permission, but the impacts of the project). It would not be difficult to assess the GHG emissions of combusting the coal. SLACC's experts have done so, using Department for Business, Energy & Industrial Strategy 2021 conversion factors for coking coal.⁴² As I have said, that would result in total greenhouse gas emissions from the end use of the coal in the range of 220 million tonnes of CO_{2e} over the life of the mine
38. On the second proposition, it is absolutely correct that the greenhouse gas impacts, and the climate change impacts, of the coal being used are capable of amounting to material planning considerations and SLACC's case is that, in light of both national and local planning policy, and the issues raised by the Secretary of State when he called in the decision, they are obvious material considerations.
39. The upshot of WCM's approach to refusing to include the emissions from the use of the coal in its EIA is that it does not have good evidence on their extent. SLACC does, via Prof Michael Grubb, Professor of Energy and Climate Change at University College London, contributor to several IPCC reports and Convening Lead Author for Chapter 1 of the Sixth Assessment Report – Mitigation.

On the Applicant's Own Figures the Climate Impact is Enormous

40. I have already set out the enormity of the greenhouse gas emissions from the operation of the mine and the extreme concern that prospect has provoked from

⁴² SLACC/PE/1 at §6.6ff.

the Climate Change Committee. It is worth highlighting that, on WCM's figures, a very high proportion of the annual operational emissions of the mine would be from methane escaping during the extraction and processing operations. The IPCC "Code Red" report approved by governments on 9 August 2021 emphasises how dangerous methane emissions are, because they warm much faster than CO₂, so even though they last a much shorter time in the atmosphere, their immediate impact is very serious.⁴³

41. WCM retorts that it will capture 95% of the methane emissions, even though it is not prepared to be held to that via condition or s106 agreement. SLACC's case is that such a high level of methane capture is unlikely, unevidenced and unsecured; it is notable that the Council has also flagged concerns as the methane capture system now proposes to occupy half of the clean coal and rejects store building, with entirely opaque results for how the mine will actually operate and what other impacts that might cause.
42. WCM also relies on offsetting to address fugitive methane emissions, but as Prof Grubb points out, offsets are not designed to offset methane; their focus is CO₂.⁴⁴ Offsetting the rapid and much more intense warming produced by methane would require a far greater commitment by WCM.
43. The bottom line is that the new mine will cause very large emissions of methane, which rapidly and intensely warms the atmosphere, over exactly the sensitive period to 2035, which is when we need deep and rapid cuts in emissions to stay avoid dangerous climate change. And it will cause very large emissions of CO₂, which will persist in the atmosphere for hundreds of years.

WCM's Climate Change Case in Disarray

44. Beyond all of that, WCM's case on climate change is in disarray. At 19h26 on 3/9/21, ie one working day before the Inquiry opened, WCM sent to PINS and the parties a "revised" ES Chpt 19 on GHG emissions, but which its §1 makes clear replaces that

⁴³ SLACC/PE/1 §4.20.

⁴⁴ SLACC/PE/1 §4.21.

chapter. Attached to that was a new version of the GHG assessment carried out by Ecolyse (dated 1/9/21), which I will call Ecolyse (2).⁴⁵ Without explanation for the change, or indeed bringing the change to the parties' and the Inspector's attention, Ecolyse (2) changes the numbers in the GHG assessment. It adds a whole category of emissions, from the steel and concrete etc that will be used to build the mine, which amounts to an additional half a million tonnes of CO_{2e} over the lifetime of the development: 509,823 tonnes more, to be precise. WCM claims (with little justification and nothing secured) that it can mitigate under half of that, meaning an additional 360,689 tonnes of CO_{2e} are now accepted will be emitted, just by the operation of the mine.

45. This is yet another example of SLACC pointing out serious a flaw in WCM's evidence and WCM's response being a significant change in stance; unacknowledged; poorly evidenced and poorly explained, but fitted into the same overall analysis, without cogent explanation as to why the change does not impact on the overall analysis.
46. The previous version of the Ecolyse report (dated 10/8/21), which I will call Ecolyse (1), was the basis of the evidence given by WCM's witness on climate change, Ms Leatherdale, and hence was the basis of WCM's planning witness, which is based on Ms Leatherdale's analysis. This evidence perforce ignores the full CO_{2e} impact which is now WCM's case. WCM's other expert reports – for example, the Wood Mackenzie report on Steel and Metallurgical Coal – are also based on Ecolyse (1), not Ecolyse (2). No doubt there are other ramifications of WCM's new evidence, but the one working day between receipt of the evidence and the start of the inquiry obviously did not afford SLACC's experts a proper opportunity to consider that evidence.
47. This is an extraordinary position for the inquiry to be in, given that it was always clear that the GHG impact of the development, and hence its impact on climate change, was one of the main issues; and the Secretary of State's letter calling-in the decision made that even more abundantly obvious. WCM's behaviour is plainly

⁴⁵ This is the third Greenhouse Gas Emissions assessment, after the AECOM Report was abandoned in favour of Ecolyse (1)

unreasonable (both procedurally and substantively); is prejudicing the parties and undermining the inquiry process.

Hugely Damaging International Impact

48. Both Prof Grubb and Prof Sir Robert Watson give clear evidence of the hugely damaging international impact that would be caused, both to the UK and by the UK, though the grant of permission for the mine. They are exceptionally well placed to give that evidence: I have set out Prof Grubb's experience; Prof Sir Watson draws on his experience as the former chair of the IPCC and senior scientific advisor to the UK and US governments (amongst much other relevant expertise).
49. The UK is required under the Paris Agreement to take a leadership role; it holds itself out as a climate leader and is indeed seen internationally as a such in many respects. Granting permission for this mine would send a clear signal that the UK does not "walk the walk" on climate, undermining its international diplomatic efforts to increase climate pledges and to encourage countries to reduce reliance on coal, specifically. This would have material consequences in the form of reduced ambition from other countries, and therefore increased GHG emissions globally.
50. If the mine was permitted on the basis that it was "carbon neutral" or even "carbon negative" many other countries would be likely to follow suit in arguing that they too needed to allow new fossil fuel extraction projects for similar reasons.
51. The UK government's much quoted response to the IPCC's "Code Red" report was the need to "consign coal to history" and emphasis on making the UK a hub for green technology. Permitting a new coal mine in the face of this response will seem like rank hypocrisy and, as Prof Grubb points out, the subtlety of the mine being for coking coal rather than coal for use in power stations will not shield the government from that criticism.⁴⁶
52. WCM has not in fact challenged any of Prof Sir Watson's evidence or Prof Grubb's evidence on the international impacts of the mine, so the answer to the question

⁴⁶ SLACC/PG/1 §6.3.

asked by the Secretary of State on the national and international impact of the proposed development is uncontroverted: it would be highly deleterious.

Conclusion – Strong Planning Case Against the Mine

53. To the extent possible at the time, given the evidence available, Mr Bedwell’s proof sets out SLACC’s case that the proposed development does not comply with local or national policy. He sets out why, under the first part of the test under policy DC13 and paragraph 217 of the NPPF, the confirmed impacts and resultant harm arising from the following matters cannot be resolved through the imposition of conditional controls:
- a. The environmental and social harm that would be caused by the Scheme in undermining the Net-Zero obligation in the Climate Change Act 2008, including at international, national and local level;
 - b. The environmental harm arising from the loss of irreplaceable habitat within ancient woodland.
 - c. The environmental harm to the setting of Scalegill Hall and its outbuildings.
 - d. The environmental landscape harm to the Pow Beck Valley that would arise from the proposed RLF.
 - e. The environmental and social harm to the St Bees Heritage Coast.
 - f. The social harm that would arise from harm to amenity and to users of the Coast to Coast Walk, the Coastal Path and other public rights of way and promoted walks.
 - g. The social harm that would arise from harm to the tourism potential of the Coast to Coast Walk, the Coastal Path and other public rights of way, and promoted walks.
54. In these circumstances, the proposed development are not environmentally or socially acceptable, and that the first stage test of Policy DC13 and the NPPF paragraph 217 are not met.
55. Turning to the second stage test, ie whether the proposed development provides national, local or community benefits which clearly outweigh its likely impacts (taking all relevant matters into account, including any residual environmental

impacts), Mr Bedwell sets out the impacts of the harms and the benefits, including giving moderate weight to the benefit of restoration of the former Mainband Colliery site and to the delivery of jobs.

56. Mr Bedwell concludes that the proposed development fails to comply with Development Plan policies DC13 and SP15 of the CMWLP; and ENV1, ENV2, ENV3, ENV4 ENV5 and ER10 of the Copeland Local Plan. Accordingly, planning permission should be refused, unless material considerations indicate otherwise. Mr Bedwell sets out why material considerations do not so indicate; rather there are a number of material considerations weighing against the grant of planning permission.
57. There are therefore strong planning reasons against the grant of permission for the new coal mine. On the questions asked by the Secretary of State:
 - a. The proposed development is completely contrary to Government policies for meeting the challenge of climate change, given the very significant adverse impact from greenhouse gas emissions from both the operation of the mine and from the use of the coal which is mined;
 - b. This, as well as the other adverse impacts of the proposed development, mean that it is not consistent with Government policies for facilitating sustainable use of minerals, as the impacts and resultant harm arising from the following matters cannot be resolved through the imposition of conditional controls and the proposed development does not provide national, local or community benefits which clearly outweigh its likely impacts;
 - c. The proposed development is not consistent with the development plan for the area.
 - d. No other matters weigh in favour of the proposed development, given the lack of need for the development and the high risk of creating a stranded asset.
58. Accordingly, SLACC will ask that the Inspector recommend to the Secretary of State that he refuse permission for the proposed development.

7 September 2021

ESTELLE DEHON and ROWAN CLAPP
CORNERSTONE BARRISTERS
2-3 GRAY'S INN SQUARE
LONDON, WC1R 5JH