

**DEVELOPMENT CONTROL AND REGULATION COMMITTEE**  
**2 October 2020**  
**A report by the Executive Director - Economy and Infrastructure**

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**Application Reference No:4/17/9007**

Proposal: The development of:

- a new underground metallurgical coal mine and associated development including: the refurbishment of two existing drifts leading to two new underground drifts; coal storage and processing buildings; office and change building; access road; ventilation, power and water infrastructure; security fencing; lighting; outfall to sea; surface water management system and landscaping at the former Marchon site (High Road) Whitehaven;

- a new coal loading facility and railway sidings linked to the Cumbrian Coast Railway Line with adjoining office / welfare facilities; extension of railway underpass; security fencing; lighting; landscaping; construction of a temporary development compound, and associated permanent access on land off Mirehouse Road, Pow Beck Valley, south of Whitehaven;

- a new underground coal conveyor to connect the coal processing buildings with the coal loading facility

Former Marchon Site and Pow Beck Valley, Whitehaven, Cumbria – 31/05/2017

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## **1.0 RECOMMENDATION**

Having first taken into consideration the environmental information as defined in the Town & Country Planning (Environmental Impact Assessment) Regulations 2011 submitted in connection with the application and the Habitats Regulations Assessment which concludes that there is no adverse effect from the project on the integrity of any European site, alone or in combination with any other plan or project and having taken into account all other material considerations that

Planning permission be **GRANTED** subject to:

- i. the conditions set out in Appendix 1 to this report;
- ii. the applicant (West Cumbria Mining) and other relevant interest holders first entering into a Section 106 legal agreement with the County Council to cover:
  - ◆ HGV Routeing;
  - ◆ Public Rights of Way Contribution;
  - ◆ Highways Contribution;
  - ◆ Travel Plan Monitoring Fee;
  - ◆ Council S106 Administration Costs;
  - ◆ Extension to the Aftercare Period;
  - ◆ Heritage Asset Enhancements;

- ◆ Pedestrian and Cycle Path obligation securing part of the pedestrian route and contribution;
- ◆ Restoration of Main Band Colliery
- ◆ Restoration Bond / Securities;
- ◆ Drain Surveys & Maintenance;
- ◆ Residential Land Restriction (Lake View and Stanley House properties); and
- ◆ GHG obligation

## **2.0 THE PROPOSAL**

- 2.1 The applicant, West Cumbria Mining (WCM) is a company that has been specifically created with the objective of developing the metallurgical coal resources in West Cumbria. The company has 3 licences granted by the Coal Authority, including 2 large offshore licence areas and a smaller onshore licence area.
- 2.2 Cumbria County Council previously resolved to grant planning permission for a large underground metallurgical coal mine on 19 March and 31 October 2019. Metallurgical coal is also commonly known as ‘coking coal’ and is used in the process for the manufacture of steel. The initial phases would mine relatively small amounts of coking coal from under the land at Whitehaven, however the minerals will be predominantly mined from under the sea and then brought to the surface for processing indoors, within a new facility located on the former Marchon site in Whitehaven. Processed coal would then be transferred by underground conveyor to trains using a new loading facility and sidings in the Pow Beck Valley.
- 2.3 Whilst the principal mineral development proposed is for the extraction of coal under the sea bed off-shore and will require a licence from the Marine Management Organisation, the onshore elements of the proposal and the extraction of coal from underneath the land (taken as the point above the mean low water mark) require planning permission.
- 2.4 The main mine head and surface processing facilities would be located on the southernmost 52 hectares of the former Marchon chemical works (the “main site”). At its peak, the chemical works was a major producer of sulphuric acid and other chemical detergent ingredients and employed around 2,500 people. The site closed in 2005 and was cleared over the following year. However, some historic contamination associated with the former uses is known to remain.
- 2.5 Access to the mine itself is proposed along the existing drifts built for access to the former anhydrite mine. The existing drifts are proposed to be extended in cross section to facilitate access. Further access would then be formed in the geology above the old drifts to pass above the old mine workings before accessing the coal seams.
- 2.6 There are two restored landfill sites adjacent to the main site, which retain some associated infrastructure in association with their post closure management. An underground conveyor link is proposed to transfer processed coal to a Rail Loading Facility (the “RLF”) in the Pow Beck Valley. The route is mainly pasture land used for grazing.

- 2.7 The proposed rail loading facility and sidings would be constructed on a greenfield site adjacent to the existing railway in the Pow Beck Valley. However, the proposed access to the RLF would be through the access to the former Main Band Colliery.
- 2.8 This application seeks to amend the original application in respect of the products proposed to be produced by the mine. Originally it was proposed to produce a high grade coking coal for steel manufacture, and a secondary residual “middlings” coal product (no more than 15%) that could be put to non-energy generating uses. The amended application proposes to amend the production process so that only a single coking coal product is produced.
- 2.9 This planning application has been subject to a Planning Performance Agreement (PPA). A PPA is a voluntary agreement between an applicant and planning authority to work on major projects in a collaborative, structured manner and to an agreed timetable. Importantly, PPAs are made without prejudice to the outcome of the determination of the application and enable the planning authority to recover some of its costs. In this instance, the PPA has extended from discussions at the pre-application stage.
- 2.10 The Committee Report on the original application 19 March 2019 is contained in appendix 2, together with the Update Report dated 19 March 2019, the Addendum Report dated 31 October 2019 and the Update Report 31 October 2019. This report does not revisit in full all of the issues considered in the original application, but instead highlights where these have changed as a result of these proposed amendments to the process. In preparing my report, I did review again the issues as set out in the original report and addendum and update reports, and this report should be read in the context of the previous reports as attached (more detail on the application history is set out later in this report).
- 2.11 I have also summarised the various representations received through the latest consultation period. Representations in respect of the original application in respect of the wider impacts which are unchanged would still stand, but as these are set out and summarised in the original report I have not sought to repeat them here. Furthermore similar points have been raised in respect of some new issues by a number of different consultees. Where this has been the case, I have not sought to identify every organisation or individual who raised the point, but have instead attributed it to one of the bodies who raised it. Where comments are attributed to organisations in the representations sections of this report the phrase “(and others)” is implied throughout, unless otherwise made clear.

### **3.0 SITE DESCRIPTION**

#### **Main Mine Site**

- 3.1 The Main Mine Site is an area of brownfield land extending to approximately 23 hectares and designated for employment use in the Copeland Local Plan (CLP). Much of the site is covered with concrete hardstanding which is in poor condition and colonised with scrub vegetation and some vegetated soil bunds. The site is surrounded by metal security fencing associated with the previous use.

- 3.2 There is a raised area to the west of the site, on top of which is a footpath that runs along the side of the site and then descends towards the restored Hutbank landfill site. The northern part of the Marchon site where housing is potentially being proposed is currently in a similar condition to the main site. However, beyond the site boundary to the north are several coastal paths, including the Cumbria Coastal Way and an area of grassland clifftop habitat.
- 3.3 The sea to the north is designated Solway Firth potential Special Protection Area (pSPA), which extends the existing Upper Solway Firth and Marshes SPA. The cliff habitats are designated as St Bees Head SSSI. The coast is also designated as a Marine Conservation Zone (MCZ) and the area of St Bees is designated as St Bees Head Heritage Coast.
- 3.4 Housing has been built to the east of the Main Mine Site, which is separated from the Marchon site by High Road. There are also a number of residential properties on the periphery of the Main Mine Site and within the boundary of the underground mine element of the proposal projected to the surface. The most notable of these include properties within the villages of Sandwith, Rottington and at Tarnflat Hall, Cabbage Hall and the northernmost part of St Bees.

### **Conveyor route**

- 3.5 The proposed conveyor route is primarily through grazing pasture land, although there is a section where the conveyor would travel underneath High Road and St Bees Road, and two sections where the alignment transects small areas of ancient woodland, one of which contains a gully and beck. New housing has recently been built and is continuing to be built opposite the northern section of the proposed route of the conveyor, along and off Wilson Pit Road.

### **Rail Loading Facility (RLF)**

- 3.6 The proposed RLF would be constructed on a greenfield site adjacent to the existing railway line. The proposed RLF would be in a rural location in the base of the valley and would be visible across from High House Road and Egremont Road (A595) Whitehaven. The Coast to Coast footpath from St. Bees to Robin Hoods Bay crosses underneath the railway line, and across the RLF site where the sidings are proposed. Close up views would be available from the sections of footpath either side of the RLF.
- 3.7 Access to the RLF would be through the former Main Band Colliery site. Operations at the former colliery ceased at least ten years ago. The site remains unrestored and comprises concrete hardstanding, soil mounds, a concrete settlement tank containing a pond and areas of self-seeded vegetation and scrub.
- 3.8 To the east of the railway line is floodplain and to south of the proposed sidings is a hedge which demarcates that boundary of the RLF adjacent to the end of the sidings.
- 3.9 There are several individual residential properties in the Pow Beck Valley area in relatively close proximity to the proposed RLF site. The closest of these are Lake View and Stanley House, respectively located within and immediately adjacent to the planning application boundary. It is proposed that, from the commencement of development until production ceases, occupation of these properties would be restricted to persons solely or mainly employed by the proposed development.

## 4.0 THE PROPOSAL

- 4.1 The full description of the original proposed scheme is contained in appendix 2. This section addresses only the amendments to the proposal as a result of this submission. The change relates to the method of processing proposed within the Coal Handling and Processing Plant (CHPP) building and changes to the products proposed to be produced as a result.
- 4.2 The original proposal was to produce coking coal for steel manufacture and two main by-products, "middlings coal" and waste (predominantly rock). Middlings coal was expected to constitute about an eighth of the overall coal production, and was intended to be sold as a replacement fuel source in non-energy generating industries such as cement manufacture. Waste material would be disposed of in the voids created within the mine. Rock extracted during the washing process would be mixed with water and cement to create a paste which would be pumped back into the mine via a pipeline.
- 4.3 The applicant states that the original process designed in 2016 was based upon limited data from early exploration and coal testing work. At that time they say their coal processing advisers suggested that a two-product output, plus a reject plant would be likely to provide the flexibility required to achieve best yield given the lack of extensive coal test data.
- 4.4 WCM has continued since the planning application to undertake further exploration drilling and a lot more coal quality and laboratory scale CHPP test work. As a result of the additional research, the proposed plant design has been improved and developed in a way where the applicant does not now consider it necessary to have a dual product output plant. They say that they are confident that with the modified process proposed they can produce a single coking coal product which would still meet their potential steelmaking customers' desired specification for a premium metallurgical coal product.
- 4.5 The conveyors from the raw coal store would feed the coal preparation plant at a maximum rate of 500 tonnes per hour. The first process involves crushing the raw coal to sub 6 mm size. This will be another point in the process where any entrapped methane can be captured for utilization. The coal would then be washed in two circuits. The 6 mm to 0.15 mm size coal would be washed in Heavy Media Cyclones. The coal under 0.15mm would be washed in froth flotation cells.
- 4.6 The 6 mm to 0.15mm size material would be discharged to the Heavy Media Cyclone Feed Sump. From the sump it would be pumped to the Dense Media cyclones. Clean coal would be drained and rinsed to remove magnetite slurry. It would then be dewatered in centrifuge driers before being transported to the clean coal storage area by a series of conveyors.
- 4.7 Sink material from the Dense Media cyclone would be sent to a second stage cyclone where the 'reject' would be separated. An alteration to the processing techniques results in the avoidance of the production of any by-product from the process other than the reject material. This change does not alter the water or power requirements of the processing plant.
- 4.8 The new proposed process would mean that the resulting coking coal product would have a higher sulphur content than originally (up to 1.8%), but the applicant has committed to maintaining the sulphur content of the product to less

than 1.7% enforced through a planning condition.

- 4.9 The amendment proposed for this application is for the extraction of metallurgical ('coking coal') for use in the manufacture of steel only. Whilst metallurgical coal is commonly referred to as coking coal, this term is also used to describe other types of coal used in the manufacture of steel, such as pulverised coal injection ("PCI coal"), which is discussed further below.
- 4.10 The proposed mine would produce a valuable High Volatile coal, known as High Vol A Hard Coking Coal. This coal has specific rare characteristics which make it suitable for the production of coke.
- 4.11 Coking coal comprises three main classifications: low, medium, and high volatile, and coals are selected for their physical and chemical properties. Chemical properties include the concentration of substances such as ash, sulphur and phosphorous. Physical properties include characteristics such as fluidity.
- 4.12 Coking coals have different physical and chemical properties within a broadly acceptable range. The coke maker then blends different coking coals together to ensure that a consistent coke is produced. Coke is a very high carbon material as a chemical ingredient used in iron making. Coke is made in an oven, where the blended coals are baked at high temperatures without oxygen. Coke can be made either at the steel works, or at a separate coking plant.
- 4.13 To make iron in a blast furnace, coke, limestone and iron ore are heated and oxygen is added, which causes the coke to burn, triggering a reducing chemical reaction with the iron ore. This melts the iron in the ore, enabling molten iron to be recovered from a tap at the bottom of the blast furnace. Greenhouse gas (GHG) emissions from blast furnaces are caused by the burning of coke and other fuels, such as PCI, used to heat the blast furnace to the very high temperatures required. Coking coal is a very different product from industrial or thermal coal, which is of lower quality and has historically been used as a fuel.
- 4.14 The applicant states that the proposed changes to the plant would have no impact on the time needed to process, water requirements, energy consumption or noise levels. They also expect that there will be a similar level of waste (primarily rock) as under the original scheme. The applicant expects the tonnage of material mined and quantity of coal leaving the mine to remain as originally proposed.
- 4.15 In addition to the changes to the process in the CHPP, it is also proposed that the "middlings building" (which was originally proposed to house the middlings coal product) would now be used as a secondary clean coal storage building; its proposed location and dimensions would not change.
- 4.16 No changes to any other aspect of the original scheme are proposed. However, the applicant has submitted more detailed information than previously in respect of analysing GHG emissions that might result from the scheme, including an updated Climate Change ES Chapter.
- 4.17 The original ES covered these issues in chapters 3 and 5, under the heading of sustainability. The assessment said that coal produced by WCM would substitute for an equivalent volume of High Vol A coal used in the UK and Europe, currently being imported from the US. It also set out estimated CO<sub>2</sub> savings that would result from the reduced transport distances. Consideration was also given to

ensuring energy efficiency and reduced emissions from mine operations.

- 4.18 The applicant has taken the opportunity to provide further updates and clarification on GHG emissions at the same time as making other updates in respect of the submission of these proposed amendments including updating the ES.
- 4.19 The ES on the original application (and updated by this amendment) made an assessment of the “likely significant effects” that would result from the development as a whole, including those aspects which fall outside of the regulatory control of the planning system. Updated EIA Regulations came into force in May 2017. However, the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (EIA Regulations 2011) apply to this application because the Scoping Opinion was issued on 1 June 2016 when the 2011 Regulations were still in force. The transitional arrangements apply and therefore the EIA Regulations 2011 apply to this application.
- 4.20 AECOM were commissioned to assess the impact of the proposed development on the climate as a result of greenhouse gas emissions. Their report also incorporates and addresses the updated, and additional, requirements of the 2017 EIA Regulations. Amongst other things the AECOM Report assesses the greenhouse gas emissions that are calculated to be caused by the construction, operation and de-commissioning of the proposed mine.
- 4.21 The AECOM Report makes clear that for the purpose of EIA Directive assessment it does not consider the greenhouse gas emissions caused by using the coal produced, or its onward transport beyond the first point of distribution, are environmental effects which are required to be included in the assessment. AECOM say “use of coal produced by the development is not an effect (whether direct, or indirect/secondary) caused by any phase of the development and therefore there is no requirement to take it into account under the EIA Directive. Nonetheless, for the sake of prudence this assessment has asked whether, if such emissions were an indirect effect, the ‘Do Something’ scenario would result in any additional or material increase in GHG emissions. The answer is no.”
- 4.22 The updated ES chapter also contains an appendix produced by Dr Bristow, a consultant with expertise in metallurgical coal. His report summarises the key features of the metallurgical coal and steel markets, and provides his expert opinion on future trends in these markets. This includes his opinion on the likely effect that extracting metallurgical coal in the UK at the proposed new mine at the Whitehaven colliery would have on these markets.

## **5.0 CONSULTATIONS AND REPRESENTATIONS**

- 5.1 A wide range of stakeholders have been consulted, including all statutory consultees, along with the carrying out of the usual public consultation. West Cumbria Mining has undertaken a number of their own stakeholder events and workshops and taken appropriate measures (commencing in July 2014) to update and inform members of the local community and other stakeholders on progress with the application.

### **Application History**

- 5.2 This application was originally submitted on 31 May 2017. Taking into account

the requirements of the EIA Regulations; the scale and nature of the planning application; the need for the applicants to submit significant further information and clarification to the Council (and consultees) following the validation of the original application; and the subsequent revisions to the scheme submitted by the applicants in December 2018, it took some time to enable officers to be in a position to present the application to Committee.

- 5.3 An initial consultation was undertaken in June 2017, following receipt of the original planning application. This resulted in a number of objections and concerns being raised, including from statutory consultees (the Environment Agency, Natural England, Network Rail, the Coal Authority, Highways England and CCC as Highways and Lead Local Flood Authority), and the subsequent need for CCC to issue a formal request for WCM to provide further information/clarifications. Further information was requested (in August 2017) on an extensive range of matters including traffic and highways, footpaths, rail transport, drainage and hydrology, ecology, landscape and visual impacts, and seismicity and subsidence. Further information was submitted by WCM and the County Council publicised and consulted on this in September 2017, following the requirements of the EIA Regulations.
- 5.4 Following this round of consultation, it was necessary for the County Council to issue a further formal request for WCM to provide additional information to address outstanding concerns raised by consultees and themselves. Further information was requested on a range of matters again, including most significantly, the need to address the potential impacts of dewatering the anhydrite mine to address concerns raised by a number of consultees, including Natural England and the Environment Agency. Further information was submitted by WCM and the County Council publicised and consulted on this in January/February 2018, again following the requirements of the EIA Regulations.
- 5.5 In April 2018 the applicants decided to amend their scheme to remove the elements related to the anhydrite mine and requested that the planning authority defer further consideration of their application until after they had made the required updates to their planning application and EIA. WCM spent the rest of the year making the necessary design updates and reviewing their assessments, and the amended scheme was finally submitted with a consolidated revised Environmental Statement in December 2018. The elements associated with the use and dewatering of the former anhydrite mine were removed and an alternative scheme for connecting the drifts to the coal seams was proposed.
- 5.6 As this was an amended scheme, accompanied by a revised Environmental Statement and submitted just prior to the Christmas Bank Holiday 2018, it was necessary to provide an extended period for consultation and publicity in order to also comply with the County Council's Statement of Community Involvement 2017. A further consultation was therefore undertaken during December 2018 and into January 2019.
- 5.7 The application was considered by the Development Control and Regulation Committee on 19 March 2019 and it was resolved that planning permission should be granted subject to conditions and a legal agreement.
- 5.8 The application was reported again to the Development Control and Regulation Committee on 31 October 2019 for the purposes of clarifying issues taken into consideration in the original decision in response to issues raised by Keep Coal in the Hole and Leigh Day.

## **Consultation Responses**

- 5.9 The key statutory stakeholders in respect of Environmental Impact Assessment (EIA) development are the Environment Agency, Natural England and Historic England. These consultees have no objection to the scheme, and their previous comments remain valid.
- 5.10 Copeland Borough Council (CBC) have considered the amendments and concluded that they would not give rise to material changes to the impacts of the development, on which the proposals have previously been assessed and the resulting planning balance conclusions reached by the council. Their previous recommendations and comments therefore remain unchanged. On balance, the Borough Council considered the significant benefits which would result from the scheme in terms of investment in the local economy and job creation would outweigh the adverse impacts of the scheme. However, they were keen to ensure that these impacts were mitigated by the use of appropriately worded planning conditions and obligations to limit their significance.
- 5.11 The Chairman of Whitehaven Parish Council has responded to say their council has not had the opportunity to consider the amendments, but that the previous representations made still stand, and as Chairman they fully support the development.
- 5.12 St Bees Parish Council fully supports the amendments and in particular meeting the need for metallurgical coal for steel manufacture, in a way which reduces the carbon footprint of importing the material from countries such as the USA, Canada, Australia and Russia. The project will also have very significant economic benefits and provide opportunities for skilled and unskilled employment.

## **Public Representations**

- 5.13 This application has been publicised and consulted on in accordance with the 2011 EIA Regulations and the County Council's Statement of Community Involvement. Each consultation stage has been advertised in the local press and by site notice, as well as individual notifications to neighbouring properties and local members representing the relevant divisions relating to the application site area.
- 5.14 During the consultation period for the present amendments to the scheme (advertised in May 2020) a total of 2378 public representations were received from 2312 different people which objected to the scheme 294 responses where received expressing support for the scheme from 289 different people.
- 5.15 Support has been received from MPs Trudy Harrison (MP for Copeland), John Stevenson (MP for Carlisle), Simon Fell (MP for Barrow and Furness) and Mark Jenkinson (MP for Workington) who strongly support the project on grounds of job creation, post Covid-19 economic boost, reducing the region's overdependence on other industries and the £500M tax contribution it would make in the first ten years.
- 5.16 Tim Farron (MP for Westmorland and Lonsdale) has objected on environmental grounds. Although he understands the drive to bring new jobs to Cumbria, he believes we should instead be working to bring more environmentally sustainable jobs and investment to the county.

- 5.17 Letters of support have also been received from local Councillors Mike Starkie (elected Mayor of Copeland Borough Council), Councillor Caroline Tennyson (Ulverston Town Council), Councillor Carl Walmsley (Copeland Borough and Whitehaven Town Council) and Councillor Chris Whiteside (Cumbria County Council, Copeland District).
- 5.18 Support has been received from the business community/potential supply chain companies and from other organisations such as John Stirland a potential lubricant supplier for the proposed development and Westlakes Engineering who provided engineering consultancy services to WCM.
- 5.19 Objections have been received from a number of individuals and organisations including Climate Change Emergency West Cumbria, Coal Action Network, Co2.org, Cumbria Wildlife Trust, Decarbonise Now, Defend Dewley Hill, Extinction Rebellion South Lakes, Friends of the Earth, Friends of the Lake District, Green Alliance, Greenpeace, Keep Cumbrian Coal in the Hole (KCCH), Nottingham Energy Partnership, South Lakeland Action on Climate Change (SLACC), The Alternative World, Woodland Trust and WWF.
- 5.20 A report prepared by the Green Alliance was received prior to the submission of the revised application. This report is referred to in a number of representations, and whilst not formally submitted as a representation on this application, it has been treated as if it had been and considered alongside all the other representations made.
- 5.21 Cumbria County Council engaged a senior consultant with a specialism in coal at Wardell Armstrong (WA) to provide independent technical advice on issues such as substitution, the markets for coal, and alternative steel making technologies.

## **6.0 PLANNING ASSESSMENT**

- 6.1 [Section 38\(6\)](#) of the [Planning & Compulsory Purchase Act 2004](#) provides that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Government policy is a material consideration that must be given appropriate weight in the decision making process.
- 6.2 Policy Context
- 6.3 In November 2016 the government consulted on proposals to end unabated coal powered electricity generation in Great Britain by 2025. As result it was decided that the most appropriate means to guarantee the closure of unabated coal fired power stations by 2025 was to set a new emissions intensity limit to generating units. The emissions intensity limit is intended to apply from 1 October 2025 with coal powered generation capacity in the UK expected to continue to reduce.
- 6.4 However, the purpose of this mining proposal is for the extraction of metallurgical 'coking coal' which is used as an essential ingredient in the steel manufacturing process. I am not aware of any UK government or EU proposal to end the use of metallurgical coal in steelmaking. The coking coal from the site is proposed to be taken by rail to steel production plants in the UK or would be moved by rail to the port of Redcar and from there transported onwards to steel manufacturing plants in Europe.
- 6.5 The development site lies entirely within the administrative area of Copeland

Borough Council (CBC). Cumbria County Council is the Mineral Planning Authority. The development plan for this application comprises:

- The Cumbria Minerals and Waste Local Plan 2015 - 2030 (CMWLP);
- The Copeland Local Plan 2013-2028 – Core Strategy and Development Management Policies DPD (adopted December 2013) (CLP); and
- The Copeland Local Plan 2013-2028 – Proposals Map and Copeland Local Plan 2001-2016 ‘Saved’ Policies (June 2015).

6.6 Unless otherwise stated it should be assumed that all the policies referenced in this report are within the Cumbria Minerals and Waste Local Plan.

6.7 I consider the principal relevant policies of the CMWLP to be the following:

6.8 Cumbria Minerals and Waste Local Plan (2015-2030):

SP1 Presumption in favour of sustainable development

SP13 Climate change;

SP14 Economic benefits;

SP15 Environmental assets;

SP16 Restoration and aftercare;

DC1 Traffic and transport;

DC2 General criteria;

DC3 Noise;

DC5 Dust;

DC6 Cumulative environmental impacts;

DC13 Criteria for energy minerals;

DC16 Biodiversity and geodiversity;

DC17 Historic environment;

DC18 Landscape and visual;

DC19 Flood risk;

DC20 The water environment;

DC21 Protection of soil resources; and

DC22 Restoration and aftercare.

6.9 Policy DC13 (Criteria for energy minerals) of the Cumbria Minerals and Waste Local Plan is the key policy in assessing the overall acceptability of the development. This policy states:

Planning applications for coal extraction will only be granted where;

- the proposal would not have any unacceptable social or environmental impacts; or, if not
- it can be made so by planning conditions or obligations; or, if not
- it provides national, local or community benefits which clearly outweigh the likely impacts to justify the grant of planning permission.

6.10 For underground coal mining, potential impacts to be considered and mitigated for will include the effects of subsidence including: the potential hazard of old mine workings; the treatment and pumping of underground water; monitoring and preventative measures for potential gas emissions; and the disposal of colliery spoil. Provision of sustainable transport will be encouraged, as will Coal Mine

## Methane capture and utilisation.

- 6.11 Policy DC13 is largely similar to, but not entirely the same as, the NPPF and instead refers to an assessment of whether the proposal has any unacceptable environmental or social impacts, whereas paragraph 211 of the NPPF only refers to environmental acceptability.
- 6.12 Policy SP14 states that proposals for new minerals developments should demonstrate how they would realise their potential to provide economic benefit, including measures such as the jobs created and the support given to other industries and developments. Relevant adverse impacts will be weighed against the overall economic benefit.
- 6.13 Policy SP15 of the Cumbria Minerals and Waste Local Plan is important in assessing the overall acceptability of the development and sets out a number of requirements. In particular, developments should:
- Protect and enhance quality of life and the natural, historic and other distinctive features that contribute to the environment of Cumbria and its landscape;
  - Conserve the settings of these environmental assets;
  - Improve linkages between assets and provide buffer zones where appropriate;
  - Realise opportunities for expanding and increasing environmental resources, including adapting and mitigating for climate change;
  - Help secure movement from net loss of biodiversity towards achievement of net gains;
  - Help secure new green infrastructure, and to conserve and manage where it is existing, and enhance its functionality, quality, connectivity and accessibility.
- 6.14 Policy SP16 requires that the restoration and aftercare proposals for mineral sites should demonstrate that best practicable measures have been taken to help deliver the sustainability objectives of the Plan. This policy requires consideration of, where appropriate, the potential for biodiversity, geodiversity and landscape enhancement, flood risk mitigation and water quality, maintaining agricultural land quality, ameliorating contaminated land and securing land stability.
- 6.15 Policy DC2 is the overarching development management policy, which requires minerals proposals to demonstrate that appropriate assessments have been undertaken to address potential impacts on the natural and historic environment or human health. Proposals should not give rise to significant adverse impacts upon local air quality, not adversely affect public rights of way, show that the carbon footprint has been minimised and address issues of ground stability (including mining subsidence).
- 6.16 The CMWLP contains policy on coal mining and refers to coal as an energy mineral due to its historical uses but mentions the WCM proposals for coking coal extraction as “currently being developed”. The plan states within paragraph 5.98 that the key issues with deep mining proposals would be the siting of surface facilities, transport and other infrastructure, disposal of colliery spoil, as well as the associated impacts on populations, landscape and the natural

environment.

- 6.17 The CMWLP does not contain any strategic allocations for coal extraction but paragraph 5.104 states that it is appropriate to consider all applications on their merits, and in the light of detailed proposals. Policies DC13 (Criteria for energy minerals) and DC15 (Minerals safeguarding) are highlighted as particularly relevant.

**Copeland Local Plan (2013-2028):**

- 6.18 The former Marchon site is brownfield land and is designated as an Employment Opportunity Site within the Copeland Local Plan

- 6.19 I consider the principal relevant policies of the CLP to be the following:

ST1 Strategic Development Principles;  
ST2 Spatial Development Strategy;  
ST3 Strategic Development Priorities;  
ST4 Providing Infrastructure;  
ER10 Renaissance through Tourism;  
ER11 Developing Enterprise and Skills;  
ENV1 Flood Risk and Risk Management;  
ENV2 Coastal Management  
ENV3 Biodiversity and Geodiversity;  
ENV4 Heritage Assets;  
ENV5 Protecting and Enhancing the Borough's Landscapes;  
ENV6 Access to the Countryside;  
DM3 Safeguarding Employment Areas;  
DM10 Achieving Quality of Space;  
DM11 Sustainable Development Standards;  
DM24 Development Proposals and Flood Risk;  
DM25 Protecting Nature Conservation Sites, Habitats and Species;  
DM26 Landscaping; and  
DM27 Built Heritage and Archaeology.

- 6.20 Copeland Local Plan 2013-2028 Proposals Map. The route of the conveyor, and the site of the rail loading facility are designated as countryside with the exception of the Main Band colliery site. Main Band colliery is still to be required to be restored under planning permission 4/88/0064, but this has not been possible to secure to date.

- 6.21 The Copeland Local Plan 2013-2028 is currently being reviewed. The Council has produced and consulted upon an Issues and Options document. The purpose of the document is to identify key topics which would be taken forward into a further consultation based upon Preferred Options, the consultation on which has been delayed due to the current situation with Covid-19.

- 6.22 The West Whitehaven SPD (Issues and Options) identifies a number of potential development options for the Marchon site including mixed use development related to the Energy Coast, renewable energy and temporary housing associated with future nuclear developments.

- 6.23 The West Whitehaven Supplementary Planning Document (SPD) Issues and Options Consultation Report (CBC, November 2012) is also a material

consideration. However, since it appears not to have been progressed further, it will carry very limited weight.

### **National Planning Policy Framework (NPPF)**

- 6.24 The National Planning Policy Framework (NPPF) published in February 2019 and its associated Planning Practice Guidance (PPG) is a significant material consideration. Relevant paragraphs from the NPPF are referenced throughout this report.
- 6.25 When determining planning applications for mineral extraction the NPPF para 205 states that great weight should be given to the benefits of mineral extraction, including to the economy. However, the NPPF makes it clear that the policy of affording great weight to the benefits of mineral extraction, including those to the economy, does not apply to proposals for the extraction of coal and instead the policy at paragraph 211 of the Framework applies.
- 6.26 Paragraph 211 of the NPPF is effectively a two stage test and states that planning permission should not be given for the extraction of coal unless the proposal is environmentally acceptable, or can be made so by planning conditions or obligations, or if not, it provides national, local or community benefits which clearly outweigh the likely impacts (taking all relevant matters into account, including any residual environmental impacts).
- 6.27 The NPPF states at Paragraph 209(d) that minerals planning authorities should indicate any areas where coal extraction and the disposal of colliery spoil may be acceptable. The CMWLP refers to the WCM proposals and identifies coal as an important strategic resource which requires safeguarding. The plan states that rather than making a strategic allocation policy defining “acceptable areas” for coal extraction, the planning authority considers such developments would be best considered on their own merits using relevant development plan policies.
- 6.28 The NPPF Glossary Annex 2 also defines coal as a mineral resource of local and national importance, necessary to meet society’s needs.

### **Climate change policy and legislation**

#### **The Climate Change Act 2008 (as amended)**

- 6.29 The Climate Change Act placed responsibility for policy on reducing emissions with the Department for Business, Energy and Industrial Strategy (BEIS). The primary legal requirement is for the UK to reduce GHG emissions to net zero by 2050.
- 6.30 The Climate Change Act requires the government to set legally-binding carbon budgets to act as stepping stones towards the 2050 target of net zero emissions. These cap the amount of greenhouse gases emitted in the UK over a five-year period, and must be set at least 12 years in advance. The budgets are designed to reflect a cost-effective way of achieving the UK’s long-term climate change objectives, and the first five carbon budgets have been put into legislation and run up to 2032.
- 6.31 Reaching net-zero emissions requires an annual rate of emissions reduction (15 MtCO<sub>2e</sub> per year, 3% of 2018 emissions) that is 50% higher than under the UK’s previous 2050 target and 30% higher than achieved on average since 1990.

## **Paris Agreement**

- 6.32 The Paris Agreement was adopted by consensus on 12 December 2015 following concerns as to whether keeping global average temperatures to around 2 degrees above pre-industrial levels would be adequate to combat climate change effectively. It recognises the need to pursue efforts to limit the temperature increase to 1.5 degrees above pre-industrial levels. The UK ratified the Paris Agreement on 17 November 2016.
- 6.33 The amendment to the Climate Change Act 2008 in 2019 which introduced the net zero target followed on from a recommendation of the Committee on Climate Change which considered that a net-zero GHG target for 2050 would deliver on the commitment that the UK made by signing the Paris Agreement.

## **Emissions Trading Scheme**

- 6.34 Since 2005, there has been an EU-led Emissions Trading Scheme, which requires certain energy-intensive industries (including steel making) to reduce their GHG emissions via a 'cap and trade' system. Since 2005, this system has already resulted in a 21% drop in GHG emissions in the heavy industries sector. The UK is committed to continuing either as a participant of this scheme, or with its own similar scheme, once the Brexit transition period is over, and there is no end date for the ETS in the EU.

## **The Greenhouse Gas Emissions Trading Scheme Regulations 2012**

- 6.35 These regulations established a system for greenhouse gas emission allowance trading within the EU and set out the framework for the important features of the system. The UK government issued a consultation on the Future of UK Carbon Pricing in May 2019. A government response to the consultation was published in June 2020. These regulations only apply in the UK, however they are designed to implement the EU Directive on Greenhouse Gas Emissions trading, number 2003/87/EC.

## **Streamlined Energy and Carbon Reporting (SERC) Regulations 2018**

- 6.36 These regulations require quoted companies to measure and report energy use and carbon emissions and KPIs to reduce energy use.

## **Energy Savings Opportunity Scheme (ESOS) Regulations 2014**

- 6.37 For large companies (or 'undertakings') in the UK it has been mandatory since 2014 to complete an assessment of energy consumption, appoint an independent assessor, and identify energy saving opportunities.

## **Clean Steel Fund and Low Carbon Hydrogen Production Fund**

- 6.38 In August and September 2019 BEIS announced the Clean Steel and Low Carbon Hydrogen Production Funds, noting that the whole UK steel sector is of vital importance to the economy but is also a significant source of emissions (contributing 15% to industrial greenhouse gas emissions).
- 6.39 The Clean Steel Fund is a £250 million fund intended to support the steel industry on a pathway to decarbonisation. The Low Carbon Hydrogen Production Fund is a £100 million fund intended to overcome the issue that availability of low carbon hydrogen at scale is a constraint to large industrial users considering fuel

switching. The fund will support the deployment of low carbon hydrogen production capacity and encourage private sector investment, which could enable a pathway to lower carbon steel production and support broader efforts to reduce emissions. The Government intends to consult on the shape of the Fund during 2020 with a view to launching the Fund for bids in 2021.

### **Carbon Capture and Storage Fund**

- 6.40 Following the budget in March 2020, this fund is to receive an injection of cash in the form of a new CCS Infrastructure Fund of a least £800 million designed to establish CCS in at least two UK sites – one by the mid-2020s and one by 2030.

### **Cumbria Climate Change Statement**

- 6.41 On 11 September 2019 the Full Council of Cumbria County Council unanimously supported a Climate Change motion which said:

Cumbria County Council has long recognised the importance of tackling Climate Change. This Council remains fully committed as we seek to reduce our own carbon emissions. To date this Council has:-

- Reduced emissions through our waste contract and reducing waste to landfill
- Introduced low energy schemes in many of our buildings
- Introduced the use of low emission fleet vehicles and pool cars
- Installed LED street lighting

However, this Council cannot tackle Climate Change in isolation and we will collaborate with our 6 district authorities and our national parks colleagues as indicated in the Cumbria Joint Public Health Strategy - "To become a "carbon neutral" County and to mitigate the likely impact of existing climate change".

This Council therefore welcomes the recent decision by Parliament to declare a Climate Change Emergency in the UK, including Cumbria. We now call upon the Government to produce a clear plan of action, backed up by sufficient resources, to address this existential threat.

- 6.42 This resolution was based on the findings of the Cumbria Climate Change Group report that was produced by consultants with CCC participating in the Group.

- 6.43 I have had regard to the above Development Plan policies and all other material considerations (including those specifically set out above) in assessing the proposed development.

### **Highthorn**

- 6.44 On the 8 September 2020 the Secretary of State issued a decision in relation to coal extraction from land at Highthorn in Northumberland. The coal that was the subject of this decision was proposed to be used for thermal and industrial purposes, and is therefore different in character and use from the Whitehaven coal. The application was refused planning permission and the planning inspector and Secretary of State examined the issues in some detail.

- 6.45 The Secretary of State considered that the application was not in accordance

with several development plan policies, or the plan as a whole. The proposal was determined not to be environmentally acceptable, and so the test of whether the national, local and community benefits clearly outweighed the likely impacts was engaged.

- 6.46 In weighing in favour of the proposal the Secretary of State gave moderate weight to the economic benefits, moderate weight to the biodiversity benefits and no more than moderate weight to the need for coal. He gave slight weight to the obligation to establish and procure permissive bridleways.
- 6.47 Weighing against the proposal, he afforded considerable weight to the harm to the character and appearance of the area, great weight to the harm to heritage assets, and slight weight to the harm to local amenity. Other more minor issues were afforded slight or negligible weight.
- 6.48 The Secretary of State felt unable to estimate GHG emissions from the use and transportation of the coal from the information available, (which he felt weighed against the scheme). As a result he therefore gave no weight to these issues in making the decision to refuse planning permission.
- 6.49 The Secretary of State did not consider that the development was likely to result in national local and community benefits which clearly outweighed the harm, and the presumption against the granting of applications for the extraction of coal applied.
- 6.50 Planning applications should be determined on their own merits, and so the Highthorn decision does not set any precedent with the decision on this application. However, notwithstanding this fact, and the differences between the two proposals, I have nevertheless reviewed the Highthorn decision in some detail and have had regard to some of the broader points (for example in terms of the way the decision was approached) which emerge from it.

### **Environmental Permit & Marine Management Organisation (MMO) Consent and inter-relationships**

- 6.51 The proposal involves underground winning and working of metallurgical coal from both onshore and offshore areas, including construction of the necessary infrastructure. The elements of the mine on or under the land require planning permission. However, the offshore elements of the proposal, the drift mines under the sea below mean high water limit, require a licence from the MMO. The MMO licence application also requires Environmental Impact Assessment (EIA), and an application is being prepared for submission. The MMO will also need to conduct a Habitats Regulations Assessment of a licence application.
- 6.52 As of 9 September 2020, the MMO licence application has yet to be submitted. The development cannot proceed without both the necessary planning permission and MMO licence. A Grampian condition is proposed to be imposed, should permission be granted, which prevents development commencing until the MMO licence has been issued.
- 6.53 This development involves recontouring works to part of the Hutbank landfill site, in order to accommodate the underground conveyor to / from the mine. The detail of these works would need to be agreed with the Council under a planning condition. However, a variation to the environmental permit for that site will need to be sought and approved. There will also be some impacts on the Marchon /

Ufex landfill site, in respect of landscaping and the proposed mounds on the Main Site. Again, the Environment Agency has requested a condition be attached, and a variation to the permit is also likely to be required.

- 6.54 In order to operate, the proposed mine requires an Environmental Permit from the Environment Agency. This will cover discharge of water from the Main Site to the sea during storm events and other discharges as required, together with placing controls on the management of any wastes as appropriate. The impacts of the proposed discharges and associated mitigation measures have been set out in the ES.
- 6.55 The proposal has the potential to impact upon European designated wildlife sites, most notably the Solway Firth pSPA, and a shadow Habitats Regulations Assessment (along with SSSI and MCZ assessments) has been undertaken by the applicant. Natural England considers that the proposal would not result in adverse effects on the integrity of any of the designated sites in question, and therefore concurs with the conclusions made within the “Validation Review of Habitat Regulations Assessment” that has been submitted. The Council has undertaken a further review of the material submitted and the HRA conducted for the original proposal and is satisfied it remains valid. The MCZ and SSSI assessments are separate processes to the HRA, but were also further reviewed and those assessments have been taken into account in considering this application.
- 6.56 The HRA adopted in respect of the original application remains valid.
- 6.57 An outline Health Impact Assessment has also been undertaken as part of the planning process. This will be updated and reviewed for the duration of the development.
- 6.58 New licences will be required from the Coal Authority for WCM to extract coal.

## **7.0 PLANNING ASSESSMENT**

- 7.1 The key planning issues relevant to the proposed schemes are considered to be
- 7.2 The Planning & Compulsory Purchase Act 2004 provides that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Government policy is a material consideration that must be given appropriate weight in the decision-making process.
- 7.3 Policy SP1 (Presumption in favour of sustainable development) states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay.
- 7.4 Policy DC13 states that applications for coal extraction will only be granted where the proposal would not have any unacceptable social or environmental impacts; or, if not it provides national, local or community benefits which clearly outweigh the likely impacts to justify the grant of planning permission.
- 7.5 The NPPF previously stated that great weight should be given to the benefits of mineral extraction, including to the economy. However, the current NPPF makes

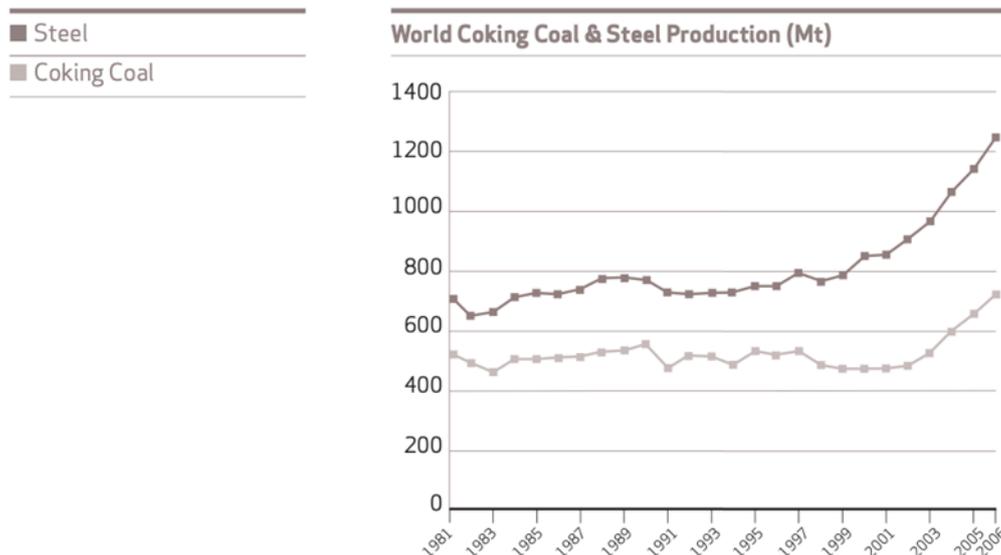
it clear that this does not apply in the case of the extraction of coal, where instead paragraph 211 of the NPPF applies.

- 7.6 However, the NPPF does define coal as a mineral resource of local and national importance, necessary to meet society's needs.
- 7.7 In respect of coal, NPPF paragraph 211 makes it clear under the 2 stage test that planning permission should not be granted for the extraction of coal unless the proposal is environmentally acceptable, or if not, then it provides national, local or community benefits which clearly outweigh its likely impacts (taking all relevant matters into account, including any residual environmental impacts).
- 7.8 The scheme raises a number of different issues, and the planning arguments in respect of the proposal are all addressed and assessed separately in the relevant sections of this report below. The following section is structured to deal with issues on a topic by topic basis. Each section explains what is proposed, summarises the feedback from the consultations, and then sets out my overall view, taking into account development plan policies and other material considerations.
- 7.9 My report draws together the issues in the section on the planning balance. This evaluates the proposed development in respect of development plan policies and gives my view as required by CMWLP policy DC13 as to whether the development has unacceptable environmental or social effects that cannot be mitigated by conditions or S106 obligations, and if so whether the benefits of the development clearly outweigh the likely impacts.

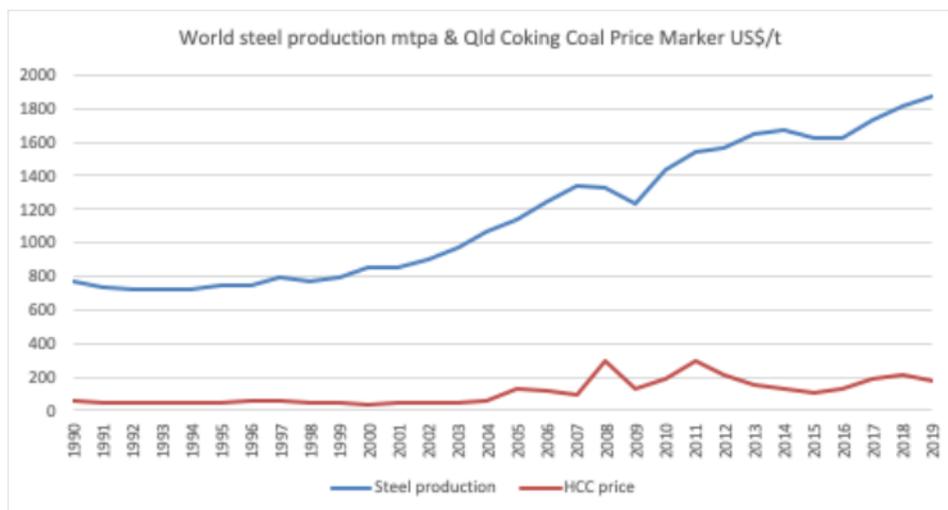
### **The future need for coking coal to produce steel in the UK and Europe**

- 7.10 Coking coal is classed as a critical raw material by the EU. NPPF Glossary Annex 2 also defines coal as a mineral resource of local and national importance, necessary to meet society's needs. Globally, the main producers of coking coal are China, Australia, the US and Russia. The two main exporters of coking coal to the EU in the period 2010-2014 were the US and Australia, which between them made up approximately 75% of the total imports.
- 7.11 It takes around 0.77 tonnes of coal (0.6 tonnes of coke) to produce 1 tonne of steel. The UK is currently almost entirely dependent upon the importation of coking coal. In 2017 the UK produced 39,000 tonnes of coking coal and imported around 2.69 million tonnes. The importation of coking coal has dropped in tonnage terms, from around 6 million tonnes in 2011 due to the closure of several large UK steel plants in recent years. However, the steel industry remains important and manufacture is anticipated to continue
- 7.12 Steel production in the UK has been in decline for the last 25 years, with a particularly steep cut in production in the early 1980s. In 2016 the UK steel industry employed approximately 32,000 people (compared with employing approximately 320,000 people in 1971). The decline in numbers working in the steel industry has in part been caused by technological developments, and in part due to increased steel manufacture in other parts of the world where labour is cheaper. In 2018 major UK steel producers were British Steel, Tata Steel and Celsa, with manufacturing focussed in Wales and northern England. Dr Bristow notes that with the takeover of British Steel in Scunthorpe completed on 9 March 2020, the future for the British steel making industry looks positive.

- 7.13 In 2016, the UK produced around 8 million tonnes of steel. The EU as a whole produced 166 million tonnes of steel during 2015 with the UK being the 5th largest steel producer in the EU after Germany, Italy, France and Spain. UK steel production fell by 30% in 2016, after falling by 10% in 2015.
- 7.14 Total demand for metallurgical coal from UK steel plants during 2017 was just over 3.18 million tonnes. 1.88 million tonnes was used for the manufacture of coke, the remainder (1.3 million tonnes) was used in blast furnaces for steelmaking.
- 7.15 Dr Bristow states that the EU is a significant producer of steel, and currently imports 40-44 million tonnes of metallurgical coal per annum, principally from the US. It is reported by the World Steel Association that global crude steel production in 2018 was 1,809 million tonnes, with Europe accounting for around 11.6% of this – 210 million tonnes. European steelmakers consumed around 70 million tonnes of coal in 2018, importing around 62 million tonnes of coking coal.
- 7.16 Whilst there are numerous forecasts for predicted worldwide steel consumption, Dr Bristow states that there is likely to be an increasing demand for steel over the next three decades.
- 7.17 The proposed scheme envisages that around 180,000 tonnes of coking coal would be supplied annually to the UK steel plants at Scunthorpe and Port Talbot (360,000 tonnes total), with the remaining tonnage being transported to Redcar for onward distribution and / or export. The applicant states that the coking coal resource they are proposing to work is a high volatile coal which, currently, is all sourced from the US. The high volatile coal acts as a 'glue' during the chemical process within the furnace which is crucial in maintaining stability during the steelmaking process. As all steelmakers acquire coals from at least 6 different sources and blend them into their own specific blend to suit their steel type and furnace designs, the high volatile coal is an essential ingredient of this blending process.
- 7.18 The applicant states that the demand for steel is driven by demand in the wider economy, and that steel has a wide range of potential uses. Historic market data shows steel production is strongly correlated to coking coal production. The graph below produced by Dr Bristow shows world coking coal production plotted alongside world steel production in millions of tonnes per year from the years 1981 to 2006. It demonstrates that production of coking coal increases and decreases at the same time as steel production, which would reflect the use of coking coal as a raw ingredient in the manufacture of steel. There is no evidence that coking coal is mined and stockpiled generating a subsequent demand for steel, or that falls in the production of coking coal cause subsequent steel production to drop.



7.19 The view that the demand for steel leads to demand for coking coal (rather than the other way round) is further illustrated by examining the historic relationship between the production of steel and the price of coking coal. The graph below produced by Dr Bristow shows the period since 1990 and plots the last 30 years of world steel production against the price of Hard Coking Coal (HCC). The graph does not show a strong correlation between the two, or that decreasing HCC prices result in increasing steel production and vice versa.



7.20 The applicant states that coking coal is not mined and stockpiled awaiting a buyer, but mined to order. This is partly due to the investment required to mine the product, which would provide no return until it is sold, and partly because coking coal degrades over time when stored in exposed stockpiles and reduces in value as a result. Therefore, granting planning permission for the mine would increase permitted coking coal reserves rather than significantly impact on overall supply. Furthermore, according to the applicant, even at maximum permitted output, the proposed mine would represent only a tiny fraction of the global coking coal market.

7.21 Dr Bristow references market research that states “the revival of the metallurgical coal industry was driven by an increase in world steel demand”, meaning that metallurgical coal mining is dependent upon demand from the steel industry. He also references market insight reports that, “Met (metallurgical coal) pricing is usually tied to global economic growth because an expanding economy means

more construction which means more steel which in turn means more met coal demand”, according to Jude Clemente, a widely published expert in natural resources markets.

- 7.22 Dr Bristow states that the production of coal in Cumbria will not cause a dip in global metallurgical coal prices, because its contribution to supply would be unnoticeable. He also argues that it would not make business sense for the company to disrupt global prices, even if they could, because this would make it harder to recover the investment made in the built infrastructure of the mine. He also notes that the competitive pricing of Cumbrian coal compared to its US equivalent will have no impact on the price of steel, because metallurgical coal is just one of a number of ingredients in the steel making process, as described below.

### **Representations**

- 7.23 Representations on whether there is a need for steel were limited (it being generally accepted that there is a current need for steel). Furthermore it was generally accepted that at the current time, there is no commercially viable alternative method to make steel in a blast furnace other than to use coking coal. However, there were lots of representations in respect of how this may not need to remain the case, and on alternative technologies and methods of making steel. I have included and addressed these representations in the following section of my report (Alternative manufacturing technologies, their requirements for coking coal and wider environmental impacts)

### **CCC View**

- 7.24 According to the council’s technical advisors WA, Europe produced ~160Mt of steel in 2019 and production appears to be dropping by 1 to 5Mt per year. In recent years because of cost and environmental pressures the recycling of steel has impacted the industry and it is estimated that some 39% of the steel produced in Europe is recycled material, the majority using Electric Arc Furnaces. However, in Europe, of the ~160Mt, some 98Mt (61%) is produced by Blast Furnaces which require coal and coke to produce steel from raw iron ore.
- 7.25 WA state that the European industry imports 65% of the coking coal used, the remaining 35% is mainly from Poland. The majority of coking coal imported comes from Australia, USA, and Russia, the countries listed in order of imported coal. Coking coal is on the EU’s list of Critical Raw Materials. However, the High Volatile coals used in the coke blend and the competitor for WCM coals are predominantly from the USA.
- 7.26 WA found that finding definitive reports on projected global and EU steel production and predicted future volumes was difficult, as the situation in the steel industry has changed over the years and some of the earlier predictions do not match later ones. However, they were able to use overviews of papers by the World Steel Association, OECD and others, as well as the responses from the steel producers themselves who Cumbria CC approached directly for a view.
- 7.27 Overall WA expect the demand for coking coal to remain broadly flat unless new technologies are introduced. In respect of the demand for High Vol A coking coal specifically WA consider that if nothing else changes the demand for coking coal in 2050 will be the same as 2025.

- 7.28 There is also undoubtedly a current demand within the UK and EU for coking coal, as a raw ingredient in the manufacture of steel. The manufacture of steel brings significant benefits in facilitating the production of much essential infrastructure and products, including, for example, transportation (railways, vehicles), public infrastructure buildings (schools, hospitals) and items such as tools and cutlery.
- 7.29 It is not possible to say with certainty how demand for steel, and therefore coking coal, will vary during the proposed lifetime of the development. What is clear is that the UK government remains keen to support our steel industry, and so I consider it is reasonable to conclude on the evidence available that demand for steel and coking coal will continue to exist both within the UK for the foreseeable future. I also conclude that the scale and importance of the European steel industry is such, that this would remain the case here also.
- 7.30 There is clearly a current demand for steel produced in the UK and EU, and therefore a source of coking coal is required. I consider that a mine located at Whitehaven could currently provide a local source of this essential raw ingredient for the UK (and European) steel industry using blast furnace production methods. The length of time for which this might remain the case I address below.
- 7.31 Alternative manufacturing technologies, their requirements for coking coal and wider environmental impacts
- 7.32 In Europe, approximately 60% of steel is currently manufactured from raw materials using a blast furnace. The remainder of steel making uses scrap steel as a primary ingredient in an electric arc furnace. Steel made from recycled materials has a more limited range of applications because it contains impurities such as copper and tin which are difficult to fully remove in the recycling process.
- 7.33 The steel making process using a blast furnace is described earlier in this report. Once steel is produced other processes can follow, called secondary steelmaking processes, where the properties of steel are determined by the addition of other elements, such as boron, chromium, manganese and molybdenum, amongst others. These secondary processes create the required grade and quality of steel.
- 7.34 Optimal operation of the blast furnace demands the quality of the raw materials; the carbon content of coke therefore plays a crucial role in terms of its effect in the furnace and on the hot metal quality. A blast furnace fed with high quality coke requires less coke input, results in higher quality hot metal and better productivity, and has lower carbon emissions.
- 7.35 Dr Bristow states that around 85% of scrap steel in Europe is already recycled, and successful recycling depends on the quality of the scrap and its intended future use. Prior to use, the scrap steel needs to be cleaned of the contamination, before being heated to a molten state. This process is energy intensive and results in GHG and other emissions.
- 7.36 The coking coal produced by the proposed mine is intended to be used in the UK and EU, where there are approximately 500 steel plants, many of which use blast furnace technology. Steel plants are now the biggest single point CO<sub>2</sub> emitters in the UK, as well as in the Netherlands, Spain, France, Austria, Finland and Slovakia. 8% of the CO<sub>2</sub> emissions from countries in the EU Emissions Trading Scheme in 2019 came from steel works.

- 7.37 The UK Government has recently launched a call for evidence to support the development of the Clean Steel and Low Hydrogen Production Funds which are currently undergoing consultation. BEIS anticipates that the latter fund will be launched for bids in 2021 and is working with the steel sector and other stakeholders to develop timelines for the Clean Steel Fund and to identify how to maximise the economic and environmental benefits of decarbonisation options.
- 7.38 Dr Bristow also highlights that in February 2020 the government launched ambitious plans for the 'COP 26' UN climate conference which it will host in 2021. This will be a major event and could lead to a new global agreement to speed up carbon emission reductions.
- 7.39 The wider steel industry has publicly committed to reducing its carbon emissions. For example, the Ultra-Low CO<sub>2</sub> Steelmaking (ULCOS) partnership includes 48 companies and organisations across 15 European countries, who aim to meet a target of a 50% reduction in CO<sub>2</sub> emissions per tonne of steel by 2050. ULCOS is also developing a technique which could achieve up to 70% CO<sub>2</sub> emissions reductions, using a cyclone-converter iron-making process in conjunction with carbon capture and storage.
- 7.40 The production of steel using the direct reduction of iron (DRI) method is the removal of oxygen from iron ore or other iron bearing materials in the solid state (without melting). The reducing agents are carbon monoxide and hydrogen, coming from reformed natural gas, syngas or coal. DRI manufacturing is an alternative way to manufacture steel without using a blast furnace, but still requires gas or coal, and is typically used in countries with large domestic reserves of these.
- 7.41 Dr Bristow regards the Electric Arc Furnace method, as demanding very significant quantities of electricity and as being unable to produce high grades of steel which are required for specific purposes and uses due to impurities. He regards EAF steel as low quality and only capable of being used for general construction purposes (for example, reinforcement bar in concrete buildings and structures). Electric arc furnaces also require sufficient quantities of available scrap to process which is already widely recycled in EAFs.
- 7.42 Emerging hydrogen technologies being proposed by companies such as SSAB/LKAB (Hybrit) and ArcelorMittal, are variants of the current DRI processes. The ArcelorMittal project is based upon a hydrogen fired Midrex unit. The objective of the Hybrit joint-venture is stated as being to develop the world's first fossil-free, ore-based steelmaking process. The by-product of using fossil-free electricity and hydrogen in steelmaking, instead of coke and coal, would be water instead of carbon dioxide.
- 7.43 The Hybrit system has been shown to technically work at small scale tests. As of June 2020 there are plans by SSAB, LKAB and Vattenfall to build a pilot plant in Sweden which is intended to be first in the world to produce fossil-free steel as early as 2026. Whether that is commercially viable is not yet known. Hybrit is seen by its sponsors as an important piece of the jigsaw puzzle in a green transition, to climate-optimize the whole chain from mine to finished steel by the year 2045.
- 7.44 Dr Bristow believes that over the coming decades as steel making methods are refined to use less coking coal, there will be a reduction in the amount required per tonne of steel. However, the current alternative methods are not yet

commercially tested or viable, and currently cannot compete with the blast furnace method.

- 7.45 Electricity is progressively being generated in greener ways, using an increasing proportion of renewable sources. Alternative energy sources are also being investigated. Hydrogen as a fuel source for large scale industrial production, storage and transport has some promise, but is yet to be proven as practical, safe and cost effective.

### **Representations**

- 7.46 Henry Adams and others state that steel production contributes around 7 to 8% of global emissions of CO<sub>2</sub> from the energy system, and according to Dave Jones and Chris Rosslove of Ember (formerly Sandbag), now contributes some of the biggest point-sources of CO<sub>2</sub> emissions in the UK and Europe, with their list of such point sources in 2019 including “Port Talbot Steelworks, Tata Group 6433 ktCO<sub>2</sub>, Scunthorpe Integrated Iron and Steel Works, British Steel 4525 ktCO<sub>2</sub>”.
- 7.47 Henry Adams points out that the Energy Transitions Commission (ETC) in the steel sector document associated with its report “MISSION POSSIBLE - reaching net-zero carbon emissions from harder-to-abate sectors by mid-century” (2018) states that “The ETC is confident that a complete decarbonization of the steelmaking industry is achievable by mid-century”. This timeline is repeated in their Reaching zero carbon emissions from Steel (2018) Consultation Paper. He notes that Germany in particular have committed to increasing the supply of green hydrogen, with a reduction of coal use in steel making a key beneficiary.
- 7.48 SLACC state there are existing and emerging technologies which eliminate or reduce the need for coking coal, and many steel companies already have GHG reduction targets. Given these facts, and the EU and UK’s climate change commitments, the need for metallurgical coal in the European market will reduce very significantly in the next few decades. It is much more likely that WCM will need to sell the coal to other steel producers, such as China, India, Japan or Brazil.
- 7.49 SLACC disagree that the infrastructure required to facilitate the UK’s transition to a low carbon economy will be dependent on steel using metallurgical coal. Steel used in transport and infrastructure can be produced using other technologies, and a number of these products are already produced in the UK using EAF, or are expected to be after planned conversion of steelworks to EAF technology.
- 7.50 Henry Adams notes that the ETC’s reports show there will be a significant reduction in the need for virgin steel from improving processes to remove contaminants from scrap. The UK currently exports about 80% (10 million tonnes) of its scrap steel, roughly the same amount as the new steel it imports. With steel production in the UK currently around 7m tonnes per year (less than half current demand), increased recycling could make the UK self-sufficient.
- 7.51 SLACC state that the proposal is founded on the enduring need for the coal in the UK and European market. Contrary to what is said is the planning application, coal from the mine will not be needed for steelmaking throughout the fifty-year lifetime of the permission. Furthermore, if the planning application is refused, then less coal would be used in existing or future steel works, and lower greenhouse gas emissions would result.

- 7.52 SLACC has submitted a report prepared by the Materials Processing Institute (MPI). The MPI Report seeks to directly refute a number of the key claims made by the applicant, including:
- a) The reasons cited as limiting the capacity for Electric Arc Furnace (EAF) technology to replace primary steel production using metallurgical coal are not, in fact, significant constraints.
  - b) It is incorrect to assert that emerging low-carbon technologies to replace blast furnace steelmaking using coal are “in their infancy”. Numerous companies and steelworks intend to produce steel with EAF or hydrogen by the mid-2020s or early 2030s. While some of the companies the report highlights “aim to achieve zero carbon steelmaking and some aim to be carbon neutral, ... none foresee the continuation of the existing blast furnace technology in its current form.”
  - c) Metallurgical coal in the UK and Europe is expected to decline considerably from 2030 onwards, as a result of actions being taken by producers to invest in new technologies. Therefore the “production of steel in the quality and quantity that is likely to be required by society will not require significant use of metallurgical coal in the coming decades”.
  - d) It is incorrect to state that the infrastructure required to facilitate the UK’s transition to a low carbon economy will be dependent on steel using metallurgical coal. Steel used in transport and infrastructure can be produced using other technologies and a number of these products are already produced in the UK using EAF, or are expected to be due to planned conversion of steelworks to EAF technology.
- 7.53 SLACC state that the proposal runs contrary to Government policy to decarbonise the steel industry in line with climate change commitments and would hamper the transition to lower-carbon alternatives to blast furnace steel production by providing a local source of coking coal approximately 40% more than the current size of the entire UK market for five decades.
- 7.54 Henry Adams states that no blast furnaces in the UK or mainland Europe have carbon capture and storage (CCS) equipment added, and in any case that technology would likely only capture part, not all, of the CO<sub>2</sub> emitted. The planning authority cannot legally enforce WCM, coal transporters, or steel making companies to secure the capture (or even partial capture) of the CO<sub>2</sub> emissions by CCS. Furthermore, WCM has no plans to put in place greenhouse gas removal (GGR) equipment to remove the same quantity of CO<sub>2</sub> from the atmosphere as the coking ovens, blast furnaces and associated basic oxygen furnaces emit.
- 7.55 Professor David, an expert on green ammonia, and former mining engineer Mike Mason, who is currently leading research on the economics of green hydrogen and ammonia, state that the only substantive barrier to the widespread adoption of universal hydrogen-based steel production is the cost and availability of hydrogen, which is driven principally by the cost of energy. They state that as energy generation moves to renewable sources or nuclear power, costs will fall dramatically in the coming decades. Low cost hydrogen or ammonia (which acts as a medium to move and store hydrogen more efficiently) is set to revolutionise steel manufacture in the next two decades, driving metallurgical coal out of the market entirely.

- 7.56 They also state that radical developments are taking place in the nuclear sphere, which Cumbria is well placed to exploit. For example, Moltex, a UK company, is developing a new generation of small modular reactor that burns nuclear waste and the technology is at the licensing stage. However, nuclear power is best run at constant output, which means that at times of low demand or high renewables output the spare capacity could be used to make hydrogen, making the process cheaper than currently. They state that by 2030 coking coal will be uneconomic for steel making if carbon pricing is widely applied. By 2040, even with zero carbon pricing, coke will be less economic than hydrogen.
- 7.57 Friends of the Earth do not believe that there is a clear need for metallurgical coal for 50 years. They state that a need for steel is not the same thing as a need for coking coal as an ingredient and that new technologies are emerging which mean less coal is needed. They give a specific example of SSAB who are aiming to use hydrogen to produce fossil-free steel from iron ore for commercial production by 2026.

### **CCC View**

- 7.58 The council approached Thyssenkrupp; Arcelor Mittal and SSAB directly for their views on the likelihood and speed at which greener technologies might emerge commercially, and this information was reviewed by WA who were able to provide a consolidated view, particularly on how this might impact on demand for High Vol A coking coal. This issue is quite nuanced, because (for example) grey hydrogen as a replacement for PCI (metallurgical coal) as a reductant in blast furnace technologies is more commercially advanced – but its increased use would not substitute for a requirement for High Vol A coal which the process uses in a different way.
- 7.59 The Council's specialist consultant, WA, state that no plants using green technologies for their total production are currently commercially viable. It may be that the process is shown to work but it has not, at large scale, been proved to date. No one has yet offered an opinion as to whether the processes can be made commercial. Announcements indicate that it is likely to be 20 years or more before coking coal may or may not be phased out and replaced with green technology. However, in the meantime there is a strong likelihood that there will be a market for WCM coal at the right specification for use in steel making.
- 7.60 Representations state that recycling of steel using EAF technology is a proven technology and could manufacture steel of sufficient quality to meet most current applications. Furthermore that emerging technologies such as DRI and hydrogen use less (or no) fossil fuel when compared with the blast furnace method, with hydrogen technologies implemented as early as 2026, and if successful likely to be operating a fully commercial scale with the next 20-30 years.
- 7.61 I consider these points have some validity. However, steel is already widely recycled, and no other proven processes could currently step in to enable production of new high grade steel. Production capacity is also limited by the availability of scrap to recycle, and so could not meet demand on its own. Emerging methods such as DRI and Hybrit like systems will need time to properly establish and attain commercial viability. It is obvious that there is some uncertainty in respect of the contribution from EAF technology and how long (if ever) it would take for emerging technologies to be commercially viable. Dr Bristow states that this could take "several" decades.

- 7.62 The HYBRIT and similar systems using DRI's instead of blast furnaces are being developed in Sweden and Germany and there is a desire to develop a more environmentally friendly process. WA therefore conclude that it is likely that at some point in the future an alternative to coking coal will be developed and the market is likely to reduce.
- 7.63 WA consider that the timescales for DRI project development in both Germany and Sweden is feasible, and that commercially viable demonstration plants could be operational by 2035 - but that does not mean that all blast furnaces will be able to be scrapped within the EU and immediately replaced. The demonstration plants will be specifically designed around local infrastructure and supply and will only produce a fraction of what is required.
- 7.64 Once the plants have been proven, decisions will need to be made on whether the whole of the hydrogen supply and storage system, whether green or grey, can be upgraded globally to match the demand that will be needed and at the right price, and also whether the cost of replacing blast furnaces with DRI's can be supported. The decision to replace blast furnaces with DRI is unlikely to be taken until the blast furnaces need replacing which could be up to 15 years beyond the date when the process is proven. Therefore, both WA and Wood Mackenzie believe that it could be 2050 at least before any significant inroads are made to the volumes of coking coal being used and even then some plants will still be using coking coal.
- 7.65 It is encouraging that the EU steel industry is pursuing efforts to reduce GHG emissions and is investing in new technologies that may with time lead to a further move away from processes using fossil fuels. With proper political and financial support these emerging technologies may come forward in the future as the common method of steel manufacture. However, in my view there are currently no realistic alternatives to the manufacture of steel using coking coal in a blast furnace manufacturing method to replace new steel produced by that method in the UK (or Europe as a whole). Although electric arc furnaces are an established technology they are limited by scrap availability and the quality of product it is possible to manufacture.
- 7.66 I accept that the production of steel is necessary to support (amongst other things) a drive towards a net zero carbon society, therefore the extraction and use of coking coal for steel manufacture will be a necessary part of that for a minimum of twenty years, and highly likely for longer than this. However, the Energy Transitions Commission Report – Mission Possible - Reaching net-zero carbon emissions from harder to abate sectors by mid century contains authoritative research that suggests considerable progress could be made by 2050.
- 7.67 Although there is uncertainty in respect of the timescales within which alternative technologies might establish, the requirement for the UK to be carbon neutral by 2050 is likely to result in steelmakers needing to invest in more environmentally acceptable alternatives to manufacturing steel with blast furnaces (and other technologies such as carbon capture and storage) before this date. Overall, therefore I am of the view that whilst there are no current commercially viable alternatives to the blast furnace for the manufacture of new steel in the UK (or Europe), I could currently not be confident this would remain the case beyond 2050. Furthermore I could not be confident that blast furnace technologies will remain operational in the UK for the lifetime of the proposed mine, as the current

infrastructure will at some point require replacement, and at that point wider commercial and environmental considerations would come into play in determining the most appropriate technology.

- 7.68 Therefore I consider it is necessary to impose a condition limiting the life of the mine until the end of 2049. Should new technologies not advance significantly between now and 2049 to reduce the need for High Vol A coal mined at Whitehaven, a further planning application could be submitted prior to this end date to extend the life of the mine for a further period, based on the environmental, social and economic constraints, and local need for the High Vol A coking coal at that time.

### **Substitution**

- 7.69 The proposed amendments to the application will result in the production of a single product HVA coking coal that would have a higher sulphur content than the coking coal originally proposed. This higher sulphur content results from the change to the process, however, the applicant argues that the product would serve the same markets for steel manufacture as set out in the original proposals.
- 7.70 The applicant argues that their coking coal would substitute the equivalent volume of US coal that is currently being exported to Europe. The applicant also believes that because shipping from the US to alternative major steelmaking countries in Asia and India involves such high travel costs, the most likely outcome is that there would be a corresponding reduction in the extraction of coal in the US.
- 7.71 In Dr Bristow's judgement, the US would not continue to mine the same grade of coal for sale to other countries because there is no proven market, and because shipping to alternative major steelmaking countries in Asia and India involves such high transport costs. He notes that the closure or scaling back of mines in the US as a result of reduced demand from Europe was recently highlighted in the Argus blog, and that the Chief Executive of Glencore stated in February 2020 that: "We don't want to dig the material out of the ground if it's not required in the market". Although this statement related specifically to thermal coal, he says the same argument holds true for metallurgical coal.
- 7.72 Dr Bristow states that at least half of US coal mines are described as "marginal producers", and recent evidence shows that high cost coal mines there are closing down due to falling coal prices. If US mines were to try to compete on cost against WCM, they would simply become uneconomic. Target customers in the UK and Europe all source the majority of their High Vol A metallurgical coal from the east coast of the US, as there are presently no other more cost-effective sources, however steel producers continuously seek to diversify their supply sources to reduce risk. Cumbrian produced coal available to the UK (and European) market has significant advantages for steel producers, including significantly reduced shipping costs and significantly shorter lead-in times from order to delivery.
- 7.73 The applicant states they have undertaken market research and that it is clear to them that there is a very high level of interest from UK and mainland European steel makers, who are interested because of the proximity of this resource so close to their plants.

## Representations

- 7.74 SLACC and others state that WCM uses the idea of 100% substitution to argue that GHG emissions from the use of WCM coal should attract very limited or low weight as a material consideration. However, were even 5% or 10% of the coal not substituted, this would have major adverse impacts because emissions from coal's use are (at least) 10 times those of extraction. If the European steel making industry was to refurbish rather than replace their current blast furnaces around 2035 because of the availability of a 'locked-in' source of cheap Cumbrian coal, then this could lead to all of the coal from the mine being additional (rather than substituted) resulting in substantial additional GHG emissions for decades. SLACC also note that export of Cumbrian coal to other regions of the world is not precluded by any conditions on the planning permission proposed in the original Committee Report.
- 7.75 Professor John Barrett, an expert on UK energy and climate policy at the University of Leeds School of Earth and Environment, states there is no evidential basis for the applicant's assertion that the Cumbrian coal would substitute for an equivalent volume of US coal, which assumes that additional domestic extraction of coal would lead to coal that would otherwise be imported no longer being used.
- 7.76 Professor Ekins who is Professor of Resources and Environmental Policy at UCL expressed a view that there is no evidence that coal extracted from a mine at Whitehaven would reduce the amount of coal extracted overseas. He states that the increased supply of coal would lead to a reduction in its price, and increase overall demand. Furthermore he refutes the claim that demand for coking coal is led by demand for steel. Steel would be responsive to the price of its inputs, and cheaper coal would result in it being cheaper to make coal using blast furnace methods - discouraging investment in alternatives.
- 7.77 He states that it is far more likely that the coal will simply be exported to alternative markets, and so the Cumbrian coal would be additional to, rather than a substitution for, imported coal. Even if the coal did substitute, volumes of globally traded coal would increase as a result, prices would decrease slightly, which would lead to greater coal combustion in other markets. The exact effect would depend on the elasticities of supply and demand of traded coal markets, but the effect is not zero.
- 7.78 SLACC state that once the investment has been made to construct the mine infrastructure, there will be an incentive to produce as much coal as possible whilst the price exceeds the operational costs of extraction. This means that production could not be assumed to stop if it turns out that the demand for metallurgical coal is lower than expected. The large upfront costs will have been paid, so "WCM will be driven to recoup as much of its investment as possible, even if it would never have opened the mine in the first place had it known the true position." This means that fossil fuel dependence will become "locked in" making it difficult to move to lower-carbon pathways and reduce climate risks.
- 7.79 Given the high carbon content of coal, even if the Cumbrian coal only added a very small amount of additional coal to the market, this would be likely to outweigh any possible GHG savings from the mine operations, and from transportation of coal.
- 7.80 Friends of the Earth consider that the substitution of Cumbrian coal for US will

not occur, world demand for coal, or the products it is used to produce, is not fixed, and putting new supply on the market will reduce the price and increase that demand. There is no reason to believe that any coal capacity in the world will close if the WCM mine opens. Instead it will add to global coal supply.

### **CCC view**

- 7.81 UK Steel were consulted and have confirmed that coal is a globally traded commodity with prices largely set globally. In their view whilst an increase in coal production will naturally reduce prices, this mine in and of itself would not impact prices to any significant extent. However, they consider that having a new source of domestic coking coal could result in a small reduction in delivered prices for UK producers, due to reduced transport costs, although this would be uncertain since steel companies obtain coal from multiple sources.
- 7.82 UK Steel state that in normal market conditions, steel production is driven by demand for steel not the supply of raw materials. In their view an increase in steel production will occur when steel is being produced to meet actual demand and at a price to provide sufficient margins/profitability. They consider that overproduction of steel when there is not sufficient demand “is inherently negative and illustrated by the problem of global overcapacity in steel making at present. Overcapacity/production ultimately leads to falling steel prices, steel plants operating at under capacity making them unprofitable, and increased risk of dumping of steel (as exporters look to offload stocks cheaply).”
- 7.83 This proposed development would contribute a tiny fraction of global coking coal supply at maximum output, and so I would agree with the view of UK Steel that this mine itself would be unlikely to significantly impact on the price of coking coal.
- 7.84 There is very good evidence to suggest that the opening of a new mine would not materially impact on the demand for steel, so it is reasonable to conclude (so long as the coal is classed as High Vol A) that the coal extracted would be used as a substitute for (as opposed to be used in addition to) coal used for steelmaking that is currently extracted outside the UK.
- 7.85 The technical advisors for the Council on coal, Wardell Armstrong (WA), have reviewed the technical information associated with the coal and its processing and I have placed reliance on their advice in respect of various technical issues.
- 7.86 The likelihood of the substitution of WCM coal for US coal depends on a number of factors. A key element of which will be economics. HVA coal mined in Whitehaven intended for European markets (including the UK) will have reduced costs in relation to transport when competing in these markets, when compared with coal mined in the US. The product will also be attractive because the transit times from the mine to the user will be reduced, there would be less degradation of quality, more flexibility in scheduling delivery and lower risks to supply (for example through trans-Atlantic weather difficulties). As evidenced in the planning application and ES, the mine is also modern and so in broad terms operating costs would not be expected to be higher overall than similar mines in the US, and may in fact be lower. Overall, I therefore consider it likely that the Cumbrian HVA coal would be at a competitive advantage over US coal in the European market.
- 7.87 Metallurgical coking coal has to meet marketable specifications to be sold as

such. The specifications include acceptable levels of impurities within the coking coal such as levels of ash and sulphur, and other less important factors, which will affect its use in the steel making process. Higher sulphur coal can be sold into the market if some of the main parameters related to its classification as coking coal are at levels which are particularly attractive, and the coal can be blended with other coals to make a suitable coke 'recipe'.

- 7.88 The original plant had a "cut off" of 1.4% sulphur which allowed for a product of 1.3% or 1.4% sulphur to be produced. The Process Change document sets out the proposed changes to the process which would raise the maximum level of sulphur in the coal. Whilst coal is not homogenous in its characteristics, and there will be inherent variation in the coal itself, WCM has indicated in its proposal that variation in the new process control mechanics of the wash plant will produce coals of up to 1.8% sulphur.
- 7.89 I have made efforts to confirm whether the WCM coal would substitute for US coal in the steelmaking industry and a response from a coal broker supports the substitution of WCM coal for US coal providing the typical average sulphur content is 1.4%. However, they state "it should be noted that the classification of WCM coal as an HVA Coal is sensitive to Sulphur. If the typical specification of the final product goes beyond 1.70% Sulphur (db) then the coal will no longer fall within the HVA Coal category and its market value will fall significantly".
- 7.90 On the basis that the product produced is an HVA Coal with a sulphur content of 1.4% or lower, the product compares favourably with HVA Coal from the US, and it seems highly likely substitution would occur. However, the WCM plant now proposed makes possible the production of coal products with higher levels of sulphur up to 1.8%.
- 7.91 British Steel commented that currently there is no viable alternative to using coking coal in large scale steel production and expect this to be the case for the foreseeable future. They also confirm that a shorter supply chain means the coal should be considered by other mainland European Steel Mills as an alternative to US supply. However, the sulphur content in the WCM coal as applied for in the current proposal is an issue for British Steel currently, due to their operations and blend sulphur limit.
- 7.92 Tata Steel also commented, but in more general terms and stated an intention to use the product if the specification and price was acceptable. Both this response and the British Steel response are included as background papers.
- 7.93 Based on the information available I have to form a view, I have been unable to establish whether the proposed product could substitute for US coal should the typical average sulphur content of the product be higher than 1.4%. However, in general terms UK steel manufacturers have expressed potential interest in using the product if the price and specification is favourable when compared with their existing suppliers. However, it is clear that should the sulphur content of the product go beyond 1.70% then the product would not be considered HVA coal, and its value would reduce considerably.
- 7.94 This uncertainty could be resolved by applying a condition to limit the coal exported from the mine which sets (amongst other things) a limit to the sulphur content of 1.4%. This would provide reasonable assurance that the coal would substitute for coal mined in the US and imported to Europe and that the anticipated support for the UK steel industry through the supply of a locally mined

product and the GHG savings in shipping transportation would be realised. If evidence comes to light in the future that suggests coal with a higher sulphur content would substitute for US High Vol A coking coals, then WCM could apply to vary the condition accordingly.

### **Scope of the Environmental Impact Assessment**

- 7.95 AECOM state that the environmental impacts caused by the use of coal are not an effect (whether direct, indirect, or secondary) of the development that is required to be assessed by the EIA Directive. In their view the development proposed is the extraction of coal, and so the use of metallurgical coal as part of the manufacturing process of steel is not an indirect or secondary effect of coal extraction. They contrast this with the consumption of electricity or other materials with embedded emissions which they say are indirect effects.
- 7.96 Whilst AECOM go on to assess the impact from international transportation of coal and from its end use in line with the Scoping Opinion, they state this is without prejudice to their view that this is not required for the purposes of producing the EIA. Again, without prejudice to their view, AECOM also address GHG emissions caused by the subsequent use of WCM coal at a steel works, but state that the coal will simply be substituting for coal from an alternative source. Therefore, even if greenhouse gas emissions from use of the coal are capable of being an indirect or secondary effect of a metallurgical coal mine, they would not be likely to result in any material or significant increase in GHG emissions due to substitution of the product for US mined coal. It also highlights that steel manufacturers are already subject to separate environmental regulation, including the EU emissions trading scheme.
- 7.97 The ES highlights that, in common with the UK, EU countries have similar approaches to carbon measuring and reduction using carbon budgets. Emissions arising from the use of WCM coal in other European countries should therefore be included in the carbon budget where it is used. However, even if this use were to be considered an indirect or secondary effect, the ES states that it is not considered that such emissions would amount to “significant environmental effects on the environment of that country” so as to trigger the transboundary notification requirements. Furthermore, the ES states that “even if this were incorrect that such emissions would be included in the carbon budgets of the particular country, to include emissions from the use of WCM’s coal in other countries would therefore represent a double counting of those emissions and would likely to be inaccurate in any event.”

### **Representations**

- 7.98 SLACC state that WCM should have assessed the GHG emissions from the use of their coal in steel manufacture and that this is required under the EIA Directive and the EIA Regulations. Whilst these emissions are “indirect effects”, ECJ case law states this term should be “construed broadly” and includes the environmental impacts “liable to result from the use and exploitation of the end product of works” and so use and exploitation of the coal would be included. Whilst the applicant states that “subsequent use of coal produced by the Proposed Development is completely outside of the control of the Applicant and the local planning authority” this is not the relevant test under the EIA Regulations. SLACC hopes that the Council will stand by their 2016 Scoping Report which correctly said:

- 7.99 “3.67 The ES should include detailed information about the nature of the coking coal, the carbon implications of its extraction and utilisation, including any assessment that may be required with regards to climate change, and the current and anticipated future outlook in respect of demands/markets.”
- 7.100 Henry Adams has calculated the end-use emissions when at peak production as 8.52 million tonnes of CO<sub>2</sub>e per year. When site related emissions and transport related emissions are added, this results in a total of 9 million tonnes of CO<sub>2</sub>e per year. This is equal to 2% of UK emissions in 2018, and will increase as a proportion as UK emissions reduce. He also notes that this is over double the emissions of Cumbria in 2017, and equal to that produced by a million UK residents (twice as many as the population of Cumbria). He argues that the Paris Agreement is particularly important in considering end-use emissions in other countries, and also that this approach is supported by the Court of Appeal’s judgement on the third runway at Heathrow.

### **CCC View**

- 7.101 From a legal perspective, the AECOM GHG report, along with the rest of the ES, is one reasonable approach to assessing the indirect or secondary effects relating to the development under the EIA Regs 2011 which apply to this application.
- 7.102 However, the Scoping Opinion issued by the planning authority stated:
- 7.103 “The ES should include detailed information about the nature of the coking coal, the carbon implications of its extraction and utilisation, including any assessment that may be required with regards to climate change, and the current and anticipated future outlook in respect of demands/markets. The transport implications in respect of likely markets should be considered and impacts upon the lifespan of the mine (if demand is higher or lower than stated in the Scoping Report) should be addressed.”
- 7.104 Notwithstanding the fact that the approach taken by AECOM is a reasonable one, I consider that the mine has potential global implications in respect of its effects from GHG emissions, and have instead taken the approach as set out in the Scoping Opinion above in relation to transport and use of the coal. The best basis upon which to consider these issues would be to use a global future baseline with no mine (do nothing future baseline), and a future baseline with the mine operating (alternative future baseline), as described below.

### **Transportation**

- 7.105 The global future (do nothing) baseline with no mine involves the continued importation of coking coal to the UK (and Europe) from the US, for use in blast furnace production of steel. The ES assesses this would result in the emission of 107,430 tonnes of CO<sub>2</sub> per annum from transportation (US rail and international shipping).
- 7.106 The potential development of the mine in the alternative future baseline would impact upon the volume of coal shipped from the US to Europe, because the coal mined at Whitehaven substituted for coal currently supplied from the US. I consider that the scale of the potential change between the do nothing future baseline, and the alternative future baseline is significant and should be treated as an indirect effect of the development and a material planning consideration.

## **Use of the coal**

- 7.107 The purpose of the mine is to produce coking coal for steelmaking in the UK (and Europe) using blast furnace technology. As stated above, Henry Adams has calculated the end-use emissions when at peak production as 8.52 million tonnes of CO<sub>2</sub>e per year. When site related emissions and transport related emissions are added, this results in a total of 9 million tonnes of CO<sub>2</sub>e per year. This is equal to 2% of UK emissions in 2018, and will increase as a proportion as UK emissions reduce. He also notes that this is over double the emissions of Cumbria in 2017, and equal to that produced by a million UK residents (twice as many as the population of Cumbria). I have used Henry Adams figures in respect of likely GHG emissions, but have noted that the applicant disputes this figure because it does not take account of future technological and regulatory advances.
- 7.108 Where the development of the mine to result in increased production of steel due to the availability of more (or cheaper) raw materials, then the potential GHG emissions from the combustion of the coking coal mined would be relevant to consider in coming to a view on the planning balance if the increase in GHG was significant.
- 7.109 On the basis of the above, I consider both the wider environmental issues of international transportation and use of the coal are indirect effects of the development and material considerations in forming a robust view on the planning balance. However, the information required to make this assessment is contained within the substitution/global GHG emissions and shipping savings calculation in the ES in AECOM's "alternative" approach. I have dealt with the issue of how I have made my assessment of these issues in the following section.

## **Climate Change and Sustainability**

- 7.110 AECOM state that the Institute for Environmental Management and Assessment (IEMA) (2017) guidance has no currently agreed methods to evaluate levels of GHG significance and in GHG accounting, but it is considered good practice to contextualise emissions against pre-determined carbon budgets.
- 7.111 The emissions were examined in the context of the UK carbon budgets, using a methodology where GHG emissions exceed 1% of the relevant annual UK carbon budgets, the impacts are considered of high magnitude, and where the GHG emissions are less than 1% they are considered to be of low magnitude.
- 7.112 The AECOM approach includes a calculation of the expected greenhouse gas emissions in relation to the enabling works/construction stage, operational stage (including transportation of the coal up to the first point of distribution) and decommissioning stage as part of an additional chapter, added to the Environmental Statement. This calculates the total greenhouse gas emissions from the scheme during its lifetime as 18,431,196 (tCO<sub>2</sub>e).
- 7.113 AECOM assumed that the first year of construction would take place within the period of the 3rd carbon budget, the second year of construction and four years of operation would take place in the 4th carbon budget, and five years of operation would occur during the 5th carbon budget which ends in 2032.
- 7.114 AECOM assessed that in the worst-case (assuming methane release, and no

advancement in more renewable forms of electricity generation) the percentage contribution of emissions to these UK carbon budgets would be 0.002%, 0.077% and 0.104%, respectively. The magnitude of this impact was assessed as low against the current UK carbon budgets, and considered not to affect the ability of the UK to meet its current carbon budgets. However, the EIA recognises that the operations and decommissioning activities would “intersect with steeply reducing future carbon budgets in the period approaching and beyond 2050”. The table below summarises the figures from the ES.

**Total Emissions to the UK Carbon Budgets**

UK Carbon Budget	UK Carbon Budget Total (MtCO <sub>2</sub> e)	Potential Project Emissions (MtCO <sub>2</sub> e)	Percentage Contribution of Emissions (Construction and Operations)
3rd (2018-2022)	2,544	0.043 (one year of construction)	0.002%
4th (2023-2027)	1,950	1.509 (one year of construction plus four years of operations)	0.077%
5th (2028-2032)	1,725	1.833 (five years of operations)	0.104%

**Emissions from the mine operations**

7.115 The applicant states that at full production Woodhouse Colliery will generate GHG emissions from the following:

- Testing and possible use of emergency diesel generators
- Mobile plant (CAT D6/Driftrunners/MSVs/trucks)
- Fugitive emissions from the mining operation
- Energy imported from the electricity grid
- Purchased goods and services such as diesel
- Employee commuting (approximately 500 employees)
- Waste generated in operations

7.116 In respect of mine operations, AECOM state that the likely major sources of GHG emissions from the operations will be emissions linked to the consumption of electricity and fuel at the mine, as well as the release of methane from the coal.

7.117 The applicant is considering resource efficiency measures such as provision and encouragement of group transport, building insulation, energy efficient lighting, selection of electrically powered mine machinery over diesel powered, rainwater harvesting, and building design in accordance with the Building Research Establishment Environmental Assessment Method (BREEAM) principles.

**Methane Capture System**

7.118 The calculation of GHG emissions mentioned earlier assumes a worst case in that there is full release of methane (which is a potent greenhouse gas) to the atmosphere as coal is mined. Methane emissions as calculated in the ES would make up 74% of the total modelled emissions from the operational mine. However, national policy requires planning authorities to encourage the capture of methane from coal mines in active and abandoned coalfield areas: para 209(e) of the NPPF.

7.119 West Cumbria Mining have investigated this possibility, and methane capture measures will be included within the design of the mine. A methane capture

system would ensure that methane within the coal seams could be managed to reduce the amount released to the atmosphere once the system is installed in around the fifth year of operation, and instead put this to a beneficial use.

- 7.120 The applicant states that methane capture measures are not widely used in mining, and that recent research has shown that methane from coal mines in the US is a significant factor in GHG emissions.

### **Electricity use**

- 7.121 As previously stated, the applicant is considering measures to save electricity including energy efficient lighting, use of electricity from renewable sources, and the generation of electrical power from the methane capture system, reducing the mine's use of grid electricity.

### **Water use**

- 7.122 The coal processing plant would recycle an anticipated 98% of surface water from the site and rainwater would be harvested for use in toilet flushing. Sustainable drainage systems have been considered, however, the historic contamination of the site makes these inappropriate for use on the Main Mine Site.

### **Carbon Credits**

- 7.123 The applicant is considering the purchase of carbon offsetting credits using an accredited carbon offsetting scheme and/or carbon permit trading for any remaining GHG emissions once other measures have been undertaken.

### **Conclusion**

- 7.124 Overall AECOM consider annual emissions from the operation of the mine (including transport of the product to first point of transfer) are 366,564 tCO<sub>2</sub>e. The information described above is all that AECOM consider necessary to supply in order to assess the environmental effects of the project through EIA.
- 7.125 However, although AECOM state wider impacts from the international transportation of coal, and from use of the product in the manufacture of steel are not direct, indirect or secondary effects of the proposed development, they acknowledge that others may consider them to be relevant. Therefore the additional ES chapter (as does AECOM's assessment) assesses these effects and concludes that any additional emissions would not be significant or materially different to the existing baseline, but would reduce global GHG emissions resulting from coal transportation (by approximately 107,000 tCO<sub>2</sub>e per annum). The ES considers that any GHG emissions at steel works from the combustion of coal mined from the development would not be additional, as these will occur whether or not the development goes ahead. This is on the basis that Cumbrian coal would directly substitute for coal that is currently imported.

### **Representations**

#### **EIA methodology**

- 7.126 SLACC state that the revised EIA provided in support has significant errors. It

starts from an erroneous baseline; it underestimates the extent of operational GHG emissions; it fails to assess usage GHG emissions; it takes the wrong approach to assessing the significance of the emissions that it has calculated, and it uses a significance criterion to define high significance that no development in the UK would meet.

- 7.127 SLACC also state that in any case, it is incorrect to say that “it is not considered that [the burning of the coal] would result in any additional GHG emissions due to the likely reduction in shipping distances” because this is based on a discredited argument that substitution for US coal would occur.
- 7.128 SLACC argue that the revised EIA makes two serious errors in assessing the significance of the GHG emissions.
- 7.129 The first relates to the use of the UK Carbon Budget in its assessment. Whilst correctly identifying the receptor as the “global climate”, SLACC do not agree that UK Carbon Budgets (although relevant) are a reasonable proxy.
- 7.130 SLACC state that the EIA Directive requires an assessment of all direct and indirect effects of the project, regardless of where these occur, and furthermore UK Government carbon emissions reductions obligations do not consist solely of those under the Climate Change Act. Under the Paris Agreement it would not be sufficient for the UK to achieve net-zero by 2050 if it were at the same time supporting other countries in producing higher levels of emissions incompatible with limiting global average temperature rise limits. When assessing the GHG impact of the mine, the UK’s further legal commitment under the Paris Agreement must be considered (SLACC reference the Court of Appeal judgement on Heathrow expansion to support this point). SLACC state that this is important in the context of the present application because WCM state that they intend to export an average of 2,319,000 tonnes of coal to the EU each year for fifty years, which when used for steelmaking these emissions would not figure in the UK’s carbon accounts.
- 7.131 SLACC state that the planning statement, EIA chapter on GHG emissions, and its supporting report, all adopt a criterion that GHG emissions which comprise less than 1% of the UK Carbon Budget should be considered to be of “low” magnitude. This means that the mine is assessed as having “minor adverse significance”, while projects with emissions greater than 1% would be assessed as of “high” magnitude and have “major adverse” significance. However, SLACC question whether any single UK facility could meet that threshold – for example they say Drax Power Station, the largest-capacity power station in the UK, does not come close to the 1% limit.
- 7.132 Furthermore, SLACC state that in a national context 2018 emissions from “petroleum refining, fossil fuel production and fugitive emissions” (constituting 207 offshore oil fields, 115 offshore gas fields, eight surface coal mines, six oil refineries and an unspecified number of onshore oil and gas wells) represented 8.2% of total UK GHG emissions. Therefore, the approach used in this EIA would conclude that any new fossil fuel production facility which generates emissions equivalent to 12% of this entire sector would be of minor adverse significance in EIA climate change terms.
- 7.133 In a local Cumbrian context, SLACC state that in 2017 (the most recent year for which data are available) all industry and commercial (including agricultural) CO<sub>2</sub> emissions in all of Cumbria were 0.48% of UK CO<sub>2</sub> emissions, and Cumbria’s

total CO2 emissions (including all industry, commercial, agricultural, domestic gas and electricity use, road and rail transport and other emissions) were 1.08% of UK CO2 emissions. Therefore, all of the industry, commerce and agriculture in Cumbria doesn't even surpass one half of the significance threshold advocated by the applicant. Aggregating the emissions from every home, factory, farm, car and train in Cumbria just meets the threshold for 'high' significance set out in the ES.

- 7.134 SLACC state that GHG emissions from the proposed mine being discounted as of low significance because they are less than 1% of the UK Carbon Budget is untenable. Furthermore, there also is no rationale for applying this threshold to the proposed mine, no justification for the figure in relation to the national carbon budget, and comparisons to sectoral and local emissions make clear that there is no justification for it.
- 7.135 SLACC state that the proposed Section 106 Agreement fails entirely to control future GHG emissions and is so vague that it may well be unenforceable and cannot be relied upon as a valid planning obligation. It fails to address the actual emissions from the project, in any event it could not place any controls until after 2030, it contains no workable standards for the Council to exercise its discretion. Furthermore, the applicant accepts in their planning statement that the s106 does not make the GHG impacts of the proposal acceptable.
- 7.136 Henry Adams states that Cumbria County Council unanimously supported a Climate Change motion in September 2019 "to become a 'carbon neutral' county and to mitigate the likely impact of existing climate change". This proposal would add around 5 to 10% to Cumbria's emissions per annum (depending on whether they are compared with Cumbria's production emissions - which are more consistently comparable - or consumption emissions). To grant planning permission for the mine would undermine the Council's commitment.
- 7.137 Coal Action Network (and others) state that there is no room in the UK's decreasing territorial carbon budget for a new high-emissions fossil fuel project. WCM says that it will stop operating under a legal agreement if direct emissions of mining exceed 1% of the UK's overall emissions. However, this commitment is flawed because it does not consider which industries are essential to the nation, such as health and transport and which currently produce significant GHG. The applicant presumes it would be able to secure this share of a carbon budget alongside these essential services, without justification for the figure, details of accountability/enforceability, or how it would reduce over time in line with reaching carbon zero by 2050.
- 7.138 Coal Action Network state that the development does not support 1% of the UK's employees (the entire UK coal mining sector in the first quarter of 2020 only employed 802 people). If allocations of emissions permitted across the whole of UK industry were based on the numbers of employees in the sector, West Cumbria Mining would get an allocation of 0.00150% of the carbon budget.
- 7.139 SLACC also state that there has been confirmation by the government's own experts that there is no "spare capacity" in the UK carbon budgets because UK action to curb greenhouse gas emissions is lagging behind what is needed to meet legally-binding emissions targets.
- 7.140 Furthermore, this 1% threshold would not be exceeded even if the UK's territorial emissions are reduced by 90% of what they were in 2018, so while Cumbria and

the UK would have hugely decreased GHG emissions, the mine could operate as before and would still hugely increase Cumbria's emissions and the UK's contribution to UK-caused emissions.

### **Methane capture system**

- 7.141 SLACC state that the GHG emissions modelled in the ES omit some impacts, and the assessment of operational emissions dramatically underestimates the likely true emissions. In particular, the assessment uses a fugitive methane emissions factor that is unjustified and out of line with international guidance and scientific evidence, based on sampling undertaken at shallow depths. Methane emissions likely to arise from the deeper undersea deposits are likely to be significantly higher than the 6 m<sup>3</sup> of methane per tonne figure modelled. Guidance from the IPCC states that the figure used for the deep coal seams should be more than 4 times higher than the modelled figure, and as 74% of the total operational emissions of the mine are due to fugitive methane emissions, a more plausible figure could easily double or triple the overall assessment of the GHGs.
- 7.142 SLACC note that condition 64 of the proposed original planning permission, to require a "Mine Gas Capture Management Scheme", does not specify what percentage of fugitive methane must be captured, or when it should commence. In the absence of further information to show that the 6m<sup>3</sup> figure is sound, it would be contrary to the EIA Directive and the EIA Regulations 2011 to accept the estimate in Chapter 19 of the ES as a reasonable estimate of the GHG emissions of the mine.

### **Transport**

- 7.143 Professor David, an expert on green ammonia, and former mining engineer Mike Mason, who is currently leading research on the economics of green hydrogen and ammonia, consider that there is a seismic shift in global energy markets caused by dramatically reducing renewable energy costs, which will continue. There are also cost reductions occurring in the manufacture of electrolyzers – key to making hydrogen with renewable energy.
- 7.144 They state that this combination of changes means that hydrogen (a green alternative to metallurgical coal) or ammonia (a convenient medium in which to store and ship hydrogen) will make green smelting possible, often at the site where mining occurs. The new (mine local) smelters would outcompete legacy steel plants economically, and would do so without using coal. They also draw attention to the fact that the International Maritime Organisation is advocating a dramatic reduction in shipping emissions, and that the first ammonia powered ships will be in operation by 2023. They state that the GHG savings from transportation of the coal shorter distances to the steel producers are therefore overstated, and may in fact disappear altogether.

### **CCC view**

#### **Emissions from mine operations**

- 7.145 National policy requires planning authorities to encourage the capture of methane from coal mines in active and abandoned coalfield areas para 209(e). West Cumbria Mining have investigated this possibility, and methane capture measures will be included within the design of the mine. Keep Cumbrian Coal in

the Hole have raised the wider point that methane release may also have health and safety implications in relation to potential explosions.

- 7.146 Methane capture will be an important element of minimising GHG emissions from the mining operation, although geological investigations are understood to be at a relatively early stage, it is possible circumstances may change as new geological data or developments in technology occur and that the potential for methane recovery can be improved periodically throughout the lifetime of the mine. Methane capture would have the potential added benefit of providing an alternative local source of electrical power for the mine. Since the AECOM modelling assumes no methane capture, I would anticipate that the GHG emissions of the scheme will be no worse than modelled, and would highly likely be lower.
- 7.147 SLACC believe that the methane emissions are understated due to issues with the sampling – however, AECOM have provided confirmation that they used deep mine samples and considered their modelling to be robust.
- 7.148 I consider the installation of a methane capture system means methane produced from the mining itself can be managed in accordance with best practice, and a planning condition has been proposed that ensures that the methane capture system will be reviewed every five years. The installation of an active management system for methane when full release of methane is assumed in the ES should mean that the modelled figures are precautionary and would be higher than actually experienced. This means that overall GHG emissions are likely to be lower than modelled in the ES, and I consider it to be adequate in this respect.
- 7.149 National planning policy states that planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions. The NPPF states in para 153 that in determining planning applications, local planning authorities should expect new development to comply with Local Plan policies on local requirements for decentralised energy supply unless this is not feasible or viable.
- 7.150 Policy SP13 states that proposals for minerals and waste developments should demonstrate that energy management, carbon reduction and resource efficiency have been determining design factors in the development; water use and the requirement for wastewater treatment have been minimised and their location will minimise the “minerals and waste miles” involved in supplying the minerals.
- 7.151 The energy used in processing the coal once mined and brought to the surface is stated to be the same as under the original scheme. The additional modelling on GHG emissions shows that the applicant expects a significant component of these GHG emissions produced to come from the electricity used at the mine. Under the calculations in the updated ES chapter, this has been assumed to be primarily generated by the combustion of fossil fuels in power stations.
- 7.152 I expect that the government will continue to reduce the component of our grid power produced from fossil-fuels, and encourage low carbon and renewable energy alternatives. I would therefore expect that indirect emissions attributed to the operation of the mine from its electricity use will progressively decrease through grid decarbonisation, and be no higher than assessed.
- 7.153 Overall, I consider other mines producing the same product will likely require

similar numbers of people and similar operations, since mining techniques and technologies are broadly similar. Therefore, overall, in respect of the impacts from climate change, energy and the sustainability of the operation of the mine itself, I consider it highly likely that the proposed mine would be at least as efficient as its competitors from whom its product would substitute. Although precise modelling of the GHG savings from not importing coal from the US may be problematic, there can be no doubt these exist if substitution occurs. AECOM has attempted to model these savings, and even with some margin of error, there can be no doubt and that they are significant.

7.154 The applicant has agreed to enter into a binding s106 legal agreement, to require the periodic (five yearly) review and reassessment of anticipated GHG emissions from the mining operations after the end of 2032. The assessments would be done using up to date legislation, Government Policy and accepted national guidance and standards if in force at the time. The reviews could require the mine to introduce additional mitigation or cease operations if necessary. I am not aware of a similar type of agreement being used in respect of other UK developments, and I consider it to be a progressive approach. The obligation is considered adequately enforceable as the Council's review and approval is required, and ultimately the mining would have to cease, which is an enforceable restriction on the land, if the developer is unwilling to provide any necessary additional mitigation.

7.155 Although sustainable drainage systems have been considered and are inappropriate for use on the Main Mine Site, opportunities will exist at the RLF, and I consider appropriate measures could be secured by means of a planning condition.

### **Emissions from transport**

7.156 On the basis that the coking coal substitutes for coal produced in the US when used by UK and other European steel makers, then there can be no doubt that extraction of the Cumbrian coal closer to its point of use, and closer to the port would currently result in GHG savings resulting from its transport from the mine to the end-user. AECOM estimate this to be approximately 107,000 tCO<sub>2</sub>e per annum. In both the US and Cumbria, coal would be moved from the mine to the port by rail (although the Cumbrian mine would be closer to the port). Shipping distances from Redcar to north Europe would also be considerably shorter than for ports on the east coast of the US.

7.157 The changes to the economics in the transportation of coal, construction of local smelters and commercially competitive ammonia powered ships might occur in the future. However, there is no doubt changes would need significant research and investment beforehand, and so I would expect the general status quo to prevail for the foreseeable future.

7.158 In principle, if coking coal is supplied to UK and other European steel manufacturers from the application site in preference to coal mined in the US, Australia, or other major global producers, some carbon savings must exist from reduced transportation distances. In the event that markets change and wider circumstances mean that future UK and other European coking coal demand is being met from the US or other sources, it is difficult to envisage how a mine a Whitehaven could continue to operate commercially, or export coking coal products to markets in the rest of the world, if it is uncompetitive in its local markets.

- 7.159 In this context the extraction of these resources more locally saves on carbon emissions associated with the importation of coal from further afield (particularly the US), and so the planning balance in respect of any adverse environmental impacts needs to be weighed in this context.
- 7.160 Overall, I consider that whilst the wider arguments around GHG generated from the transportation of iron ore and the ideal locations for steel mills including the potential mine local smelters and cleaner ships complicate the assessment of the future benefits of GHG savings from transport, this is part of a much wider issue of global steel production, markets and emerging technologies. At the current time savings in GHG emissions will exist where coking coal produced from a mine in Cumbria substitutes for coal produced further away, until such a time as alternatives are commercially proven and operational.

### **Emissions from end use of the coal**

- 7.161 A number of representations have raised issues in relation to climate change and the modelling of GHG emissions in the application, particularly in respect of whether emissions from the burning of coal should be considered.
- 7.162 On the basis that the Cumbrian coal would substitute for other coal, rather than act as an additional source, I have concluded on the basis of the evidence available that GHG emissions from use of the coal would be likely to be the same whether it is supplied from Cumbria or elsewhere, and that there would therefore be no material effect on global GHG emissions or those local to the steel works.

### **Overall conclusion on need, technologies and climate**

- 7.163 In respect of the planning merits of the proposed scheme I have considered whether the actual modelled GHG emissions of this proposal in context are acceptable (based on the data presented in the ES chapter). Overall, the development and its wider impacts when considered as a whole would currently reduce global GHG emissions as a result of savings made from reduced transportation distances of coal to the steelworks and other emissions being neutral. This would be expected to remain the case until more environmentally friendly methods of steel manufacture and transportation are developed to be commercially viable.

### **Other Environmental Issues**

- 7.164 The original application raised a number of wider environmental issues such as landscape, transportation, ecology and so on. However, this proposed amendment relates to the product produced and a change to the process within the main building. In the main, the local environmental impacts of the scheme remain the same. This section summarises any changes from the impacts as originally reported, and new consultation responses submitted in response to the public consultation.

### **Ecology and biodiversity**

- 7.165 The impacts upon ecology will be the same as assessed in the original application, other than the presence of reptiles was discovered.

### **Representations**

- 7.166 Natural England have been consulted on the amended proposals and have confirmed they have no objections, but have suggested a Reptile Survey and Mitigation Plan be secured by condition to ensure best practice is secured by condition.
- 7.167 SLACC state that no exceptional circumstances have been established that would justify the harm to an area of Ancient Woodland, because the coal from this mine is not essential, and would not make any significant contribution to the UK economy or to society's need for steel. In planning terms, the loss of ancient woodland means that there is a strong presumption against the grant of planning permission. That presumption can only be displaced by wholly exceptional reasons justifying the loss.

### **CCC Views**

- 7.168 Our ecology advisors WYG conclude that subject to the imposition and discharge of the current proposed planning conditions relating to biodiversity, the scheme will not have any significant new residual effects on ecology. It is noted that the presence of reptiles needs to be appropriately managed through a condition.
- 7.169 Policy DC16 (Biodiversity and Geodiversity) states that development will be required to identify potential impacts on important biodiversity assets, their potential to enhance, restore or add to these resources and to contribute to national biodiversity objectives. Proposals within or affecting the features of such resources should demonstrate that the need for and benefits of the development and the justification for its location (as opposed to alternatives) have been considered, appropriate measures have been taken to mitigate any adverse effects, where adverse impacts cannot be mitigated, that appropriate compensatory measures have been identified and secured, and that these measures are compatible with the characteristics and features of Cumbria.
- 7.170 Policy ENV3 (Biodiversity and Geodiversity) of the Copeland Local Plan states that the Council will contribute to the implementation of the UK and Cumbria Biodiversity Action Plan within the plan area by seeking to improve the condition of internationally, nationally and locally designated sites; ensuring that development incorporates measures to protect and enhance any biodiversity interest, enhancing, extending and restoring priority habitats and looking for opportunities to create new habitat; protecting and strengthening populations of priority or other protected species; boosting the biodiversity value of existing wildlife corridors and create new corridors, and stepping stones that connect them, to develop a functional Ecological Network; and restricting access and usage where appropriate and necessary in order to conserve an area's biodiversity value.
- 7.171 Policy DM25 (Protecting Nature Conservation Sites, Habitats and Species) of the Copeland Local Plan states that development proposals should protect biodiversity value and minimise fragmentation of habitats as well as maximising opportunities for conservation, restoration, enhancement and connection of habitats. The policy also confirms that any likely significant effects on internationally important sites within the Borough and a 20km radius of the Borough boundary must be taken into account, as well as those sites that are hydrologically linked to the development plan area.
- 7.172 NPPF (Paragraph 170) states that planning decisions should contribute to and enhance the natural and local environment.

- 7.173 The NPPF also states (paragraph 170(d)) that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 7.174 I dealt with the issue of the loss of the ancient woodland and the exceptional circumstances which exist in my original report, and these circumstances have not changed. In terms of the loss of ancient woodland, I have again concluded that there are wholly exceptional circumstances in this case due to the lack of alternative routes for the conveyor to the RLF and the local and national benefits of the wider scheme. Furthermore the area to be lost is considered to be of low quality and there is a minimal size of loss. Mitigation measures are proposed including the comprehensive planning conditions proposed to manage any works within the areas of ancient woodland. The area loss is also minimised by the selected route of the underground conveyor.
- 7.175 Paragraph 177 of the National Planning Policy Framework (NPPF) dated February 2019 states that: “The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.”
- 7.176 Based on the findings of the shadow HRA, paragraph 177 does not, in this case, result in the removal of the presumption in favour of sustainable development in respect of this decision, as the appropriate assessment in the shadow HRA has concluded that the project will not adversely affect the integrity of any European site.

### **Transport**

- 7.177 With the exception of the amendments to the proposed cycle access, there are no other alterations proposed in respect of rail, highway or footpath issues as a result of this proposed amendment. The cycle access is addressed later in the report in the section on local and community benefits.

### **Representations (Rail)**

- 7.178 Network rail confirmed that they have no objection but wish to remain involved in the design solution for the construction of the embankment.

### **Representations (Highways)**

- 7.179 The County Flood and Development Management Officer confirms these changes would not have an effect on the highway, and requests that the current proposed conditions are retained (it is also implied that this includes the current requirements set out in proposed s106 obligation).
- 7.180 Highways England have not responded on the current application, however, it is not considered these proposed amendments would have any material impact on their interests providing the current proposed conditions are retained.

## **Representations (Footpaths)**

7.181 The Open Spaces Society has no formal comments.

### **CCC view**

7.182 Copeland Local Plan policy ENV6 (Access to the Countryside) states that opportunities should be sought to provide or improve access on routes and from settlements and to secure the implementation of improvement measures with key partners and developers.

7.183 The NPPF para 98 states that planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.

7.184 Policy DC1 requires that mineral developments should be located where they have potential of rail transport and minimise operational “minerals and waste road miles”.

7.185 As set out in my previous report - overall the development is acceptable in highways terms and will use the rail network for the transportation of products to markets. Mine waste will be managed on site, being returned back into the mine using the conveyor. The extensive use of rail is highly sustainable in transportation terms, and effectively eliminates “minerals and waste road miles”.

## **Landscape character and visual receptors**

7.186 The amendments do not have visual or landscape character implications, as they relate to changes in the process which are accommodated within the existing proposed building.

## **Representations**

7.187 Representations have been received on this issue. Arguments include that the development does not accord with Policy SP15 from Cumbria Minerals & Waste Local Plan which aims to protect, maintain and enhance people’s overall quality of life and the natural, historic and other distinctive features that contribute to the environment of Cumbria and to the character of its landscapes and places. Specific issues were also raised in relation to the visual impact of the trains and the wider impacts on the landscape and natural habitats generally.

### **CCC view**

7.188 Policy DC18 states that proposals for development should be compatible with the distinctive characteristics and features of Cumbria’s landscapes and should avoid significant impacts on the natural and historic landscape, ensure that significant adverse visual impacts are avoided, ensure high quality design (in respect of waste facilities) and direct minerals and waste developments to less sensitive locations where possible.

7.189 National planning policy in respect of good design is relevant, and para 124 of the NPPF states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve and good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions (para 130).

- 7.190 Cumbria Minerals and Waste Local Plan Policy DC22 seeks the submission of proposals “with sufficient detail to clearly demonstrate that the overall objectives of the scheme are practically achievable, including a vision for overall restoration of the site, and to include proposals for appropriate after-use and the means to achieve it”. The policy sets out requirements for proposals for different after-uses. For proposals for nature conservation and amenity after-use (as in the case of this development), an “aftercare management programme” is required “of at least 5 years, but longer where required to ensure that the restoration scheme is established”. The proposals must be “appropriate for the landscape character and wildlife interest of the area”, practical, of a high quality appropriate to the area, compatible with neighbouring land uses, completed within a reasonable timescale and progressively as far as practicable.
- 7.191 Copeland Local Plan policy DM26 also requires landscaping schemes to be maintained for a minimum of five years
- 7.192 The NPPF para 180(c) states that decisions should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
- 7.193 The NPPF para 205 (e) states that planning authorities should provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards, through the application of appropriate conditions, where necessary. Policy SP16 states that restoration and aftercare schemes for mineral working should demonstrate that best practicable measures have been taken. This could include consideration of a range of factors such as biodiversity, landscape enhancement, flood risk mitigation, water quality and ameliorating contaminated land.
- 7.194 The NPPF states that bonds or other financial guarantees to underpin planning conditions (such as for the restoration of the site) should only be sought in exceptional circumstances para 205(e). Policy SP17 sets out some of the situations in Cumbria which might be considered “exceptional circumstances” which justify the use of a legal agreement to provide financial guarantees. These situations include very long-term new projects where progressive restoration is not possible.
- 7.195 Overall, I consider that the proposed development would result in adverse impacts upon visual receptors and the local landscape, which would be similar to when the application was originally considered.

### **Contaminated land**

- 7.196 There would be no changes to issues originally considered in respect of contaminated land as a result of this amendment.

### **Representations**

- 7.197 The Environment Agency have reviewed the amended proposals and have no objection but request the same conditions as previously.

### **CCC view**

- 7.198 The NPPF at paragraph 118(c) states that the planning system should contribute to and enhance the natural and local environment by remediating and mitigating despoiled, derelict, degraded, contaminated and unstable land.
- 7.199 Copeland Local Plan policy ENV6 requires proposals to ensure access to the countryside by investigating opportunities for reclaiming contaminated and derelict land for recreational purposes. The main Marchon site meets several of these criteria and would benefit from the remediation of historic contamination that this development would help facilitate
- 7.200 Overall, as set out in my previous report, I consider that the proposal accords with policy ENV6 providing conditions are attached to ensure adequate mitigation measures are implemented.

### **Hydrology or hydrogeology**

- 7.201 The proposed amendment to the scheme would not result in any changes in respect of impacts. The applicant has stated that the revisions to the processing method would not impact on the amount of water used, or the water balance.

### **Representations**

- 7.202 The Council's Flood and Development Management Officer and the Environment Agency have both reviewed the amended proposals and concluded they have no objections subject to the imposition of previously proposed conditions.
- 7.203 Keep Cumbrian Coal in the Hole have challenged the robustness of information in respect of abstraction from the Byerstead Fault.

### **CCC view**

- 7.204 The NPPF states that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere para 163 and developments over 1ha in area should be accompanied by a Flood Risk Assessment. Policy DC19 (Flood Risk) states that development proposals should not be considered without a site-specific Flood Risk Assessment appropriate to the scale, nature and location of the development. It states also that developments should incorporate sustainable drainage systems unless they can be demonstrated to be inappropriate.
- 7.205 Issues in respect of the Byerstead Fault were addressed in my original Committee Report. It should be noted that any elements in respect of works under the sea would be picked up in detail under the EIA process for the MMO application.
- 7.206 As set out in my previous report, I consider that the proposals are in accordance with Cumbria Minerals and Waste Local Plan policy DC19.

### **Marine**

- 7.207 The proposed amendments to the scheme would not impact on the marine related impacts of the development.

## **Representations**

7.208 Climate Change Emergency argue that subsidence induced by coal mining risks the mobilisation of chemical and radioactive sediment on the seabed and is likely to impact the local marine environment and wildlife, including the fish and marine invertebrate diet on which the sea birds of the adjacent reserve at St Bees Head depend, and thus the protected bird populations.

### **CCC view**

7.209 Policy DC20 states that developments should demonstrate that they would have no unacceptable quantitative or qualitative adverse effects on the water environment, both within the application site and its surroundings. This includes coastal waters and groundwater resources.

7.210 As set out in my original report, I consider that there are no elements of the wider scheme which would give rise to significant adverse environmental impacts in respect of the marine environment. However, in order to avoid duplication of regulatory control with matters that are appropriately regulated by the MMO and EA, planning conditions and a S106 legal agreement are proposed for those elements of the development proposal above mean low water mark and within the red line included in the planning application.

7.211 Assessment of ecological impacts and HRA in relation to marine aspects remain as set out in the earlier section on ecology.

### **Noise**

7.212 There would be no implications in respect of noise as a result of the proposed changes to the process.

7.213 Copeland Environmental Health have confirmed that this proposed amendment does not appear to have any impact on land contamination, noise, dust, light, or any other aspect that might be considered under Environmental Health. As such I have no comments to add regarding the amendment.

### **CCC view**

7.214 Policy DC3 requires that proposals for minerals developments shall not exceed background noise levels LAeq 1 hour (free field) by more than 10dB(A) at noise sensitive properties. Different maximum limits are then imposed depending on the day of the week and the time of day.

7.215 The NPPF para 180 states that planning decisions should ensure that new development is appropriate for its location taking into account the sensitivity of the site and wider area to the impacts that could arise. In doing so they should mitigate, and reduce to a minimum, potential adverse impacts resulting from noise.

7.216 I remain of the view that there would be no significant impacts from noise as a result of this development and that the proposal accords with policy DC3.

### **Dust and air quality**

7.217 The proposed revisions to the proposal would not result in any impacts in respect of dust or air quality.

### **CCC view**

- 7.218 Policy DC2 requires that proposals must demonstrate there will be no significant degradation of air quality (from dust and emissions) and policy DC5 requires applicants to show that there will be no demonstrable impacts with regard to dust emissions. The NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing development that would contribute to unacceptable levels of air pollution.
- 7.219 I remain of the view that there would be no significant degradation of air quality as a result of this development and that the proposal accords with the development plan. The proposals therefore accord with policies DC2 and DC5.

### **Historic environment**

- 7.220 There would be no changes to the impact on the historic environment as a result of the changes proposed under this amendment.

### **Representations**

- 7.221 Historic England have responded and stated that they do not wish to make further comments and suggest views of our specialist conservation and archaeological advisers are sought, as relevant.
- 7.222 The County Council's Historic Environment Officer confirms that their comments in respect of the original application remain appropriate.

### **CCC view**

- 7.223 This development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm must be weighed against the public benefits of the proposal.
- 7.224 As set out in my original report, I consider as a matter of planning judgement that the wider public benefits of the proposal are sufficient for the development to accord with the tests in policy DC17 and the NPPF, notwithstanding the statutory presumption and considerable importance and weight given to the harm to the listed buildings and their settings and the harm to other heritage assets. When weighing up the harm to heritage assets for the purposes of paragraph 211 of the NPPF, the considerable national, local and community benefits will have to be taken into account in the second stage test for that NPPF paragraph if applicable.
- 7.225 Conditions are proposed to require recording and cataloguing of the old mine workings and portals to ensure their existence is properly recorded, and the adoption of a scheme of archaeological recording along the route of the conveyor. The wider enhancement work proposed to heritage assets would need to be secured through the s106 agreement.

### **Amenity**

- 7.226 The impacts of the changes in respect of amenity would be limited to the changes in respect of the proposals for the potential cycleway which is addressed later in this report.

## **Cumulative Environmental Impacts**

7.227 There are a number of significant developments underway or planned in the immediate vicinity of the site, and slightly further afield.

- Housing development under construction to the east of High Road and Wilson Pit Road;
- Projects at Sellafield Ltd;
- Development of the Low Level Waste Repository near Drigg; and
- United Utilities West Cumbria Water Supply proposals.

7.228 Policy DC6 requires that the cumulative impacts of minerals and waste developments should be assessed in the light of other land-uses in the area. These include impacts on local communities and the environment, impacts from plant, vehicles, and impacts on the wider economy and local amenity, community health and recreation. These elements were all addressed and assessed earlier in the original report, and I consider that the cumulative impacts from all these issues are acceptable and that the proposals are in accordance with this policy.

7.229 The proposed amendments to the development are confined to the changes to the processing method within the CHPP and the product produced. It is not considered that any transboundary effects are likely to arise for the purposes of the EIA Directive.

## **Other National, Local and Community Impacts**

7.230 This section of the report addresses national, local and community impacts of the scheme that are not already covered within the environmental issues earlier, in order to assist with weighing these in the planning balance as part of the DC13 and NPPF tests.

### **Socio economic effects (including job creation)**

#### **Economy**

7.231 The construction period is estimated to be approximately two years, and the daily average employment demand is stated as 146 construction workers, with a total capital expenditure for this period estimated at £165 million. Not all of this budget would be spent locally, however, WCM has expressed an intention to use local suppliers where possible.

7.232 During operation, underground production team numbers would build as output from the mine increases, with an anticipated maximum total of 363. The production teams would be supported by an expected 63 additional staff involved in roadway repairs, transport and infrastructure maintenance. A further 38 employees are expected to be required to operate the coal handling and processing plant. Additional roles would also be created in surface support and administration, technical departments and management.

7.233 Overall, by the time the mine reaches peak production after five years the total number of employees is expected to be 518. Of these, it is anticipated that 83% would be underground and involved either directly in production or in support of the production staff. The company also plans to offer 50 apprenticeships.

7.234 In addition to the jobs created directly by the mine, it would be expected that

additional indirect jobs would be created in the wider supply chain. Using Office for National Statistics (ONS) multipliers the applicant estimates 370 indirect jobs would be created, although the applicants also believe this figure could potentially be as high as 1,000.

## **Representations**

- 7.235 The Green Alliance note that WCM makes no firm commitment to providing 500 jobs nor that those jobs will last for 50 years. Their analysis of the declining need for metallurgical coal says that they are clear about the long term vulnerability of any jobs created by the mine. By contrast to up to 46,000 low carbon jobs could be created in the north of England in the power sector alone supporting the government's objective to create a "cleaner, greener more resilient economy".
- 7.236 Extinction Rebellion South Lakes make similar points and add that the jobs will not necessarily go to local people, and are likely to be substantially cut through mechanisation. Lower carbon alternatives and tighter climate regulation will leave the mine as a stranded asset, and result in mass job losses.
- 7.237 SLACC state that WCM has always promoted their offer as 500 jobs for 50 years, and that most of these would be provided to people already resident in the area. There are good reasons to question both promises:
- i. it clear that future exploration and operations in the offshore section of the mine will be contingent on what is found as the development proceeds. There is no guarantee that there will be sufficient recoverable reserves to provide those jobs.
  - ii. there is a real risk that the proposed development could quickly become an underutilised stranded asset as EAF and emerging steel making technologies replace blast furnaces, with a resultant decrease in jobs and lack of stability of any remaining jobs.
  - iii. There is no planning condition that can ensure that jobs go to local people, and no evidence has been presented that there are sufficient suitable employees in the local area or of the number of jobs available for lesser skilled individuals. Qualifications and experience cannot be totally overcome by the offer of apprenticeships and it is very unclear whether "place of residence, birth or local connections" can legally override wider employment law in appointment policy.
  - iv. The jobs relate to the whole mining operation, including the offshore element. There is also no quantification of the percentage of coal that will be extracted from the onshore element, or the years/work that could be attributed. This is a major flaw of the assessment of the WCM application.
  - v. There has been no real consideration of the potential for mechanisation, robotic working and AI to progressively reduce the number of employees over fifty years. The applicant narrows the economic benefit down to the wages for workers (both direct and indirect) and the vast majority of the economic benefit will go to WCM and its investors. The local benefits cannot be relied on in the long term.
  - vi. A further aspect, as yet unexplored, is the potential for a switch from extraction of coal to Underground Coal Gasification (UCG). SLACC has

reason to believe that coal extraction leading to UCG was proposed before this application was submitted. This is relevant because UCG involves slow combustion of the coal underground to produce syngas, which is used to generate electricity which they believe would provide very few jobs after construction was complete.

7.238 SLACC state that there is a significant risk that the proposed mine could become prematurely closed, under-utilised, or devalued, as early as 2030 because the coal cannot compete against the falling costs of alternative technologies. Not only would the large financial investment then be lost, and the promised jobs disappear, but there is potential for adverse impacts on investment in alternative low-carbon developments. There are also social as well as economic implications in having a “stranded asset” slowing regeneration, adversely affecting leisure and reducing confidence as a result of chemical contamination and pollution in the same way as happened at Marchon, and the unrestored Keekle Head Opencast Coal Mine.

### **CCC view**

7.239 The NPPF para 8 states that the planning system has three overarching objectives (economic, social and environmental), which are interdependent and need to be pursued in mutually supportive ways. In respect of the economic objective it states that the planning system should help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity.

7.240 Policy SP14 states that proposals for new minerals developments should demonstrate how they would realise their potential to provide economic benefit, including measures such as the jobs created and the support given to other industries and developments. Relevant adverse impacts will be weighed against the overall economic benefit.

7.241 CLP policy ST1 supports the creation of diversity in jobs and training, especially that which creates and attracts new businesses. CLP policy ER11 (Developing Enterprise and Skills) supports inward investment and diversification of the Borough’s economy and ensuring that the benefits of regeneration provide a catalyst for change in the communities living nearby, by improving connectivity, including transport links and securing training and employment agreements.

7.242 The potential for new jobs to be created by the mine is an important planning consideration, and a significant overall benefit of the scheme. Once construction could start, any jobs provided will be a valuable addition to the local economy, and jobs related to the operation of the mine would be expected to be maintained until the end of 2049.

7.243 It should also be noted that since planning permission was originally proposed to be granted, the economy has moved into a major recession as a result of the global Covid-19 pandemic. If planning permission were granted, the majority of the new jobs would not be created immediately, because it is still necessary for the applicant to prepare an EIA and submit an application for MMO consent in order to secure access to the reserves of coal which lie off-shore. It is also necessary for them to finalise the legal agreement to secure access to the surface land. However, whilst there may be some current uncertainty in respect of timescales before construction could start, and in respect of how long the

current recession might last - in the event that the new jobs are created in time to provide local employment for people who lose employment as a result of businesses failing in this recession, this would constitute a further benefit in favour of the scheme.

- 7.244 I remain of the view (as set out in the original report) that the proposals could cause difficulties for existing business in respect of competition for staff, particularly in the early years of the mine when large numbers of jobs would be created over a relatively short timescale. However, in mitigation, West Cumbria Mining have stated an intention to work with the County Council to manage the likely impacts as far as possible.
- 7.245 Furthermore, the effective operation of the local labour market is not a core purpose of the planning system (which is primarily about the development and use of land), and the ability to control or regulate this issue through planning (for example to require jobs to be provided to local residents) is limited.
- 7.246 The overall economic benefits of the proposal in respect of the creation of new jobs must also be weighed against the potential downsides. I acknowledge the concerns raised that the mine may become a stranded asset, and furthermore that there is no guarantee that jobs created from the mine will be locally based. However, the issues around the long-term viability of WCM (or another future operator) and how this uncertainty could be managed, are set out in the Restoration section of the original committee report.
- 7.247 I expect that the mine would remain operating until the end of 2049. However, even in the event that the mine did not survive until the end of 2049, jobs will nevertheless be created during its construction, the period during which it operates, and through work required for its final restoration. In the event that the mine ceases trading early, a restoration bond has been secured through a legal agreement that would provide sufficient funds to cover the cost of the restoration work in the event that it needs to be undertaken by the planning authority.
- 7.248 As well as the jobs created, the mine would also contribute to the UK balance of payments by mining a product that can be exported to mainland Europe. The applicant states the sales would be approximately £260,000,000 per annum. The scheme also provides a national benefit in securing an indigenous coal for the UK steel industry. This provides a considerable national benefits which goes beyond the local benefits from the jobs created. The development will generate significant local investment for the town.
- 7.249 In respect of any potential future intention to use the mine for UCG, this does not form part of this proposal and would require the grant of a new planning application, with the planning merits of any such future proposal being considered at that time.
- 7.250 Strong views have been expressed both for and against the likely impacts of the development in respect of the creation of local jobs. However, on balance a significant number of jobs are likely to be created and I consider that the proposal, whilst not without its challenges in the context of how its impact on the local labour market is managed, accords with policy SP14.

### **Mining Heritage**

- 7.251 The revised proposal does not impact upon mining heritage issues, and the

content in my original report on this issue remains as previously noted.

### **Tourism and community**

- 7.252 The revised proposal does not raise any new issue in respect of tourism and community, and the content of my original report (as updated) on this issue remains relevant.

### **Representations**

- 7.253 Representations have been received in respect of the adverse impacts of the RLF, in particular, upon the local tourism industry. They argue that the industrialisation of the Pow Beck Valley associated with this element of the scheme will spoil its rural nature and result in light pollution at night. In the view of the owners, this would specifically adversely impact an existing holiday let business.
- 7.254 Objections have been received from local residents on the grounds of adverse impacts on local rights of way, and in particular impacts upon the Coast to Coast route. They see impacts on this route as particularly significant because the walkers are amongst many visitors to the area. To deter these national and international visitors would have a detrimental effect on local businesses, including also those along the full length of the route, and also upon local residents who enjoy using that route over many years.
- 7.255 In respect of the Coast to Coast footpath a long and protected temporary alternative route avoiding the work site would be detrimental to the visitor experience and could adversely affect local businesses who benefit from the popularity of the Coast to Coast footpath. Accommodation providers, shops, pubs, cafes etc along the route and baggage transfer companies may see a fall in income whilst the works take place and conceivably for a good while afterwards until visitor numbers return to normal
- 7.256 SLACC state that there are the social impacts related to climate change, sea level rise and coastal flooding, which will affect Whitehaven itself. By 2050 Whitehaven Harbour and the Pow Beck valley up to Mirehouse Community Centre could be below the Annual Flood Level. Increased rainfall intensity and flooding are already having financial effects and mental health impacts on the least advantaged communities across Cumbria including from the River Derwent which affects Keswick, Cockermouth and Workington. This development would add to those impacts.
- 7.257 SLACC state that there are social impacts from the conflict with CLP Policies ST3 and ST4, which seek Renaissance through Tourism with Tourism Opportunity Sites, and also Policy ER10 and ENV2 and ENV3. This development, including the RLF, would harm the Coast to Coast Walk, would harm the coastal fringe strip and links to the Heritage Coast. Policy ST4 states "The importance of linkages between the different areas via footpaths and cycleways cannot be overstated." This proposal will impact directly on the social and mental wellbeing of local residents.
- 7.258 The planning statement omits any reference to adverse impacts related to the economy and in particular those associated with tourism. The CLP Policy ER10 - Renaissance through Tourism states that "the council will maximise the potential of tourism in the borough, particularly outside the Lake District National Park

Boundaries". Conflict with this policy is particularly important due to the desire to attract the very large number of people enjoying Wainwright's Coast to Coast Path into Whitehaven in order to boost its tourist economy.

### **CCC view**

- 7.259 Copeland Local Plan policy ER10 (Renaissance through Tourism) states that the council will maximise the potential of tourism in the borough, particularly outside the Lake District National Park Boundaries.
- 7.260 In order to accommodate the proposed new sidings, it is proposed to route that section of the Coast to Coast path running through the RLF in a tunnelled section, underneath the lines. The introduction of a tunnelled section and the presence of the RLF would inevitably detract from the experience of footpath users following this footpath. There are also views of the Marchon mine site from footpaths and the Coast to Coast path, where the processing building would become a major feature in the landscape.
- 7.261 The development also requires the importation of approximately 3m depth of fill (and other works) to construct the railway siding, immediately adjacent to, and over the top of, the route of the current Coast to Coast path.
- 7.262 The construction works affecting the Coast to Coast path in particular would conflict with the overall aim of this policy, particularly if they involve the temporary closure or a significant diversion of the Coast to Coast path.
- 7.263 Overall, as set out in my original report - I consider the impacts of the proposal in respect of footpaths and impacts upon the local tourism industry would not result in such significant harm as to justify refusal of the planning application on those grounds alone.

### **Changes to the proposed cycleway**

- 7.264 The original proposal included provision for a new pedestrian/cycle path on the access to the RLF, however, it has not been possible to secure the necessary agreement from one of the landowners for this to be provided in full. This is because the landowner has concerns regarding public access due to problems in the past with anti-social behaviour, for which they have police reports, and other safety concerns.
- 7.265 An alternative new route for a cycle access has been identified, which would have the potential in future to link up with a connecting route along the railway line from Whitehaven to St. Bees using land in different ownership. The alternative route would cost approximately £145,000 to construct, and the applicant has offered to contribute approximately half of this sum if granted planning permission, together with securing the potential route over half of the RLF access where the land owner has agreed, under the s106 legal agreement.

### **CCC View**

- 7.266 It is unfortunate that land owner agreement could not be secured to keep the original route for the cycle path as previously agreed with the applicant. Since the applicant would only contribute half of the cost of the proposed alternative route, additional money will be needed to make up this shortfall when compared with the scheme as originally proposed to be granted permission, should the project

come forward in the future.

- 7.267 However, overall, the option to construct a cycle route in the future between Whitehaven and St Bees would remain possible and it is considered that the proposal provides a reasonable contribution to the provision of the route in this particular area..

### **Health Services**

- 7.268 Although not statutorily required for this application, the County Council has carried out an outline Health Impact Assessment of the original proposal. This was reviewed following submission of this proposed amendment, and no changes were considered necessary to the Assessment as originally prepared.

### **Other considerations**

#### **Section 106 Agreement**

- 7.269 Revisions to the heads of terms for the obligations are proposed for the S106 Agreement as a result of the recent updated application documents submitted and discussions with the applicant and land owners over the terms of the Agreement as follows:

- a) Revisions to the pedestrian cycle path obligations
- b) New GHG obligation

- 7.270 A full draft of the S106 Agreement has been prepared that includes these obligations, along with the obligations referenced in the previous Committee Reports. The draft has been made available to the public on the Council's planning register.

#### **Revisions to the pedestrian cycle path obligations**

- 7.271 As a revision to the previously approved S106 heads of terms requiring a pedestrian/cycle path across the entire RLF access, it is now proposed that the S106 Agreement secures a path across the southern part of the access from the RLF only where the relevant land owner agrees and a £72,000 contribution is paid by WCM as a contribution towards the St Bees to Mirehouse Road cycle path that could be spent as a contribution towards the Council completing the link to Mirehouse Road. The precise route for the path would be determined in the future as part of the design for the overall St Bees to Mirehouse Road cycle path. Both obligations would apply in the event that overall the St Bees to Mirehouse Road route comes forward utilising this part of the site in the next 10 years.
- 7.272 The original proposal included provision for a new public pedestrian/cycle path on the entire RLF access, however, it has not been possible to secure the necessary agreement from one of the landowners for this to be provided along the full length of the access as mentioned above.
- 7.273 The original genesis of the path was that it could in the future form part of the St Bees to Mirehouse Road cycle path if it came forward in the future which project is supported by St Bees Parish Council, whilst providing some benefit and mitigation in the meantime. The revised S106 obligation fulfils the purpose of the original genesis for it and would provide some additional benefit and mitigation by also allowing pedestrian access should the overall path come forward.

7.274 Given a S106 obligation has to be agreed and one of the land owners will not agree to the full length of the RLF access being used as a public pedestrian/cycle path, it is considered that the obligations now proposed are a necessary and reasonable alternative in the circumstances.

### **New GHG obligation**

7.275 An additional S106 obligation is proposed that will require a re-assessment of the GHG emissions from the mining operations and decommissioning from 1 January 2033 every 5 years until the end of the restoration period. The re-assessment will use up to date legislation, Government Policy and accepted national guidance and standards if in force at the time. Additional GHG mitigation will be required if necessary as a result of the re-assessment and the net zero emissions target or mining must cease if the developer does not wish to provide the additional mitigation at that time. Any additional mitigation would be determined at the time, but may well include carbon offsetting and/or carbon permit trading once other measures have been undertaken.

7.276 In order to effectively monitor and assess this on a periodic basis in the future beyond 2032, the S106 obligation is considered to be necessary and reasonable for reviewing the GHG emissions from the mining operations and decommissioning remain acceptable for the remaining duration of the development on the basis of the accepted national guidance and standards in force at the time to secure appropriate additional mitigation or that the mining cease if necessary in order to ensure the mine does not compromise the Government's net zero GHG target for 2050 or its trajectory towards it in the period beforehand. The backstop is that mining must cease if the developer is unwilling to provide further mitigation at the time .

### **Other S106 obligations**

7.277 The other heads of terms for the S106 Agreement remain as set out in the previous Committee Reports.

### **Land Stability**

7.278 Keep Coal in the Hole have submitted a report related to the radiological implications of potential seabed subsidence seismicity and "fault re-activation" as a result of the proposed mining operations beneath the seabed. The main conclusions of the report relate to:

- The lack of data about the status of the existing and historical workings of the West Cumbrian Coalfield, including subsidence seismicity. The coalfield is heavily faulted with a long history of subsidence and there are no plans to monitor for subsidence prior to, during the operational phase or in the post operational phase. However, sub-sea monitoring equipment is available and could be deployed.
- The potential for subsidence to occur which could generate earthquake and liquefaction effects which may extend onshore as far as the Sellafeld/Moorside sites.
- That seabed subsidence above the mine would generate re-suspension of heavily radioactive seabed sediments. This would generate elevated doses of man-made radioactivity to coastal zone populations and sea

users along both the Cumbrian coast and at “downstream” regions further afield.

- That given the potential for such a radiological effect and the delivery of increased doses of radioactivity to relevant coastal zone communities, some of which have already been identified by the authorities as Coastal Critical Groups, the proposal (especially in the absence of any precautionary mandatory subsidence monitoring) is strongly contra-indicated and should be abandoned.

7.279 SLACC comments that the above issues would raise even greater concern should Underground Coal Gasification be proposed which has potential for large scale subsidence that is harder to control. Potential for methane leaks would also need management, as would the need for carbon capture and storage from CO2 from electricity generation.

### **CCC View**

7.280 The proposed amendments do not alter any of the issues previously considered in respect of land stability (including marine ecology). The Coal Authority has responded and has no further comments to add to those made previously. The earlier section of this report on marine issues explains the role of the planning system in the control of seabed related issues.

7.281 Underground Coal Gasification is not proposed in this application, and were proposals of that nature to come forward in the future it would require a separate planning application which would be determined on its own merits.

### **Health & Safety – Coal Workings**

7.282 The proposed amendments do not raise any new issues in respect of health and safety of the coal workings, and the Coal Authority have confirmed that their comments in respect of the original proposals remain valid.

### **Gas and Telecoms Networks**

7.283 The proposed amendments do not raise any new issues in respect of gas or telecoms networks. BT have confirmed that they have no objection to the amended proposal.

### **Earthquakes**

7.284 The proposed amendments relate to the processing of material within the buildings. The methods of mining remain the same, and so any potential issues in respect of earthquakes would remain as previously. The Office for Nuclear Regulation have no comments as the application lies outside a GB nuclear consultation zone.

### **Hazardous Substances Legislation**

7.285 The process to revoke the historic hazardous substance consent is understood to be ongoing. The HSE have commented through the consultation on these amendments and requested the same planning condition be applied as previously.

## **Fire Protection, Resilience, Crime and Design Security**

7.286 The proposed amendments do not raise any new issues in these areas. Cumbria County Council Emergency Planning were consulted and have no comments.

### **Planning Balance**

7.287 In this section I address the planning merits of the scheme and come to a view on the planning balance.

7.288 There is a clear policy presumption against the extraction of coal, whether or not it is used for steel making. The key tests to consider are those in CMWLP policy DC13 and in paragraph 211 of the NPPF.

7.289 In terms of the proposal's environmental and social acceptability, policy DC13 states that "Planning applications for coal extraction will only be granted where the proposal would not have any unacceptable social or environmental impacts, or if not it can be made so by planning conditions or obligations..."

7.290 If the proposal does not meet these tests, policy DC13 contains a final test as to whether the proposed development provides "...national, local or community benefits which clearly outweigh the likely impacts to justify the grant of planning permission."

7.291 Policy DC13 is similar to national policy and the NPPF, but the first test it applies incorporates social considerations and tests whether there are "any" unacceptable social or environmental impacts, rather than considering a proposal's "environmental acceptability" as with the NPPF (allowing an environmental balance to be struck).

7.292 It is important to note that an environmentally acceptable proposal need not necessarily result in no harm. It is therefore necessary to come to an overall judgement about the environmental acceptability of the proposed development at the first stage or, if necessary, to consider whether the national, local or community benefits (including environmental benefits and impacts) clearly outweigh the likely impacts at the second stage.

7.293 In order to determine the acceptability of the proposal overall, I have drawn on the assessments I made and set out in the original report (as updated), where these remain unchanged. Where these have changed I have set the impacts of the changes out earlier in my report. This section on the planning balance therefore draws on both the original reports (in appendix 2) and my earlier conclusions to determine the weight attached to the various issues set out below.

7.294 Considering the first stage test of policy DC13 and paragraph 211 of the NPPF, the environmental effects (and in respect of DC13, social), both adverse and beneficial, have been considered in detail earlier in this report and are taken into account here after mitigation.

7.295 In structuring this section of the report on the planning balance I have considered the environmental acceptability of the proposal first in line with the DC13 policy test. Because I concluded that the proposal has unacceptable environmental impacts, I then needed to address whether the proposal provides national, local or community benefits which clearly outweigh the likely impacts, before reaching an overall conclusion.

7.296 Earlier in my report I addressed whether it was necessary to apply a planning condition limiting the life of the proposed mine to the end of 2049 (as opposed to the 2070 end date which is applied for) and concluded that it was. The planning balance has therefore been approached on the basis that a condition of this nature is attached to any planning permission granted, and is assumed as part of the mitigation.

### **Environmental acceptability**

#### **Location and Contaminated Land**

7.297 I consider that the coal mine represents an appropriate time limited, albeit long term, use for the former Marchon site. The land has previously been used for a mine and a chemical works. It has been allocated for business/industrial use in the adopted Copeland Local Plan. The site is contaminated although much of the concrete hardstanding remains and the current proposals would provide an opportunity to ensure that the site was properly remediated. The proposal also involves restoration of the abandoned Mainband Colliery site near the RLF following construction work. I consider this to be an environmental benefit of the scheme which should be afforded moderate weight.

#### **Climate Change**

7.298 I have set out previously the reasons why I consider the coal produced from the proposed mine at Whitehaven would substitute for US produced coal currently used by steelmakers in mainland Europe, and also in the UK although I acknowledge that sulphur content in coking coals generally is currently an issue for British Steel.

7.299 Since coal produced in the proposed mine would substitute for coal produced in the US, and coal production in US mines would scale back as a result, there would be lower operational GHG emissions from US mines. I would expect environmental controls placed on the Whitehaven mine to be at least as good as those at mines in the US, and when compared with opencast mines in the US, in respect of the potential for methane capture (which makes up the greater part of the modelled GHG emissions) they may be considerably better. Overall, I consider the mine operations would have a broadly neutral effect on the global release of GHG.

7.300 Again, on the basis that the coal produced in the mine would substitute for coal produced in the US, the quantity of coal imported to the UK (and mainland Europe) would reduce in proportion to the amount mined in Cumbria. According to the ES this would result in a material reduction in GHG emissions from international shipping. In respect of GHG emissions from transportation, I therefore consider the mine would have a beneficial effect in reducing global GHG.

7.301 I do not consider that the amount of steel produced in the UK (or mainland Europe) would increase as a result of a more local supply of High Vol A coking coal, as is proposed to be produced. Furthermore, I do not consider that in the period up until the end of 2049 the development of the mine would encourage the use of blast furnace production methods that would otherwise have been closed or converted to lower carbon technologies.

7.302 Whilst I have considered the contribution to GHG emissions from the use of this

coal by UK and EU steel manufacturers in respect of its planning merits, I concluded that the impacts of this would be broadly neutral in respect of GHG emissions.

- 7.303 On the basis that the development of the mine would have no material impact on the amount of steel produced or the technologies used to produce it, the amount of coking coal used for steelmaking would be the same with or without the development of the proposed mine. I therefore consider that the mine would have a broadly neutral effect on the global release of GHG from coal used in steelmaking whether or not end use emissions from steelworks are taken into account.
- 7.304 Benefits resulting from savings in GHG emissions from transportation are a global benefit rather than a specially “national” one as set out in the NPPF. However, in contributing to reducing the total GHG emissions in the world, the UK does gain a national benefit from a healthier global climate overall. I have attributed these broader international benefits as having moderate weight in relation to their national benefit to the UK.

## **Ecology**

- 7.305 In terms of the loss of ancient woodland, I have concluded that there are wholly exceptional circumstances in this case due to the lack of alternative routes for the conveyor to the RLF and the local and national benefits of the wider scheme. Furthermore the area to be lost is considered to be of low quality and there is a minimal size of loss. Mitigation measures are proposed including the comprehensive planning conditions proposed to manage any works within the areas of ancient woodland. The area loss is also minimised by the selected route of the underground conveyor.
- 7.306 Although only a relatively small amount of irreplaceable ancient woodland would be lost and compensatory planting undertaken, the habitat will still be lost and this will result in harm. I attach considerable weight to the harm from its loss even though there are considered to be wholly exceptional circumstances and a suitable compensation strategy to justify it.
- 7.307 I am also satisfied that, with the imposition of appropriate planning conditions, there would be no net loss in biodiversity as a result of the development. However, I am unable to be certain or reach a conclusion that it is likely that the scheme would result in a net gain in biodiversity, although it is possible that this may be achievable long term, particularly following the restoration of the site when much of the Main Mine Site would be restored to ecological areas. A possible net gain over a very long period cannot be afforded anything but negligible weight. In conclusion, given the lack of a demonstrable net gain in biodiversity I consider that this counts against the proposal and should be afforded some weight.
- 7.308 In terms of overall biodiversity, although the impacts on ecology are unacceptable, with the imposition of conditions requiring ecological management plans, I remain of the view that any residual effects can be mitigated and I am convinced that there would be no net loss in biodiversity as a result of the development.

## **Historic Environment**

- 7.309 I have also identified that there would be adverse impacts on the historic environment including a moderate adverse effect upon the listed building of Scalegill Hall and the adjoining barn. There will also be minor adverse impacts upon the listed building of Sandwith Anhydrite mine portals and a moderate adverse effect relating to the heritage sensitivity of the St Bees Heritage Coast. A s106 financial contribution for heritage purposes will help offset the impact to some extent. There will be a minor adverse effect on historic landscape character when taken cumulatively with the approved residential development to the east of High Road.
- 7.310 Considerable importance and weight is given to this less than substantial harm identified above to the listed buildings or their settings and the harm to other heritage assets identified in this report and the previous reports on the basis set out earlier.
- 7.311 I have also concluded that there will be benefits which include those resulting from enhanced knowledge of historic industrial mining heritage and enhancements to the setting of a number of high sensitivity assets including Saltom Coal Pit, Haig Colliery and Barrowmouth Gypsum and Alabaster Mine.
- 7.312 I have given this issue considerable weight, and overall, I consider that the impacts on the historic environment would be unacceptable environmentally in respect of the first test in policy DC13. However on balance and with the imposition of appropriate planning conditions, the proposed development can overall be considered to be in accordance with policies DC17 of the Cumbria Minerals and Waste Local Plan and policies ENV4 and DM27 of the Copeland Local Plan on the basis that the public benefits outweigh the heritage harm.

## **Landscape**

- 7.313 As set out in the original report, the Pow Beck Valley area remains largely tranquil and undisturbed. It is an area where the landscape dominates the railway and isolated farms. It is also identified as open countryside in the Copeland Local Plan where development is restricted unless there is an exceptional need.
- 7.314 The LVIA assessed effects on the landscape of the Pow Beck valley as moderate adverse and not significant. I consider this an under-estimate resulting from considering the development in the wide context of the overall Landscape Character Type in which it is located, rather than in the local landscape context of the Pow Beck valley. Although impacts can be mitigated in part the RLF would remain a large-scale building, clearly larger in scale than agricultural buildings in the surrounding area. I think that the building and associated sidings will have a significant impact on the local landscape particularly when viewed from the footpath where it passes either side of the RLF, even with the landscape planting proposed and the restoration of Main Band Colliery.
- 7.315 In terms of visual impact, as set out in the original report I consider that the LVIA was correct in identifying significant visual effects for the closest dwellings along High Road, to the north of Sandwith, and for isolated dwellings near the RLF in the Pow Beck Valley.
- 7.316 I have attributed considerable weight to landscape and visual impact in determining the planning balance and overall, I consider that the proposed

development would result in adverse impacts upon visual receptors and the local landscape which I consider would be unacceptable environmentally in respect of the policy test in DC13.

### **Transport**

- 7.317 This development would overwhelmingly rely upon rail transportation, and all the mine products would be exported by rail. There would be some use of road during the construction phase, and the Local Highway Authority consider that the proposals are acceptable in terms of highway capacity and safety (subject to the conditions and s106 agreements originally proposed).
- 7.318 Overall the development is acceptable in highways terms and will use the rail network for the transportation of products to markets. Mine waste will be managed on site, being returned back into the mine using a conveyor. The extensive use of rail is highly sustainable in transportation terms, and effectively eliminates “minerals and waste road miles”.
- 7.319 As set out in the original report, I also consider that the development accords with policy DC1 of the CMWLP, subject to the conditions and a S106 legal agreement requested by the Local Highway Authority.

### **Environmental Acceptability Conclusion**

- 7.320 The imposition of conditions and the proposed Section 106 Agreement would control impacts and provide mitigation for some of the environmental harm. However, following mitigation applied through these methods I consider that the adverse environmental impacts identified above in respect of ecology, historic environment and landscape are all unacceptable environmentally. In respect of the test in paragraph 211 of the NPPF (in respect of which I consider environmental benefits can be weighed in an environmental balance), the decontamination of the Marchon site and the reduction in global GHG emissions would result in environmental benefits. However, (and including more minor wider environmental issues not specifically referred to in the section above) the environmental harm outweighs the environmental benefits and I conclude that the proposed development is not environmentally acceptable, and that the first stage test of policy DC13 and the NPPF paragraph 211 are not met.

### **Social acceptability**

- 7.321 Since I have already concluded that the development has unacceptable environmental impacts, it is not necessary at this stage to identify whether there are also specific unacceptable social impacts in respect of the first and second stage test of DC13 (after mitigation), which is already failed.
- 7.322 **National, local and community benefits policy test**
- 7.323 As the development has unacceptable environmental impacts, it is necessary to consider the third test of DC13, and the second stage of Paragraph 211 of the NPPF which requires a judgement to be made as to whether the proposals would result in national, local or community benefits which clearly outweigh the likely impacts (taking all relevant matters into account, including any residual environmental impacts). This is addressed below.
- 7.324 All of the environmental effects, both adverse and beneficial are taken into

account after mitigation again at this stage, which takes account of the extent of the residual environmental impacts, along with any other national, local and community benefits and any other impacts that are not environmental.

- 7.325 In the preceding section of my report I addressed the key environmental issues. The following section of my report adds in social and economic issues (national, local and community).

#### **Social or economic harm**

- 7.326 As set out in my original report, following discussions with officers of the Countryside Access team, I am satisfied that by relying upon the PROW legislation, engaging with the applicants at the earliest opportunity - securing the necessary diversion orders and associated TTROs can be undertaken, managed and completed so that the affected public rights of way are adequately protected.
- 7.327 There will be unavoidable harm to local amenity during the life of the project and to users of the Coast to Coast path. I consider these effects should be afforded a little weight. However, I consider the impacts of the proposal in respect of footpaths and impacts upon the local tourism industry would not result in such significant harm as to justify refusal of the planning application on those grounds alone.

#### **Social or economic benefits**

- 7.328 In summary, coking coal is classed as a critical raw material within the EU and NPPF Glossary [Annex 2] also defines coal as a mineral resource of local and national importance, necessary to meet society's needs. I consider that the UK's steel manufacturing industry currently requires a supply of suitable grade metallurgical coal and that the proposals will be able to provide the industry with this essential raw material. The supply of indigenous metallurgical coal to support the UK steel industry for the next three decades in place of currently imported coal is positive and should be afforded considerable weight. However I acknowledge the level of sulphur content would need to be managed to supply a product currently suitable for British Steel, and it is not clear whether this can be achieved – so in this case I have considered that it cannot. I consider that there is a likely need for High Vol A coking coal for the steel industry and that this would result in national benefits which are of considerable weight. However, over time, the use of EAFs and new steelmaking technologies such as DRI which do not use High Vol A coking coal, are expected to emerge, and so the importance (and the weight I attach to these benefits will reduce over time accordingly).
- 7.329 The applicant estimates that around 500 staff would be employed at the site when running at full production levels, providing a very significant level of skilled and well-paid employment in the area. This employment and the indirect employment that would flow from the proposed development over a long period would be likely to result in a significant contribution to the local economy. There are also considerable local benefits from the significant investment in the local area through the development and both the direct and indirect employment. I consider that considerable weight should be afforded to the local and community benefits of this employment. As well as the jobs created, the mine would also contribute to the UK balance of payments by mining a product that can be exported to mainland Europe. The applicant states the sales would be approximately £260,000,000 per annum.

- 7.330 The provision of a pedestrian access route and the financial contribution to a cycle path linking Whitehaven to St Bees and securing a potential route over half of the RLF access is a benefit and I consider that this should be afforded some weight.
- 7.331 There would be local benefits from the remediation and eventual restoration of the contaminated Marchon and Mainband Colliery sites as environmental benefit of moderate weight, and which would remain the case when considering these as a local benefits. However, I consider that the local and community benefits extend beyond purely environmental issues, for example by improving the appearance of the town in the vicinity of the derelict Marchon site and making it a more pleasant place for people to live and work. I consider that these are local and community benefits of moderate weight.

### **National, local and community benefits Conclusion**

- 7.332 In my judgement, on balance I consider that the national, local and community benefits of the proposed development would clearly outweigh the likely adverse impacts, including amongst other matters in relation to particular matters such as listed buildings, their settings, other heritage assets, the loss of ancient woodland and in relation to landscape and visual impact.
- 7.333 The proposed development would result in both environmental harms and benefits, and the environmental harms identified outweighed the environmental benefits overall. There are also some elements of social harm resulting from the proposals. However, the economic benefits of the scheme (the jobs, both direct and indirect and the wider benefits for the UK economy) are significant and will be realised for a considerable period. In my view the benefits of the scheme clearly outweigh the harm.
- 7.334 I therefore conclude that the proposed development would comply with policy CMWLP DC13 and paragraph 211 of the NPPF.

## **8.0 CONCLUSION**

- 8.1 I am aware that the proposals have continued to attract considerable interest and that many representations have been received, both in support of and objecting to the scheme.
- 8.2 Taking into account my assessment of the scheme across both this report and the original report (as updated) included in appendix 2. I am convinced that there are considerable benefits resulting from the development, not least the potential number of highly skilled jobs on offer and benefit to the UK economy. The project also contributes to the supply of coking coal for the UK steel industry which is a critical raw material (as well as having moderate benefits from the remediation of the contaminated Marchon site, and some saving in global GHG emissions).
- 8.3 Set against this I have to conclude that there will be elements of environmental harm from the proposed development which have been identified.
- 8.4 I favour recommending the grant of planning permission for a time limited period until the end of 2049. I also consider that the wider public benefits of the scheme clearly outweigh the identified harm to heritage assets. In terms of the loss of ancient woodland, I have concluded that there are wholly exceptional circumstances in this case, as referred to above.

8.5 I would have preferred fewer conditions and the security of more approved plans and evidence. However, I am persuaded that the risks are manageable and that the benefits overall clearly outweigh those likely impacts identified.

**Angela Jones**  
**Executive Director - Economy and Infrastructure**

**Contact:**

Paul Haggin,  
Tel: 01539 713 427

**Electoral Division Identification:**

Kells and Sandwith – Emma Louise Williamson  
Egremont North & St Bees. – Chris Whiteside MBE

**Background Papers**

WCM Briefing Note on Coal Handling & Processing Plant  
WCM email on coal specification dated 30/7/20  
Wardell Armstrong Report dated September 2020  
Javelin consultation response letter dated 13/7/20  
Javelin consultation response email dated 18/8/20  
British Steel consultation response dated 3/8/20  
Arcelor Mittal consultation response dated 18/8/20  
SSAB consultation responses dated 1/7/20 & 2/7/20  
Tata consultation response dated 18/8/20  
UK Steel consultation responses dated 12/6/20 & 10/7/20  
Email correspondence with Wardell Armstrong

Copies of these background papers can be found on the Council's website for Planning Application Ref. No. 4/17/9007.

**Appendix 1 – Conditions**

**Appendix 2 – Previous committee reports and update sheets**

## APPENDIX 1 - PROPOSED PLANNING CONDITIONS

### Definition of Terms

1. The following definitions shall apply to the permission hereby granted:

#### DEVELOPMENT PHASES:

##### **Preliminary Phase**

The works associated with:

At the Main Mine Site - Securing the site, site investigation (contamination and geotechnical), remediation of contaminated land (including the installation of temporary covers), site clearance (removal of remnants of the sites former use as a chemical production factory. This phase precedes the Construction Phase.

At the Rail Loading Facility – Securing the site, archaeological investigation, site investigation (geotechnical), any archaeological excavation (required as a result of the archaeological investigation), any remediation of contamination (if there is any at presently unknown contamination), site clearance/soil strip and formation of soil storage bunds.

Along the route of the conveyor – Archaeological investigation, Site investigation (geotechnical), any archaeological excavation (required as a result of the archaeological investigation), any remediation of contamination (if there is any at presently unknown contamination)

##### **Construction Phase / Construction Works**

The phase / works associated with:

At the Main Mine Site – vehicular access improvements, creation of construction and operational parking areas and construction compounds, site levelling to formation layer and installation of services and drainage connections, the construction of all the built and engineered components of the development, removal / decommissioning of construction compounds.

At the Rail Loading Facility - creation of construction and operational parking areas and construction compounds, site levelling to formation layer and installation of services and drainage connections, the construction of all the built and engineered components of the development, removal and decommissioning of construction compounds and restoration of laydown areas/ construction compounds.

Along the line of the conveyor route – soil stripping and soil storage, haul roads, excavation, installation and burial of the conveyor culvert, installation of the conveyor infrastructure, soil replacement, and restoration.

At the underground mining area - driving drifts to the target coal reserves, creation of pit bottom.

For each component of the development the Construction Phase follows the Preliminary Phase and precedes the Operational Phase.

##### **Operational Phase**

The stage of the development comprising the Winning and Working of High Vol A Coking Coal from underground mining areas, the processing of coal to separate High Vol A Coking Coal and waste. The dispatch from site of coal products and the return underground and placement of waste/paste.

This Operational Phase follows the Construction Phase and precedes the Restoration Phase.

### **Restoration Phase**

Following the completion of the Operational Phase, the Restoration Phase comprises the removal of all above-ground buildings and structures, and removal of conveyor infrastructure (but retention of the conveyor culvert) and the restoration of the above ground components of the site in accordance with the approved restoration scheme.

### DEVELOPMENT COMPONENTS:

#### **Main Mine Site (MMS)**

That part of the development site which accommodates the mine portals, coal handling and processing plant, offices and other development associated with the administration and operation of the mine as illustrated on drawing reference 869/AM/002 Rev E and which includes the landscape mounds to the north and south of the buildings, plant and equipment.

#### **Rail Loading Facility (RLF)**

The facility to be used for taking coal transported by the conveyor and loading it onto trains, including the rail loading building, the railway sidings, the RLF office and RLF Conveyor access station and ancillary development as illustrated on drawing 869/AR/002 Rev C and including the land formerly occupied by the Main Band colliery.

#### **Mineral Conveyor Route**

The route to be taken by the sub-surface conveyor used to transport coal products from the Main Mine Site to the Rail Loading Facility. For the purposes of the planning permission this is taken to mean from the point at which the conveyor leaves the conveyor drive building on the main mine site to where it enters the RLF conveyor access station.

#### **Underground Mining Area**

Means the area of land under which the winning and working of minerals will take place and includes the drifts driven to access the onshore target coal reserves and all associated infrastructure, the onshore coal reserves to be worked and the drifts installed to access the offshore coal reserves. The area extends from the mine portals from the Main Mine Site to the mean low water mark at the coast.

### MINE PRODUCTION:

#### **High Vol A Coking Coal**

Coal with particular physical and chemical characteristics that makes it suitable for use in the production of coke for steel-making and separated from reject material during processing at the Coal Handling and Processing Plant. For the avoidance of doubt 'High Vol A Coking Coal' shall be defined as having a maximum ash content of 8% and a maximum sulphur content of 1.6% and an average (mean) sulphur content of no more than 1.4%.

#### **Winning and Working of Minerals / Mineral Extraction**

The Winning of Minerals comprises the driving of drifts and installation of

infrastructure to reach and access the mineral targeted for extraction. The Working of Minerals or Mineral Extraction is the extraction of the target mineral.

OTHER:

**Commencement of Development**

For the purposes of defining the implementation of the planning permission - the date on which any material operation (as defined in Section 56(4) of the 1990 Act) forming part of the Development begins to be carried out (or any component stage thereof, as the context permits) other than operations consisting of:

- a) - the demolition of existing buildings or clearance of the Site;
- b) - archaeological investigation;
- c) - ground investigation and site survey work;
- d) - the erection of fencing and hoardings;
- e) - remediation; and
- f) - advance ecology works and investigations.

**Mineral Planning Authority (MPA)**

The administrative body exercising its duties under the planning acts in relation to minerals development, which for the permission site is Cumbria County Council and/or its successors.

*Reason: To provide clarity as to the meaning of conditions.*

**Approved Plans and Documents**

2. The development shall be carried out in accordance with the approved documents and plans, hereinafter referred to as the approved scheme. The approved scheme shall comprise the following:

The submitted planning application form

Plans numbered and named:

869/AP/001 Rev F	Location Plan & Planning Application Boundary
869/AP/002 Rev D	Sandwith Anhydrite Mine Abandonment Plan
869/AM/001 Rev C	Main Mine site - Existing Plan
869/AM/002 Rev E	Main Mine site - Proposed Plan
869/AM/003 Rev C	Main Mine site - Construction Phase Drawing 1
869/AM/004 Rev C	Main Mine site - Construction Phase Drawing 2
869/AM/005 Rev C	Main Mine site - Construction Phase Drawing 3
869/AM/006 Rev C	Main Mine site - Site cross sections
869/AM/007 Rev C	Main Mine Site - Existing Site Topography
869/AM/008 Rev B	Main Mine Site - Finished Level Cut and Fill Representation
869/AM/010 Rev A	Main Mine site - Site Entrance
869/AM/011 Rev A	Main mine site - Office and change building, Proposed elevations
869/AM/012 Rev A	Main mine site - Office and change building, Proposed Plans
869/AM/013 Rev A	Main mine site - Gatehouse, Proposed Plan & elevations
869/AM/015 Rev A	Main mine site- Workshop, Proposed Plan & elevations
869/AM/017 Rev A	Main mine site - East (S) drift canopy, Proposed plan and

	elevations
869/AM/019 Rev A	Main mine site - Fan House, Proposed plan and elevations
869/AM/021 Rev A	Main Mine site - Auxiliary power plant - Gas, Proposed plan & elevations
869/AM/023 Rev A	Main Mine site - Auxiliary power plant - Diesel, Proposed plan & elevations
869/AM/025 Rev A	Main Mine site - Substation, Proposed plan & elevations
869/AM/027 Rev D	Main Mine site - Clean/raw coal & CHPP building, Proposed Plan
869/AM/028 Rev B	Main Mine site - Clean/raw coal & CHPP building, Proposed elevations 1 of 2
869/AM/029 Rev C	Main Mine site - Clean/raw coal & CHPP building, Proposed elevations sheet 2 of 2
869/AM/030 Rev B	Main Mine site - CHPP Access & Welfare building, Proposed Plan & elevations
869/AM/031 Rev B	Main Mine site - Clean Coal and Reject Store, Proposed plan
869/AM/032 Rev B	Main Mine site - Clean Coal and Reject Store, Proposed elevations
869/AM/033 Rev A	Main Mine Site - Water Storage Tank- Proposed Plan & Elevation
869/AM/034 Rev A	Main Mine site - RLF Conveyor drive building, Proposed plan & elevations
869/AM/038 Rev A	Main Mine site - (East) N Drift Access, Proposed Plan & elevations
869/AM/040 Rev B	Main Mine site - External Lighting Layout
869/AM/041 Rev I	Main Mine Site - Proposed Landscaping Plan
869/AM/042 Rev E	Main Mine site - Restoration Plan
869/AM/050	Main Mine Site - Covers
869/AM/201 Rev A	Main Mine Site - South Landscape Mound Cross Sections
869/AC/001 Rev E	RLF Conveyor Culvert - Existing Plan
869/AC/002 Rev F	RLF Conveyor Culvert - Proposed plan
869/AC/003 Rev B	RLF Conveyor Culvert - Construction Phase drawing
869/AC/006 Rev A	RLF Conveyor Culvert - Typical Construction Phase Cross Sections
869/AC/008 Rev A	RLF Conveyor Culvert - Intermediate station
869/AC/009 Rev A	RLF Conveyor Culvert - Conveyor Access Station at Rail Loading Facility
869/AR/001 Rev C	Rail loading facility - Existing Plan and Topography
869/AR/002 Rev C	Rail loading facility - Proposed Plan
869/AR/003 Rev B	Rail loading facility - Construction Phasing Plan
869/AR/006 Rev B	Rail loading facility - Site Cross sections
869/AR/007 Rev C	Rail loading facility - Lighting
869/AR/008 Rev A	Rail loading facility - Site Entrance
869/AR/009 Rev A	Rail loading facility - Rail loading building, Plan and elevations
869/AR/011 Rev A	Rail loading facility - Office & Welfare Facilities, Plan and

	elevations
869/AR/012 Rev C	Rail loading facility - Proposed screen Tree Planting
869/AR/013 Rev F	Rail Loading Facility - Post Construction Restoration
869/AR/014 Rev H	Rail Loading Facility - Post Decommissioning Restoration
869/AO/001 Rev D	Underground Mining - Onshore and Offshore Mining Areas
869/AO/002 Rev D	Underground Mining - Access to Onshore and Offshore Mining Areas
869/AO/003 Rev D	Underground Mining - Inseam Access Routes Onshore to Offshore
869/AO/004 Rev D	Underground Mining - Onshore cross measure drift zone
Figure 14.1 Rev 01	Noise Monitoring and Receptor Locations

Additional Information / Documents:

Planning Statement

ES Chapter 5 – Project Description

ES Chapter 8 – Road Transport

ES Chapter 9 – Rail Transport

ES Chapter 11 – Ecology

ES Chapter 12 – Hydrology and Hydrogeology

ES Chapter 13 – Land Contamination

ES Chapter 14 – Noise and Vibration

ES Chapter 15 – Air Quality

ES Chapter 16 – Historic Environment

ES Chapter 17 – Marine Environment

ES Chapter 19 – Greenhouse Gas Emissions

Coal Mining Risk Assessment – ref WCM-PA-EIA-CMRA

Process Change

*Reason: To ensure the development is carried out to an approved appropriate standard and to avoid confusion as to what comprises the approved scheme.*

**Timescales**

3. The development shall commence within 3 years of the date of this permission. The Mineral Planning Authority shall be notified in writing of the date of commencement of Construction Works at least 7 days, but not more than 21 days, prior to the commencement of such works.

*Reason: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 and to enable the monitoring of compliance with the conditions of the planning permission.*

4. The permission hereby granted authorises the Winning and Working of High Vol A Coking Coal suitable for use in steel manufacture only.

*Reason: So that the coal produced is the same as that assessed in the Environmental Statement and planning application.*

5. The mining operations hereby approved shall cease by no later than 31 December

2049. Following the cessation of operations, the site shall be fully restored in accordance with the approved scheme within 24 months.

*Reason: To ensure that the operations do not prevent the achievement of UK net zero carbon reduction targets and to ensure that coal is only extracted as long as there remains a need for its use in steel making. To ensure that the site is restored following the approved production period in accordance with policy DC22 of the Cumbria Minerals and Waste Local Plan.*

## **Construction and Environment Management Plan**

6. No development shall take place until a Construction and Environment Management Plan (CEMP) has been submitted to and approved in writing by the Mineral Planning Authority. The CEMP shall, for the Preliminary and Construction Phases, include details of all on-site Construction Works, including remediation works, post-construction reinstatement, drainage, mitigation, and other restoration, together with details of their timetabling including details of:
- a) roles and responsibilities for the developer and its contractors regarding environmental compliance including environmental training and management procedures;
  - b) provisions for environmental emergency planning and environmental incident response arrangements;
  - c) Considerate Constructors scheme and compliance arrangements;
  - d) Environmental Permits, Licences and Consents required;
  - e) Code of Construction Practice (relating specifically to local community impacts and management);
  - f) liaison with the public and contact information for community concerns;
  - g) the programme of Construction Works;
  - h) parking areas for the vehicles of construction workers and visitors;
  - i) areas to be used for the loading and unloading of plant and materials;
  - j) details of site offices and welfare facilities;
  - k) areas for the storage of plant and materials used in construction of the development;
  - l) formation of the construction compound(s) and access tracks and any areas of hardstanding;
  - m) a scheme for the management of noise during construction;
  - n) a scheme for the management of air quality and dust during construction;
  - o) site signage;
  - p) how the environmental aspects of historic environment works will be managed;
  - q) the management of waste on site, including provision for waste segregation, compliance with Duty of Care regulations;
  - r) how water pollution risks and flood risks will be minimised including measures to prevent the development causing pollution to Pow Beck, waterbodies or the marine environment;
  - s) management of construction traffic;
  - t) ecological management including plans for the monitoring of:
    - i) Pow Beck surface water discharge flows and water quality;
    - ii) surface water quality in attenuation pond(s) on Main Mine Site prior to discharge to the Surface Water Outfall;
    - iii) marine water quality and scouring around the surface water discharge pipe;
  - u) seasonal and daytime restrictions on certain activities to mitigate for effects on ecological receptors;

- v) covering or infilling of any trenches overnight to prevent animals being trapped and/or provision of a ramp to allow escape;
- w) contaminated land management
- x) sustainability measures including minimising and monitoring resource use including energy & water consumption, incorporating re-use wherever practicable;
- y) the appearance, erection and maintenance of boundary treatments and security fencing & site signage and the timescales for their erection and removal;
- z) the management of vermin;
- aa) working hours;
- bb) pollution prevention measures including storage of fuels and oils and measures to prevent, contain and manage refuelling of plant and vehicles;
- cc) details of wheel washing facilities including any drainage requirements and maintenance;
- dd) cleaning of site entrances and the adjacent public highway;
- ee) the sheeting of all HGVs taking materials to / from the site to prevent spillage or deposit of any materials on the highway;
- ff) all fixed lighting and procedures to ensure temporary lighting equipment is positioned so as not to create nuisance or disturbance to surrounding properties, public highways or wildlife; and
- gg) post-construction restoration / reinstatement of any temporary working areas.

Once approved, the CEMP shall be implemented and the development shall be undertaken in accordance with the approved CEMP.

*Reason: To provide the management framework needed for the planning and implementation of construction activities in accordance with environmental commitments identified in the ES in accordance with policy DC6 of the Cumbria Minerals and Waste Local Plan, and to ensure the construction activities associated with the proposed development do not pose an unacceptable risk of pollution to controlled waters in accordance with policy DC20 of the Cumbria Minerals and Waste Local Plan.*

### **Construction Traffic Management Plan**

7. No development shall take place until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Mineral Planning Authority. The CTMP shall include details of:
  - a) the construction of the site access and the creation, positioning and maintenance of associated visibility splays;
  - b) access gates, shall be hung to open away from the public highway no less than 10m from the carriageway edge and shall incorporate appropriate visibility splays;
  - c) the pre-construction road condition established by a detailed survey for accommodation works within the highways boundary conducted with a Highway Authority representative and shall include confirmation of the routes used and network to be assessed;
  - d) details of road improvement, construction specification, strengthening, maintenance and repair commitments if necessary as a consequence of the development;
  - e) details of proposed crossings of the highway verge;
  - f) areas for vehicle parking, manoeuvring, loading and unloading for their specific

- purpose during the development;
- g) the surfacing of the access roads from the public highway into the site, which shall extend for a minimum of 25m from the edge of the carriageway;
- h) construction vehicle routing;
- i) the management of junctions to and crossings of the public highway and other public rights of way/footway; and
- j) the scheduling and timing of movements, details of escorts for abnormal loads, temporary warning signs and banksman.

The approved CTMP shall be implemented and the development shall be carried out in accordance with the approved details.

*Reason: In the interests of highway safety.*

### **Ecology mitigation - Construction**

8. No development shall take place until details of a scheme for habitat creation, maintenance, monitoring and management (HCMMM) has been submitted to and approved in writing by the Mineral Planning Authority. The HCMMM scheme shall include details of:
  - a) Reptile Survey and Mitigation Plan prior to commencement of any remediation, site investigation, site clearance or Construction Works;
  - b) A pre-commencement survey for badger on the application site and within a 50m buffer of the planning permission boundary;
  - c) A detailed pre-commencement otter survey which shall cover all watercourses within the Zone of Influence of the application, and at least 250m up and downstream of the proposed developments and within a 100m terrestrial buffer zone away from each watercourse to search for natal holts; and
  - d) A pre-felling survey for red squirrel in all woodland affected by the conveyor route to check for dreys and other signs of use by red squirrel. The survey report shall also assess any temporary fragmentation effects that may be caused.

The approved HCMMM scheme shall be implemented and the development shall be carried out in accordance with the approved details.

*Reason: To meet the objectives of policy DC16 of the Cumbria Minerals and Waste Local Plan and to ensure the protection of the above species.*

### **Landscape Management Plan**

9. No development shall take place until a Landscape Management Plan (LMP) for the development has been submitted to and approved in writing by the Mineral Planning Authority. The LMP shall detail all proposed landscaping measures to minimise the impacts of the development during both the Construction and Operational Phases and shall include:
  - a) temporary and permanent security and other fencing design details, including location, purpose, height and type of fencing and finish;
  - b) the annual maintenance / management regime for all landscaped areas;
  - c) the measures to monitor the health and progress of the planting within landscaped areas and procedure for reporting the outcomes of monitoring to

- the Mineral Planning Authority including trigger levels for remedial action;
- d) The remedial measures to be taken in the event that the deterioration of landscaped areas exceeds trigger levels.

The approved LMP shall be implemented and the development shall thereafter be carried out and the landscaping maintained and replanted in accordance with the approved details.

*Reason: To ensure impacts on landscape are minimised in accordance with policy DC18 of the Cumbria Minerals and Waste Local Plan.*

### **Archaeology – Written Scheme of Investigation**

10. No development shall take place within the areas of the site that require archaeological mitigation as outlined in paragraph 16.9 of the ES 'Further Mitigation' (chapter 16), until the applicant has secured the implementation of a programme of archaeological work in accordance with Written Schemes of Investigation (WSI) which have been submitted to and approved in writing by the Mineral Planning Authority. The approved programme shall be carried out in its entirety prior to works to those areas of the site that require archaeological mitigation and the development shall thereafter be carried out in accordance with the approved details.

*Reason: To determine the existence of any remains of archaeological interest within the site and for the examination and recording of such remains.*

### **Contaminated Land and Remediation**

11. Remediation strategies shall be prepared for each of the following components of the development. The remediation strategies shall be submitted to, and approved in writing by, the Mineral Planning Authority prior to the Preliminary Phase or the commencement of Construction Works (whichever is the sooner) of each of the following components:
- a) Main Mine Site;
  - b) Subsurface Conveyor between the Main Mine Site and Rail Loading Facility; and
  - c) Rail Loading Facility.

The remediation strategy for each component shall set out the measures to deal with the risks associated with contamination of that part of the site. The remediation strategies shall include the following components:

- (i) A preliminary risk assessment which identifies:
  - a) All previous uses;
  - b) Potential contaminants associated with those uses;
  - c) A conceptual model of the site indicating sources pathways and receptors; and
  - d) Potentially unacceptable risks arising from contamination at the site.
- (ii) A site investigation scheme based upon the preliminary risk assessment to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site. The site investigation schemes for each component of the development shall be informed by the preliminary risk

assessment and include all of the following elements, unless any element(s) is/are deemed unnecessary by the Mineral Planning Authority in the light of the results of the preliminary risk assessment:

- a) programme, timing and locations of all proposed site investigation works;
- b) sampling and laboratory/field testing methodology employed to ensure that the locations and methods of site investigation (for the main mine site these should be designed so that they can be used to refine the existing 3-dimensional conceptual site model of the site);
- c) surveying/monitoring techniques and sampling methods and equipment for chemical and radiological assessment of ground conditions in, on and under the land;
- d) quality control protocols for sampling and laboratory analysis;
- e) pollution prevention measures to be employed to minimise the potential for the mobilisation of any pollutants which may be encountered during the site investigation.

The site investigation shall be designed and carried out in accordance with the guidance presented in CLR11 and BS10175, considering both potential risks identified in the desk study and details approved in the scheme. Changes to any of the details of this scheme which may result from initial findings of the scheme or for other reasons shall be agreed in writing in advance with the Mineral Planning Authority. Following completion of the site investigation, an interpretive report will be prepared detailing the findings of the site investigation and including completion of an initial risk assessment to quantify risks associated with contaminants in soil and groundwater. The report will include appendices of factual data e.g. logs, records and sample analysis on which the interpretive report is based. Any quantitative risk assessment will include a sensitivity analysis and justification of input parameters. The findings will need to acknowledge the existing condition of undisturbed land and, dependent on the findings of this initial phase of site investigation, need to identify additional phases of more detailed site investigation that may be required to better assess the volumes and extents of any contamination hotspots identified.

- (iii) An options appraisal and remediation strategy based upon the results of the site investigation and the detailed risk assessment. The options appraisal and remediation strategies for each component of the development shall be informed by the findings in stages (i) and (ii) above. The options appraisal and remediation strategies for each component shall include all of the following elements unless any element(s) is/are deemed unnecessary by the Mineral Planning Authority in the light of the results of stages (i) and (ii) above:

- a) Utilising the historical data available for the site, together with the results from the investigation work undertaken earlier, refine the existing conceptual site model for the site, and complete an initial qualitative risk assessment to identify potential contaminants of concern which may pose a risk to identified receptors (including human health, controlled waters, and ecological receptors) during the construction, operation and decommissioning of the development. The risk assessment shall interpret available data sources to assess the presence of contamination over the entirety of the site, its locations, depths, and concentrations.
- b) Assessment of options for remediation/mitigation measures to be

employed during construction, operation and decommissioning of the development to minimise the risks identified. The assessment shall include:

- i) an examination of the options for the removal of concrete slabs to eliminate/minimise the potential mobilisation of contaminants;
  - ii) provide details of the measures, locations, and program for the remediation or disposal of all contaminated material;
  - iii) an assessment of the likelihood of contaminants to become mobilised, the possible pathways along which mobilised contaminants may travel, the concentrations of contaminants and timescales over which receptors might be exposed, the sensitivity of potential receptors to exposure to contaminants of the type which may be mobilised, and the significance of the impacts on receptors.
- (iv) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy are complete and identifying any requirements for longer term monitoring of pollutant linkage, maintenance and arrangements for contingency action.

Once approved, the remediation works shall be implemented in full and in accordance with the approved details prior to Construction Works commencing of the element of the site to which they relate.

*Reason: To ensure the proposed development does not pose an unacceptable risk of pollution to controlled waters in accordance with policy DC20 of the Cumbria Minerals and Waste Local Plan.*

### **Details of Site Investigation Covers**

12. Prior to the commencement of the Preliminary Phase or any site investigation works (whichever is the sooner), a scheme providing details of the temporary covers shall be submitted to and approved in writing by the Mineral Planning Authority. The details shall include:
- a) Dimensions, finish, colour, locations and approximate duration of each position; and
  - b) Measures to be implemented to prevent surface water ingress into the area over which the cover is positioned.

The approved scheme shall be implemented and the development shall be undertaken in accordance with the approved details.

*Reason: To require the submission of details not submitted with the application for planning permission and to ensure that the visual impact of the development is minimised.*

### **Restoration Scheme – Preliminary Phase**

13. No development shall take place until a scheme for the restoration of the site which would be implemented in the event that the development does not progress beyond the Preliminary Phase (Preliminary Phase Restoration Scheme) has been submitted to and approved in writing by the Mineral Planning Authority. The scheme shall

include the following:

- a) The ground levels / landform to be created;
- b) Measures to ensure that no new pathways have been created to allow legacy contamination to migrate from the site;
- c) The depths of subsoils and topsoils to be placed or replaced over the site area;
- d) The cultivation steps and soil treatments to be carried out following soils placement;
- e) Seed mixes and seeding application rates;
- f) Tree/shrub planting species mix, spacing, size, method of planting, protection measures; and
- g) A programme for carrying out the steps above.

In the event that the development does not progress beyond the Preliminary Phase the Preliminary Phase Restoration Scheme implemented in full and undertaken fully in accordance with the approved scheme and programme, followed by the aftercare approved under condition 96.

*Reason: To ensure that the site is appropriately restored in accordance with policies SP16 and DC22 of the Cumbria Minerals and Waste Local Plan.*

### **Coal Mining Risk Assessment**

14. No development shall take place until the site investigation proposed in Table 2-2 of the Coal Mining Risk Assessment (with the exception of those relating to mine shaft 297514-001) has been undertaken and a report setting out the findings of the investigation and results of gas monitoring included as part of a scheme of remedial works has been submitted to and approved in writing by the Mineral Planning Authority. The scheme of remedial works shall include timescales for the completion of the works. Once approved, the remedial works shall be implemented in accordance with the approved scheme.

*Reason: To address the legacy of historic mining operations in accordance with the requirements of the Coal Authority.*

### **Community Liaison Group**

15. No development shall take place until a scheme detailing the establishment and operation of a community liaison group (CLG) has been submitted to and approved in writing by the Mineral Planning Authority. The scheme shall be in the form of terms of reference for the CLG which shall include reference to review monitoring, updating and implementation of a Health Impact Assessment (HIA) and Travel Plans. The terms of reference shall set out:
  - a) the aims and purposes of the group;
  - b) the membership of the group;
  - c) the operation of the group (including regularity of meetings) / standard agenda items and voting;
  - d) accountability of the group;
  - e) publicity of meetings;
  - f) recording of meetings; and
  - g) access to the record of meetings.

Once approved the CLG scheme shall be implemented in accordance with the approved terms of reference throughout the construction, operation and restoration of the development.

*Reason: To provide a forum for information to be provided to the community and for the community to feedback any issues during the implementation of the development.*

### **Access and Parking**

- 16.** No other development shall take place until the works to improve the accesses have been completed in accordance with approved drawings reference 869/AM/002 Rev E, 869/AM/010 Rev A, 869/AR/002 Rev C, 869/AR/008 Rev A and 869/AC/008 Rev A. The construction parking areas approved under condition 7 (Construction Traffic Management Plan) shall be retained until construction has been completed. Operational parking areas shall be provided in accordance with approved drawings reference 869/AM/002 Rev E and 869/AR/002 Rev C prior to the site entering use. The operational parking areas and access to the site shall be retained and be capable of use throughout the Operational Phase of the development.

*Reason: To ensure a minimum standard of access provision when the development is brought into use in accordance with policy DC1 of the Cumbria Minerals and Waste Local Plan.*

### **Drainage and Surface Water Management – Main Mine Site**

- 17.** No Construction Works shall take place until schemes detailing how surface water flows will be managed at the main mine site during the Operational Phase of the development shall be submitted to and approved in writing by the Mineral Planning Authority. The surface water management plan shall include the following and be implemented before construction starts:
- a) An assessment of potential flows that would need to be managed at the main mine site during operation;
  - b) Details of the measures which would be put in place to capture, manage, and discharge flows identified in part a).
  - c) Details of all measures which would be put in place to prevent surface water discharging onto or off the highway;
  - d) A programme for the installation, maintenance and removal of the measures set out in part b).
  - e) An assessment of potential contaminants which may be present in surface water runoff, and measures to segregate this surface water from clean runoff;
  - f) Assessment of potential options to retain, test and treat or remove potentially contaminated surface water runoff during the works;
  - g) Details of a monitoring scheme to be implemented to confirm that no contaminants are present in runoff from the site intended for discharge to controlled waters (before, during and post construction).

Once approved, this surface water management plan shall be implemented in its entirety and the development shall be carried out in accordance with the approved details.

*Reason: To ensure the proposed development does not pose an unacceptable risk of pollution to controlled waters in accordance with policy DC20 of the Cumbria Minerals and Waste Local Plan.*

### **Drainage and Surface Water Management – Rail Loading Facility**

18. No Construction Works shall take place until a scheme detailing how surface water flows will be managed at the Rail Loading Facility (RLF) during the Operational Phase of the development has been submitted to and approved in writing by the Mineral Planning Authority. The surface water management plan shall include the following:
- a) An assessment of potential flows that would need to be managed at the rail loading facility site during operation;
  - b) Details of the measures which would be put in place to capture, manage, and discharge flows from the component parts of the site identified in part a), including the interface with Network Rail's existing infrastructure;
  - c) Details of all measures which would be put in place to prevent surface water discharging onto or off the highway;
  - d) A programme for the installation, maintenance and removal of the measures set out in part b).
  - e) An assessment of potential contaminants which may be present in surface water runoff, and measures to segregate this surface water from clean runoff;
  - f) Assessment of potential options to retain, test and treat or remove potentially contaminated surface water runoff during the works;
  - g) Details of a monitoring scheme to be implemented to confirm that no contaminants are present in runoff from the site intended for discharge to controlled waters (before, during and post construction).

Once approved, this surface water management plan shall be implemented in its entirety and the development shall be carried out in accordance with the approved details.

*Reason: To ensure the proposed development does not pose an unacceptable risk of pollution of flooding to controlled waters in accordance with policy DC20 of the Cumbria Minerals and Waste Local Plan.*

### **Drainage and Surface Water Management – Conveyor**

19. No Construction Works shall take place to construct the Conveyor until full drainage design details for the conveyor system and route have been submitted to and approved in writing by the Mineral Planning Authority. The details shall include a full specification of the design of the drainage of the conveyor culvert including longitudinal and cross sections and shall identify existing points where ditches, pipes, watercourses and surface water drains cross the route. Details of how these are to be cut and sealed within the works boundary and any flows intercepted and subsequently managed. Potential routes where surface water runoff may enter the works site shall be identified with references to surface water flood risk maps and any local knowledge. Measures, including bunding, ditches or construction of temporary French drains, shall be employed to collect such water and convey it to areas where it may be stored, settled or otherwise treated to remove sediment prior

to discharge. Water pollution control measures to minimise sediment release and discharge during construction will be detailed in the Construction Environmental Management Plan and overall “maintenance manual” covering all aspects of the mine facilities. The conveyor system and route shall be constructed in accordance with the approved details.

*Reason: To ensure the proposed development does not pose an unacceptable risk of pollution of flooding to controlled waters in accordance with policies DC19 and DC20 of the Cumbria Minerals and Waste Local Plan.*

### **Management and Maintenance of Sustainable Drainage Systems**

- 20.** No Construction Works shall take place until a sustainable drainage management and maintenance plan (SDMMP) of the main site, RLF and conveyor route for the lifetime of the development has been submitted to and approved in writing by the Mineral Planning Authority. The SDMMP shall include as a minimum:
- a) Arrangements for adoption of the sustainable drainage system by an appropriate public body or statutory undertaker, or, management and maintenance by a Management Company;
  - b) Arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime. The development shall subsequently be completed, maintained and managed in accordance with the approved plan; and
  - c) details of the permeable paving to be used in the parking areas on the main mine site.

Once approved the scheme shall be implemented in its entirety and the development shall be carried out in accordance with the approved details.

*Reason: To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development in accordance with policies DC19 and DC20 of the Cumbria Minerals and Waste Local Plan.*

### **Marine Monitoring Plan**

- 21.** No surface water discharge from the site to the marine environment shall take place until a Marine Monitoring Plan has been submitted to and approved in writing by the Mineral Planning Authority. The Plan shall indicate the type, frequency and duration of monitoring to be undertaken and shall include collation of baseline evidence of the marine environment within the Zone of Influence of the proposed discharge to Saltom Bay, to include water quality, substrate and marine flora and fauna.

Monitoring in accordance with the approved scheme shall be undertaken for the duration of the development.

*Reason: To monitor the effects of the proposed surface water discharge to the sea; this is to include water quality effects (temperature, salinity, chemical characteristics), physical effects on the marine habitats represented (scouring, sedimentation) and impacts on dependant aquatic flora/fauna. The Cumbria Coast*

*MCZ assessment states that a Marine Monitoring Plan will be developed as to date there is no detailed baseline information. This is required to protect and mitigate for effects on protected species and habitats, to prevent damage to and loss of biodiversity in the marine environment, in accordance with policy DC16 of the Cumbria Minerals and Waste Local Plan.*

### **MMO Licence**

- 22.** No Construction Works shall take place until a licence has been granted by the Marine Management Organisation (MMO) for the proposed extraction of High Vol A Coking Coal from under the seabed, which forms part of this development proposal, but is not permitted under the planning permission hereby approved.

*Reason: The Construction Phase for the terrestrial elements of this development will result in environmental impacts that include noise and disturbance to nearby houses, adverse visual impacts and impacts upon landscape character, and adverse ecological impacts including the permanent loss of ancient woodland. In the event an MMO licence is not secured for the extraction of High Vol A Coking Coal, some of these impacts cannot be reversed, and in some cases would need continue for a further duration as a result of additional work required to make good the site. The adverse impacts from the Construction Phase are only considered acceptable due to the fact they would be off-set by the benefits resulting from the extraction of the High Vol A Coking Coal, and therefore it is necessary to ensure that the development as a whole has the necessary development consents to proceed, prior to environmental impacts being caused as a result of the Construction Works on the terrestrial elements.*

### **Construction Travel Plan**

- 23.** No Construction Works shall take place until a construction travel plan (CTP) has been submitted to and approved in writing by the Mineral Planning Authority. The CTP shall cover the Construction Phase of the development and shall include details of:
- a) The measures to be undertaken to promote the use by staff of public transport, cycling, walking and sharing vehicles to the site;
  - b) The measures to manage shift patterns to avoid cumulative traffic issues; and
  - c) The measures to be employed to monitor the effectiveness of the CTP and reporting to the outcomes of the Mineral Planning Authority.

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

*Reason: To promote the use of sustainable transport options and the effective management of traffic during the Construction Phase of the development in accordance with policy DC1 of the Cumbria Minerals and Waste Local Plan.*

### **Mineral Conveyor Construction**

- 24.** No Construction Works in relation to the construction of the mineral conveyor infrastructure shall take place until details of the method of construction have been submitted to and approved in writing by the Mineral Planning Authority. The details shall include:

- a) construction techniques;
- b) soil handling techniques;
- c) soil storage locations;
- d) management of excavated material;
- e) temporary haul roads;
- f) construction and operational access arrangements;
- g) highway and services crossings;
- h) water management; and
- i) mitigation for impacts to ancient woodland.

The approved construction method shall be implemented and the development shall be undertaken in accordance with the approved details.

*Reason: To meet the objectives of policy DC2 of the Cumbria Minerals and Waste Local Plan.*

### **Landscape Planting and Seeding Programme – Main Mine Site**

25. The Landscape Planting and Seeding for the Main Mine Site as identified on drawing 869/AM/41 Rev I shall be fully implemented in accordance with a programme to be submitted to and approved in writing by the Mineral planning Authority prior to the commencement of Construction Works commencing on the Main Mine Site. The programme shall provide for planting and seeding to be undertaken at the earliest available opportunity. Notwithstanding the details shown on drawing 869/AM/41 Rev I, full details of the landscaping and tree planting along the frontage of the site with High Road shall be submitted to and approved in writing by the Mineral Planning Authority prior to the commencement of Construction Works commencing on the Main Mine Site. For seeding and planting on the landscape mounds and alongside the frontage of the site with High Road, this shall be taken to mean the first available planting/seeding season following completion of the construction of the mounds and provision of a suitable layer of soil. For all other seeding and planting this shall be taken as meaning the first available season following the completion of any Construction Works which are required in advance of tree planting and seeding taking place. The approved details shall be implemented in full and the development shall be undertaken in accordance with the approved details.

*Reason: To require the submission of details not submitted with the application for planning permission and to secure the early establishment of tree planting and grassland areas, to ensure satisfactory landscaping and to ensure that the site is appropriately restored in accordance with policies SP16 and DC22 of the Cumbria Minerals and Waste Local Plan.*

### **Landscape Planting and Seeding Programme – Conveyor Route and Rail Loading Facility**

26. The Landscape Planting and Seeding for the Conveyor Route and Rail Loading Facility as identified on drawing 869/AR/013 Rev F shall be fully implemented in accordance with a programme to be submitted to and approved in writing by the Mineral Planning Authority prior to the commencement of Construction Works commencing at either the Rail Loading Facility or the conveyor route. The

programme shall provide for planting and seeding to be undertaken at the earliest available opportunity. For the replacement planting at Bellhouse Wood and the mitigation planting to the east of the Cumbrian Coast Rail Line (also illustrated on Drawing 869/AR/012 Rev C) this shall be taken to mean the first available planting/seeding season following the completion of the Preliminary Phase. For all other tree and hedgerow planting this shall be taken as the first available planting season following the completion of the relevant construction activity and in the case of the part of the application site which relates to the former Main Band Colliery seeding and planting shall follow in the first available planting season following the completion of the works to break up the existing concreted pads and the importation, placement and preparation of sub and topsoils.

*Reason: To require the submission of details not submitted with the application for planning permission and to secure the early establishment of tree planting and grassland areas and to ensure that the site is appropriately restored in accordance with policies SP16 and DC22 of the Cumbria Minerals and Waste Local Plan.*

### **Main Band Colliery – Restoration Works**

27. Prior to the commencement of Construction Works at the Rail Loading Facility, a scheme and programme of works to restore the Main Band Colliery Site shall be submitted to and approved in writing by the Mineral Planning Authority. The scheme and programme shall comprise:
- a) The method for the breaking up of the existing concrete pads;
  - b) The depth of subsoil to be spread over the site;
  - c) The depth of topsoil to be spread over the site;
  - d) The work to prepare the soils to alleviate soils compaction, remove from soils any potential impediments to cultivation, works to prepare a tilth suitable for seeding; and
  - e) A programme for the works set out above and for the planting and seeding of the site.

The restoration of the part of the former Main Band Colliery site within the application site shall be implemented in full and undertaken fully in accordance with the approved scheme and programme, followed by the aftercare approved under condition 96.

*Reason: To require the submission of details not submitted with the application for planning permission and to secure the satisfactory and early restoration of the Main Band Colliery site within the application site.*

### **Ancient Woodland**

28. Prior to the commencement of any construction activity which would affect any area of ancient woodland, a scheme and programme detailing the measures to manage the construction of the conveyor within the area of ancient woodland and Roska Park Woodland shall be submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include:
- a) A programme of the following works;
  - b) a survey to identify all individual trees which would need to be removed;

- c) the methods taken to ensure that only those trees identified above are removed;
- d) the methods taken to transport the removed trees from the ancient woodland site;
- e) The methods to be employed in stripping, removing and storing soils recognising that the surface layer of the woodland floor is likely to contain a seedbank of woodland ground floor species which shall be retained for re-cultivation and be spread around replacement planting;
- f) The methods of construction for the conveyor culvert within the ancient woodland;
- g) The methods for replacing soils and preparing soils for replanting, noting e) above; and
- h) A replanting scheme and schedule including species mix, spacing, plant sizes, method of planting, and support and protection measures.

The approved details shall be implemented in full and the development shall be undertaken in accordance with the approved details.

*Reason: To minimise the impact on the ancient woodland in accordance policy SP15 of the Cumbria Minerals and Waste Local Plan.*

- 29.** Prior to the commencement of any works within the ancient woodland, a scheme and programme of replacement planting within the area of Benhow Wood identified as 'Compensation planting area for Woodland and Ancient Woodland' on drawing 869/AR/013 Rev F shall be submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include:

- a) A programme for the works;
- b) A survey to establish the location, species, and condition of all existing trees within the replacement planting area; and
- c) A planting design and schedule including species mix, spacing, plant sizes, method of planting, support and protection measures.

All planting shall be carried out in accordance with the approved programme and planting scheme.

*Reason: To require the submission of details not submitted with the application for planning permission and to secure the implementation of satisfactory replacement planting for those trees lost within the area of ancient woodland in accordance policy SP15 of the Cumbria Minerals and Waste Local Plan.*

- 30.** The trees planted in accordance with conditions 28 and 29 above shall be maintained for the duration of the development. Maintenance of the planting shall include an annual check on the condition of all trees planted, weed-killing, and maintenance and/or replacement of protection and support measures and thinning as necessary. Any trees which die or become damaged or diseased during the duration of the development shall be replaced with plants of the same species or any such other species as may be agreed in writing with the Mineral Planning Authority.

*Reason: To secure the establishment of the trees planted to replace those lost within the ancient woodland in accordance policy SP15 of the Cumbria Minerals and Waste Local Plan.*

## **Construction details of buildings and structures**

- 31.** No construction of buildings and structures shall take place until full details of finished floor levels and ground profile levels have been submitted to and approved in writing by the Mineral Planning Authority. The details shall be provided for all parts of the development and the following levels shall be recorded as metres and centimetres Above Ordnance Datum:
- a) Finished floor levels and maximum height of all buildings and structures;
  - b) Levels and fall for all areas of car parking and hardstanding; and
  - c) Levels and contours for all other areas of the site.

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

*Reason: To secure details of the development not submitted with the application for planning permission as the site and building levels can only be finalised following the completion of the site investigation and contaminated land remediation operations.*

## **Conveyor Route**

- 32.** No work for the installation of the conveyor shall take place until the final design route of the conveyor has been submitted to and approved in writing by the Mineral Planning Authority. The details shall be provided on a drawing(s) to illustrate the vertical and horizontal alignment of the conveyor culvert. The drawing(s) shall illustrate the entire length of the conveyor route and shall illustrate its buried depth and final ground level at 25 metres intervals along its length.

The conveyor culvert shall be constructed in accordance with the approved details.

*Reason: To secure details of the development not submitted with the application for planning permission as the final alignment of the conveyor can only be finalised following the completion of the site investigation.*

## **Materials and finishes**

- 33.** No construction of buildings or structures shall take place until a scheme providing full details of the materials to be used on all external surfaces of all buildings and structures (including the roofs), has been submitted to and approved in writing by the Mineral Planning Authority. The details shall include their colour, texture, profile and finish. The scheme shall also include a rationale and justification for the proposed details, including colours of proposed materials. The development shall thereafter be carried out in accordance with the approved details.

*Reason: To require the submission of details not submitted with the application for planning permission and to ensure that the visual impact of the development is minimised.*

## **Secure By Design**

- 34.** No construction of buildings shall take place until a scheme to demonstrate that the development is Secure by Design has been submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include the following details:

- a) Perimeter security fences;
- b) Security lighting;
- c) Building resistance to burglary;
- d) Internal access controls;
- e) Consideration of deployment of an intruder alarm system;
- f) Waste bin management;
- g) Secure storage for staff personal belongings;
- h) Consideration for deployment of CCTV, observing exterior and internal communal spaces; and
- i) Consideration of the safety of pedestrians and cyclists.

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

*Reason: To ensure that adequate security is provided at the site.*

### **Operational Lighting Scheme**

- 35.** No external lighting shall be installed for the operational phase of the development until a scheme and programme for external lighting has been submitted to and approved in writing by the Mineral Planning Authority. The scheme shall be designed in accordance with Institute of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Light and detail:

- a) Location, type, purpose and intensity of lights;
- b) Control mechanism (i.e. switch, timer, sensor) and anticipated duty cycles;
- c) Types of masking or baffle at head;
- d) Type, height and colour of lighting columns / bollards;
- e) Number and size of lighting units per column / bollard;
- f) Light spread diagrams showing lux levels at the site boundary and assessment of the impact of these on adjacent land uses, railway line, habitat and nearby residential properties; and
- g) Phasing of the implementation of the lighting scheme.

All external lighting shall be designed not to illuminate potential bat habitat (e.g. hedgerows and trees). The lighting shall be installed and operated in accordance with the approved scheme and programme.

*Reason: To ensure that the effects of lighting are minimised in accordance with policies DC16 (Biodiversity) and DC18 (Landscape & Visual Impact) of the Cumbria Minerals and Waste Local Plan.*

### **Cycle Storage**

- 36.** Prior to the commencement of Construction Works for the construction of the Rail Loading Facility, cycle storage shall be provided at the Rail Loading Facility. The cycle storage shall be provided in accordance with details that have been submitted to and approved in writing by the Mineral Planning Authority.

*Reason: To aid in the delivery of sustainable transport objectives*

### **Footpaths during construction**

- 37.** Prior to the commencement of any Construction Works which would affect a Public Right of Way, a scheme for minimising construction impacts on Public Rights of Way shall have been submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include details of:
- a) temporary and permanent diversion routes;
  - b) the functioning of the existing railway underpass and alternate crossings (including measures to keep the path open, signage and crossing supervision);
  - c) fencing and other protective measures;
  - d) temporary furniture such as gates, stiles, bridges and ramps; and
  - e) lighting, surfacing and drainage.

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

*Reason: To meet the objectives of Paragraph 98 of the National Planning Policy Framework and to ensure that impacts on Public Rights of Way are minimised.*

### **Gas pipeline**

- 38.** No Construction Works shall take place within 25 metres of the high pressure gas pipeline until a Gas Pipeline Protection Scheme has been submitted to and approved in writing by the Mineral Planning Authority. The scheme shall set out the measures for the protection of the high pressure gas pipeline in the vicinity of the main mine site and conveyor route during the construction and operation of the development. The scheme shall also include detailed design proposals in respect of the conveyor design and its relationship to the gas pipeline.

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

*Reason: in the interests of health and safety and to protect the integrity of the pipeline in accordance with policy DC2 of the Cumbria Minerals and Waste Local Plan.*

### **Materials Management Plan**

- 39.** Prior to the commencement of Construction Works, a Materials Management Plan shall be submitted to, and approved in writing by the Mineral Planning Authority. The Materials Management Plan shall be developed following the site investigations and risk assessments and shall:
- a) Identify all locations (above and below ground) of the main mine site, conveyor and rail loading facility from which material will be excavated;
  - b) Utilising the information contained within the contaminated land investigation, identify those areas of excavation which may be subject to contamination;
  - c) For areas of excavation which are subject to contamination estimate the volume of material arising, the approximate volumes of material to be remediated on site and provisional volume to be disposed of off-site;
  - d) Illustrate where and how the remediation of contaminated material would take place;
  - e) Illustrate where and how remediated material would be re-used, including volumetric calculations to demonstrate that the material can be

- accommodated within the proposed area of use and any measures for containment for this material;
- f) Detail the frequency of testing and testing specification for soils generated during the cut and fill operations, including how the materials are to be segregated and stored;
  - g) Identify screening criteria for assessment of whether the materials can be re-used without treatment or mitigation;
  - h) For areas of excavation which are not subject to contamination provide the volume of material arising, and illustrate where and how non-contaminated material would be re-used including volumetric calculations to demonstrate that the material can be accommodated within the proposed area; and
  - i) Provide full construction details for the emplacement of materials to form any bunds on site. Such information shall include but not be limited to details of the quality of materials, drainage management, volumes and as-built plans.

The approved Materials Management Plan shall be implemented and the development shall be undertaken in accordance with the approved details.

*Reason: To ensure the proposed development does not pose an unacceptable risk of pollution to controlled waters in accordance with policy DC20 of the Cumbria Minerals and Waste Local Plan.*

#### **Landfill Safeguarding Scheme**

- 40.** Prior to the commencement of Construction Works, full details of any proposed works or development over or directly adjacent to the Marchon / UFex and Hutbank landfills or any of their associated infrastructure shall be submitted to and approved in writing by the Mineral Planning Authority.

The approved scheme shall be implemented and the development shall be undertaken in accordance with the approved details.

*Reason: To ensure the proposed development does not pose an unacceptable risk of pollution to controlled waters by demonstrating that the integrity of capping on the existing Marchon / Ufex and Hutbank landfill sites is not compromised in accordance with policy DC20 of the Cumbria Minerals and Waste Local Plan.*

#### **Construction – Site Waste Management Plan**

- 41.** Prior to the commencement of Construction Works, a Site Waste Management Plan (SWMP) shall be submitted to and approved in writing by the Mineral Planning Authority. The Site Waste Management Plan shall include details of:
- a) the anticipated nature and volumes of waste that will be generated by construction work;
  - b) the measures to minimise the generation of waste as a result of demolition, building, engineering and landscape works;
  - c) measures to maximise the re-use on-site of such waste; and
  - d) measures to be taken to ensure effective segregation at source of other waste arising during the carrying out of such works, including the provision of waste sorting, storage, recovery and recycling facilities as appropriate.

The approved SWMP shall be implemented throughout the period of Construction Works on site.

*Reason: To ensure the construction activities associated with the proposed development do not pose an unacceptable risk of pollution to controlled waters through the inappropriate management of waste on site in accordance with policy DC20 of the Cumbria Minerals and Waste Local Plan.*

### **Phasing and Management for Paste Placement**

- 42.** Prior to the commencement of Construction Works, a phasing and management plan for the placement of paste in the mining voids shall be submitted to and approved in writing by the Mineral Planning Authority. The plan shall include details of the phasing of proposed filling activities, the volumes of paste to be transferred to the voids, the location and depth of the voids to be filled, an assessment of any risks associated with the transfer of paste to the identified voids and any mitigation measures necessary to ensure the transfer of paste to the voids to manage the risks identified.

The approved plan shall be implemented and the development shall be undertaken in accordance with the approved details.

*Reason: To ensure the proposed development does not pose an unacceptable risk of pollution to controlled waters and to minimise subsidence in accordance with policies DC13 and DC20 of the Cumbria Minerals and Waste Local Plan.*

### **Construction – Surface Water Quality Management Plan**

- 43.** Prior to the commencement of Construction Works a scheme detailing how surface water flows will be minimised and managed during the Construction Phase of the development shall be submitted to and approved in writing by the Mineral Planning Authority. The Construction Phase surface water management plan shall include the following and be implemented before construction starts:
- a) An assessment of potential flows that would need to be managed at the main mine site, conveyor route and rail loading facility site during construction;
  - b) Details of the measures which would be put in place to capture, manage, and discharge flows from the component parts of the site identified in part a);
  - c) A programme for the installation, maintenance and removal of the measures set out in part b);
  - d) An assessment of potential contaminants which may be present in surface water runoff, and measures to segregate this surface water from clean runoff;
  - e) Assessment of potential options to retain, test and treat or remove potentially contaminated surface water runoff during the works; and
  - f) Details of a monitoring scheme to be implemented to confirm that no contaminants are present in runoff from the site intended for discharge to controlled waters (before, during and post construction).

Once approved, the Construction Phase surface water management plan shall be implemented in full and the development shall be undertaken in accordance with the approved details.

*Reason: To ensure the construction activities associated with the proposed development do not pose an unacceptable risk of pollution to controlled waters in accordance with policy DC20 of the Cumbria Minerals and Waste Local Plan.*

## **Construction – Foul Water Management Plan**

- 44.** Prior to the commencement of Construction Works a scheme detailing how foul water flows will be managed during the Construction Phase of the development (i.e. all flows anticipated prior to the connection to mains sewer) shall be submitted to and approved in writing by the Mineral Planning Authority. The Construction Phase foul water management plan shall include the following:
- a) An assessment of maximum foul water flows based upon estimates of numbers of construction workers at the main mine site, conveyor route and the rail loading facility;
  - b) Details of the measures which would be put in place to manage and discharge flows from the component parts of the site identified in part a); and
  - c) A programme for the installation, maintenance and removal of the measures set out in part b).

Once approved the Construction Phase foul water management plan shall be implemented in its entirety and the development shall be undertaken in accordance with the approved details.

*Reason: To ensure the construction activities associated with the proposed development do not pose an unacceptable risk of pollution to controlled waters in accordance with policy DC20 of the Cumbria Minerals and Waste Local Plan.*

## **Heritage Trails & Paths**

- 45.** Notwithstanding the trails and paths shown on approved plan 869/AM/041 Rev I, no Construction Works shall take place until a scheme and programme for the erection of interpretation boards for heritage assets and for the creation of heritage trails and paths at the main mine site has been submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include:
- a) The location of the interpretation boards;
  - b) The design, contents and construction of the interpretation boards;
  - c) The final alignment of routes for heritage trails and paths;
  - d) The details of the construction of the heritage trails;
  - e) The provisions for ensuring public access and maintenance of the trails; and
  - f) A programme for the implementation of the scheme.

The development shall be implemented in accordance with the approved scheme and programme.

*Reason: In accordance with policy DC17 of the Cumbria Minerals and Waste Local Plan.*

## **Habitat Management Scheme**

- 46.** No Construction Works shall take place until a Habitat Management Scheme (HMS) including a programme of works has been submitted to and approved in writing by the Mineral Planning Authority. The HMS shall set out the measures for the maintenance of the areas of habitat creation as illustrated on drawings 869/AM/041 Rev I and 869/AR/013 Rev F and shall demonstrate a net gain for biodiversity. Areas for habitat creation shall be taken to include Species Rich Grassland, Wet

Grassland, new hedgerow planting, native woodland planting and ancient woodland mitigation planting and shall also provide for additional hedgerow planting to offset the section of hedgerow that would be removed in the vicinity of the railway sidings.

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

*Reason: To require the submission of details not submitted with the application for planning permission and to secure ecological mitigation and to comply with paragraph 170d of the NPPF.*

### **Foul Water Drainage Scheme**

- 47.** No Construction Works shall take place until a foul water drainage scheme (during the operation and restoration of the proposed mine) has been submitted to and approved in writing by the Mineral Planning Authority. The foul water drainage scheme shall include:

- a) the location of the point of connection for foul water to the existing public sewer;
- b) the timing arrangements for the pumped foul discharge;
- c) the storage requirements for the pumped foul discharge; and
- d) the rate of discharge for the pumped foul discharge.

No surface water, land drainage or highway drainage shall connect with the existing public sewerage system. There shall be no connection of foul water to the public sewer other than in accordance with the Foul Water Drainage Scheme approved by the Mineral Planning Authority. The development shall be constructed and implemented in accordance with the approved details.

*Reason: To secure proper drainage and in order to manage the risk of flooding and pollution from the public sewerage system, it is necessary to agree the specific details of the approach to foul water drainage. This shall include agreeing the location of the point of connection to the public sewer and the approach to foul water pumping.*

### **Construction Phase – Restoration Scheme**

- 48.** Prior to the commencement of the Construction Phase a scheme for the restoration of the site which would be implemented in the event that the development does not progress beyond the Construction Phase (Construction Phase Restoration Scheme) shall be submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include the following:

- a) The methods for the removal of all buildings, equipment, plant and hardstandings from the site for each stage of construction;
- b) The ground levels/landform to be created for each stage of construction;
- c) The depths of subsoils and topsoils to be placed over the site area;
- d) The cultivation steps and soil treatments to be carried out following soils placement;
- e) Seed mixes and seeding application rates;
- f) Tree/shrub planting species mix, spacing, size, method of planting and protection measures; and
- g) A programme for carrying out the steps above.

In the event that the development does not progress beyond the Construction Phase, the Construction Phase Restoration Scheme shall be implemented in full

and undertaken fully in accordance with the approved scheme and programme, followed by the aftercare approved under condition 96.

*Reason: To ensure that the site is appropriately restored in accordance with policies SP16 and DC22 of the Cumbria Minerals and Waste Local Plan.*

### **Rail Loading Facility – Design Detail**

- 49.** Prior to the commencement of construction of the Rail Loading Facility (RLF), detailed designs of the following components of the RLF development shall be submitted to and approved in writing by the Mineral Planning Authority. These designs shall include a rationale for the chosen design based upon any geotechnical site investigation work which has been undertaken, together with all other design considerations including functional and aesthetic:
- a) The new underbridge required beneath the proposed rail siding immediately adjacent to the Network Rail underbridge;
  - b) The new rail sidings and the interface with the existing network rail embankment; and
  - c) The drainage systems installed to manage surface water.

Once approved these components of development shall be carried out in accordance with the approved designs.

*Reason: to ensure the ongoing safety of the operational railway.*

### **Rail Loading Facility – Vehicle Incursion**

- 50.** Prior to the commencement of the construction of the site road leading to the RLF a scheme to avoid vehicle incursion onto the railway lines shall be submitted to and approved in writing by the Mineral Planning Authority. The scheme shall detail all the measures which will be put in place during construction of the road, its subsequent use during the Operational Phase of the mine and during decommissioning to prevent vehicle using the site road entering the railway lines and associated area required for the safe passage of trains. Once approved the scheme shall be implemented and adhered to through all phases of the development.

*Reason: to ensure the ongoing safety and functionality of the operational railway, the sidings and its associated infrastructure.*

### **Rail Loading Facility – Electric Pylon Relocation**

- 51.** Prior to the commencement of the construction of the RLF, a scheme for the relocation of the electricity pylon(s) which would be required to facilitate the development of the RLF shall be submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include:
- a) Location of the existing pylon, its type and height and span of its connection with other pylons;
  - b) The revised location of the new pylon;
  - c) The type and height of new pylon;
  - d) The span and height of the connections from the new pylon to unaffected pylons; and

- e) The programme for the relocation of the pylon and its associated revised connections.

Once approved the pylon relocation and revised connections shall be carried out in accordance with the approved scheme and programme.

*Reason: to ensure the ongoing safety of the operational railway and sidings.*

### **Rail Loading Facility (RLF) – Landscaping Scheme**

- 52. Prior to the commencement of construction of the RLF, a landscaping scheme for the proposed planting to the east of the railway line shall be submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include the following:

- a) Tree/shrub planting species mix, spacing, size, method of planting, protection measures;
- b) objective criteria to monitor the health and progress of the planting within landscaped areas and procedure for reporting the outcomes of monitoring to the Mineral Planning Authority including trigger levels for remedial action;
- c) A programme for carrying out the steps above; and
- d) Management of the planting for the duration of the development.

Once approved, the landscaping scheme shall be carried out in accordance with the approved scheme and programme.

*Reason: To ensure that the site is appropriately landscaped in accordance with policy DC18 of the Cumbria Minerals and Waste Local Plan and to ensure the ongoing safety of the operational railway.*

### **Construction – Hours of Working**

- 53. No works related to the construction of the development shall take place other than between the following hours:

Monday to Friday	0800 hours to 1800 hours
Saturday	0800 hours to 1300 hours
Sunday & Bank Holiday	No working

For the avoidance of doubt this condition shall not prevent the operation of pumps or other essential safety equipment outside of these hours.

*Reason: In the interests of residential amenity and in accordance with policy DC3 of the Cumbria Minerals and Waste Local Plan.*

### **Construction – Traffic Numbers**

- 54. During the Construction Phase, no more than 53 Heavy Goods Vehicles (HGVs) shall enter and leave the main mine site per day. A record of the numbers of HGVs visiting the site per day shall be maintained. This shall be submitted to the Mineral Planning Authority in writing on a quarterly basis during the mine Construction Phase of development until that phase has been completed.

*Reason: To minimise the impact of traffic during the Construction Phase, in accordance with policy DC1 of the Cumbria Minerals and Waste Local Plan and to*

*ensure that the impacts are no greater than as assessed in the planning application.*

### **Construction – Noise (Temporary Operations)**

55. The equivalent continuous noise level attributable to temporary operations relating to the construction of the development in the vicinity of the noise sensitive properties identified in condition 78 shall not exceed 70dB(A) (LAeq 1hour free field) for a total of 8 weeks in any 52 week period. During periods of temporary operations, a daily record shall be maintained noting the location and type of operations occurring within 200m of a noise sensitive property. The operator will afford the Mineral Planning Authority access to this record on request.

*Reason: In the interests of amenity and in accordance with policy DC3 of the Cumbria Minerals and Waste Local Plan.*

### **Piling Methodology**

56. No piling shall take place until details of, and a methodology for, any piling have been submitted to, and approved in writing by, the Mineral Planning Authority. The methods proposed shall involve rotary piling only. The details and methodology shall detail any required measures, including any monitoring, to protect utilities, residential properties and ecological receptors from the impact of noise, dust and vibration generated by the piling. The works shall be carried out in accordance with the approved details and methodology.

*Reason: In accordance with policy DC3 of the Cumbria Minerals and Waste Local Plan and to ensure that the vibrations from pile driving operations do not result in damage to utilities, or have unacceptable impacts in respect of noise, ecological interests or local amenity and because methods other than rotary piling have not been assessed within the planning application.*

### **Archaeology**

57. Where significant archaeological remains are revealed by the programme of archaeological work approved under condition 10, the following shall be carried out within one year of the completion of that programme on site, or within such timescale as otherwise agreed in writing by the Mineral Planning Authority:
- a) an archaeological post-excavation assessment and analysis;
  - b) the preparation of a site archive ready for deposition at a store;
  - c) the completion of an archive report; and
  - d) preparation and submission of a report of the results for publication in a suitable specialist journal.

*Reason: To ensure that a permanent and accessible record by the public is made of the archaeological remains that have been disturbed by the development in accordance with policy DC17 of the Cumbria Minerals and Waste Local Plan.*

### **Main Band Colliery – Reptiles**

58. Prior to the commencement of any works at the part of the former Main Band Colliery within the application site, a scheme for surveying for the presence of reptiles shall be submitted to and approved in writing by the Mineral Planning

Authority. The scheme shall set out:

- a) the survey technique;
- b) frequency of survey;
- c) acceptable weather conditions for the survey; and
- d) minimum qualifications and experience of surveyor.

Once approved, the scheme(s) shall be implemented in advance of any site clearance, remediation or Construction Works at the former Main Band Colliery. Should reptile presence be identified, additional population surveys will be required together with submission of a Reptile Mitigation Plan (RMP) which shall be submitted to and approved in writing by the Mineral Planning Authority.

All works thereafter shall be undertaken in accordance with the approved Reptile Mitigation Plan.

*Reason: To establish likely presence or absence of reptiles at the former Main Band Colliery insofar as it is within the RLF site, to enable adequate mitigation and protection of these if present. All reptiles are protected under the Wildlife and Countryside Act 1981 (as amended), making it illegal to intentionally kill or injure a common reptile. Although reptile survey reports have been undertaken and reported in support of the application, the survey undertaken at the Main Band Colliery Site did not comply with the Standing Advice provided by Natural England. It was not undertaken under suitable conditions for reptile survey as stated in current recommended guidelines.*

### **Mine Phasing, Operations and Spoil Management**

**59.** No working underground or associated engineering operations underground shall take place until a Mine Phasing, Operations and Spoil Management scheme has been submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include details of:

- a) Phases of working as indicated on a plan with locations and dates;
- b) A description of the working methods and techniques (no blasting shall be permitted);
- c) The measures employed to minimise the potential for environmental impact;
- d) Details of mine spoil management including:
  - (i) Identification of the types and volumes of waste materials that will be generated through the underground mining operations;
  - (ii) The measures by which these materials shall be managed and disposed of underground within the mine workings; and
- e) Provision for review and updating on an annual basis to take account of developments in available technology and changing environmental conditions.

The approved scheme shall be implemented and the development shall be undertaken in accordance with the approved scheme.

*Reason: To ensure adequate control of the sub-surface operations and to ensure that the waste products from the mining operations (particularly rock spoil) are managed in environmentally acceptable ways, and to ensure mine wastes are not exported from the mine.*

### **Footpath through Main Mine Site**

**60.** No mineral working shall take place until details of the footpath within the Main Mine Site from High Road to the north western boundary of the site has been submitted to and approved in writing by the Mineral Planning Authority. The details shall include:

- a) the precise alignment including to allow for connection to surrounding paths;
- b) boundary fencing with a gap on the north western boundary to allow for connection to surrounding paths; and
- c) a management scheme for maintenance, management and public access.

Within 6 months of mineral working commencing, the footpath shall be constructed and completed in accordance with the approved details. Thereafter the public access along the footpath shall be provided and the footpath maintained and managed in accordance with the management scheme.

*Reason: To require the submission of details not submitted with the application for planning permission and to secure the provision and maintenance of the site footpath in accordance with policy and DC18 of the Cumbria Minerals and Waste Local Plan.*

### **Operational Travel Plan**

**61.** No mineral working shall take place until an operational travel plan (OTP) has been submitted to and approved in writing by the Mineral Planning Authority. The OTP shall include details of:

- a) The measures to be undertaken to promote the use by staff of public transport, cycling, walking and sharing vehicles to the site;
- b) The measures to manage shift patterns to avoid cumulative traffic issues; and
- c) The measures to be employed to monitor the effectiveness of the OTP and reporting to the outcomes of the Mineral Planning Authority.

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

*Reason: To promote the use of sustainable transport options and the effective management of traffic in accordance with policy DC1 of the Cumbria Minerals and Waste Local Plan.*

### **Operational Environmental Management Plan**

**62.** No mineral working shall take place until an Operational Environmental Management Plan (OEMP) has been submitted to and approved in writing by the Mineral Planning Authority. The OEMP shall include details of:

- a) roles and responsibilities for the developer and its contractors regarding environmental compliance including environmental training and management procedures
- b) provisions for environmental emergency planning and environmental incident response arrangements;
- c) Environmental Permits, Licences and Consents required;
- d) liaison with the public and contact information for community concerns;
- e) parking areas for the vehicles of workers and visitors;
- f) areas to be used for the loading and unloading of plant and materials;
- g) areas for the storage of plant and materials;
- h) noise and vibration mitigation measures to be employed during the Operational

- Phase, including the provision for noise levels to be updated and reviewed every 5 years following the commencement of Construction Works;
- i) a scheme for the management of air quality and dust during the Operational Phase;
  - j) site signage;
  - k) how the environmental aspects of historic environment works will be managed;
  - l) the management of waste, including provision for waste segregation, compliance with Duty of Care regulations;
  - m) how water pollution risks and flood risks will be minimised including measures to prevent the development causing pollution to Pow Beck, waterbodies or the marine environment;
  - n) management of traffic;
  - o) ecological management including plans for the monitoring of:
    - i) Pow Beck surface water discharge flows and water quality;
    - ii) surface water quality in attenuation pond(s) on Main Mine Site prior to discharge to the Surface Water Outfall;
    - iii) marine water quality and scouring around the surface water discharge pipe;
  - p) seasonal and daytime restrictions on certain activities to mitigate for effects on ecological receptors;
  - q) sustainability measures including minimising and monitoring resource use including energy & water consumption, incorporating re-use wherever practicable;
  - r) the management of vermin;
  - s) working hours;
  - t) pollution prevention measures including storage of fuels and oils and measures to prevent, contain and manage refuelling of plant and vehicles;
  - u) all lighting including procedures to ensure lighting equipment is positioned so as not to create nuisance or disturbance to surrounding properties, public highways or wildlife.

Once approved, the OEMP shall be implemented and the development shall be undertaken in accordance with the approved OEMP.

*Reason: To provide the management framework needed for the planning and implementation of activities in accordance with environmental commitments identified in the ES in accordance with policy DC6 of the Cumbria Minerals and Waste Local Plan.*

### **Dust Management Plan**

- 63.** No mineral working shall take place until a Dust Management Plan (DMP) for the Operational Phase of the development has been submitted to and approved in writing by the Mineral Planning Authority. The DMP shall include details of:
- a) Dust suppression equipment attached to vents and other openings to any processing, conveyor or storage buildings at the site;
  - b) The location and type of monitoring;
  - c) Frequency of monitoring;
  - d) Provision for the reporting of results; and
  - e) Provisions for review of the DMP at the written request of the Mineral Planning Authority.

When approved the DMP shall be implemented in accordance with the approved details and the development shall be undertaken in accordance with the approved

DMP.

*Reason: In the interests of amenity and to ensure that the objectives of policy DC5 of the Cumbria Minerals and Waste Local Plan are met.*

### **Noise Management Plan**

- 64.** No mineral working shall take place until a Noise Management Plan (NMP) has been submitted to and approved in writing by the Mineral Planning Authority. The NMP shall include details of:
- a) A Method Statement for and provision of periodic compliance monitoring during the Operational Phase, in relation to the receptors at the locations listed in condition 78;
  - b) the use of the back-up generators and how any unacceptable noise will be mitigated;
  - c) the establishment of long-term monitoring locations, including an 8 figure OS grid reference for each monitoring point;
  - d) a procedure for investigating and responding to noise complaints whether received directly from a member of the public or via any local authority;
  - e) provision for written reports to be submitted to the Mineral Planning Authority following compliance noise monitoring and complaint investigation. If the monitoring reveals that the noise from the operation of the development exceeds those within condition 78 the scheme shall set out the measures to be taken to reduce noise levels to approved limits; and
  - f) mitigation actions and timescales for their implementation to be agreed in writing with the Mineral Planning Authority (within the above report) if monitoring shows exceedance of the noise limits set out in condition 78.

Once approved the NMP shall be implemented in accordance with the approved details and the development shall be undertaken in accordance with the approved NMP.

*Reason: In the interests of amenity and in accordance with policy DC3 of the Cumbria Minerals and Waste Local Plan.*

### **Mine Gas Capture**

- 65.** No mineral working shall take place until a Mine Gas Capture Management scheme has been submitted to and approved in writing by the Mineral Planning Authority. The scheme shall:
- a) identify the potential for the capture and subsequent management of methane, carbon dioxide, carbon monoxide and hydrogen sulphide or other mine gases which may impact upon the climate or environment during the operational lifetime of the mine;
  - b) identify the potential for beneficial use of the gases;
  - c) identify measures to prevent uncontrolled emissions of mine gases to the atmosphere; and
  - d) include provision for review and updating no less than once every five years, to take account of updates in available technology and changing environmental conditions.

The development shall be carried out and the gases managed and used beneficially

in accordance with the approved Mine Gas Capture Management scheme.

*Reason: To ensure that the objectives set out in policy DC13 of the Cumbria Minerals and Waste Local Plan are met, and because it is national planning policy that methane capture should be employed for all coal projects, in order to manage adverse impacts on the climate.*

### **Seismic Activity – Monitoring**

- 66.** No mineral working shall take place until a Seismic Activity Monitoring Scheme (SAMS) for onshore mining has been submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include the following:
- a) the methodology for monitoring seismic activity. This shall identify the potential receptors which will be the subject of monitoring, and the equipment to be utilised for monitoring;
  - b) the location for the installation of the seismic monitoring array to effectively monitor the seismic activity impacts on the receptors identified at (a); and
  - c) the arrangements including timescales and frequency of reporting the outcome of monitoring to the Mineral Planning Authority.

Once approved, the SAMS shall be fully implemented prior to the commencement of onshore coal mining and shall continue for a period of 6 years after the cessation of onshore coal mining. All monitoring and reporting shall be undertaken in accordance with the approved scheme.

*Reason: To ensure that seismic activity events are monitored, investigated and mitigated in accordance with policy DC13 of the Cumbria Minerals and Waste Local Plan.*

### **Seismic Activity – Investigation**

- 67.** In the event that seismic activity which is attributable to onshore mining activity at any of the receptors identified at condition 66 exceeds a Peak Particle Velocity (PPV) of 6mm/sec the operator shall, as soon as reasonably practicable, carry out an investigation into the reasons for that exceedance. This investigation will confirm whether or not the seismic activity was induced by mining activity and, if so, identify the mining activities taking place, immediately prior to, the time the exceedance was detected. The outcome of that investigation shall be set out in a report and submitted to the Mineral Planning Authority within 7 days of the exceedance for approval in writing by the Mineral Planning Authority.

*Reason: To ensure that seismic activity events are monitored, investigated and mitigated in accordance with policy DC13 of the Cumbria Minerals and Waste Local Plan.*

### **Seismic Activity – Mitigation**

- 68.** Where a seismic activity investigation has been undertaken and reported to the Mineral Planning Authority under condition 67, and where the conclusion of that investigation is that the seismic activity was attributable to onshore mining operations, within 14 days of the receipt by the Mineral Planning Authority of the investigation report, mineral extraction shall cease and a scheme and programme

for seismic activity mitigation shall be submitted to and approved in writing by the Mineral Planning Authority. The scheme shall:

- a) provide the rationale for the development of the mitigation measures with reference to the outcome of the investigation;
- b) detail the measures to be taken to reduce seismic activity;
- c) provide a programme for the implementation of the mitigation measures derived from the investigation report; and
- d) provide for an increase in the frequency of monitoring reporting to assess the efficacy of the mitigation measures which have been put in place.

Once approved the scheme shall be implemented in accordance with the approved programme.

*Reason: To ensure that seismic activity events are monitored, investigated and mitigated in accordance with policy DC13 of the Cumbria Minerals and Waste Local Plan.*

### **Subsidence – Monitoring**

**69.** No working of minerals shall take place until a subsidence monitoring scheme has been submitted to and approved in writing by the Mineral Planning Authority. The monitoring scheme shall provide for monitoring the potential effects of subsidence on sensitive receptors. The scheme shall include the following:

- a) The methodology for subsidence monitoring including establishing the maximum zone of influence of onshore mining by projecting from the outward edge of extraction a line outwards and upwards from the relevant seam at 35° from a line perpendicular to that seam so as to intersect the surface, the methods for recording existing ground levels, method for monitoring changes in ground levels, equipment to be utilised and duration of monitoring following the cessation of onshore mining;
- b) The subsidence monitoring locations and the rationale for the number of monitoring points and the locations selected;
- c) The frequency of subsidence monitoring, and the rationale for the frequency selected;
- d) The arrangements for reporting the outcome of subsidence monitoring to the Mineral Planning Authority which routinely shall be no less than annually;
- e) The method for the derivation of trigger subsidence levels at sensitive receptors which would represent a subsidence event; and
- f) Proposals for increasing the frequency of subsidence monitoring and for the reporting of that increased frequency of monitoring to the Mineral Planning Authority in the event that a subsidence event occurs.

Surface subsidence monitoring and reporting shall be undertaken in accordance with the approved monitoring and reporting scheme.

*Reason: To ensure that subsidence is monitored, investigated and mitigated in accordance with policy DC13 of the Cumbria Minerals and Waste Local Plan.*

### **Subsidence – Investigation and reporting**

**70.** In the event that a subsidence event occurs, the zone of influence of the sensitive receptor shall be established by projecting downward and inward at an angle of 35°

to the depth of seam being worked. Coal production within the zone of influence of the sensitive receptor shall be suspended until a subsidence investigation has been completed. The subsidence investigation shall determine the reason(s) for the subsidence event. The investigation shall review the mining activities taking place prior to the subsidence event being detected and determine which of these activities led to the subsidence event occurring. The findings of the investigation shall be set out in a subsidence investigation report which shall also identify the mitigation measures and a programme to be adopted to prevent a reoccurrence of a subsidence event. Where a subsidence investigation report has been concluded it shall be submitted to and approved in writing by the Mineral Planning Authority. Any mitigation measures shall be carried out in accordance with the Mineral Planning Authority's written approval and the approved programme.

*Reason: To ensure that subsidence is monitored, investigated and mitigated in accordance with policy DC13 of the Cumbria Minerals and Waste Local Plan.*

### **Subsidence – Mitigation**

71. Coal mining shall only recommence within the zone of influence of the sensitive receptor which was the subject of the subsidence event under condition 70 after the Mineral Planning Authority provide written notification to confirm approval of the investigation report and that the proposed mitigation measures are acceptable. Coal mining within the zone of influence of the sensitive receptor which was the subject of the subsidence event shall thereafter only take place in accordance with the mitigation measures approved within the subsidence investigation report.

*Reason: To ensure that subsidence is monitored, investigated and mitigated in accordance with policy DC13 of the Cumbria Minerals and Waste Local Plan.*

### **Hazardous Substances Consent**

72. No workplace buildings shall be occupied until the hazardous substances consent for the Hunstman Surface Sciences Ltd site has been revoked in its entirety under the provisions of the Planning (Hazardous Substances) Act 1990, and written confirmation of the necessary revocation has been issued by the Hazardous Substances Authority.

*Reason: The HSE consider the existence of this consent presents a risk to occupiers of workplace buildings at the main mine site, and so require a condition to this effect to be attached.*

### **Operation of Rail Loading Facility – Hours of Working**

73. No operations at the Rail Loading Facility shall take place other than between the following hours:

Monday to Saturday	0600 hours to 2200 hours
Sunday & Bank Holiday	No working

*Reason: In the interests of residential amenity and in accordance with policy DC3 of the Cumbria Minerals and Waste Local Plan.*

## **Operation of Rail Loading Facility – Noise Assessment**

74. Notwithstanding condition 73 above, no operations shall take place at the Rail Loading Facility (RLF) between 0600 hours and 0700 hours (Monday to Saturday) until a noise assessment demonstrating that the night-time noise limits will not be exceeded for locations R5 to R8 (inclusive) as identified within the table in condition 78, has been submitted to and approved in writing by the Mineral Planning Authority.

*Reason: In the interests of residential amenity and in accordance with policy DC3 of the Cumbria Minerals and Waste Local Plan*

## **Departure and Arrival of Trains during Daytime Only**

75. No trains shall be permitted to arrive at or depart from the Rail Loading Facility or manoeuvre in the associated sidings other than between the following hours:

Monday to Saturday	0700 hours to 2200 hours
Sunday & Bank Holiday	No departure or arrival or movement of trains permitted

*Reason: In the interests of residential amenity and in accordance with policy DC3 of the Cumbria Minerals and Waste Local Plan.*

## **Mine Production**

76. No more than 2,780,000 tonnes of processed High Vol A Coking Coal shall be exported from the site in any calendar year. A record of the tonnage and type of the coal exported from the site in each calendar month of the preceding year shall be maintained and submitted to the Mineral Planning Authority before the 31 January annually whilst the mine is operational. Written records shall be filed on a monthly basis and shall be available for inspection on request by the Mineral Planning Authority.

*Reason: To monitor compliance and to ensure that the impacts of development are no greater than set out in the Environmental Statement accompanying the application.*

77. After the first 12 months of production, or at the maximum anticipated level of coal production for the mine, whichever is the sooner, the average (mean) sulphur content of the coal exported from the mine in any 12 month period shall not exceed 1.4%. After the first 12 months of production, or at the maximum anticipated level of coal production for the mine, whichever is the sooner, the operator shall commence recording the sulphur content of each shipment of coal dispatched from the mine. On each and every anniversary of the commencement of that record, or upon request, the operator shall submit to the Mineral Planning Authority copies of the records of those shipments to evidence the average (mean) sulphur content for the coal exported in the preceding year. The submission of records shall also include all records of any communication from a customer concerning the accuracy of the sulphur content of the coal. No type of coal other than High Vol A Coking Coal with a sulphur content not exceeding 1.6% shall leave or be transported from the mine.

*Reason: So that the coal produced is the same as that assessed in the*

*Environmental Statement and planning application. To ensure that only coal likely to be used in UK or European steel-making is exported from the mine*

## **Noise Limits**

78. The noise level emitted from the operation of the site shall not exceed the levels detailed in the table below at the locations given insofar as they are shown on Figure 14.1 Rev 01. Any measurement shall be made at a height of 1.2m and at a minimum distance of 3.5m from any façade or acoustically reflective surface.

<b>Location</b>	<b>Period</b>	<b>Noise limit dB LAeq, 1hr</b>
R1 – Proposed housing to north	Daytime	37
	Night-time	34
R2 – 24 Woodville Way	Daytime	41
	Night-time	36
R3 – Cabbage Hall	Daytime	40
	Night-time	38
R4 – 1 Clarendon Drive	Daytime	41
	Night-time	36
R5 – Property known as Lake View	Daytime	43
	Night-time	37
R6 - Stanley House	Daytime	43
	Night-time	37
R7 – Woodend Gardens	Daytime	43
	Night-time	37
R8 – Property known as Linethwaite Bower	Daytime	43
	Night-time	37
M2 – Proposed housing to east of site	Daytime	41
	Night-time	36

For the avoidance of doubt within the above table, ‘Daytime’ refers to the period between 0700 and 2200 hours and ‘Night-time’ refers to the period between 2200 and 0700 hours.

*Reason: In the interests of amenity and to ensure that the objectives of policy DC3 of the Cumbria Minerals and Waste Local Plan are met.*

## **Transport**

79. No minerals, products or wastes extracted from the mine or mine processing site shall be transported from the site by road.

*Reason: No assessment has been made of the impacts that would result from the volume of HGV traffic; transportation by rail is more sustainable method of moving these products; and to minimise mineral road miles in accordance with policy DC1 of the Cumbria Minerals and Waste Local Plan.*

80. There shall be no vehicular access to or egress from the site other than via the approved accesses as shown on drawings 869/AM/002 Rev D, 869/AM/010 Rev A, 869/AR/002 Rev C, 869/AR/008 Rev A and 869/AC/008 Rev A.

*Reason: To avoid vehicles entering or leaving the site by an unsatisfactory access or route, in the interests of road safety in accordance with policy DC1 of the Cumbria Minerals and Waste Local Plan.*

- 81.** No infill materials required for the construction of the RLF site or associated sidings shall be delivered to the RLF site other than via the railway.

*Reason: No assessment has been made of the impacts that would result from the volume of HGV traffic delivering this material to the RLF site and in the interest of amenity and highway safety and to minimise mineral road miles in accordance with policies DC1 and DC3 of the Cumbria Minerals and Waste Local Plan.*

- 82.** No more than six trains per day shall enter and leave the Rail Loading Facility (RLF). A record of the numbers of trains entering, loading, and leaving the RLF each day shall be maintained and submitted to the Mineral Planning Authority on the 31 January each year for the period 1 January to 31 December of the previous year until the mine is closed and the site is restored. These records shall be made available to the Mineral Planning Authority at any time on request.

*Reason: In the interests of amenity and to ensure that the objectives of policy DC3 of the Cumbria Minerals and Waste Local Plan are met.*

- 83.** No more than 13 Heavy Goods Vehicles (HGVs) shall enter and leave the Main Mine site per day. A record of the numbers of HGVs visiting the site per day shall be maintained and submitted to the Mineral Planning Authority on the 31 January each year for the period 1 January to 31 December of the previous year until the mine is closed and the site is restored.

*Reason: To minimise the impact of traffic in accordance with policy DC1 of the Cumbria Minerals and Waste Local Plan.*

- 84.** The Operational Travel Plan as approved under condition 61 shall be implemented and updated / maintained for the duration of the development. The effectiveness of the Travel Plan shall be assessed in accordance with the details submitted in relation to condition 61 every 5 years and reported to the Mineral Planning Authority in writing. Where the assessment identifies shortcomings with the existing travel plan, a revised travel plan shall be prepared and submitted to and approved in writing by the Mineral Planning Authority in relation to condition 61 within three months of the assessment having been carried out.

*Reason: To promote sustainable modes of transport in accordance with paragraph 32 of the National Planning Policy Framework*

### **Fuel Storage**

- 85.** All facilities for the storage of oils, fuels and hazardous chemicals shall be placed on impervious bases with impervious bunds placed around them and with all vents, filling points and hoses contained within the bunds. All tanks are to be double-skinned and the bunds shall have a capacity of 110% of the cumulative capacity of the tanks. The bunds shall be kept free of precipitation which, if removed, shall be disposed of at a suitably permitted facility.

*Reason: For the protection of the water environment in accordance with policy DC20 of the Cumbria Minerals and Waste Local Plan.*

### **Nesting Birds**

- 86.** No clearance of vegetation shall take place within the bird breeding season (the period from March to September inclusive) unless measures supervised by an ecologist have previously been taken to exclude nesting birds. Any vegetation that must be cleared during the bird breeding season should only proceed after a detailed breeding bird survey has been conducted by an ecologist and submitted to and approved in writing by the Mineral Planning Authority. This shall identify any nest on site and present measures to avoid disturbing the identified breeding species. A further checking site inspection by an ecologist shall be conducted on the site immediately before any work commences. This shall identify any nest on bare earth on site and present measures to avoid disturbing the identified breeding species.

*Reason: To ensure the site biodiversity is managed in accordance with policy DC16 of the Cumbria Minerals and Waste Local Plan and in accordance with the Wildlife and Countryside Act 1981 (as amended).*

### **Soils Handling**

- 87.** All soil handling operations shall be carried out in accordance with the DEFRA Code of Practice for Sustainable Use of Soils on Construction Sites (2011). Prior to the commencement of soil stripping details of the methodology to be used in the stripping, storage and replacement of soils and overburden on that phase shall be submitted to and approved in writing by the Mineral Planning Authority. The development shall be undertaken in accordance with the approved methodology.

*Reason: To ensure that soils are appropriately managed and retained for use in restoration in accordance with policies DC21 and DC22 of the Cumbria Minerals and Waste Local Plan.*

- 88.** The stripping, movement and re-spreading of soils shall be restricted to occasions when the soil is in a suitably dry and friable condition and the ground is sufficiently dry to allow passage of heavy vehicles and machinery over it without damage to the soils and the topsoil can be separated from the subsoil without difficulty.

*Reason: To ensure that soils are appropriately managed and retained for use in restoration in accordance with policies DC21 and DC22 of the Cumbria Minerals and Waste Local Plan.*

### **No External Storage**

- 89.** No minerals, waste or other bulk materials shall be handled or stored at the surface of the main mine site or Rail Loading Facility except within the buildings shown on drawings 869/AM/002 Rev E and 869/AR/002 Rev C.

*Reason: In accordance with policies DC2, DC3, DC5 and DC6 of the Cumbria Minerals and Waste Local Plan.*

## **No Blasting**

- 90.** No blasting of any description, either above or below ground, shall be permitted at the site at any time.

*Reason: In accordance with policies DC3 and DC16 of the Cumbria Minerals and Waste Local Plan.*

## **Lighting**

- 91.** During the Operational Phase, no lighting shall be used on the main mine site or the rail loading facility except that shown and specified on drawing 869/AM/040 Rev A – Main Mine Site External Lighting Layout & drawing 869/AR/007 Rev C – Rail Loading Facility External Lighting Plan. External lighting for use during the Operational Phase of the mine shall be installed and operated in accordance with the approved details under condition 35 until all lighting is removed as part of the decommissioning of the site.

*Reason: To ensure that the impact of lighting does not have undue visual impact in accordance with policy DC22 of the Cumbria Minerals and Waste Local Plan, or impact unacceptably on landscape character or local amenity.*

## **Surface Water Discharge**

- 92.** There shall be no surface water discharge to either Sandwith Beck or Rottington Beck.

*Reason: To prevent flooding and/or pollution of ground and surface water in accordance with policies DC19 (Flood Risk) and DC20 (The Water Environment) of the Cumbria Minerals and Waste Local Plan.*

## **Decommissioning & Restoration Scheme**

- 93.** A Decommissioning and Restoration Scheme (DARS) shall be submitted to and approved in writing by the Mineral Planning Authority, for approval by the earlier of:
- 3 months from the end of a continuous period of twelve months throughout which the Winning and Working of mineral has ceased; or
  - two years before the expiry of this planning permission.

The decommissioning and restoration scheme shall be in accordance with the Main Mine Site Restoration Plan drawing reference 869/AM/042 Rev E and the Rail Loading Facility Post Decommissioning Restoration Plan drawing reference 869/AR/014 Rev H and shall include, but need not be restricted to:

- The removal of buildings, railway sidings and other built infrastructure;
- Removal of plant, equipment and above ground structures;
- Treatment/capping of mine shafts;
- Treatment and capping of the underground conveyor including the removal of all conveying equipment and plant and associated above ground buildings;
- The number of vehicle movements at each site during the Restoration Phase;
- Ground levels and landform to be created at the Main Mine Site and Rail Loading Facility to be illustrated by drawings with proposed contours and

- cross and long sections;
- g) The methods and depths of soil replacement;
- h) Cultivation, seeding and planting measures; and
- i) A programme setting out the timescales within which restoration will occur.

The restoration scheme shall be implemented in full and undertaken fully in accordance with the approved scheme and programme, followed by the aftercare approved under condition 96.

*Reason: To ensure that the surface development is returned to beneficial use accordance with policy DC22 of the Cumbria Minerals and Waste Local Plan.*

### **Decommissioning & Restoration Environment Management Plan**

**94.** A Decommissioning and Restoration Environment Management Plan (DREMP) for the restoration operations following decommissioning shall be submitted to and approved in writing by the Mineral Planning Authority by the earlier of:

- a) 3 months from the end of a continuous period of twelve months throughout which the Winning and Working of mineral has ceased; or
- b) two years before the expiry of this planning permission.

The DREMP shall include, but need not be restricted to:

- i) roles and responsibilities for the developer and its contractors regarding environmental compliance including environmental training and management procedures;
- ii) provisions for environmental emergency planning and environmental incident response arrangements;
- iii) Considerate Constructors scheme and compliance arrangements;
- iv) Environmental Permits, Licences and Consents required;
- v) Code of Construction Practice (relating specifically to local community impacts and management);
- vi) liaison with the public and contact information for community concerns;
- vii) the programme of works;
- viii) parking areas for the vehicles of workers and visitors;
- ix) areas to be used for the loading and unloading of plant and materials;
- x) details of site offices and welfare facilities;
- xi) areas for the storage of plant and materials;
- xii) formation of the construction compound(s) and access tracks and any areas of hardstanding;
- xiii) a scheme for the management of noise;
- xiv) a scheme for the management of air quality and dust;
- xv) site signage;
- xvi) the management of waste, including provision for waste segregation, compliance with Duty of Care regulations;
- xvii) how water pollution risks and flood risks will be minimised including measures to prevent the development causing pollution to Pow Beck, waterbodies or the marine environment;
- xviii) management of traffic;
- xix) ecological management including plans for the monitoring of:
- xx) Pow Beck surface water discharge flows and water quality;
- xxi) surface water quality in attenuation pond(s) on Main Mine Site prior to discharge to the Surface Water Outfall;

- xxii) marine water quality and scouring around the surface water discharge pipe;
- xxiii) seasonal and daytime restrictions on certain activities to mitigate for effects on ecological receptors;
- xxiv) covering or infilling of any trenches overnight to prevent animals being trapped and/or provision of a ramp to allow escape;
- xxv) contaminated land management
- xxvi) sustainability measures including minimising and monitoring resource use including energy & water consumption, incorporating re-use wherever practicable;
- xxvii) the appearance, erection and maintenance of boundary treatments and security fencing & site signage and the timescales for their erection and removal;
- xxviii) the management of vermin;
- xxix) working hours;
- xxx) pollution prevention measures including storage of fuels and oils and measures to prevent, contain and manage refuelling of plant and vehicles;
- xxxi) details of wheel washing facilities including any drainage requirements and maintenance;
- xxxii) cleaning of site entrances and the adjacent public highway;
- xxxiii) the sheeting of all HGVs taking materials to / from the site to prevent spillage or deposit of any materials on the highway;
- xxxiv) all lighting including procedures to ensure temporary lighting equipment required is positioned so as not to create nuisance or disturbance to surrounding properties, public highways or wildlife; and
- xxxv) post-construction restoration / reinstatement of the working areas.

Once approved, the DREMP shall be implemented and the all works shall be undertaken in accordance with the approved DREMP.

*Reason: To ensure that the surface development is returned to beneficial use accordance with policy DC22 of the Cumbria Minerals and Waste Local Plan.*

- 95.** Prior to the commencement of decommissioning the Rail Loading Facility (RLF), details of the following decommissioning and reinstatement works shall be submitted to and approved in writing by the Mineral Planning Authority:
- a) The removal of the underbridge under the proposed rail siding and appropriate reinstatement of the original underbridge;
  - b) The removal of the rail sidings and appropriate reinstatement of the existing Network Rail embankment; and
  - c) A review of the drainage systems to determine whether the removal of the underbridge and the sidings necessitates changes to the surface water drainage infrastructure installed under condition 49 above to ensure surface water is effectively drained from the site. Where that review reveals that the installed drainage system is inappropriate a revised surface water drainage system shall be submitted to and approved in writing by the Mineral Planning Authority.

Once approved the reinstatement works shall be carried out in accordance with approved details within 2 years of the commencement of decommissioning.

*Reason: to ensure the ongoing safety and functionality of the operational railway.*

## **Aftercare scheme**

- 96.** Within six months of the date of the written approval of each of the restoration schemes required under conditions 13, 27, 48 and 93 above, a scheme and programme for the aftercare of the site for a period of 5 years to promote the agricultural and ecological after-uses of the site, shall be submitted to and approved in writing by the Mineral Planning Authority. The scheme and programme shall contain details of the following:
- a) the management of the site to promote its agricultural use including details of seeding, grazing, cultivation or cropping;
  - b) details for soil sampling in each year of the aftercare period to determine requirements for fertilizer and lime application and provision for the submission of annual soil sampling results and proposed fertilizer/lime application to the Mineral Planning Authority for approval in writing;
  - c) the management of ecological and recreational areas;
  - d) details of any drainage installation including measures for replacement of any field drainage system damaged during the development;
  - e) details of any further works to relieve compaction or regrading to alleviate surface ponding;
  - f) details of any measures required to control noxious weeds;
  - g) details for the maintenance of any grassland, tree or hedge planting including replacement of failures, weed control, maintenance of protection measures, thinning works and cutting or laying regimes to be followed; and
  - h) management of any surface water run off including maintenance of surface water ditches and repair of any damage caused by surface water runoff.

Thereafter, aftercare works shall be undertaken in accordance with the approved scheme and programme for a period of five years from the date that the Mineral Planning Authority certifies in writing that the works of restoration are complete. On the first anniversary of the certification of completion of restoration and at annual intervals thereafter an inspection of restored areas of the site involving representatives of the operator and Mineral Planning Authority shall be undertaken. Within one month of each inspection, a schedule of aftercare works to be undertaken in the following year in accordance with the above shall be submitted to and approved in writing by the Mineral Planning Authority. The approved schedule of aftercare works shall be carried out.

*Reason: To ensure that the site is restored and that appropriate aftercare provision is in place in accordance with policy DC22 of the Cumbria Minerals and Waste Local Plan.*

- 97.** All lighting installed at the Rail Loading Facility (RLF) must be directed or shielded to prevent dazzle of drivers on the operational railway.

*Reason: to ensure the ongoing safety of the operational railway.*

- 98.** Throughout all phases of the construction, operation, and decommissioning of the development hereby approved all design and implementation proposals for the Rail Loading Facility shall, in advance, be submitted to and approved in writing by the Mineral Planning Authority. Once approved all such proposals shall be carried out in accordance with the approval.

*Reason: to ensure the ongoing safety of the operational railway due to the proximity of the development to the railway.*

- 99.** Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any other order revoking and re-enacting that Order), planning permission shall be sought and obtained from the Mineral Planning Authority, before any buildings, structures, or erections, plant or machinery are erected on the site or on any ancillary mining land.

*Reason: to maintain control over additional built development upon the site in the interest of amenity.*

- 100.** All in-seam underground mining equipment shall be powered only by electricity.

*Reason: to avoid emissions from carbon-based fuels and to ensure the health and safety of the operations*

- 101.** No mineral working shall take place until details of the renewable electricity tariff to be used during the Operational Phase of the development has been submitted to and approved in writing by the Mineral Planning Authority. Further approval shall be obtained in writing for any proposed change to the tariff during the operational life of the mine. During the Operational Phase of the mine, only electricity purchased through the approved renewable electricity tariff may be used to power the mine operations.

*Reason: to minimise greenhouse gas emissions from the development.*