

Planning Committee

21 January 2009

**Applications to be determined by
the County Council**



Report of Rod Lugg, Head of Environment and Planning

Purpose of the report: To enable the Committee to determine applications for planning permission which have been received in accordance with the requirements of the Town and Country Planning Act 1990.

Introduction

- 1 This planning application relates to the extraction of approximately 1,274,500 tonnes of coal and 500,000 tonnes of fireclay by opencast methods over 4 years 9 months, from mainly agricultural land to the south of Sunnyside, east of Billy Row and south east of Roddymoor. The application area is 125.8 ha in total with an excavation area of 45 ha. A plan and key facts sheet are attached to this report.
- 2 The application is accompanied by an Environmental Statement (ES). This report has taken into account the information contained in the ES and that arising from the statutory consultations and other responses. Additional information received since the application was submitted has also been considered.

Planning History

- 3 The site, to be known as Park Wall North, is part of the former White Lea Farm site proposal by RJB Mining (UK) Limited that was refused planning permission by the County Council in July 1996 and subsequently dismissed by the Secretary of State on appeal in July 1998. That scheme which incorporated the adjacent Castle Farm opencast site to the south west involved the extraction of 1,900,000 tonnes of coal and an undisclosed amount of fireclay from an area of 238 ha over 7½ years.
- 4 The County Council refused the White Lea Farm application for the reasons set out in Appendix 1; a plan of the site is also attached.
- 5 The appeal inspector considered the main issues to be the impact of the proposals on the character and appearance of the landscape, the effects on residential amenity, especially due to noise and visual impact, and the extent to which the harm which might arise from these factors would be outweighed by the benefits of the scheme, such as employment and any need for the coal. On visual and landscape impact grounds he felt that despite attempts to design the scheme of working to reflect the surrounding topography the proposed scheme would still have significant impact when seen in the wider landscape, especially in views looking across the Crook Bowl from Road B6299, the higher parts of Stanley Crook and Billy Row and the countryside to the south and south east of the site.
- 6 The Inspector therefore concluded that during the operations and for many years afterwards, the effect on the landscape from the areas mentioned would be so severe that the scheme would cause demonstrable harm contrary to adopted policy.
- 7 In considering the effects of the proposal on residential amenity, he concluded in the case of the properties in White Lea Road that although working for 14 – 16 weeks within a 78 weeks period, would not necessarily be continuous, operations would be so noisy that there would be serious harm to the living conditions at the Dun Cow Inn and Arthur Pit Cottages.

- 8 He also felt that mounds proposed for the rear of the Dun Cow Inn and along the White Lea Road to Arthur Pit Cottages would be sufficiently close and intrusive to significantly harm the visual amenities of the residents of those properties, especially in the case of the Dun Cow Inn.
- 9 He acknowledged that the White Lea scheme could have tangible benefits in terms of the supply of opencast coal to the market; employment of up to 65 people, the possible supply of fireclay for brick making and longer term ecological improvements brought about by tree planting and the creation of wetland areas. Nevertheless these were not sufficient to overcome the serious effect of the scheme on the character and appearance of the landscape and the significant harm to the amenity of nearby residents.
- 10 The Secretary of State accepted the appeal Inspector's recommendations and refused planning permission for the opencast extraction of coal and associated minerals at White Lea Farm and the variation to allow suspension of operations at the adjacent Castle Farm site. He also directed that the associated footpath and stopping up diversion Orders be not confirmed.

Current Application

- 11 The current submission seeks to address the reasons for refusal cited in the appeal decision. The main differences between the Park Wall North scheme and White Lea are listed as:
- Storage mounds moved 200m away from the Dun Cow Inn.
 - The excavation area moved from 50m to 280m away from the Dun Cow Inn.
 - Baffle mounds moved further away from Arthur Pit Cottages.
 - Storage mounds now over 300m away from Sunnyside.
 - No working of coal east of Old White Lea Farm.
 - Site area reduced from 238 ha to 125.8 ha.
 - Excavation area reduced from 160 ha to 45 ha.
 - Working period reduced from 7 years 6 months to 4 years 9 months.
 - Tonnage reduced from 1.9 million tonnes to 1.27 million tonnes.
 - The restored Castle Farm area that was part of the White Lea application would now remain undisturbed.
 - A wagonway running through the site (with associated trees, footpath and bridleway) would be largely preserved and kept open for public access during the working of the proposed site apart from a limited length.
 - Preservation of all areas of existing woodland apart from a limited strip of conifer plantation to the northwest for access purposes.
 - More emphasis on the recovery of associated minerals in particular fireclay.
 - Increased early offsite ecological benefits.
 - More appropriate restoration with greater emphasis on hedgerows and smaller woodland areas.
 - Mounds designed to fit more sympathetically into the landscape, to be seeded early and to remain green during the working period.

Proposal

- 12 The application site would be subject to progressive working and restoration over the 4 years 9 months life of the scheme. Subject to the receipt of planning permission the applicant would wish to undertake site preparation works in April and May 2009. These operations would commence with the installation of a vehicular access to Road A68 and provision of site compound, offices, plant yard, coal processing (washing plant) and stocking area in the north western part of the site. A sewer and overhead electricity lines crossing parts of the site would also be diverted at this stage.
- 13 Soil stripping would commence in June 2009 and it is hoped to complete this by the end of October 2009. Overlying soil resources would be progressively removed and stored separately and intermittently around the periphery of the site. Soil mounds heights would be 5m for topsoil and would vary between 8m and 12m for subsoil and would perform a screening function. Most of the mounds would be in place for the entire life of the site. Water treatment areas would be located in the eastern and southern parts of the site and would be formed in May of the first year.
- 14 Coaling would commence in the western part of the excavation area (July 2009) moving in an easterly direction through 16 cuts. The depth of working would range between 11m and 85m. This would last for 44 months until February 2013. Overburden would be stored in four mounds, two on the western part of the site (M1 and M4) and two on the east (M2 and M3). Each would extend up to 25m in height and cover areas between 6.3 ha and 15.7 ha. Each mound would take between 5 to 7 months to complete and would remain in place for 9 months to under 3 years depending on the working programme. All mounds would be seeded as soon as possible.
- 15 Overburden would initially be placed in mound M4 to the southwest of the excavation area adjacent to Park Wall Farm from July 2009. This mound would be constructed over two periods taking 5 months in total to construct. It would be in place for some 2 years 7 months and take 4 months to remove. Material would then be used to construct the eastern most mound (M2), to the south of Grange Farm. This would take approximately 7 months to complete and would be a stable feature for under 3 years with removal taking 6 months. The overburden mound at the most western part of the site (M1) would be created over a six month period from April of the second year. This would remain in place for some 2 years and take 5 months to remove. The form of the two central overburden mounds (M3 and M4) would be dictated by the progress and position of the mining operations, in particular the void space. Mound M3 to the west of the Old White Lea Farm would take 4 months to construct, be undisturbed for some 9 months and take 8 months to remove. Mound M4 would be completed once the void moves into the middle of the excavation. All mounds would be seeded as soon as practicable in order to establish a grass sward.

- 16 By the end of the second year the void would be at its maximum depth (85m in the northern part of the excavation area) and an area immediately to the west would be partly restored to finished levels (only soils to be replaced). At around 36 months mound M3 would be removed to allow extraction to take place. Areas to the west of the void would be progressively restored using overburden from the two central mounds (M3 and M4) and after 2¼ years some topsoil and subsoil placement would occur. The western most overburden mound (M1) would be removed when coal extraction is almost completed during the later part of the fourth year and material from the eastern most mound (M2) would be used in the reinstatement of final ground levels. Perimeter top and subsoil mounds would be restored during the final stages of restoration, some 4½ years from the commencement of the development. Overburden replacement would be completed in August 2013 and the final placement of soils replaced by the end of September 2013.
- 17 The proposal would take coal from the Harvey, Top Tilley, Middle Tilley, Bottom Tilley, Top Busty, Bottom Busty, Top Three Quarter, Bottom Three Quarter and Brockwell seams. Most of these seams have been subject to deep mine working in the past and are to be partially washed to enable coal extraction to be maximised. Coal washing and processing would take place in the designated areas along with the temporary stockpiling of coal. Waste produced from the washing (coarse and fine discard) would be disposed of in the void.
- 18 Fireclay is present beneath several of the seams and marketable fireclays would be recovered and temporarily stockpiled adjacent to the coal processing area until taken off site. The amount stockpiled would be restricted due to the size of the designated area.
- 19 The proposed working hours for site operations are 07:00 – 19:00 Monday to Friday, 07:00 – 12:00 Saturday with no working on Sundays or Public/Bank Holidays. Coal haulage would take place between 07:00 – 18:00 Monday to Friday and 07:00 – 12:00 on Saturday. Soil handling operations within 200m of Arthur Pit Cottages, Park Wall and Grange Farm would not commence prior to 0800 hours Monday to Saturday. Maintenance hours would be more extensive (07.00 – 23.00 Monday to Friday, 07.00 – 16:00 Saturday and 08.00 – 16.00 Sundays) in order to ensure that the 'down time' for the plant and vehicles is minimised and the site runs to schedule. However, the main maintenance periods would be on Saturdays and Sundays and would not take place outside normal operational hours during the week except when this is essential.
- 20 An average of 154 (77 in and 77 out) HGV movements per working day are anticipated. These would comprise of 110 (55 in and 55 out) coal and 44 (22 in and 22 out) fireclay movements. Based on a 5.5 day working week it is anticipated that an average of 7 laden HGV's (5 coal and 2 fireclay) will leave the site every hour (14 movements per hour). Access to the site is proposed off a lay-by off the A68 to the north west of the site. Improvement works to the lay-by would be required and space retained for continual public use. Vehicles would go in a southern and northern direction depending on markets.

- 21 It is proposed that the site would be reinstated to a landform similar to that which currently exists although the after uses would be more diverse. In total (on site and off site) the restoration scheme would provide 43.3 ha of new woodland, 69.7 ha of agricultural grassland, 5.7 ha of woodland pasture, 1.5 ha of open water, 9.8 ha of species rich grassland, 5.5 ha of mid-altitude heath and 10.14 km of new hedgerows. 5.9 km of new footpaths and bridleways are also proposed. Off-site planting is proposed with a wildlife enhancement management plan. The areas reinstated to agriculture would be subject to the statutory 5 years aftercare requirement. An additional 10 years of aftercare above the statutory requirement is proposed for other areas.
- 22 Off-site tree and hedgerow planting would take place in the first available planting season following the grant of any planning permission along with the gapping up of existing hedgerows (to the south east and north west of the site). New planting would take place on land to the south east of the site boundary near Old White Lea Cottage and the Dun Cow Inn. In addition habitat enhancement works would be commenced in an area to the north west in the first available planting season after the commencement of the development.

Revisions

- 23 A number of revisions to the scheme have been made since the application was first submitted in order to accommodate the race horse training business of an adjacent landowner and tenant. This involved the redesign of that part of the site to ensure continued use of a hill and flat gallop. This has led to a reduction to the footprint of the most easterly overburden mound and repositioning of the topsoil mound in the immediate vicinity to allow the incorporation of a gallop and an extension to an existing track. To accommodate the displaced material from the easterly overburden mound it has been necessary to increase the height of the adjacent mound from 23 to 25m. There has also been a slight relocation of the office area and water treatment areas.
- 24 In addition the applicant has agreed to work with the owner, and neighbouring equestrian centres, during periods of mound construction adjacent to gallops and when horses are being exercised so minimum disruption to these businesses takes place.

Consultations and Views Received

- 25 Wear Valley District Council objects to the proposed development for the following reasons:
- The occupiers of surrounding properties would be adversely affected by the significant increase in vehicle movements on the A68 and in the locality contrary to the objectives of Policies GD1 and T1 of the WVDLP and M36 of the MLP.
 - The view that the longer term benefits outweigh the harm caused are not supported and there is concern that the visual and landscape impacts of the proposal would be vast over the period of the works and the time required to implement the scheme. The proposal is considered to be harmful to the character of this rural area and therefore is considered to conflict with the aims of Policies GD1 and ENV1 of the WVDLP.

- Given that the site lies within a predominantly rural area it is likely that the surrounding area will experience a noticeable change in the noise levels as a result of the proposal and the carriage of dust from the site, contrary to the objectives of Policy ENV1 of the WVDLP which seeks to protect and enhance rural areas and M36 of the MLP.
- The Council is trying to encourage high tech small scale businesses and the presence of dust in the air would serve as a deterrent to those wishing to invest.
- In the event that the objections of the Council are overruled it is requested that no work should start on the site until full consultation is undertaken with the Community Association, Partnerships and Town and Parish Councils.

Comment: The relevant planning issues are addressed in this report. Should planning permission be granted then a liaison committee would be established providing a forum for the operator and community representatives to discuss any issues and concerns.

- 26 The Council has since withdrawn an earlier objection to the application based on vehicle movements and impact on road infrastructure and users following further consideration of the application and receipt of the views of the Head of Highway Management Services.
- 27 Derwentside District Council (neighbouring authority) has not commented.
- 28 Teesdale District Council (neighbouring authority) has not commented.
- 29 Wolsingham Parish Council has commented that Wolsingham and Weardale are in an attractive rural area visited by tourists and that a barrier/baffle bank should be sufficient so as to screen the site from the A68.
- 30 Brancepeth Parish Council (neighbouring parish council) objects to the application on the grounds that although it appears that loaded lorries will be routed down the A68 and will not therefore affect Brancepeth Village, there is concern regarding lorries returning to the site from the east of the County. Up to 40 lorries per day will be returning to site and it is likely that some will use the A690 through Brancepeth. This would clearly exacerbate the existing traffic/speed problems currently encountered through the Village.
- 31 The Parish Council restated its traffic reservations in a further consultation response and states that the problem has not been resolved.
- Comment: It is not proposed that traffic would travel through Brancepeth. The proposed S106 legal agreement would stipulate routes to be used to and from the site. If drivers are found not to be using the approved routes the site operator would take the necessary action to prevent reoccurrence.*
- 32 Hedleyhope, Satley and Tow Law Parish Councils (neighbouring parish councils) have not commented.

- 33 The North East Assembly considers the proposal would result in a number of environmental impacts that the applicant intends to mitigate against, which is welcomed. The proposed restoration scheme is welcomed provided that it is easily accessible by non-car transport modes. The proposal would be in general conformity with the RSS provided the Minerals Planning Authority is satisfied with the proposed mitigation and restoration measures and that the nature conservation issues are dealt with appropriately.
- 34 The Health Protection Agency North East (HPA) commenting on behalf of County Durham Primary Care Trust considers that the application uses the findings of an authoritative report on the effects of opencast mining on particulate matter concentrations in residential areas to assess the effects for a surface extraction 'opencast' mine for coal and fireclay. Although the HPA believes that the levels predicted do not pose a significant risk to human health, it would support the recommendations made in the application with regard to implementing control measures. These control measures are in line with best practice guidance and the HPA would support any planning conditions aimed at reducing particulate emissions to a level that is as low as is reasonably practicable.
- Comment: Conditions requiring dust monitoring and the introduction of appropriate mitigation measures can be imposed on any grant of planning permission.*
- 35 Natural England (Geology, Landscape and Soils Team) states that in representing Defra's statutory remit it does not wish to object to the application, but recommends that any grant of permission is made subject to appropriate conditions to safeguard soil resources and agricultural interests. It is generally satisfied that the soils handling proposals for the site should permit the land to be reclaimed to an acceptable standard for agriculture (or other approved vegetation-based afteruses). It welcomes a number of the proposed agri-environmental initiatives (e.g. conservation headlands, wildlife corridors and traditional field patterns). In terms of the financial provision for reclamation of the site, Natural England refers to specific advice in MPG3; namely that "in all cases, operators should ensure that sufficient finance is available to enable them to meet fully restoration and aftercare conditions".
- 36 Natural England (Government Team) has no objection to the proposed scheme in terms of its interests and remit. It considers that there will only be local impacts upon local nature conservation areas and the Area of High Landscape Value and that taking into account the information supplied by the applicant, the scheme would appear to have no significant unacceptable or fundamentally detrimental impact upon the North Pennines AONB or its setting, or upon the character of sensitive landscape types in the area. The effects on public rights of way is also considered acceptable due to the addition of alternative routes. However, it is felt that the applicant has not fully justified the loss of the footpaths nor provided short term mitigation measures for the visual impact upon users of the diverted routes. The restoration proposals that would improve countryside access are welcomed.

- 37 Based on the information provided, Natural England also advises that the proposal is unlikely to have an adverse effect in respect of species especially those protected by law subject to suggested planning conditions and informatives. A condition or informative relating to the timing of site clearance works or development affecting trees, scrub or other semi-natural vegetation is advised for the protection of breeding birds.
- 38 The North Pennines Area of Outstanding Beauty (AONB) Partnership does not object to the development as there is likely to be only very minor short to medium term impact on the purpose of the AONB designation and no long term impact.
- 39 Durham Wildlife Trust has not commented.
- 40 County Durham Badger Group (CDBG) has no setts recorded for the application site itself and accepts the finding of the submitted survey that appears comprehensive. However, CDBG considers that May/June was a little late in year for undertaking a survey and it therefore supports the suggestion in the application that an updated survey be carried out at an appropriate time. CDBG agrees that the badger population does not appear to be large but there is the potential for considerable disturbance. Should the application be approved CDBG would therefore like to see all the mitigation recommendations implemented, and strictly adhered to. It is noted that a Natural England licence may be required.
- 41 Comments are made regarding the proposed restoration plan and suggestions for restoring the earthworm population of the site. The Group wishes to be kept informed of any future monitoring and results of protected species surveys for the duration of the scheme and would also be interested in being involved with the proposed wildlife enhancement scheme.
- Comment: Both Natural England and the Council's ecological advisor consider that the proposal is unlikely to have an adverse effect on badgers as long as the mitigations proposed are adhered to.*
- The applicant is aware of the importance of earthworms within badger foraging and is confident that the proposed restoration technique will lead to the recovery of the earthworm population. Durham Badger Group would be kept informed of future surveys.*
- 42 Butterfly Conservation has not commented.
- 43 The Durham Bat Group has no particular objection to the proposed development but raise a number of concerns regarding the bat survey that was carried out.
- Comment: This Council's ecological advisor recommends that inspection of potential bat roost trees prior to felling should be conducted immediately prior to felling (ideally felling should take place in October / September) and during the preceding breeding season.*
- 44 The Coal Authority (CA) has no objection to the proposed planning application and states that it will process any associated application for an operating licence under Part II of the Coal Industry Act 1994 in accordance with its statutory duties. The CA makes a number of comments in support of the application which are summarised as follows:

- As owner of the coal the CA encourages and supports the working of coal in environmentally and socially acceptable ways to meet market requirements.
- Reference is made to Government policy, the 2006 Energy Review and MPS1 in terms of supply of material and importance of indigenous energy resources.
- The role of surface mining in supplying the UK market with good quality coal including energy generation.
- That the planning regime takes account of the occurrence of minerals which can only be worked where they occur.
- That the coal supply in the UK should contain a significant proportion of indigenous production and similar statements are contained in submissions from electricity generator in submissions to the recent Energy Review.
- The environmental impacts of imported coal are also highlighted (increased transport related carbon and sulphur emissions).
- The general benefits of surface mining are highlighted.
- The importance of continued production and the need to bring environmentally acceptable new sites on stream to replace exhausted sites on a regular basis.
- That it is essential that any unnecessary sterilisation of coal reserves through permanent development should be avoided.
- The CA states that it finds it disturbing that the application coal tonnage has been reduced by 625,000 tonnes (compared to the White Lea application) and urges the Council to consider the effects of sterilisation of coal reserves.

- 45 The Environment Agency has no objection to the development as proposed, but makes a number of comments in relation to culverting works and potential risks from former landfill sites in the vicinity of the application site.
- 46 Due to the location of the site (within 250m of 3 former landfill sites - Sunnyside East Area B, Sunnyside Lead Mine and Roddymoor Crook) it is considered that an assessment to ascertain any potential risks from these landfills is undertaken. The applicant produced a gas monitoring report for the proposed development which considers that the three former landfill sites are unlikely to present a significant risk to the application site in the context of landfill gas or leachate migration. It states that mitigation of the low risk proposed can be adequately addressed through routine and normal good site practice and management. Whilst the Agency recognises the low risk associated with the development as outlined by the report, it is unable to provide any technical advice with regards to the report findings. In addition the Agency strongly encourages any remediation scheme to incorporate the creation of wetland habitat to promote an increased biodiversity value of the remediated site.
- 47 In terms of the amendments to the working scheme, the Agency has reviewed the information and feels the changes do not alter its previous position. It therefore has no additional comments to make.

48 Northumbrian Water originally objected to the proposal because of a public sewer which crosses the application site and stated that building over, landscaping or alteration of the land would not be permitted over or close to the sewer. However, it has now removed its objection and believes that a number of specific planning conditions would adequately protect its interests and allow the company to develop a solution with the applicant. These relate to the protection and monitoring of the public sewerage system via the submission of a detailed scheme for its reinforcement, protection and/or duplication and reinstatement and an associated protocol for monitoring the performance of the sewerage scheme during the period of the scheme. Both schemes should be submitted prior to the commencement of excavation, mounding or heavy vehicular trafficking within a distance of 10 metres from the existing public sewerage system.

Comment: The proposed conditions can be imposed should planning permission be granted.

49 HM Inspectorate of Mines (part of the Health and Safety Executive) has stated that it has no relevant comments to make following its review of the application.

50 The Campaign to Protect Rural England (CPRE) Durham Branch objects to the proposed development and makes a number of points in support of its objection. The area surrounding Tow Law has been subject to opencast mining almost continuously for 50 years, with 40/50 sites during that period. The landscape bears no relation to what it was originally and the cumulative impact is enormous. The areas that have been opencasted are possible to distinguish as the soil structure never recovers and tree growth is minimal and poor and agricultural production is severely limited. The land that has previously been reclaimed is now the subject of a further application with the supposed benefit that further opencasting will improve it. A policy of productive agricultural land needs to be considered by Government in view of the looming shortages of food crops due to an increasing use of land for biofuel production. The tranquillity of the area will be lost for many years not months, and people living in this area who have had their lives blighted before by opencast operations will find their quality of life reduced yet again for a long time. No one has yet been able to mitigate the noise, the dust, the daily intrusion of a giant mining operation on their doorstep even with baffle banks, supposedly limited hours of working or with pumps and generators screened. The market for coking coal is questionable and speculative. It is understood that Redcar has not used any British coking coal for many years or ever at all. Coking coal is too valuable a commodity to be used in power stations which are not designed to burn it, and should be preserved for a time of real need.

51 The Ramblers Association has not commented.

52 The White Lea Campaign Group set up at the time of the White Lea application has been notified and although it stated that on behalf of the Group there were matters appertaining to the planning application that it would wish to raise no further comments have been received. The Group organiser has objected in a private capacity.

Representations from members of the public and other interested parties

53 The proposals were displayed at a public exhibition held by the applicant at Billy Row Club and Sunnyside Community Centre prior to formal submission. The application was also advertised by site notice and in the local press as part of the planning procedures.

Objections

54 113 objections to the proposal have been received in total that include a combination of individual and proforma letters and survey responses. A 38 name petition has also been submitted (details in paragraph 57).

55 The 8 individual letters include 2 from residents of Arthur Pit Cottages, 1 from the residents of Old White Lea Cottage and 1 from the Hill Top Village Partnership a group set up to represent local communities. 47 proforma letters on Hill Top Partnership letter head were submitted from those employed at the racing stables concerned about the effects of the proposal on that business and in turn on employment as well as environmental concerns and noise and dust. This figure has reduced to 33 as a number of objections have now been withdrawn.

56 The Hill Top Partnership has stated that it also undertook a survey of the villages of Sunnyside, Stanley and Billy Row that found that 70% objected to the proposals based on environmental grounds, noise, and dust emissions and general loss of amenity for local residents. Results of the study indicate that residents believe any benefit obtained from approving this application are far outweighed by the detrimental effects to both the environment and residents rights to use their local amenity without hindrance.

57 Billy Row Community Association undertook a survey and the submitted results show that 53 people object to the scheme. A petition arranged by the Community Association includes 38 names against the opencast site. The petition had been at Billy Row post office prior to the survey being carried out in villages and it is stated that there may be some duplication.

58 Sunnyside Community Association has also carried out a survey that shows 7 people are against the proposal and 5 are in favour. The results of another survey with 11 names and addresses against the proposal were provided.

59 The grounds of objection and concern raised by those objecting to the proposed development can be summarised as follows:

- Local residents have suffered opencast coal mining from the Red Barns and Castle Farm sites and have first hand knowledge of the havoc such sites have created in the area. Part of the site has been restored and is being disturbed again thus losing what has been gained from previous opencasting. Wildlife has returned to the area and planting has become established, although it is also noted that the restoration associated with the Castle Farm site is not ideal. Footpaths and bridleways cross the site and these are frequently

used by local residents. The applicant has stated that these would not close but it would not be a pleasant environment in which to walk during the life of the site and footpaths would not be safe to use for children without the supervision of parents and in this area there are very few open spaces with safe footpaths. The formation of new footpaths when there is nothing wrong with the existing footpaths is also objected to. It is considered that UK Coal choose to show up the area in the worst possible light for its gain and is not really giving anything back in return.

- Concerns that the water treatment areas associated with the site would become an attraction for children and that fences and notices would not keep them out.
- Devaluation of property during the lifetime of the site.
- A previous application was dismissed on appeal.
- Concerns regarding additional traffic through Brancepeth and it is requested that the speed limit on the A690 road through Brancepeth Village is limited to 30 mph to minimise the additional vibrations from increased traffic.
- Concerns regarding the possible detrimental effect of the proposal on equestrian businesses, including associated tourism and loss of employment, given the nature of the operations and the loss of safe riding opportunities. The wind farm development will also have a detrimental effect on equestrian access to the east of the village. The amendments appear to have been made to placate one person, and the safety of all equestrians in the area has not been looked at seriously.
- The history of opencasting in the area.
- The proposed site would be visible from every approach road into the town and villages.
- The prospect of an opencast coal site and wind turbines, two opposing energy solutions in one area is noted.
- The negative impact upon tourism is highlighted as well as Crook being the gateway to the dales.
- Opencast mining generates dust problems and there are concerns that the prevailing wind direction would carry dust towards the villages of Stanley, Billy Row, Roddymoor and Crook, with both Tow Law and Sunnyside affected by a change in wind direction. This would cause problems to residents suffering from respiratory related illnesses that cannot be accepted over a 5 years period. The loss of use of amenities i.e. garden, play and sitting out areas for 5 years is not acceptable.
- It would be impossible to undertake the development without causing a huge increase in decibels given the location and nature of the proposal. The cumulative impact of the additional noise and that produced by wind farms in the area that have received approval will detrimentally affect residents' amenity and should be taken into consideration.
- Concerns regarding possible blasting.

- At a time when Government is desperate to reduce carbon emissions a further 7 lorries will leave the site every hour onto the A68 and move in a southerly direction on an over used road.
- Concern regarding footpaths upon restoration running alongside residential properties.
- It is not for the County to decide how electricity will be produced in the future. The Government has already assessed this situation and is looking to replace our nuclear capability and supplement this with a variety of renewable energy sources. 6 wind turbines have been erected in this area and planning permission has been granted for a further 20 within 5km of the proposed opencast site.
- Safety concerns, with the loss of the equestrian access to the northeast of the site due to wind turbines and the loss of bridleways through the site equestrians would be forced onto the roads which would be busier with HGVs.
- The site would have a detrimental affect on employment and the racing stables on White Lea Road. A considerable acreage on Old White Lea Farm would be incorporated into the site i.e. large areas of gallops which are used on a daily basis for training race horses. The reduction of training facilities would reduce the number of horses for training resulting in redundancies. Highly strung race horses would be unable to use surrounding areas.

Support

- 60 64 letters of support have been received along with 2 expressions of interest in the fireclay and 8 references of support from the local community. These are detailed below.
- 61 57 of the letters of support have been submitted in proforma form. These include 21 from individuals who worked at the applicant's previous working site, Stony Heap, concerned about future employment and 36 expressing similar concerns from those who worked for a haulage contractor employed by UK Coal at the Stony Heap site. 1 letter has been submitted from a family member of a UK Coal employee.
- 62 1 individual letter of support and expression of interest in the fireclay materials that would be released by the proposal have been received from Ibstock (Throckley Brickworks). Ibstock states that continued access to high quality fireclays from the opencast coalfields is essential to the long term stability of the brick manufacturing industry in the North East. The Company notes that whilst there are obvious difficulties in the UK Brick Industry at present there is still an ongoing requirement for fireclay to manufacture and supply buff coloured facing bricks. It is hoped that by the end of next year the market will show signs of improvement and demand would begin to rise and the Planning Authority will look at the longer term picture for fireclay requirement by the brick industry and grant planning permission.

- 63 Hanson Building Products (Claughton Works) has also expressed an interest in using the fireclay materials that would be released by the proposal. Hanson states that it uses in the region of 20,000 tonnes of fireclay per annum and the material from this site would be of great interest to it. It is also stated that all the fireclay it uses is currently obtained from the North East, although the Company has been looking at other areas. Wienerberger (owner of Eldon and Todhills Brickworks in County Durham) has also expressed an interest in using the fireclay products that would be produced.
- 64 A letter of support has also been submitted from Corus UK Limited. It states that the coal from the site seems to have coking properties and may be capable of being used within the cokemaking facilities at Corus' Teesside site. The next stage would be for a bulk sample of the coal to be tested to determine if it can be safely blended with other coals to produce coke of a quality that can be used in the blast furnace at Redcar. Should these tests be successful, Corus would be in a position to open negotiations on a supply contract for the coal.
- 65 The owner of the racing stables has written to express his support of the application. He states that he initially had reservations about the scheme and its implications for his horse training business as he currently uses part of the proposed area for a gallop. However, following discussions with the applicant the scheme has been amended to accommodate his business and thereby protect the jobs of his 50 employees. He is now supportive of the scheme which he hopes is approved, particularly in light of the landscape improvements the scheme would make to the area and the offer of gas to Sunnside and the White Lea Road which he feels would be of great benefit to local people.
- 66 The survey carried out by the Sunnside Community Association referred to in paragraph 58 showed that 5 people were in favour of the proposal. 3 of those in favour give reasons which include support for the provision of gas and the community fund. In addition the petition arranged by Billy Row Community Association listed 3 people in favour of the proposal.

Re-consultation

- 67 Following a re-consultation on the design amendments to the scheme to accommodate the racehorse training business further comments were received from the occupiers of 3 properties adjacent to the site (2 from residents of Arthur Pit Cottages and 1 from the residents of Old White Lea Cottage). It was queried whether or not the facilities afforded to the racehorse trainer would be provided to others during the life of the site and asked why UK Coal think it can work an opencast site in conjunction with racing stables given that the horses are highly strung and the frequency that these horses use the existing gallops.
- 68 18 letters withdrawing letters of objection previously sent to the Council from employees of the race horse owner have also been received (6 had not previously objected) and 4 letters of support.

Policy Considerations

National Policy

- 69 Government guidance of particular relevance to the development is contained in Mineral Planning Guidance Note 3: 'Coal Mining and Colliery Spoil Disposal' (MPG3) and Minerals Policy Statement 2: Controlling and Mitigating the Environmental Effects of Mineral Extraction in England (MPS2).
- 70 MPG3 explains that in applying the principles of sustainable development to coal extraction, the Government believes that there should normally be a presumption against such development unless the proposal would meet a number of tests.
- 71 Paragraph 8 of MPG3, criteria i and ii, sets out the key tests for the acceptability of opencast proposals. There is a presumption against opencast extraction except where a scheme is environmentally acceptable or can be made so by planning conditions or obligations, or provides local or community benefits which clearly outweigh the likely impacts to justify the grant of planning permission. MPG3 also provides guidance to mineral planning authorities and the industry on the specific impacts of opencast coal workings, such as noise, dust and blasting.
- 72 MPG3 recognises that particular areas on exposed coalfields have been subject to successive opencast developments over many years, and recommends that development plans should include, where appropriate, policies allowing for the cumulative impact of opencast development on the community and the environment to be fully taken into account in determining new proposals.
- 73 MPS2 provides guidance on detailed issues including noise and dust and the need for policies and proposals to take into account the cumulative effect of previous mineral development and new proposals on the locality as well as the proximity of mineral workings to communities.

Development Plan Policy

- 74 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the Plan unless material considerations indicate otherwise. The Development Plan consists of the Regional Spatial Strategy for the North East of England (July 2008) (RSS), the 'saved' policies of the County Durham Minerals Local Plan (December 2000) (MLP) and 'saved' policies of the Wear Valley District Local Plan (March 1997) (WVDLP).

Regional Spatial Strategy for the North East of England (RSS)

- 75 The overall objective for minerals policy in the Region, as set out in RSS, is to ensure the prudent use of the Region's indigenous natural resources in line with sustainable development objectives. Policy 42 sets out the overall strategy and amongst other matters states that the planning system should ensure that land is made available to provide an appropriate contribution to local, regional and national needs for minerals.

- 76 Policy 44 relates to opencast coal and is consistent with national guidance. It provides guidance to planning authorities as to how they should approach the provision of new areas of working in Local Development Frameworks and Minerals and Waste Development Frameworks and reiterates the key policy test set out in paragraph 8 of MPG3. RSS Policy 44 also states that 'Where opencast coal extraction is acceptable, provision should be made for the extraction, stockpiling, if necessary, and beneficial use of fireclay. All extracted minerals should be transported by rail whenever possible.'

County Durham Minerals Local Plan

- 77 Adopted County Durham Minerals Local Plan (MLP) Policy M7 states that within the exposed coalfield area there will be a presumption against proposals for the opencast mining of coal and/or fireclay unless they are environmentally acceptable, or can be made so by planning conditions or obligations, or they provide local or community benefits which clearly outweigh the adverse impacts of the proposal. In assessing such benefits, particular regard is to be had to the contribution of the proposal towards the comprehensive reclamation of areas of derelict or contaminated land, and the avoidance of sterilisation of mineral resources in advance of development which is either subject to a planning permission or allocated in an adopted development plan. Regard is also to be given to the contribution (or otherwise) to the maintenance of high and stable levels of economic growth and employment and the need for supplies of fireclay to serve local brickworks. All proposals should avoid the unnecessary sterilisation of other minerals, particularly fireclays and brickclays.
- 78 The environmental effects (residential amenity, noise, dust, blasting, landscape and visual impact, restoration, agricultural quality, nature conservation, hydrology, archaeology, access and traffic, cumulative impact and piecemeal working) and benefits of the proposals in relation to MLP Policy M7 are considered in subsequent paragraphs of this report.
- 79 Additional MLP policies relevant to the proposed development include Policy M8 which indicates that the piecemeal working of opencast coal deposits will not be allowed.
- 80 Policy M24 requires that the scale of any adverse effects on local landscape character from minerals development is kept to an acceptable minimum and conserves as far as possible important features of the local landscape. It also requires that restoration schemes have regard to the quality of the local landscape and provide landscape improvements where appropriate. Policies M27 and M29 relate to minerals development affecting local nature conservation interests and the need for proposals to incorporate appropriate measures to ensure any adverse impact is minimised.
- 81 Policy M31 relates to archaeology and the need for archaeological field evaluation prior to the determination of planning permission where there is reason to believe that important archaeological remains may exist.

- 82 Policy M35 aims to prevent development that would have an unacceptable impact on the recreational value of the countryside unless there is a need for the mineral which cannot be met from suitable alternative sites or sources. It also requires adequate arrangements for the continued use of public rights of way both during and after mineral development, either by means of existing or diverted routes.
- 83 Policy M36 requires the incorporation of suitable mitigation measures to ensure potentially harmful impacts from pollution by noise, vibration, dust and mud, visual intrusion, traffic and transport, subsidence, landslip and gaseous emissions are reduced to an acceptable level. Policy M37 seeks to prevent mineral development within 250m (500m where operations involve blasting) of a group of 10 or more dwellings unless it is demonstrated that residential amenity can be protected from the adverse impacts of mineral working.
- 84 Policy M38 states that if a proposal for mineral development would affect the supply of, or cause contamination to, underground, or surface waters, it should not be permitted unless measures are carried out as part of the development to mitigate those impacts throughout the working life of the site and following final restoration.
- 85 With regard to traffic issues Policy M42 states that mineral development will only be permitted where the traffic generated can be accommodated safely on the highway network; the strategic highway network can be safely and conveniently accessed, and the amenity of roadside communities is protected; and the impact of traffic generated by the development on local and recreational amenity is otherwise acceptable. Policy M43 requires that planning conditions should be imposed, and planning obligations or other legal agreements sought, to cover a range of matters including: the route of traffic to and from the site; highway improvements or maintenance; the prevention of the transfer of mud and dirt onto the public highway by measures including the provision of wheel cleaning facilities, suitably metalled access roads and the sheeting of laden vehicles. Access to and from the site, the provision of on-site turning, parking, loading and unloading areas; the means of transporting material within the site, or between different parts of the same working area and the operating hours of lorry traffic to and from the site should also be addressed.
- 86 Policy M45 requires that when considering proposals for mineral development the cumulative impact of past, present and future workings must be considered and states that planning permission will not be granted where the cumulative impact exceeds that which would be acceptable if produced from a single site under the relevant policies of the Plan.
- 87 Policy M46 indicates that conditions will be imposed, planning obligations or other legal agreements sought as necessary to cover a range of issues relating to the satisfactory restoration of minerals sites. Policy M47 provides advice in relation to proposals for the after use of mineral sites. Policy M52 states the ability and commitment of the intended operator to operate and reclaim the site in accordance with the agreed scheme will be taken into account. Policy M50 relates to onsite processing.

Detailed Environmental Considerations

Residential Amenity

88 The proposed site lies in open countryside to the south west of Tow Law. The nearest settlement is Sunnyside some 0.29km to the north at its closest point. Billy Row lies 0.6km to the east and Roddymoor 0.5km to the south east. There are also several residential properties in closer proximity. These dwellings and their relationship to the site and proposed operations are listed below (distances in metres). The principal affects of working on residential amenity would be in respect to noise, dust and visual impact.

Approximate distance in metres from properties to various site operations

Properties	Site Boundary	Excavation area/void	Processing Area	Overburden Mound	Soil Storage	Blasting
Park Wall Farm to the west	15	210	655	66 (M4)	30	240
Dun Cow Inn to the south east	200	286	1510	286 (M3)	200	438
Arthur Pit Cottages to the east	35*	328	1590	185(M2)	70	416
White Lea Farm to the east	278	834	2100	388 (M2)	343	908
Grange Farm, to the north east	151	388	1290	194 (M2)	150	420
West Park, to the west	295	730	556	320 (M1)	470	750
Elm Park Terrace, to the north west	480	1098	708	543 (M1)	480	1130
Front Street Sunnyside to the north	438	552	831	550 (M2)	445(S4)	590
Grahams Cottages, Sunnyside to the north	394	510	794	506(M2)	402(T3)	550
Eastern part of Sunnyside	290	400	740	364 (M2)	300	500

* 65m to site fence. The distance was previously 50m to the site boundary but that was amended to allow the creation of a horse track within the site boundary.

Old White Lea Farm, owned by the applicant, lies east of the centre of the site. It is currently occupied but would be vacant during the proposed life of the site.

Noise

89 Government guidance (MPS2) advises that during normal working hours (0700 – 1900) and subject to a maximum of 55dB(A) $L_{Aeq}1h$ (free field), mineral planning authorities should aim to establish a noise limit at noise

sensitive properties that does not exceed the background level by more than 10dB(A). It is recognised, however, that in many circumstances this will be difficult to achieve without imposing unreasonable burdens on the mineral operator. In such cases, the limit set should be as near to that level as practicable. During the evening (1900 – 2200) limits should not exceed background level by 10dB(A) and during the night should not exceed 42dB(A) $L_{Aeq}1h$ (free field) at noise sensitive properties. MPS2 also recognises that mineral operations will have some particularly noisy short term activities that cannot meet the limits set for normal operations. These include soil stripping and the construction and removal of mounds. The advice is that increased temporary daytime noise limits of up to 70dB(A) $L_{Aeq}1h$ (free field) for periods of up to 8 weeks in a year at specified noise sensitive properties should be considered in order to facilitate essential site preparation and restoration work and construction of baffle mounds where it is clear that this will bring longer-term environmental benefits to the site or its environs. Where work is expected to take longer than 8 weeks a lower limit over a longer period should be considered and in wholly exceptional cases, where there is no viable alternative, a high limit for a very limited period may be appropriate in order to attain the environmental benefits.

- 90 A noise assessment has been carried out as part of the proposals the results of which are contained in the ES. Monitoring was undertaken at properties and locations around the site including Elm Park Terrace, Sunnyside, Grange Farm, Arthur Pit Cottages, Old White Lea Cottage, Park Wall, West Park Farm, Front Street and Grahams Cottages. Predicted noise levels (based on a ‘worst case scenario’) indicate that normal site operations would not exceed the nominal limits of 55dB(A) $L_{Aeq}1h$ but would be 10dB(A) above measured background levels. The background noise levels for Grange Farm, Arthur Pit Cottages, Old White Lea Cottage and Park Wall Farm are low (between 37 and 38dB) and it is therefore proposed that levels for normal operations are set at 47 and 48dB. The assessment concludes that all temporary operations (including soil stripping and mound formation and removal operations) can be carried out within the nominal limit of 70dB(A) in any one hour $L_{Aeq}1h$ over an 8 weeks period as specified in MPS2. Predicted levels for temporary operations would range between 55 and 66dB at the aforementioned properties but the MPS2 level of 70dB(A) $L_{Aeq}1h$ (free field) is proposed as a limit.
- 91 Wear Valley District Council’s Environmental Health Officer (EHO) notes that all of the predicted noise levels from the temporary works are below the specified noise criteria of 70dB and that the earth mounds would act as noise barriers during subsequent normal operations that would also be within specified noise limits. He also notes that there is unlikely to be any night time noise impact from the operation of pumps as these would be fully attenuated and have operated satisfactorily at other sites.
- 92 Proposed noise mitigation measures also include the screening of pumps and steps to minimise the noise from vehicles and machinery, including the fitting of efficient silencers and regular monitoring of all site plant and machinery to ensure that silencer performance is not diminished. In addition soil handling, overburden extraction and backfill operations would be restricted to 07.00 to 19.00 Monday to Friday and 07.00 – 13.00 on

Saturdays. Where soil handling operations would take place within 200m of any occupied third party residential property these would not commence prior to 08.00 Monday to Saturday.

- 93 Having regard to the nature and location of operations and low ambient noise levels in the vicinity of the site it is likely that any significant changes in these especially during temporary operations would have the potential to cause noise nuisance to local residents. However, the predictions are based on worst case scenarios and the higher levels from temporary works would be limited to 8 weeks in any one year. Although there would be noticeable increases in noise levels it is therefore considered that these would be within acceptable levels as specified in Government policy statements and suitable controls would be put in place to ensure that these limits are adhered to.

Dust

- 94 All mineral sites can give rise to dust issues and it is recognised that the very large amounts of overburden to be moved as part of opencast operations and the intensity of activity associated with that movement can contribute significantly to the increased potential for dust emissions. It is also accepted that the generation of dust can only be minimised and controlled rather than eradicated.
- 95 A Department of Health and Department of the Environment, Transport and the Regions research study: *The Impact of Particulate Matter from Opencast Coal Sites on Public Health*, was published in December 1999. MPS2 guidance reflects the good practice recommendations made in the report. The key assessment criteria are the proximity of residential communities to a site and background levels of small particles (PM10) in relation to the National Air Quality Standard. The proximity distance to settlements for assessment purposes is 1km.
- 96 The background level for the local area was recorded at $14.1\mu\text{g}/\text{m}^3$ in 2004 and the predicted increase from open casting (typically opencast site operations can produce $2\mu\text{g}/\text{m}^3$ of PM10s) would still maintain levels that are below National Air Quality Standard of $40\mu\text{g}/\text{m}^3$ annually and $50\mu\text{g}/\text{m}^3$ (24 hours mean). It is anticipated that more stringent national target levels will be introduced for 2010 but these would continue to be met locally. The applicant has been undertaking air quality monitoring since November 2008 would continue to do so for the life of the site.
- 97 The national standard provides a broad indication of acceptable air quality but there are residential properties well within 1km of the site. The ES has assessed the potential dust emissions from activities associated with the proposal using a dispersion model to determine dust deposition at receptors during initial site preparation, extraction and restoration activities. The proposed site is fairly exposed and dominant winds are from the west and south-west, but it is concluded that dust emissions can be maintained below the environmental quality standard for all modelled receptors during all the phases of development.

- 98 The operator intends to adopt a full Environmental Management System to ensure high standards of operation and mitigation are in place as recommended in MPG3 and MPS2. A draft Dust Action Plan has been submitted proposing the setting of trigger levels relating to wind speeds so that additional dust suppression measures would be implemented under certain conditions. Typical dust suppression measures would include the use of water bowsers, fitting of dust filters on fixed plant and machinery, dampening down of haul roads and stocking areas, seeding of soil and overburden mounds and the temporary suspension of operations giving rise to fugitive dust in dry windy weather until additional equipment is provided or conditions improve. Monitoring of dust deposition levels around the site would also take place and results would be made available to the Authority upon request.
- 99 The EHO considers the assessment and intended measures for the purposes of controlling dust emissions are adequate. He notes that a Part B permit (under the Pollution Prevention and Control Regulations 2000) would need to be made to the EHO to cover the coal washing and processing plant in advance of processing commencing on site.

Blasting

- 100 Sandstone overlies many of the coal seams and blasting may be necessary to fracture the overburden in some areas. Old workings are also present and will have the effect of weakening the strata and reduce the requirement for blasting in those areas. However, it is expected that sandstones between the Top Three Quarter and Brockwell seams will require blasting.
- 101 When blasting takes place it is proposed that this would occur between 10.00 – 12.00 and 14.00 – 16.00 Monday to Friday at prearranged times usually 5 minutes past the hour. It is anticipated that it would take place on average twice a day although a higher frequency cannot be ruled out should the strata require it. A test blast would be used to inform the design and calculation of production blasts and these would be within defined limits.
- 102 The nearest blasts in relation to residential properties are set out in the table in paragraph 88 above. For purposes of MLP Policy M37 there are no groups of 10 properties or more that would come within 500m of the proposed area of blasting although it would take place within 500m of a small number of isolated properties. The design and calculation of blasts would ensure that the vibration levels at all nearby properties are controlled and kept within the limits permitted. The blasting proposals would not therefore conflict with Policy M37.
- 103 The EHO has no specific comments to make on blasting except to note that depending on its scale and frequency consideration should be given to monitoring vibration levels at the site boundary. Whilst it is normal practice to require a scheme of monitoring if planning permission is granted, this typically takes place at the nearest properties rather than the site boundary and this practice would continue in this case.

Landscape and Visual Impact

- 104 The site lies in the upland fringes of the West Durham Coalfield on high ground in the gently sloping valley head of the Beechburn Valley, sometimes referred to as the 'Crook Bowl'. The landscape of the site is identified in the County Durham Landscape Assessment 2008 as 'High ridge and valley farmland: open pasture'. This is very open farmland of improved and semi-improved pasture bounded by a fragmented network of field boundaries; predominantly wire fences but with occasional hedges and walls and scattered trees.
- 105 Much of the site has been opencasted in the past which accounts for the general lack of mature landscape features. Some pre-enclosure boundaries survive around Old White Lea Farm associated with areas of old ridge and furrow. These are largely reduced to sporadic lines of trees, occasionally on walled hedge-banks topped by wire fence or relic hedges. A few later parliamentary enclosure hedges and walls are scattered across the site. The central part of the site is crossed by an abandoned incline railway. The western section is divided by a coniferous shelterbelt part of a network of linear shelterbelts planted in the 1970's in land reclamation and opencast restoration schemes.
- 106 The County Durham Landscape Strategy 2008 defines most of the site as a 'Landscape Improvement Priority Area' that would benefit from enhancement. The area of old enclosure around Old White Lea is identified as a 'Landscape Conservation Priority Area'.
- 107 The physical impacts of the proposals on landscape features would be modest for a site of this size. The impact on its landform, while substantial during the operational period, would diminish to a neutral impact on restoration, as the site would be restored to something close to its existing character. It is proposed to retain the remains of the incline railway and mature trees and scrub along the Crook Beck and around Old White Lea Farm. Some of the older relic field boundaries south of the farm would be retained; others would be removed as would the associated ridge and furrow and two relatively tree-rich field boundaries north of the farm. This is a significant local impact given the antiquity of the features and the importance of mature trees in this otherwise very open landscape, but a localised one.
- 108 The impacts of the proposal on the character of the landscape would be substantial during the operational period with large overburden mounds, albeit seeded to grass at times, prominent in many views, and views into extraction and other operational areas from higher ground in the north. While that impact would be largely restricted to the upper Beechburn Valley, the proposals would be widely visible within the valley head area for the life of the site. Those impacts would be particularly significant in views looking across the Crook Bowl from the B6299 and from the western higher parts of Stanley Crook and Billy Row.
- 109 The impact of the proposals on designated landscapes would be negligible. The site does not lie in an Area of High Landscape Value (AHLV). The Wear Valley AHLV lies around 600m to the south and west. The North Pennines Area of Outstanding Natural Beauty (AONB) lies

around 3km to the west. The site is relatively well contained visually in respect of views from those areas. While some of its elements would be visible from higher ground within the AHLV to the south and the AONB to the west, at the distances involved its impacts on their special character and quality would be minimal.

- 110 The majority of residential properties in the area would either have no view or very restricted views of the development due to the screening effects of intervening buildings, topography or vegetation. The proposals would be visible from properties in parts of Sunnyside, Stanley Crook, Billy Row, Roddymoor and West Roddymoor and a number of isolated properties to the south, which would experience a generally moderate level of adverse impact on visual amenity from the development overall. Although there would be periods, during the construction of overburden mounds for example, when impacts would be higher. The overall level of impact would be higher on Grange Farm to the north of the site, localised properties on the southern edge of Sunnyside, and from the Dun Cow Inn, Old White Lea Cottage and Arthur Pit Cottages close to the site.
- 111 High impacts would be experienced from a number of public footpaths in the vicinity of the site including those retained within or diverted around its perimeter, and from parts of the extensive network of paths west of Roddymoor and Billy Row. Impacts in views from public highways would generally be restricted, although there would be commanding views across the site from the adjacent B6299 to the north in which the impacts of the proposals would be high. There would also be high impacts in views from the war memorial in Stanley Crook, the nearby viewpoint car park, and the informal lay-by on the B6299, all of which have panoramic views across the Crook Bowl, and from the allotments and children's play area at Roddymoor. The impact of the proposals in these views would vary over the life of the development but would be particularly high during the construction of overburden mounds and the periods during which they were bare of vegetation.
- 112 During winter months the site would require illumination. In most cases this would only be required for plant working in the void area which is generally below ground level. The coal and fireclay processing and stocking areas would also be lit by directional lighting pointing into the site.
- 113 The restoration proposals provide for significant improvements to the site and adjacent areas of land which, over time, would have a substantial positive impact on the character of the local landscape. The proposals entail the development of a large area of native woodland along watercourses in the south of the site, with associated open and wetland habitats, and a relatively dense network of hedgerows subdividing tracts of improved and species-rich pasture. Habitat enhancement proposals on land outwith the site to the north include the creation of wetlands and mid-altitude heath. All of these proposals are consistent with, and would help implement, the adopted Landscape Strategy for the area. While substantial areas of native woodland are not part of the present character of the site, they are complementary to that character, and would help deliver the Woodland Strategy which identifies the site as lying within a priority area for new woodland planting.

- 114 The proposals would be visible from a wide range of sensitive visual receptors in the head of the Beechburn Valley including residential properties, public open spaces within and around settlements, and roads and footpaths serving them. It is likely therefore that there would be a significant adverse impact during the operational period on the visual amenity of local communities, including medium and high impacts on a relatively small number of residential properties, and on a larger number of local people using public open spaces, roads and footpaths in the area. However, these impacts would vary over the life of the site and the restoration proposals would in time bring about an improvement to the landscape of the locality and would on balance outweigh these effects.

Restoration

- 115 The site would be progressively reinstated throughout the extraction period to a landform similar to that which currently exists but more diverse in terms of uses. Woodland planting would predominantly be within the central and southern areas upon restoration with agricultural grassland to the eastern, central and western areas. Species rich grassland/hay meadow is proposed within the central part of the site. Off-site planting is also proposed with a wildlife enhancement management plan.
- 116 The areas reinstated to agriculture would be subject to the statutory 5 year aftercare requirement so that it can be brought into productive use at a suitable early point. An additional 10 years of aftercare above the statutory requirement is proposed for the woodland, species rich grassland and waterbodies providing 15 years management in total.
- 117 MPG3 favours financial guarantees for the restoration of opencast coal sites as a legitimate and appropriate means of reassuring the local community of a prospective operator's commitment and ability to restore a site and on time. The advice does accept that a bond should not be necessary where an operator can demonstrate that the Company is covered by an established and properly funded industry guarantee scheme, which would adequately finance a programme of restoration and aftercare. Similar guidance is also reflected in MLP Policy M52. The applicant is Britain's largest coal mining company and has been operating within the Durham area as UK Coal and predecessor companies RJ Budge Mining Ltd and RJB Mining Ltd since the 1980's. The Company considers that its capability to work surface mines and remediation schemes is second to none, and points to a long history of successfully completed restoration schemes including the recent Southfield and Stony Heap sites in County Durham. Nevertheless, it is prepared to offer a bond of around £1¼ million to ensure the restoration of the site. This takes account of the large amount of progressive restoration on the site which tends to reduce the overall restoration liability at any one time.

Recreational Amenity

- 118 The area has an extensive and established public rights of way network. Due to the history of opencast coal extraction in the area the footpaths

will have been disturbed on and off over the years. Footpath Nos. 19, 24 and 197 and Bridleway Nos. 21 and 23 pass through the proposed site and parts of these would need to be temporarily diverted should the development proceed. A number of other footpaths (Nos. 3, 3a, 4, 9, 22, 41, 44, 45 and 164) lie outside of the application site and would not be directly affected by the proposed development. Footpath No. 197 runs south eastwards through the site to the north of Old White Lea. It is proposed that a manned at grade crossing point would be provided over Footpath No. 197 which would be upgraded to Bridleway status. This is necessary to cater for vehicles travelling from the working void to the overburden storage area. It would be constructed during year 1 of the development and removed towards the end of the scheme.

- 119 Although lengths of footpaths and bridleways would be stopped up during working, alternative routes would be provided and these would be subsequently reinstated. Upon restoration the number and length of rights of way around the application site would be increased, thus improving public access to the area. 5.9km of new footpaths and bridleways are proposed: 4.2km within the site and 1.7km outside. Approximately 0.7km of footpath would be upgraded to bridleway status. The additional footpaths would be 'dedicated' to ensure their use in perpetuity and would tie into the surrounding public rights of way network.
- 120 The footpaths across the site provide opportunities for countryside access and informal recreation for the nearby population and offer extensive views. The use of the routes for relaxation and enjoyment would be directly affected by the proposed development and there would be a reduction in the levels of amenity currently provided. However, the proposed arrangements to ensure the continued use of public rights of way both during and after mineral extraction are considered acceptable. On balance there is likely to be a positive long term impact upon the recreational value of the countryside arising from increased public access.

Agricultural Quality and Use

- 121 The proposed excavation area would be 45 ha but virtually all the 125.8ha of land within the proposed site would be disturbed by the development. This is currently in agricultural use apart from 2.2 ha of woodland and provides pasture to sheep and cattle. None of the affected land falls within grade 1, 2 or 3a that is recognised as the best and most versatile under the agricultural land classification (113.4 ha is Grade 3b and 9.8 ha is Grade 4). Following restoration of the site the amount of land restored to agriculture would be reduced (68.4 ha agricultural grassland, 4.4 ha of woodland pasture and 7.1 ha of species rich grassland would be created) in favour of nature conservation end uses but would still provide viable field units for pasture.
- 122 A strategy for soil stripping, handling, storage and replacement has been submitted with the application. The operator also proposes to produce a soils handling and management manual, employ experienced staff, and submit an annual soils management audit to the Mineral Planning Authority. If the development takes place the handling and storage of soils would be carried out in line with good practice and adequately controlled.

Nature Conservation

- 123 The proposed site is not affected by nature conservation designations. The closest site of statutory importance is Willington North Dene Local Nature Reserve some 5km to the south east. The nearest non-statutory site, Stanley Moss Local Site (formally County Wildlife Site) lies some 400m to the north east of the proposed site.
- 124 A detailed ecological survey has been undertaken and the site as a whole is considered to be of limited wildlife and ecological value due to its current agricultural land use and the absence of habitats suitable for specially protected, rare or otherwise notable species. No great crested newts were found and the potential for bat use of the site was considered low with few foraging areas. The site has local interest for breeding birds with a number of BAP species but no Schedule 1 breeding species or nationally or regionally significant populations of birds were recorded. A tributary of Crook Beck flows through the eastern part of the site which is associated with gorse scrub and mature trees. This is considered to be the most ecologically valuable part of the site together with a conifer plantation to the west and these areas are to be retained. Some hedgerows and trees would be lost but additional planting would be provided.
- 125 Whilst there would be some localised effects, in nature conservation terms, from the loss of open land and hedgerows, the proposal would provide a more varied and sustainable habitat for wildlife that is appropriate to the ecology of the area. The proposed afteruses would meet objectives set out in the Biodiversity Action Plan to increase the amount of species rich grassland, woodland including wet woodland, mid altitude heathland, ponds and hedgerows in County Durham.
- 126 The applicant is also proposing to enter into a Section 39 Agreement for the management of certain parts of the site for 15 years. The proposed measures in the overall scheme, including advanced planting and a comprehensive programme of restoration and management, would outweigh any adverse impacts that working would have on the existing ecology of the area and create a more varied wildlife habitat.

Hydrology

- 127 The site forms part of the River Wear catchment area. The land drains to two small seasonal streams that leave the south east part of the site and flow to the south of Arthur Pit Cottages and Old White Lea Cottage to White Lea Stream and Park Wall Stream. During site working all water would be directed to silt settlement lagoons and flow balancing ponds for treatment prior to discharge to ensure that no contaminated water enters watercourses. The discharges would also require Environment Agency consent.
- 128 Ground water levels have been found to be well below the strata that would be worked and are unlikely to either effect or to be affected by operations.

- 129 The ES concludes that the proposals would not have any unacceptable adverse environmental effects in terms of hydrology and hydrogeology. In addition the restoration proposals would create an enhanced hydrological environment that would reduce potential flooding in the White Lea Stream through the provision of open water flow attenuation ponds on site.
- 130 No adverse impacts on surface or ground water have been identified which cannot be controlled through mitigation measures, condition and other pollution controls regulated by the Environment Agency which has no objections to the scheme.

Archaeology

- 131 An archaeological and cultural heritage assessment to ascertain the archaeological resource and constraints of the site has been carried out as part of the proposals. Extensive evaluation works were undertaken on the site as part of this using both geophysical survey and targeted trial trenching. Although the geophysical survey highlighted areas of potential archaeological resources the subsequent evaluations have shown that none of these features are of sufficient interest to warrant mitigation.
- 132 There are no statutorily protected sites within or immediately adjacent to the site although a Grade II listed milestone lies to the southern end of the A68 lay-by. Remains of previous 19th Century industrial activity include the Sunnyside Incline and a brick built bridge that carries the White Lea Road over the Incline, features considered of Regional Importance. The Incline would only be impacted upon by a single crossing point to allow for the movement of material from the extraction areas west of the Incline to overburden mound M2 and by the establishment of a water treatment area at the southern end. Suitable mitigation measures to ensure minimum disturbance to the Incline would be required. Neither the milestone or bridge would be affected by operations but mitigation measures in terms of fencing would be required around the milestone. The foundation of a disused wagonway is also present and is considered to be of local importance. Other 19th Century features of note include another wagonway, a fan house, former school-house and the former Helme Park Pit site but these are no longer visible. There is limited evidence of prehistoric (Bronze Age, Iron Age), Roman and Medieval activity in the area. The evaluation recorded evidence of earthwork remains of Medieval ridge and furrow (agricultural) activity to the north west of Old White Lea Farm.
- 133 The Director of Adult and Community Services has no objections to the proposal subject to the imposition of suitable planning conditions to ensure that an agreed programme of watching briefs, archaeological recording and protection is implemented. This would enable recording of the 19th century (or earlier if they exist) shafts and any associated features exposed during the coal workings. The provision of mining heritage interpretation boards as part of restoration proposals is also required to inform the public of the site history and heritage.

Access and Traffic

- 134 Vehicular access is proposed off a lay-by to the north west of the site and then onto the A68. Improvement works to the lay-by would be required and locations retained for members of the public to use.
- 135 Lorries travelling south would use the southern exist of the lay-by and proceed on the A68 to the A1(M) in Darlington before heading to markets. These are anticipated to include the steelworks at Redcar, Monckton Coke Works near Barnsley and other power generators in Yorkshire and Nottinghamshire. Some coal may also be taken to the Company's disposal point at Wardley in South Tyneside. Lorries going here would leave the site via the northern exit of the lay-by and follow the A68 to Castleside and the A692 and the A693 respectively to the A1(M) at Chester-le-Street. It is anticipated that the transport of fireclay would predominantly be via the north bound coal lorry route along the A68 and other parts of the primary road network to brickworks such as Throckley and Birtley. Todhills near Bishop Auckland is also a potential market that would be accessed from the A68 via the A689 and A690 through Crook and Willington. The southerly coal lorry route to the A1 may also be used to take material to brickworks at Claughton Manor in Lancaster.
- 136 The transport assessment undertaken to consider the traffic implications of the proposal concludes that the moderate increase in traffic volumes and the highway access to the A68 are acceptable and would not have adverse effects on the highway network.
- 137 The Head of Highway Management Services also considers that an average 77 vehicles in and out of the site per working day on the A68 would be acceptable provided that the access is improved. However, he requires that a maximum daily flow of up to 100 HGVs should be specified to avoid excessive daily flows and that records are maintained. The proposed vehicle routes for coal and fireclay traffic are also considered acceptable.
- 138 The Head of Highway Management Services notes that the proposed vehicular access was previously used to access the former Castle Farm site during the 1990's. However, the surface of the lay-by is poor and would need to be resurfaced to a specification to be approved by the Area Engineer. Drainage of the lay-by would also need investigation and the junctions with the A68 and local signing would need to be improved to an agreed specification. The applicant is prepared to fund these works that would be carried out under a Section 278 Highways Act agreement prior to the commencement of coaling at the site.
- 139 The Head of Highway Management Services would also require sheeting of loaded vehicles, surfacing of the access road with bituminous or concrete material and the installation of a wheel wash capable of cleaning all HGVs leaving the site. These and related matters can be covered by planning condition and traffic routeing can be controlled through legal agreement.

Cumulative Impact

- 140 There has been a long history of opencast working in the immediate vicinity of the site, an area which is often referred to as the Crook Bowl. As a result, the character of the landscape has been changed and reflects the limitations of past opencast reinstatement, as reflected by coniferous shelterbelts, immature hedgerows and woodlands and post and wire fences.
- 141 The most recent opencast activity in the area was in association with the Castle Farm site to the west that was worked between 1990 and 1996. Topsoil replacement operations were completed in July 1999 and the site is due to be released from extended aftercare in 2009. Earlier opencasting took place at Park Wall (1965 – 69), Roddymoor (1966 – 69), Sunnyside (1969 – 73), Thornley Grove (1970 – 72), Helme Park Colliery (ceased 1976) and High Mown Meadows (1980 – 82). Working at the High East Park and Park Wall East sites in the mid 1980s partly reworked and extended the previous Park Wall site. The Red Barns site to the south operated between 1983 and 1991 and Cold Knott Farm, adjacent to Road A689 west of Crook was worked between 1978 and 1982 and 1994 to 1996. The extent of previous working in the immediate vicinity is shown on the plan in Appendix 1.
- 142 Any large-scale excavation is likely to have some cumulative effects on landscape, hydrology and ecology of an area. However, given the most recent opencast activity took place 10 years ago it is difficult to argue that these would be significant in this case. Indeed in 1998 the Planning Inspector and Secretary of State did not accept the Council's arguments about cumulative harm caused by the White Lea Farm site in combination with other sites in the surrounding area.
- 143 A number of windfarm developments are now operational or have been approved to the north of Sunnyside. 6 operational turbines lie along the road B6307, the closest being over 2.3km away. 1.32km to the north east of Sunnyside is Broom Hill wind farm comprising 4 turbines for which planning permission has been granted and is expected to be operational later this year. There is also the possibility of three turbines at Oakenshaw (the closest is 3.1km away) but a planning application has not yet been made. In any event these sites are some distance away and it is unlikely that there would be combined impacts of an adverse nature from these and the opencast coal development at the same time.

Alternatives and Piecemeal Working

- 144 Mineral reserves can only be worked where they are found and consideration of alternatives has largely involved looking at different ways of working the site rather than alternative sites or sources of energy supply. Consideration has been given to working both larger and smaller site areas, modifying the timescale of operations, alternative access points and changes to the location of overburden mounds and working direction. The earlier appeal decision has also been taken into consideration. All alternatives have been dismissed for a combination of environmental, geological and economic reasons.

- 145 The seams of coal continue beyond the proposed excavation areas, but the ES concludes that working the coal beyond the current boundary is neither viable nor environmentally acceptable. The proposed scheme is therefore considered a 'once and for all' development. The Company is proposing to tree plant over areas where there are known coal resources and is prepared to sign a Section 106 Legal Agreement preventing future opencast coal mining on the area the Company owns which extends to 153.6 ha in total. This Agreement would apply to any successors in title. Areas covered by the legal agreement would be to the north east, the south east, the land under overburden mound M2 as well as the former Castle Farm site.

Economic Issues

Coal

- 146 The recovery of indigenous coal reserves (offsetting coal imports) and assisting the marketing of deep mined coal are put forward as economic reasons for working. The Company has existing contracts and expressions of interest in the coal. It is estimated that 55% of the coal to be recovered is prime coking coal which is relatively scarce in the UK and currently imported for use. It is intended to sell this primarily for coke manufacture for use in steel making or industrial/domestic purposes. Any residual volumes along with the balance of coal to be recovered would be sold for electricity power generation. Coal sold to the electricity supply industry would be blended with deep mined coal to improve its specification although the Government does not regard this or the operation of the coal market in general as issues that should be influenced by the planning system.
- 147 Figures released in October 2008 by the Department for Business Enterprise and Regulatory Reform show a fall in indigenous production and a rise in imported coal to meet UK demand. Consumption within the coke oven market is slightly up on 2007 and the vast majority of this coal is imported. The coal from the site would therefore replace some of the overseas material. Although coal consumption within the electricity generation market is down slightly on 2007, demand exceeds indigenous production which results in continued high levels of importation.

Government Energy Review

- 148 The Government's current energy policy is set out in the Energy White Paper of May 2007 which seeks to respond to the changing circumstances in global energy markets and to address the long term challenges that are faced. The White Paper makes it clear that coal, oil and gas will play a significant part in meeting the UK's energy needs for the foreseeable future, as part of a diverse energy mix and that the UK is increasingly reliant on imported energy. The need to manage the risks arising from the concentration of fossil fuel reserves in fewer and further away places, some of them in less stable parts of the world is also referred to. Within this framework it is also emphasised that fossil fuels must also become cleaner in order to meet carbon reduction goals. The need for more efficient coal powered energy generation and the development of carbon capture technologies was also highlighted.

- 149 In autumn 2006, the Government established the Coal Forum. This brought together key representatives from the coal industry and the power sector to develop strategies to maximise economic production of UK coal. The Coal Forum has confirmed the importance of a continuing role for coal as part of a diverse and resilient energy mix and identified a number of potential benefits from use of UK produced coal where it is economically viable and environmentally acceptable and contributes to security of supply goals.

Fireclay and Other Minerals

- 150 Fireclays and brickshales are present on the site and the recovery of indigenous fireclays for Durham brickworks and those further afield would be a potential economic benefit of the proposal. No agreement has yet been reached for the purchase of the fireclay from the site, although 3 companies (Ibstock, Hanson and Wienerberger) have written in expressing interest in the fireclay that would be produced. The MLP acknowledges the importance of fireclay production in supporting the remaining local brickworks, and the need to avoid wastage of any material that may potentially be available. The recovery of fireclay alongside the extraction of coal would avoid the unnecessary sterilisation of a valuable resource in this respect. Fireclays from the adjacent Castle Farm site were sold during the 1990's, although this did not occur as intended at the Company's Southfield site which ceased coaling in 2005 and is currently in aftercare.
- 151 Despite the current economic down turn and difficulties faced by brickworks the Company believes that there are good prospects for the sale of fireclay over the life of the site when house building and the demand for bricks is expected to improve. Provision has been made for temporary stockpiles of the material on site should this be necessary.
- 152 There are no workable reserves of sand, gravel or limestone on the site. Sandstone is present, but, it is considered unsuitable for building stone or any other market due to its silty nature and because it is interbedded with siltstones and mudstone.

Employment

- 153 One objective of the MLP in relation to the provision of minerals is to assist in employment retention where this is consistent with resource conservation and environmental protection. An anticipated 61 people would be employed for the duration of the scheme which would include a mix of UK Coal and contract operatives many of which would be from the local area. It is anticipated that a further 26 haulage personnel would be involved with the movement of coal. The figures associated with fireclay are not known at this stage. The proposal would also have indirect effects on the local economy arising from the purchase of goods and services by the workforce and the Company. Although the proposal would not provide long term job opportunities it would make a contribution to the local economy during a period of acknowledged economic uncertainty and difficulty.

Community Benefit

- 154 Apart from restoration enhancements the Company has indicated that it would provide a community fund equivalent to 10p per tonne of coal (providing around £127,450 during the life of the site) to help fund local projects and activities. This would be administered through the site liaison committee that would also provide a forum for the operator and community representatives to engage with each other about site related issues, activities and concerns. The Company has advised that the community fund would be provided regardless of whether the application was approved by the Mineral Planning Authority or on appeal.
- 155 Subject to a favourable local determination of the application by the Mineral Planning Authority a further community benefit would involve the installation of mains gas supply to Sunnyside and White Lea Road. It is estimated that the cost to the applicant of supplying gas to this area which serves around 200 properties (including Old White Lea Cottage/Dun Cow Inn and Arthur Pit Cottages) would be in excess of £360,000.
- 156 Fuel poverty is a problem that affects 1 in 4 in the North East. The problem has been acknowledged by the Association of North East Councils which is encouraging North East Councils to pledge support for a North East Fuel Poverty Declaration. Community Energy Solutions North East (CES) was set up in 2006 by One North East and central government to tackle the problem of fuel poverty in off-gas communities. It is a non-profit company charged with helping communities of 50 dwellings or more, with a high Index of Multiple Deprivation to secure extensions to the gas mains network or a package of renewable energy technologies. It has identified Sunnyside as such a community. The applicant is prepared to fund the installation of the mains infrastructure, including feeder pipework if this would avoid the substantial costs and delays of pursuing a planning appeal. However, service connection to each house and installation of heating systems would have to be paid privately although some (10% or more) may qualify for help under the Government's Warm Front scheme which provides grants up to £2,700.
- 157 Should the scheme be approved CES would become involved in the rollout of the gas. All individual homes would be contacted to canvass opinion about take up etc. CES would also explain all of the help that is available to individuals for connecting to the main and house warming grants and loans.
- 158 This appears to be the only way that assistance would be provided with gas installation. United Utilities PLC (part owner of Northern Gas Networks with management responsibilities for gas infrastructure that used to be administered by British Gas Transco) has stated that it has no plans to take gas to Sunnyside in the near future. In the event that any request was made by residents or local authority it is also pointed out that the cost of laying mains would have to be funded by those parties.

Legal Agreements

- 159 Provision of the community fund and gas infrastructure would be covered in a proposed Section 106 Agreement. This would also restrict future working of land in the Company's control; deal with the site highway works; provision of a financial guarantee, and requirements for a site liaison committee. It would also cover early ecological works outside the site boundary including an undertaking not to fell the newly planted woodland areas for a period of 40 years.
- 160 The applicant has also offered to enter into an Agreement under Section 39 of the Wildlife and Countryside Act 1981 to provide for the long term management of specific areas of ecological interest. This would cover the early ecological works and Wildlife Enhancement Management Plan for areas to the north of the site boundary and areas of extended aftercare within and outside the site boundary. The agreement would cover successors in title and would run for a period of 15 years.
- 161 The Company was asked to extend the long term management regime but felt that an 'in perpetuity' agreement would be unnecessarily restrictive and inflexible and would not take account of potential changes in future agricultural and silvicultural practice. This is disappointing as some of the habitats created are management dependent. Whilst it is hoped that these areas will become established over the extended management period there would not be permanent protection of the restored area.

Recommendation and Reasons

- 162 The proposal is a modified version of the scheme of working and restoration that was refused planning permission and dismissed on appeal in the late 1990's. It seeks to address concerns that were highlighted in that decision and incorporates a range of measures to overcome these. However, there has been a change in Government planning guidance since then and the current proposal must be considered on its own merits in the light of that guidance, adopted development plan policies that reflect it, and any other material planning considerations.
- 163 MPG3 contains a general presumption against opencast mining proposals unless certain conditions are met. To meet the first test of MPG3 and comply with MLP Policy M7(a) proposals are required to be either environmentally acceptable or in a position to be made so by planning conditions or obligations. Having assessed the likely impacts of the proposed development it is acknowledged that the scheme would have a number of significant environmental effects of an adverse nature. These would occur particularly in respect to visual intrusion from large engineered mounds and earth works throughout the life of the site and disturbance during temporary operations for those living close by.
- 164 However, the mining operations would not be overly obtrusive in wider views and the impacts would be moderated and reduced by perimeter mounding and progressive reinstatement and screening works. The areas to be worked are not subject to special landscape designations or

of great intrinsic landscape or ecological value, being mainly low grade agricultural use and the site would be worked in a way that is intended to limit the environmental effects on local communities. Adequate stand-off from the relevant main settlements would be maintained and mitigation of the most potentially damaging consequences of extraction would be provided. The proposed restoration scheme is designed to create a mix of habitats, including planting a significant area of woodland with improved public access. The applicant has agreed to enter into a Legal Agreement that would amongst other matters prevent the future working of land in its control, and provide an extended aftercare period and management of the site.

- 165 The community benefits have been considered within the report. As the site is not derelict or contaminated land the proposal would not have reclamation benefits, but the restoration proposals would provide long term environmental enhancement and public access. Although development is for a limited period it would provide benefits in terms of employment and contribution to the local economy and UK markets for the coal and fireclay. In terms of direct benefits to the communities affected a community fund and the provision of gas mains are being offered although the take up of the latter is dependent on the planning decision and investment by others in terms of gas installation within individual homes.
- 166 On the balance of planning considerations I am therefore of the view that the proposed development meets the tests for acceptability of opencast proposals as set out in MPG3 and the development plan and the proposed benefits of the scheme would outweigh any of the short term environmental damage and loss of amenity that would be caused. The application has been informed by the Planning Inspector's reasons for dismissal of the White Lea appeal and has addressed many of the earlier concerns. The scheme is smaller in extent and duration and measures have been incorporated to help mitigate the effects of working and reinstatement and to improve the restoration scheme.
- 167 Having weighed the environmental and community effects of the proposal, I therefore **recommend** that planning permission be granted, subject to the conclusion of appropriate Legal Agreements and provision of a suitable financial guarantee in order to ensure full and proper restoration of the site and provision of all benefits as intended for the following reasons:
- (a) The development would accord with MLP Policy M7 in that the adverse impacts on the environment of working the site would be outweighed by the benefits, mitigation and compensatory measures proposed.
 - (b) The potential amenity impacts on the surrounding area, including visual impact, dust, noise, blasting, discharges to watercourses, and traffic and transportation effects are unlikely to give rise to overriding environmental concerns within the local area over the life of the development, and appropriate mitigation measures and controlling conditions would be put in place to reduce and maintain these to acceptable levels in accordance with MLP Policy M36.

**No departure from policies contained in the County Durham Minerals
Local Plan (2000)**

Background papers: Planning application and supporting environmental statement, plans and additional information on planning application file ref: CMA/3/21.

Contact: John Byers Tel: 0191 383 3408
Local Members: Councillors Bailey and Jopling (Crook North and Tow Law)

District: Wear Valley
Planning Application No: CMA/3/21
Proposed Development: Proposed Park Wall North Surface mine coal and fireclay scheme, near Tow Law for UK Coal Mining Ltd.

Key Facts

Site area:	125.8 ha total area. 45 ha area of excavation in total.
Existing land use:	Agriculture (Grade 3b 113.2 ha, Grade 4 9.8 ha), urban/buildings (0.6 ha) and conifer woodland (2.2 ha).
Proposed restored land use:	43.3 ha of new woodland (37.7 ha within site), 69.7 of agricultural grassland (68.41 ha within site), 5.7 ha of woodland pasture (4.4 ha within site), 1.5 ha of open water (0.5 ha within site), 9.8 ha of species rich grassland (7.1 ha within the site), 5.5 ha of mid-altitude heath (0 ha within site), 10.14 km of new hedgerows (7.99 km within the site) and 5.9 km new footpath and bridleways (4.2 ha within site). These are total figures for planting inside and outside of the site boundary.
Mineral resources to be extracted:	1,274,500 tonnes of coal. Up to 500,000 tonnes of fireclay
Use of mineral resources:	Coking coal to steelworks at Redcar and Monckton coke works, the remainder of coal to power stations for electricity generation. Fireclay to local brickworks.
Seams to be worked:	Harvey, Top Tilley, Middle Tilley, Bottom Tilley, Top Busty, Bottom Busty, Top Three Quarter, Bottom Three Quarter and Brockwell.
Duration of working (including reinstatement):	4 years 9 months from commencement to full reinstatement. Start date: Early 2009 End date: 2013
Hours of operation:	Site operations: 07.00 - 19.00 Mon. - Fri. 07.00 - 12.00 Sat Coal haulage hours: 07.00 - 18.00 Mon. - Fri. 07.00 - 12.00 Sat No working on Sundays or Public/Bank Holidays except for maintenance. Soil handling and overburden extraction and backfill operations would be restricted to 07.00 to 19.00 Monday to Friday and 07.00 – 13.00 on Saturdays. Where soil handling operations would be within 200m of any occupied 3rd party residential house these operations would not commence prior to 08.00 Monday to Saturday. Maintenance 07.00 – 23.00 Mon. – Fri. 07.00 – 16:00 Sat 08.00 – 16.00 Sun

Lorry movements:

Average of 154 (77 in / 77 out) per working day in total comprising 110 (55 in / 55 out) coal and 44 (22 in / 22 out) fireclay.

It is anticipated that an average of 7 laden HGV's (5 coal and 2 fireclay) will leave the site every hour (14 movements per hour).

(The above figures are based on a 5.5 day working week.)

Lorry routeing:

A lay-by exists at the proposed site access, lorries carrying coal travelling south would use the southern exit of the lay-by then travel south along the A68 to the A1(M) and then onward to markets anticipated to include the steelworks at Redcar, along with Monckton Coke Works near Barnsley and other power generators in Yorkshire and Nottinghamshire. Some coal may also be taken to the Company's disposal point at Wardley in South Tyneside. Lorries carrying coal to Wardley would leave the site via the northern exit of the lay-by via Castleside, the A692 and the A693 respectively to join the A1(M) at Chester-le-Street in order to travel north to Wardley.

Fireclay would be transported by lorry predominantly following the north bound coal lorry route along the A68 following wherever possible the primary road network to anticipated brickworks at Throckley and Birtley. A potential market is Todhills near Bishop Auckland, the possible lorry route would be southbound on the A68 then eastward along the A689 and A690 through Crook and Willington. In addition some fireclay would potentially be transported following the southerly coal lorry route along the A68 then the A1 and onward to a brickworks at Cloughton Manor in Lancaster.

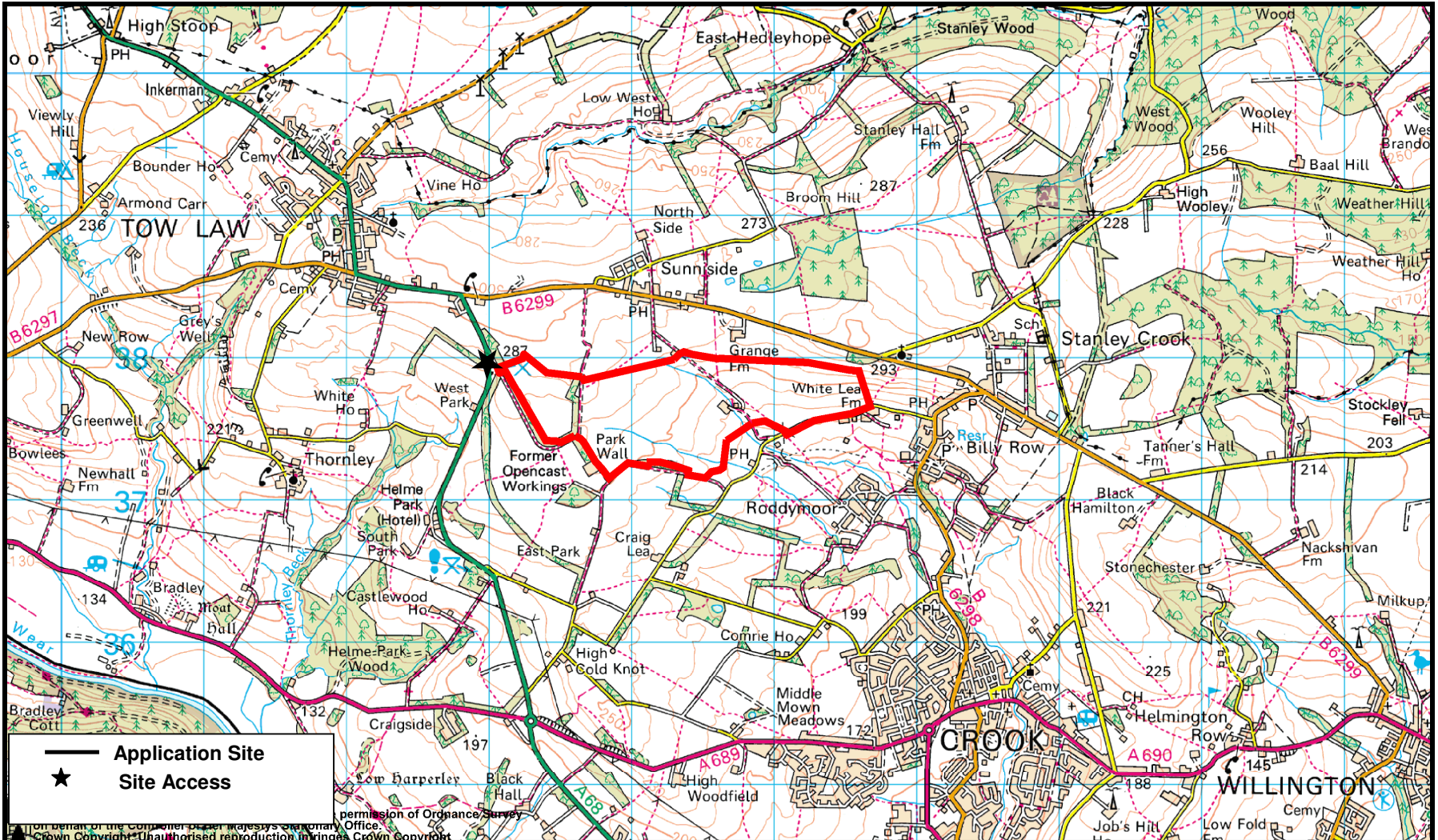
Blasting:

A limited amount of blasting would be required to loosen solid sandstone overlying coal.

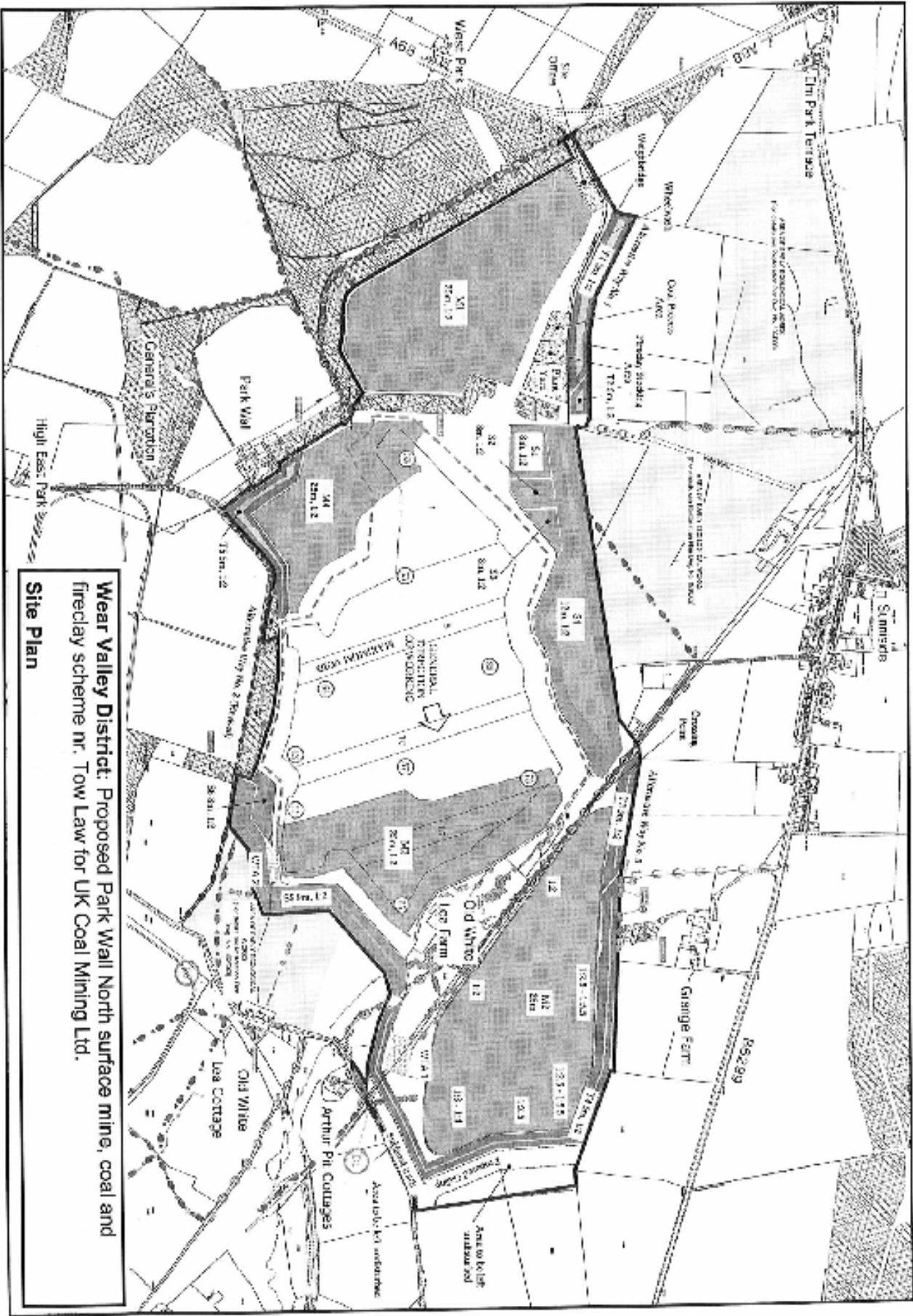
Should blasting take place then it is proposed that it would take place between 10.00 – 12.00 and 14.00 – 16.00 at prearranged times usually 5 minutes past the hour. It is anticipated that blasting would take place on average twice a day Monday to Friday, although a higher frequency cannot be ruled out should the strata require it.

Employment:

61 full time jobs for the duration of the scheme are anticipated.



Wear Valley District: Proposed Park Wall North surface mine, coal and fireclay scheme nr. Tow Law for UK Coal Mining Ltd.



Wear Valley District: Proposed Park Wall North surface mine, coal and fireclay scheme nr. Tow Law for UK Coal Mining Ltd.
Site Plan

WHITE LEA REFUSAL REASONS

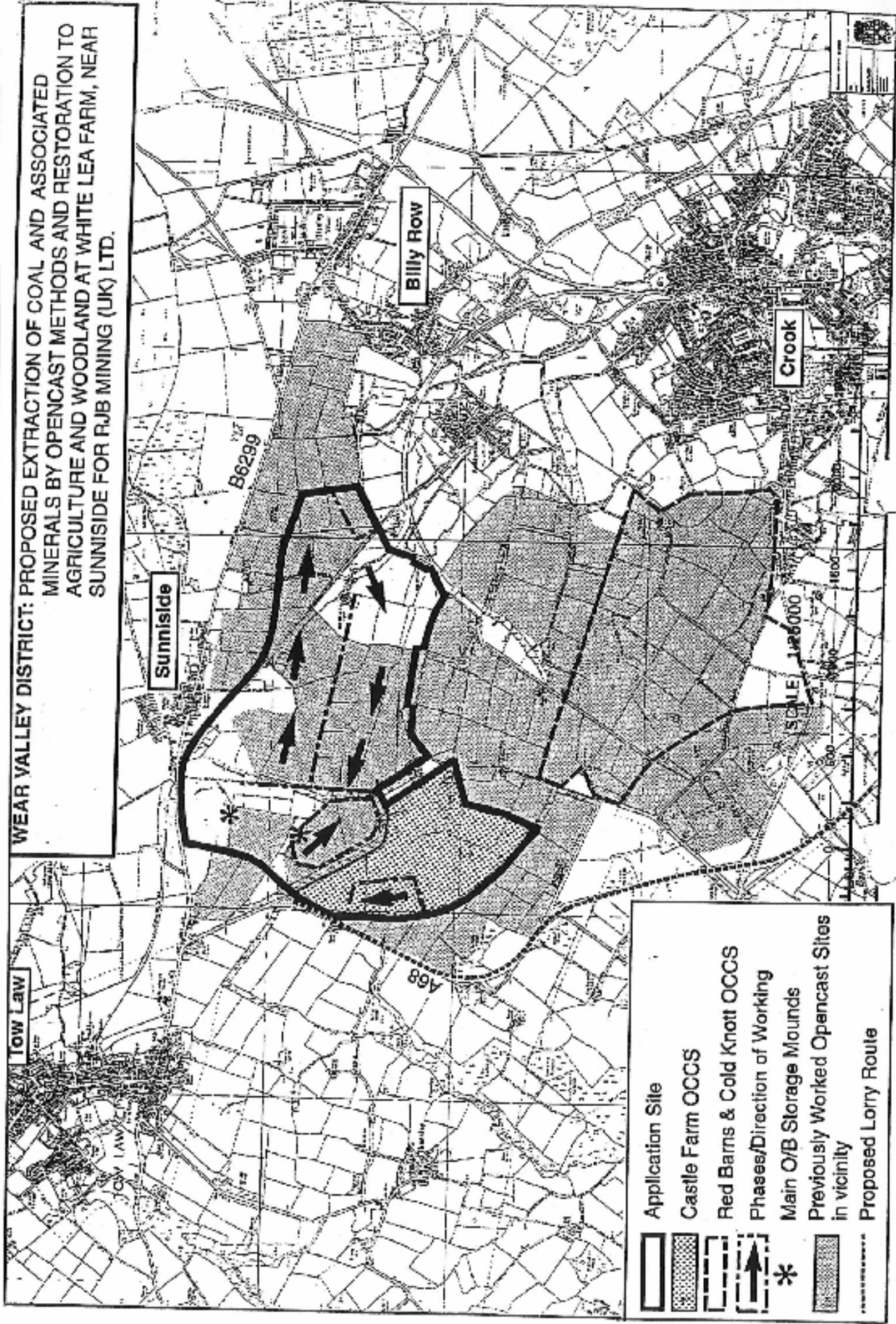
Proposed extraction of coal and associated minerals by opencast methods and restoration to agriculture and woodland at White Lea Farm, near Sunnyside. Application reference 3/95/632CM








Reasons for refusal

1. The proposal would, by virtue of its size, nature, working method and prominent location on a hillside, have an unacceptable visual impact on the locality, contrary to Policy 91 of the approved County Durham Structure Plan and Policy 72 of the Deposit County Durham Structure Plan Review.
2. The proposal would, by virtue of its setting in an exposed location, have an unacceptable impact on the amenity and living conditions of local communities contrary to Policy 72 of the Deposit County Durham Structure Plan Review.
3. The proposal would add cumulatively to the prolonged effects of opencast working in the locality to the detriment of amenity and the character and appearance of the landscape contrary to Policy 91 of the approved County Durham Structure Plan and Policy 72 of the Deposit County Durham Structure Plan Review.
4. The economic factors and other potential long term benefits of the proposal are not sufficient to outweigh the demonstrable harm to environmental and community interests which arise in the meantime.

Issued 10 July 1996

WEAR VALLEY DISTRICT: PROPOSED EXTRACTION OF COAL AND ASSOCIATED MINERALS BY OPENCAST METHODS AND RESTORATION TO AGRICULTURE AND WOODLAND AT WHITE LEA FARM, NEAR SUNNYSIDE FOR RJB MINING (UK) LTD.



-  Application Site
-  Castle Farm OCCS
-  Red Barns & Cold Knott OCCS
-  Phases/Direction of Working
-  Main O/B Storage Mounds
-  Previously Worked Opencast Sites in vicinity
-  Proposed Lorry Route

TOW LAW

Sunnyside

Billy Row

Crook

B6299

A68

SCALE 1:25000