

DURHAM COUNTY COUNCIL

PLANNING COMMITTEE

AT A MEETING of the **Planning Committee** held at the County Hall, Durham on **Wednesday 21 January 2009** at **10.30 a.m.**

PRESENT

COUNCILLOR RODGERS in the Chair

Members:

Councillors Alderson, Armstrong, Avery, Bainbridge B, Bell A, Boyes, Brown J, Burnip, Cordon, Dixon, Farry, Holroyd, Liddle, Maddison, Moran, Myers B, Naylor, O'Donnell, Paylor, Plews, Richardson, Shield, Shuttleworth, Sloan, Taylor P, Temple, Walker, Williams and Young R.

Local Members:

Councillors Bailey and Jopling.

Other Members:

Johnson, Morgan, Ord and Vasey

Apologies for absence were received from Councillors Barmett, Iveson, Allan Turner, Fergus, Thompson, Yorke and Zair

A1 Minutes

The Minutes of the meetings held 16 December 2008 were confirmed by the Committee as a correct record and signed by the Chairman.

Councillor Shield pointed out the omission of his name in the list of Members attending the meeting. The Head of Environment and Planning updated the Committee on the item relating to Broadoak Quarry. Planning permission had been issued and the improvement of Chare Bank was included in the conditions. Councillor Shield felt that there was a need for further work to be investigated with the highway officers.

A2 Applications to be determined by the County Council

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

The Head of Environment and Planning presented a report on the application (for copy see file of Minutes). He informed the Committee that in the introduction to the report it is recorded that the site is located to the east of Billy Row when it is to the west of the village and that in Paragraph 117 there is a reference to restoration works in the sum of £1.25m and this has since changed to £3.2m. He also stated that the site boundary on the location plan extended beyond the actual boundary but the 'site plan' boundary was correct.

The Chairman informed the Committee that he had agreed to four objectors speaking to the meeting in addition to Richard Cory on behalf of the applicant, UK Coal Mining.

Mr Wilson introduced himself and informed the Committee that he was representing the Durham and Teesdale Branch of CPRE (Campaign to Protect Rural England). The CPRE's terms of reference are "to promote and encourage, for the benefit of the nation, the improvement, protection and preservation of the English Countryside and its towns and villages, and better the development of the rural environment".

He believed that Tow Law and the surrounding countryside had had more than its share of opencast mining and that during the last 50/60 years there have been more than 50 opencast sites worked within a few miles of Tow Law. The report shows that since 1965 there have been 11 sites worked around the present application and the cumulative effect has been enormous and has left a legacy of poor grassland, immature hedgerows and woodlands, post and wire fences and coniferous shelter belts. The report clearly points out the difficulties caused in respect of arable and agricultural farming. Opencasting is not a necessary or acceptable operation especially in view of the need to conserve agricultural land, the unacceptable use of coal in fighting climate change and the consensus that the environment is something we must preserve. When land is opencast mined all is destroyed, the underlying rock formation built up over millions of years, the soil structure, the water table, the trees, plants and grass. Areas where opencasting has been carried out are easily identified even after 20 to 50 years. Water eventually draining from the site is heavily polluted with leachates from the broken rock and shales, and the returned soil is lifeless and requires heavy doses of fertilisers to grow crops.

UK Coal are asking for this one site now at Park Wall but this is unlikely to be the end for opencast mining locally as they also own other parcels of land in the locality. However, they are willing to sign a Section 106 legal agreement to prevent future opencast mining in the area. There is 600,000 tonnes of coal remaining and he guessed that within 10 years there will be pressure to further opencast mine in this area. This coal in the proposed site is a very high quality coking coal mainly 301b a much prized low volatile coal used for steel making and in iron making foundries in days gone by. The markets for coking coal are uncertain for these traditional uses and he suspected that most of the coal will be sold to the power stations. There is not a power station in the country which is specifically designed to burn 301b low volatile

coal and this is from the country's view a waste of a valuable and scarce resource. The only remaining reserves of this type of coal are found in West Durham and Wales. This is a scarce commodity and should be kept as a strategic reserve for if and when there is a real need and at the present time there is not.

In conclusion, opencast mining is disastrous for the countryside and the environment. It destroys everything in its wake and leaves a legacy which may take generations to recover. Tow Law has suffered greatly in the past 50 years and permission for this proposal is likely to set a precedent for further applications, notwithstanding any signed legal agreements, resulting in a further prolonged period of opencasting which will not better the rural environment. The markets for this rare coal are questionable and it is doubtful that the Redcar steel furnaces would want to use this special coal. The Mineral Planning Authority should be looking seriously at resource conservation in this respect. He asked Councillors to think carefully on their decision.

Major John Jackson, representing Brancepeth Parish Council expressed the concerns of residents of Brancepeth Village in respect of heavy wagons passing through the village. Whilst the report states that their routes do not include travelling through the village they have found by experience this is not the case. The village consisted of many listed buildings with poor foundations and they had great concerns in respect of noise, dust and increased traffic and the dangers that currently existed for villagers trying to cross the busy A690 road and referred to the recent fatal accident in the village.

He asked Members not to approve the application.

Mr Irving informed the Committee that he was a local resident and was also representing Hill Top Villages. He started by asking if all objectors had been fully informed of this meeting as he had originally registered to speak at the Committee and had contacted the planning officers on a number of occasions in the last year to see when the application was going to be considered. He expressed concern that he had had to find out through a third party only 5 days prior to the meeting. He was also a governor for Peases West School who had also registered an objection, but had not been informed. He said that Tow Law Town Council had only found out about the meeting on Monday again through a third party and not directly. He felt that because of this it appeared that changes in local government are being taken advantage of to quickly put through a major planning application that has been controversial since 2006, and delayed to help the applicants overcome objections.

When the application was first presented in 2006, as Hill Top Villages they took a survey of the villages of Sunnyside, Stanley and Billy Row through the villages' community associations. Every household was contacted and asked to sign as for or against the proposal. There was an overwhelming majority of 70% against the development.

He told the Committee that the area had been extensively opencasted for decades and the local people had put up with the associated harassment all that time. Now they were being asked to endure further inconvenience from these new works. They now find themselves in a position of being surrounded by huge wind turbines on one side and these works on the other and this is certain to have a significant impact on their daily lives through noise and dust. He asked whether it was fair for one community to have the inconvenience of both on their doorstep.

The issue of local traffic being affected by the additional number of slow moving heavy wagons has not been thought through and the dangers associated with this on what is a main route for tourists and local people.

Previous applications have been found unsuitable right up to the appeals process to ministers and he asked what has made the difference on this occasion. He suggested that it may be the imminent demise of Wear Valley District Council or the fact that the local County Councillor who was deselected both had strong objections to the development. Or is it that the new unitary arrangements make it a particularly good time to push through controversial planning applications. This does not bode well for the Unitary Authority taking notice of local opinion in the new Area Action Partnerships.

Mr Irving said that he believed that the decision has already been taken to pass this development. To support this view he told the Committee that he had received information that Caterpillar had received a big order for machinery for the Park Wall site from UK Coal. The proposal has been developed over these passing months to assist the applicant overcome all objections with little regard to the residents of the area. The jobs promised are not local jobs, the majority will be moved from other sites and far more are going to be put under threat no matter what a change of mind the main local employer has. This is all a threat to the local economy far outweighing the benefits of the development.

Councillor Hayton informed the Committee that he was the local member for Tow Law on Wear Valley District Council. He referred to UK Coal's timescale of 4 years and 9 months and the impression being given that excavation and restoration will be completed in this time. However, he believes that even if a S106 agreement to this effect is signed and the operations are not completed within the timescale stated the Company has the right to apply to Central Government and not local planning authorities, to have this set aside and the time scale and the scope and dimensions of the operation increased. He informed the Committee that Wear Valley District Council's Legal Section has investigated and advised that if the project exceeds the agreement time then the operation will be deemed beyond planning authority and a new planning application would have to be tendered and approved before work recommences. He asked if the legal team on the new authority could check this once again and enforce the timescales agreed as he wanted a guarantee that the time period could not be extended without planning permission.

He then referred to the 65 jobs to be created on the site and explained that these included those brought in by the Company. There were very few jobs created the last time and those that are created are likely to be at the very low echelon of employment. The equipment and vehicles used in these projects are massive and need specialist drivers and maintenance personnel. There are very few people in the area capable of manning these positions and those that are, are already employed on similar sites elsewhere.

The Community Funding being offered by UK will not be available until they are able to start selling the coal from the site. This will be throughout the length of the operation and for a limited timescale in each case. Many local communities and groups will be bidding and their bids will have to be for specific projects and will be time limited. Any funding not spent within the timescales will have to be returned to UK Coal. There would be at least five communities in his constituency bidding for funds and this did not include Fir Tree, Toft Hill and Howden-le-Wear as well as others to the south of the site that will be affected by the additional traffic.

Councillor Hayton then expressed his concern regarding the traffic movements with up to 77 heavy wagons entering and leaving the site each day (154 vehicle movements). This will be a significant increase in heavy traffic through Tow Law and an already over burdened High Street and Dan's Castle. He referred to a further proposal at Buttsfield which would also generate additional vehicle movements. The spillage from these vehicles, from past experience was heavy. This is then ground down by traffic and dispersed by wind, a not uncommon phenomenon in this area. Traffic on the A68 has increased tremendously in the last few years and it is a very common experience to be in a convoy coming up the road from West Auckland without this additional HGV traffic.

The promised improvements to the environment do indeed excite the imagination till one sees the spindly, insignificant growth of the hedges and vegetation left from the last time. If the promised woodland does come to fruition, it will be many years in the future and the applicants, like myself, will be long gone. The noise levels are very difficult to predict. Fireclay requires much heavier blasting to make it available. This will cause vibration as well as noise and in an unpredictable subterranean area: not to mention the vibration from the windmills soon to be located just across the road. Structural damage to nearby properties could also be an aspect.

The access point to and from the site is the same as when the site was previously worked but a few things have changed which must be addressed if permission is to be given. The junction mentioned is on a bend on the A68 which turns at this point and drops downhill. There have been many accidents, collisions etc at this point not to mention a recent fatality when a motorcyclist failed to negotiate the bend and crashed into a telegraph pole at the site. The junction is approximately a hundred yards from the cessation of traffic control of 40 mph which encourages drivers to increase speed before very quickly reaching the bend in the road. The addition of HGV vehicles

joining traffic on the road at the lower end of the junction will be a very dangerous addition to the risks. Furthermore, on a relatively narrow road, approximately 50 yards away, it is joined on the left hand side by an unseen entrance to a builders yard whose lorries have to come partially on to the road before seeing oncoming traffic. These issues need to be checked and attended to before work starts.

Councillor Hayton concluded by advising the Committee that the chances of getting industry and regeneration into this area can only be damaged by these constant proposals to change the very geographical and topographical nature of its environment. We have played a major part in providing the nations fuel and wealth resources in the past and still are. Is it too much to ask that we be allowed to enjoy and develop a very beautiful and healthy environment now being reborn? It is ironic that we have just given planning permission for 4 huge windmills which are now being erected a few hundred yards from this site. They are part of 26 being developed / constructed in this small area, to help do away with reliance on fossil fuels.

Richard Cory on behalf of UK Coal the applicant thanked the Committee for the opportunity to speak and congratulated the officers on a comprehensive assessment of the proposal. He started by explaining the difference between this application and the failed application for the White Lea Scheme. When the White Lea scheme failed UK Coal spent a long time looking at the reasons for refusal and as a result they have made changes to this application.

- The boundary line of the site has been moved
- there will be no high level storage
- there will be no coaling east of White Lea Farm
- having considered the impact on the Dun Cow Public House the boundary has been moved from 50 metres to 200 metres away
- the Castle Farm area has been restored and will remain undisturbed
- the application is a short term application
- it is smaller area consisting of 126 hectares which is half the White Lea area and is less visually intrusive
- they have developed a restored restoration programme with ecological enhancements outside of the main site and UK Coal have won many awards for its restoration work
- they have invested in quieter plant and a dust monitoring plan is in place
- the shorter time scale will allow for better environment protection.

With regard to public consultation he informed the Committee that there had been 3 public exhibitions. At the public exhibition the idea of funding a gas supply to Sunnyside was raised. Mr Johnson the local racehorse trainer had been consulted and supported the scheme. The Company will liaise with him over the life of the site. The Company has also had discussions with Mrs Robinson at the local equestrian centre and had agreed on the provision of alternative bridleways during site working.

In terms of benefits Mr Cory said that this was a valuable resource with 1.274 million tonnes of coking coal for use by power stations and that expressions of interest have also been received from Corus at Teesside. There has also been interest in the stocks of fireclay. There will be 61 full time jobs many of which will be local – 90% of employees would live within a 10 mile radius of the site, in addition to 26 jobs associated with coal haulage. The restoration is well planned and there are other benefits for the local communities including a gas supply to Sunnyside, a Community Fund of £127,000 (based on 10p per tonne of coal) and that the Company had now agreed to increase the fund by a further £50,000 (based on 10p per tonne of fireclay).

Residents of Brancepeth can be assured that no lorries from the site will pass through their village as traffic is to be routed via the A68 to the north and south and traffic movement in and out of the site will be checked and policed.

With reference to the CPRE's claim of the negative impact it is appropriate to remember that the last site was 12 years ago and that the Inspector for the White Lea application had not made an issue of cumulative impact. He confirmed that if the Company wanted to extend the life of the site then an application to the mineral planning authority would be required. However, it should be remembered that the last two sites locally had been completed on time. The proposal has been assessed and complies with MPG3 and development plan policy and UK Coal will deliver its promises and work with the Local Community.

The Head of Environment and Planning responded to the issue of consultation and confirmed that Councillors had been sent papers on 13 January 2009 and letters had been sent to all objectors by first class post on that day. It was not normal practice to write to senders of pro-forma letters but the papers were in the public domain in accordance with access requirements. He confirmed that Mr Irving had been sent a letter.

Councillor Jopling, Local Member, agreed that the majority of local residents are against the proposal. She lived in Howden-le-Wear and would be affected by the increased traffic travelling to and from the site and it is the traffic and inconvenience caused to local people that is the issue. The remuneration in terms of gas supply and community provision is not appropriate to many people affected by the proposal. The amount offered by way of community funding is not sufficient for the inconvenience of the additional traffic that will be experienced by the people who live in Howden-le-Wear and Tow Law. She hoped that the additional points raised at the meeting by those making representations would be taken into account.

Councillor Bailey, Local Member, told the Committee that he had spoken to residents from Stanley Crook and their view was 'would you want it on your doorstep'. The effects of blasting on the locality should not be underestimated and there was no way of knowing the effects this may have on the old mine workings in the area. He raised concerns regarding blasting on the racehorses and on safety issues relating to the proposed lagoons/water

treatment areas. The size of the mounds is very high – between 8 and 20 metres and this has to have a visual impact on local people. Previous opencasting in the area had caused lots of complaints due to the dust that was blown about. This is a beautiful area and there is a worry that we are going back to the days of shale heaps and this is an area that attracts tourists. No consideration has been given to shift workers who have a right to some sleep during the days when there is blasting and noise from the site. The area has many paths and walkways that are well used and these are also affected by the proposal. Can officers give a cast iron guarantee that the conditions imposed on the applicant will be controlled 24 hours per day. The local roads would see an increase of 154 heavy goods vehicle movements each day and we need to know that all these wagons are going to be sheeted and that there are facilities in place for road cleaning and spillage clearing. The junction for the site is high on a hill and a bend and is from a high speed road so appropriate safety precautions are required. He asked for all his comments to be taken into consideration and that appropriate conditions be imposed on the applicant.

Councillor Temple expressed concern at the Head of Environment and Planning's statement that it was not our practice to write to all signatories of pro-forma letters and asked if it is made clear to the people who sign these letters that they are disenfranchising themselves in this way. He asked for clarification that if it was County Council policy not to write to signatories of pro-forma letters whether it is made clear to these people what their position is. The Head of Environment and Planning confirmed that all the letters are acknowledged and they are told they must ask to be informed when the issue is due to be considered by the Committee. In this case Mr Irving submitted the letters which were acknowledged to him and he was informed of the committee date.

In the ensuing discussion Members expressed a range of views both against and in favour of the proposal. Members views against the proposal identified the problems caused by the increase in HGV traffic on local roads, problems related to the site including noise and dust pollution, access arrangements to and from the site by slow moving HGV wagons onto a fast road, the environmental impact, the potential impact on tourism, the cumulative impact of further opencast mining in the area, the economic impact on other businesses, and whether the remuneration package available to local communities was appropriate.

Those in favour highlighted the provision of 61 full-time jobs for a period of 5 years, the other economic benefits to the area, the remuneration package available to the locality including the provision of a gas supply to Sunnyside, the detailed restoration scheme, and the possibility of jobs in local brickworks being safeguarded. The limited impacts on tourism and lack of conflict with planning policy were also referred to.

Resolved:

By a majority vote of 18 – 9 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.