

DURHAM COUNTY COUNCIL

At a Meeting of the **County Planning Committee** held **remotely** on **Wednesday, 1 July 2020** at **9.30 am**

Present:

Councillor J Robinson (Chair)

Members of the Committee:

Councillors J Atkinson, A Bell, J Clare, K Corrigan, I Jewell, C Kay, A Laing, G Richardson, A Shield, J Shuttleworth, A Simpson, F Tinsley (Vice-Chair), M Wilkes and S Wilson

Also Present:

Councillors A Hopgood and W Stelling

1 Apologies for Absence

Apologies for absence were received from Councillor K Hawley.

2 Substitute Members

No notification of Substitute Members had been received.

3 Minutes

The minutes of the meeting held on 4 February 2020 were confirmed as a correct record by the Committee and would be signed by the Chair.

4 Declarations of Interest

Councillor A Shield noted he had been advised by the Head of Legal and Democratic Services to declare an interest in Item 5b - DM/19/03567/MIN and DM/19/03569/VOCMW - Land to the west of Bradley Surface Mine, Leadgate, Consett, DH8 6RS. He explained it was as Co-Chair of the Banks Bradley Surface Mine Liaison Committee and member of the Banks Funding Committee and added he had been advised the conflict was either "other relevant interest" or "perception of bias".

Councillor A Shield advised the Chair he would speak as a Local Member on those applications, not as a Member of the County Planning Committee, and would then leave the meeting during the consideration of that application.

Councillor I Jewell declared an interest in Item 5b - DM/19/03567/MIN and DM/19/03569/VOCMW - Land to the west of Bradley Surface Mine, Leadgate, Consett, DH8 6RS as a member of the Banks Bradley Surface Mine Liaison Committee and Chair of the Banks Funding Committee and would therefore leave the meeting during the consideration of those applications.

Councillor J Clare explained he had taken advice from the Solicitor and Head of Legal and Democratic Services and noted that while he was Cabinet Support Member for the Economic Regeneration, and also Climate Change Champion, it was judged he did not have an interest that precluded him from taking part in the meeting in an objective manner.

Councillor M Wilkes noted there was an error within the report for Item 5a - DM/19/03209/FPA - Eddis Business Park, Finchale Road, Framwellgate Moor, DH1 5HE. He explained the report incorrectly stated he was in objection to the application. He added an e-mail from a colleague had contained an error and this was in reference to the original application, prior to amendments since October 2019. Councillor M Wilkes noted for clarity that he has not stated his support or objection for the current application and, while he had spoken to the Solicitor to the Committee and the matter had been cleared, he wished for it to be clear for Members. The Chair thanked Councillor M Wilkes for the clarification for both Committee Members and members of the public watching the meeting.

5 Applications to be determined by the County Planning Committee

a DM/19/03209/FPA - Eddis Business Park, Finchale Road, Framwellgate Moor, DH1 5HE

The Senior Planning Officer, Laura Eden, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site.

The application was for the demolition of existing buildings and erection of new buildings for uses within Use Classes A1 (shops) and Class A3 (food and drink) with new vehicular access, parking, servicing areas and landscaping (revised description 18/12/2019) with the recommendation for the Committee to be minded to approve, subject to conditions, with the application to be referred to the Secretary of State via the National Planning Casework Unit.

The Senior Planning Officer noted typographical issues and updates to the report as circulated: paragraph 126 of the report should state trade diversion of "1.1" percent, not "14.1" percent; paragraphs 65, 105, 129 and 191 should read "80" full-time equivalent (FTE) jobs rather than "95".

Members were informed of the public right of way to the outside of the western boundary and the setting of the site with the nearby Arnison/Mercia District Centre to the north and residential properties to the south and east. The Committee were shown the proposed layout for the site, with the four proposed units for a discount food store, frozen food store, home good store and drive thru coffee shop. Whilst a hot food takeaway (use class A5) was initially proposed, this was later removed from the scheme.

The Senior Planning Officer referred to the plans showing the new proposed access and 267 car parking spaces and added that the electricity sub-station on the site would be retained, as would two telecommunications masts. She added details as regards landscaping. It was explained as regards a signalised pedestrian crossing to enable access to the site from the opposite side of Pit Lane.

In reference to consultation, the Senior Planning Officer noted advice from Spatial Policy in terms of the submitted sequential test and impact assessment submissions made under the application, given the proposal sought planning permission for a major town centre use development outwith of a town centre location, together with analysis of the impacts of the loss of the existing employment uses located on the site. She added that it was advised that as the policies within City of Durham Local Plan (CDLP) most important for determining the application were considered out of date, the assessment of the application would be required under Paragraph 11(d) of the NPPF.

The representations received in relation to the application were summarised, being set out within the report, with objections from Framwellgate Moor Parish Council and noting no further objections from the internal or statutory consultees.

The Senior Planning Officer noted objections from the Local Members to the application in its original form and in respect of the amended application there had been 19 letters of objection from local residents, one letter of objection from an existing business operating on the site, objection from the Pegasus Group on behalf of the Co-operative Group and objection from the City of Durham Trust. She added that one letter of support for the application had been received.

The Senior Planning Officer concluded by summarising the benefits and potential adverse harm of the development in the context of the balance test under Paragraph 11(d) of the NPPF and noted that the recommendation of Officers was for Members to be minded to approve the application, subject to referral to the Secretary of State for consideration.

The Chair thanked the Senior Planning Officer and noted there were several speakers in relation to the application, he asked Councillor A Hopgood, Local Member, to speak in relation to the application.

Councillor A Hopgood thanked the Developer and Officers for their work in trying to mitigate many of the issues with the application in its original form. She noted that unfortunately not all of the concerns had been addressed and reiterated the report in stating that the application represented a “major scheme” and reminded the Committee it was on the edge of another major retail scheme, which already generated a volume of complaints associated with traffic and lack of parking provision for employers. She added that the site was within walking distance to a large housing estate, once the largest in Europe, and also the headquarters of Northumbrian Water Limited (NWL) and the Arnison Centre. Councillor A Hopgood explained that the nature of the shops and development would mean that people would not walk to these shops, rather they would travel by car rather than travel on foot or by public transport carrying heavy or frozen food goods. She noted this would create a huge influx of cars and was contrary to the Council’s own regulations in terms of 267 parking space, below the requisite level of 277 and this, together with the requirements of 80 staff parking, would likely lead to parking on the housing estates nearby similar to the experience of other nearby developments, citing an example where residents only parking was having to be implemented as a result. She noted that the Developer had ignored requests to put in a footpath link at the back of the site to allow those that worked at NWL and the industrial estate to access the site without having to use their cars to do so.

Councillor A Hopgood noted that if the Committee were minded to approve the application, she would ask that consideration be given to the starting time for development works, given the close proximity of park homes for those aged 55 years and older, with 7.00am for 7.30am start being unacceptable and added that a strict construction management plan (CMP) should ensure that those properties would not suffer from the vibrations and detrimental effect from construction and construction traffic. Councillor A Hopgood noted that there were at least four empty units at the Arnison Centre that could accommodate such additional shops, with another likely to become empty shortly.

The Chair thanked Councillor A Hopgood and asked Mr Jonathan Rainey from the Pegasus Group to speak in objection to the application on behalf of the Co-operative Group.

Mr J Rainey thanked the Chair and noted the Co-operative Group had two stores within local retail centres at Newton Hall and Framwellgate Moor, approximately one kilometre away from the application site. He added the Co-operative Group only objected to applications where it was felt there were legitimate planning reasons affecting local shops and services, those which provided facilities especially for those without access to a car or public transport. He noted that the COVID-19 pandemic had highlighted the benefit of such local provision and noted that the effect of trade diversion on smaller retailers, often operating on a knife edge, could be large adding the Co-operative Group having predicted a potential trade diversion from its stores resulting from the application in the order of 15 percent in respect of its store at Newton Hall, in the context of the cumulative impact, including the Arnison Centre. Mr J Rainey noted that it was felt the application should be refused as the proposals were contrary to national planning policies in paragraphs 85 to 90 of the NPPF and also in conflict with Saved Local Plan Policy S1A which seeks 'to protect and promote the vitality and viability of all centres within the local retail hierarchy of the City of Durham area' including the local centres of Newton Hall and Framwellgate Moor which were identified on the proposals map. He concluded by noting that if the Committee were in any doubt as regards the impacts of the development, they should at least defer the application in order to obtain an independent review.

The Chair thanked Mr J Rainey and noted Mr Phil Malyan, a local resident, had registered to speak, however had submitted his apologies. The Chair asked if the Senior Committee Services Officer, Ian Croft could read out the statement on behalf of Mr P Malyan.

The Senior Committee Services Officer noted the statement from Mr P Malyan read as follows:

“I have submitted far more detailed objections formally, as have many others, but for summary purposes, I would ask Committee Members to consider the following submission from myself. There are three objections that I wish to highlight today, and they are as follows: Objection 1 – Insufficient public consultation; Objection 2 – Highways issues are not resolved by access from Pit Lane; Objection 3 – Insufficient weight has been given in the report by officers to the impact of the Highways issues.

Objection 1 – Insufficient public consultation. Although there are five paragraphs out of 204 paragraphs in the committee report outlining some objections but not in detail, (85 - 89), there is insufficient weight given to the objections, which is unsurprising given the lack of communication.

- a. Since the neighbour notification notice issued to potentially affected parties on 16 October 2019, there has been no contact with me by Council officers to discuss the scheme.*
- b. I wrote to the Council on 4 June 2020, to point this out and never even received an acknowledgement.*
- c. Since the beginning of 2020 alone, there have been 14 amended drawings submitted by the applicant, 11 additional comments by statutory consultees and five new pieces of supporting information from the applicant. There has been no further public consultation on these new documents.*
- d. The advice on gov.uk regarding public consultation in planning matters states “Following the initial period of consultation, it may be that further additional consultation on changes submitted by an applicant, prior to any decision being made, is considered necessary.” I believe that, given the volume of changes made, this should apply here, and further public consultation should have taken place.*

Objection 2 – Highways issues are not resolved by access from Pit Lane/ Finchale Road.

- a. Clearly this development is meant to be a mini Arnison Centre, in the officer’s words” a major retail scheme” (para 201) and benefit from its proximity. For this development to be workable, access to it should be from the roundabout off Abbey Road, either alongside the footpath adjacent to Northumbrian Water or by driving past the Pulman garage and through the small warehouse site, both of which already have large lorries accessing commercial premises.*

- b. *There is no indication that this option has been explored in the same detail as the rest of the proposal. I do not know why this has not been carried out, it has not been explained anywhere. It would seem to me that a “major retail scheme” requires some major access for large delivery lorries and the general public. The current proposals are insufficient for this.*

Objection 3 – Insufficient weight has been given by officers to the impact of the Highways issues.

- a. *The projected increase in traffic has not been adequately presented in the body of this report. I have carried out visual surveys of traffic entering and leaving the site using the current access on a variety of different days since this application was made, some 9 months ago. Usually there is a total of between 30 and 40 vehicles either entering or leaving the site between 9.00am and 4.00pm on weekdays, even less on a weekend. Table 6.7, page 39 of the Transport Assessment Plan shows “vehicle trip generation” of 2,556 vehicles each Saturday between only 11am and 3pm.*
- b. *It is worth noting here that this is a closed site with only one way in and out by car or lorry onto Finchale Road. After hours, high metal gates are locked to prevent anyone accessing the site. Lorries occasionally come and go by remote access to the gates.*
- c. *The document submitted by the applicant shows that the site will have vehicles coming and going starting at 5am and up to midnight. (JN1888-Rep-0001.2 Transport Assessment 20 September 2019) A total of 3,768 journeys by vehicles entering and leaving the site each day, (i.e. 1,884 vehicles) including 410 between 2.00pm and 3.00pm when school traffic backs up already along Finchale Road as St Godric’s School and Framwellgate School come out. Even with traffic lights, there will be substantial delays on the road, and within the retail park.*
- d. *This projected substantial increase from about 40 a day, coming and going, to 3,768 a day, nearly 100 times more, is not reflected in the Council report submitted, and provides sufficient evidence for the application to be rejected by the Committee, as along with other factors, this means the development will not meet NPPF objectives, in the way described, for the reasons below:*
 - (i) *NPPF Part 8 Promoting Healthy and Safe Communities – “Developments should be safe and accessible”*
Answer - The highways issues, even with traffic lights and pedestrian assistance, will not meet this
 - (ii) *NPPF Part 9 Promoting Sustainable Transport – “Developments that generate significant movement should be located where the need to travel will be minimised”*
Answer - This location is unsuitable without different access.

- (iii) *NPPF Part 11 Making Effective Use of Land - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.*
Answer - The increase in traffic on Finchale Road by 100 times will not be conducive to an improved environment or safe and healthy living conditions for the general public”.

The Chair thanked the Senior Committee Services Officer for reading the statement of Mr P Malyan and noted the supporters registered to speak in relation to the application, Mr Jonathan Wallace of Lichfields, representing the Applicant and Mr Nigel Cook of Eddis Transport.

Mr J Wallace noted that since the initial application submitted in September 2019, there had been a lot of close working with Officers from the Planning Department and a number of changes made to the application, as noted by the Case Officer and Local Member, Councillor A Hopgood. He noted this included the removal of the drive thru restaurant, amended layout to minimise impact on adjacent residents, a revised, more efficient car park layout and new vehicular access arrangements to meet the requirements of the Council's Highways Team.

He added that the proposals represented an improvement to the visual aspect from Pit Lane and would provide significant benefit to the community, with many positive comments in this regard from residents at the consultation stage. In addressing comments from Councillor A Hopgood, Mr J Wallace noted that car parking levels were pretty much in line with policy and were agreed by Officers. He added it was felt there was need to strike a balance in terms of the provision of parking for the development, the generation of traffic and provision of pedestrian access. In terms of the potential impacts of the construction phase, he noted that the Council's Environment Health Officer had required a condition that restricted the hours of operation, no earlier than 7.30am on a weekday with a 8.00am start on Saturdays, with no works on Saturday afternoons and no works on Sundays. Mr J Wallace explained that in relation to the public right of way at the north-west of the site and providing access to the application site, there was an area of land owned by a third party and also creating a link would require a route across a service yard which would not be acceptable in terms of security and health and safety. In respect of the objections from the Co-operative Group, Mr J Wallace noted he strongly disagreed with their comments and suggested they were a commercial objection and should not be given significant weight, referring to the impact assessment as submitted as part of the application. He concluded by noting that the four proposed units were under offer and could provide 80 FTE jobs and construction jobs that could help with the post COVID-19 recovery within County Durham.

Mr N Cook noted he was the Managing Director at Eddis Transport, a local family owned road haulage and warehousing business based in Consett, owners of the application site since the late 1970s. He added the business employed 320 staff, 260 in the North East, 170 being based at Consett. He noted the use of the application site had reduced in more recent years and was not required by the business for operations, with a number of units having been let, however, the units were now of an age and in poor condition and at the point of significant investment or redevelopment. He added the units generated sub-market levels of rent on short-term flexible lease arrangements adding little to the wider business in commercial terms. He explained that the site had been looked at in terms of redevelopment for the business, however, it was concluded it was not viable and the location and proximity to residential properties was not suitable in terms of access by large heavy goods vehicles (HGVs) and warehousing machinery. Mr N Cook noted after various approaches over the years it had been agreed to sell the land to the Applicant, subject to obtaining planning permission. He noted that the proceeds from the sale would be reinvested in the company, including at the headquarters in Consett and noted Eddis staff from the application site could be redeployed and more jobs could be created at the site, 80 FTE, together with wider public benefits. He concluded by noting he hoped the Committee would support the application.

The Chair thanked Mr J Wallace and Mr N Cook and asked the Committee for any questions in relation clarifications on the report or issues raised.

Councillor S Wilson asked for comments from the Highway Development Manager in relation to traffic and signalisation. Councillor F Tinsley asked the Officers' view in relation to the potential impact of the application, given the assessment within the application and provided by the Co-operative Group being at odds. The Chair added he would appreciate clarification from Officers in relation to the issues associated with the proposed footpath link.

The Senior Planning Officer noted there had been extensive discussions in terms of the potential footpath link. She noted a footpath link had not been included within the application for the reasons stated by the Applicant's agent and was listed as an adverse impact, however, Officers considered the site performed well in all other regards therefore did not have significant concerns in relation to its locational sustainability. In relation to the start time for construction, she referred to Condition 25 set out within the recommendations which restricted works in line with standard Council conditions. She added that Condition 7 required a Construction Management Plan (CMP) to be submitted to and agreed, and this would seek to mitigate any adverse impact during the construction phase and therefore Officers considered the conditions as being appropriate.

The Highway Development Manager, John McGargill noted the issue of 267 proposed parking spaces, with 4 such units individually requiring 277 spaces. He explained that a lot of the generated traffic would in fact already be on the highway network and people could be also visiting other nearby shops when visiting the proposed development and the shops within the proposed development itself. He noted a consultant was asked as regards a parking accumulation model and traffic modelling was informed by trip generation. He explained the modelling predicted the potential of 0.4 percent each Saturday for overdemand for parking, a low likelihood. He referred to the nearby Arnison Centre, where parking saw peak demand during “high days and holidays” and added that if developments were built to meet those types of demands the car parks would be very large and in general not be full and would impact on developments. In reference to the comments received from Mr P Malyan relating to gaining access to the site from the roundabout, he noted this was not possible as this would be via third party land. In terms of the volume of traffic, the Highway Development Manager noted that the Council had insisted on the addition of a traffic signal junction to manage the arrivals and departures from the development and had been proposed at that specific location to allow for queues of vehicles to be managed as per modelling, a maximum of thirteen vehicles, this model including background traffic. He added that in terms of Highways it was felt a robust approach had been taken, modelling had been taken from first principles where vehicles had been considered as new to the road network where in fact many would already be on the road network.

Councillor S Wilson asked as regards the current use of the site and the proposed use of the site and if the number of HGVs accessing the site would be comparable. The Highways Development Manager noted that was correct and that the current uses would equate to use should the site become a retail centre.

The Principal Policy Officer, James Cook noted that Councillor A Hopgood had referred to four empty units at the Arnison Centre and noted at the time of the application there had been three vacant units and the Applicant’s assessment in terms of the sequential test had shown those units were not of sufficient size to accommodate the scheme and those conclusions were accepted. In relation to the comments made on behalf of the Co-operative Group, he clarified the Applicant had provided an impact assessment in terms of the local centres where the Co-operative stores were located and Officers agreed with the assessment in that there would not be significant adverse impact with those stores meeting the top-up demands of shoppers in those local centres.

The Chair thanked the Officers and asked the Committee for their comments on the application.

Councillor A Laing noted, after careful consideration of the report and the comments made by all parties at Committee, that there was a need to look at the development plan and she noted Officers had stated that the proposals were technically contrary to policy. She noted, however, that looking at all material concerns, there was significant employment associated with the proposals over and above those already existing on site and while the requirement to relocate existing businesses was regrettable, Business Durham had not objected to the application and therefore they must have felt the relocation would be possible and added that the net increase of employment was a positive and a material planning consideration. She noted the concerns that had been raised in terms of highways and also noted the response provided by the Highways Team in terms of parking and highway safety and felt that while there may be some occasions where the development could lead to local impacts upon the highway she did not feel that it would be so significant to resist the scheme. She also noted the comments of Officers and the report in terms of retail impact and was satisfied that impact on City Centre traders would also not be significant and noted she had been pleased to see amendments to the application had been made to lessen the impact on adjacent residents. Councillor A Laing concluded that, on balance, the Committee had been provided with an application that contained a number of significant planning benefits of the redevelopment of an aging site with a significant net employment gain and felt Members should support the application as a departure from planning policy and moved the Officer's recommendation for approval.

Councillor M Wilkes noted he would firstly like to thank all the Officers involved with the application over the last nine months, especially the Senior Planning Officer and the Highway Development Manager for their work with the Developers in improving the application. He noted the removal of the drive thru restaurant and the additional of the signalised junction were very good and welcomed, adding that without those amendments he would not have been able to see any positive balance. He questioned whether the amendments that had been made were sufficient and noted he felt there were three issues to consider. He explained the first issue was that of sustainability, with the parking provision being less than the County Council would normally recommend, however, it was not by a significant number and therefore would not warrant refusal by itself. However, he felt there was an additional consideration to be made in terms of the western boundary, around 100 metres long, where there was a public footpath. Councillor M Wilkes explained the footpath was next to the headquarters for NWL and other businesses where around 1,000 people were employed. He noted that given that fact he felt it was shocking that the Applicant had been unable to include a footpath link to the public footpath despite repeated attempts by Council Officers to encourage this.

He noted that it would not only allow access on foot by the workers within the area, a footpath link would also allow residents from Pity Me to be able to access the site, reducing additional traffic impact. He felt that on those grounds alone the application could warrant refusal and added that he felt it went against the Council's climate change goals, reduced the sustainability of the site and would increase highways issues. He noted the Developer had said it was not possible to create the link on safety grounds, however, there would be access to the area for staff with 16 car parking spaces being provided. He noted that in terms of the protected area, Councillor M Wilkes noted he had spoken to the Council's Ecologist and they had noted they were not against any link if it was provided in accordance with the rules, rules Councillor M Wilkes noted the Developer would need to be adhere to when developing the rest of the site. He noted there was a 100 metre boundary and added the Developer was unable to provide a two metre access on to this footpath, adding this was not acceptable and the application therefore not sustainable.

Councillor M Wilkes noted his second concern was the impact on the viability and vitality of the local shopping centres, including Durham city centre, noting that the report set out at paragraph 125 that the cumulative impacts of the application would be a 9.2 percent hit to retail in the city centre. He noted this was a pretty significant amount and the analysis by the Co-operative Group had noted an impact of up to 15 percent at Framwellgate Moor and Newton Hall, both areas having empty shops in addition to those empty properties previously mentioned at the Arnison Centre. He noted that there was nothing within the application being offered in terms of a financial contribution to help mitigate the impacts in these local centres.

Councillor M Wilkes noted the largest proposed unit was for a food retailer and he noted no objection to this use on the site. He added that when coupled with the other three units the cumulative impact upon the city centre and other surrounding shopping areas was too great, especially in the current uncertain retail environment. He noted the third issue he had with the application was the removal of prime employment land, which could after some reconfiguration of the site as a business park to provide high skilled jobs, likely in the region of the number put forward by the Applicant. He noted there was reference to an oversupply of business land within the County, however, he noted the report failed to note there was not such availability on this side of Durham should a business which to relocate to a business park. Councillor M Wilkes noted the businesses currently on the site had not been contacted to see if they needed help and one business owner had been extremely concerned as regards their business. He added that he had spoken to some commercial agents and one had noted that they received around ten enquires each week as regards the only other business park in the area.

He noted that the site was identified for business use within the emerging County Durham Plan (CDP) and the report had noted Business Durham had not made a submission. Councillor M Wilkes noted he therefore had spoken to Business Durham and they confirmed there was no other land allocated for business this side of Durham city centre and there was a significant shortage of smaller business units, under 5,000 square feet, across the entire county. He noted that the CDP states the site is for employment land for business and light industrial use and added that therefore the application was not only in breach of the current Local Plan it was also going to be in breach of the emerging CDP. Councillor M Wilkes noted that if the application had included access for the thousands of employees at NWL and residents of Pity Me to the site he would have been more inclined to support the application. He added if the application had been just for a supermarket with the rest of the site being redeveloped for business use, including for skilled jobs, he would have been more inclined to support the application, in addition to the lessened impacts upon traffic flow and the city centre and other retail centres from such an application. He noted that despite the efforts of Officers to secure improvements to the application he felt that on balance he felt there were too many problems for the benefits to overcome them. He explained that he had hoped the Applicant would have come back at a later date with an application that would not breach planning policies or the future CDP, protected high skilled jobs, provided pedestrian access to the rear of the site, did not create unnecessary car journeys and did not cause as much retail damage to the city and the surrounding retail offer. Councillor M Wilkes noted for those reasons he would ask colleagues to refuse the application.

Councillor A Shield noted he shared some of the concerns as raised by the Local Members. He noted that while we were not sure of the post COVID-19 impact in terms of online shopping, he felt that if there was a return to normal then the additional provision of services would mean more use of cars and greater use of the highways network. He added that he felt not including a footpath link was a strange decision. Councillor A Shield noted that paragraph 74 of the report set out there had been objections raised by the Durham City Business Improvement District (Durham BID) as regards the impact the proposal would have on Durham City. He noted he had serious concerns and noted Councillor M Wilkes had made a valid point in terms of the loss of employment land and asked if it was right for the Committee to potentially ride over that roughshod.

Councillor S Wilson noted the assurances from Officers in terms of the highways issues raised and signalled junction and noted the issue of a footpath link across a service yard was the security for those businesses. He noted on the basis of the additional employment provided through the application he was happy with the Officers recommendation.

Councillor J Atkinson noted he would second Councillor A Laing in supporting recommendation for approval.

Councillor J Shuttleworth noted he was not against development, however, he felt it was always important to take into account the views of Local Members, especially in terms of the impact in terms of traffic and also noted comparisons with Durham City, Bishop Auckland and Consett in terms of retail provision, with many empty shops in those retail centres.

Councillor F Tinsley noted the issue as raised by Local Members in terms of a footpath link and added that given there would be a requirement in terms of acquiring third party land, he could not see how it could be a requirement to have such a footpath link. He noted the valid concerns as regards the potential impact on the city centre, however, upon looking at the types of businesses proposed: a discount food store; a frozen food store; a household bulky goods store; and a coffee shop, he did not feel these represented direct competition to the city centre offer and therefore the impact would be minimal. He took the point as regards the loss of employment land in the area, however, he would encourage businesses to relocate to the other areas available within County Durham.

Councillor J Clare noted he had listened to the discussion with some interest and noted that he felt it would be very difficult to refuse the application in terms of transport, given the Officers noted that the application had met the relevant criteria. He noted Councillor M Wilkes had a valid point when highlighting the proposed use for the site did not correlate with the proposed use within the emerging CDP, however, it was not a valid planning point to suggest alternative uses for a site, rather it was for Committee Members to consider the application before it on its merits, in this case to be considered under the balance test from Paragraph 11 of the NPPF and that for an application to be refused, Members would need to agree that the negative adverse impact demonstrably outweighed the benefits of the application.

Councillor I Jewell noted the responses from Officers in respect of issues raised by objectors and Local Members and noted that those Members may wish to pursue a footpath link if it would provide such benefit.

Councillor M Wilkes noted the reason given of third party land on a proposed route, however, he reiterated that the site adjoined the public right of way along a 100 metre length and felt a footpath link could be designed safely within the site and Policy Q2 of the Local Plan in terms of design and accessibility and policies within the emerging CDP was relevant. He added that the report was clear in noting a 9.2 percent impact upon the retail offer within the city centre. Councillor M Wilkes noted the 2.25 hectare employment land site did not have any comparable sites within the area.

He concluded noting he felt the points he had made were based upon planning policies and he would follow up as required.

Councillor A Bell noted the footpath link seemed to be a stand-out issue and wondered if there was any movement from the Applicant to reconsider. He also noted that the Arnison Centre was a gem within County Durham and the application would help in terms of jobs, especially post COVID-19 and therefore he felt it was important to look at the employment aspect and the regeneration of the site to make it as presentable as the Arnison Centre. He noted the businesses that would need to relocate and asked if Business Durham could step in to provide assistance.

The Solicitor – Planning and Development, Neil Carter noted that in terms of the footpath link, it was not possible to force the applicant to provide this, and they had stated that it would involve land they did not control. He added that the Senior Planning Officer had noted the application was sustainable and the application before Committee for consideration did not include a footpath link.

Upon a vote being taken it was

Resolved:

That the Committee were **MINDED TO APPROVE** the application subject to; referral of the application to the Secretary of State via the National Planning Casework Unit; and in the event of the application not being called in, the Head of Planning be authorised to approve the application subject to the conditions as set out within the report.

b DM/19/03567/MIN and DM/19/03569/VOCMW - Land to the west of Bradley Surface Mine, Leadgate, Consett, DH8 6RS

The Principal Planning Officer, Claire Teasdale, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site and video footage. It was noted there were two applications: DM/19/03567/MIN - Proposed surface mining for the extraction of up to 90,000 tonnes of coal and 20,000 tonnes of fireclay with restoration of the site to include woodland, species rich grassland and haymeadow, scrub, water features and agriculture; and DM/19/03569/VOCMW - Variation of Conditions 1 (Approved documents), 5 (Matters requiring subsequent approval), 7 (Extraction date), 8 (Restoration date), 11 (Working period) and 15 (Number of HGV numbers) pursuant to Appeal Decision

AAP/X1355/A/11/2150277 (DCC Ref. CMA/1/37) to facilitate an extension to the existing Bradley surface mine.

The Principal Planning Officer noted the coal extracted would be used within the UK industrial manufacturing processes such as steel, together with ancillary industrial uses including but not restricted to heritage railways, food manufacture and agriculture, and would not be used for energy generation. She noted that the fireclay extracted would be used by the Todhills Brickworks within the County. She explained both applications were recommended for approval, subject to a Section 106 Legal Agreement, a Section 39 of the Wildlife and Countryside Act 1981 Agreement and conditions as set out within the report.

The Solicitor – Planning and Development provided an update since the publication of the report, on the letter Committee Members received from Solicitors acting for the Campaign to Protect Pont Valley, amongst others, which suggested that if Members were to make a decision on the application that it would be unlawful. He noted that his advice to the Committee was that making a determination on the applications would not be unlawful and asked the Principal Planning Officer to set out her observations on the three main issues highlighted in the letter. The Principal Planning Officer noted it was the Officers' view that it was reasonable to have regard to reduced greenhouse gas emissions as a benefit of mining indigenous coal as there would be lower transport impacts as compared with importations. She added that the Inspector at the Appeal for the existing site placed weight on this issue as a benefit, however, how much weight to afford to the issue was for Members to decide. She directed Members to paragraphs 462 - 466, 537 and 566 of the report where those issues were discussed in more detail.

The Principal Planning Officer noted it was the Officers' view that the EIA assessment was adequate and not flawed. She explained the objector advanced a technical argument based on indirect effects of coal extraction, however, it was not considered that it was necessary to assess the emissions from the end use of coal and indeed this would be impossible to quantify. She added that emissions from end uses would have to be assessed as part of any separate proposal for that end use, and there was no requirement to assess emissions resulting from the transportation of fireclay the extraction of which was ancillary to the coal. She directed Members to paragraphs 461, 464-466 and 473 of the report on these issues.

The Committee were asked to note the third issue raised referred to County Durham Minerals Local Plan (MLP) Policy M8 and the emerging CDP Policy 54 and the Principal Planning Officer explained that Officers remained of the view that MLP Policy M8 on piecemeal working was both out of date and inconsistent with the NPPF and less weight should therefore be afforded to it as a result.

She added that, however, how much weight was a matter for Members to decide. She noted it was not considered that it was a determinative issue in the balancing exercise under NPPF Paragraph 11.

The Principal Planning Officer explained that promotion of a similarly worded policy in the CDP was a separate matter, with the report being clear on the issue of weight to be afforded to the CDP at the present time. She directed Members to paragraphs 189-197 of the report where those issues were discussed.

The Principal Planning Officer added a letter had been received from a resident of Wolsingham requesting deferment of determination of the applications on the grounds that it was undemocratic that the Council could not meet in person, given that the social distancing rules were to be relaxed, also noting that it was a very important decision to be taken with a large number of objections. She added that the request also raised concerns regarding the Officer's report and specifically in terms of climate change, the need for coal in the steel industry and that there would be no certainty that the coal would not be used for electricity generation. The Principal Planning Officer explained that the resident has been informed that the Council was conducting the virtual meeting in accordance with legislation which enabled the Council to do so and accordingly there was no reason why the decision ought to be deferred. She added that the resident disagreed with the Officer report, but he was informed that it was for the County Planning Committee to determine the applications and in doing so they would take into account the development plan, the NPPF and other material considerations including representations received.

The Principal Planning Officer noted she was aware that the Campaign to Protect Pont Valley had emailed Members with a 250 named petition against the proposals, with issues raised including: "*No need for this coal in 2020, Bradley has not yet been approved by central government, Climate Emergency pledge blocks coal extraction in Wales, The Covid-19 pandemic*" She added she was also aware that the Coal Action Network had emailed Members regarding carbon emissions.

Members were referred to the Principal Planning Officer's presentation slides, showing plans setting out the extent of the proposed extension, access to the site and two public rights of way to the north of the site that would require temporary diversion over the duration of the proposed works.

The Committee were asked to note the nearest residential properties and the distances (paragraphs 6, 243 and 244) and reference to the nearby Our Lady and St Joseph RC Church.

The Principal Planning Officer noted part of the existing operation was within an Area of High Landscape Value (AHLV) as was the plantation in part of the proposed extension, though no heritage assets were within the application site, the nearest being Our Lady and St Joseph RC Church, St. Ives Church and Leadgate War Memorial.

The Committee were referred to aerial photographs and drone video footage of the site and informed that restoration of the site would be completed by 17 August 2021, with existing works, restored areas, site boundaries, nearby properties and the application site being highlighted by the Officer.

The Committee were shown the proposed working plan and the proposed restoration plan, noting access and operations would be facilitated through the existing site, hence the Section 73 application to enable those operations as variations to the existing permission with details of the proposed changes set out in paragraphs 29 to 38 of the report. The Principal Planning Officer noted restoration for the proposed extension would be integrated into the restoration of the existing site and would follow the same timescale, to be completed by August 2021. It was added some land would be gifted to a wildlife or conservation body that would then manage the land in the long term.

In respect of consultation and representations received a summary was set out within the Committee report, with the Principal Planning Officer noting no objections from statutory or internal consultees subject to conditions where appropriate. She noted however that there had been enormous interest from within the UK and abroad in the application. Following publication of the report, from those that were contacted as regards the application, 153 people had queried why they had been contacted, not recalling that they had made representations in respect of the application. She added that of those queries many later recalled signing a petition as part of an environmental group, however, 38 people asked for their names to be removed from the representations and 145 notifications were not deliverable to the e-mail addresses on file. It was noted that in total there were around 12,000 representations, with approximately 6,000 for each of the two applications, with the majority being in objection to the application. The figures on the presentation slide reflected the amended figures and so differed from the report slightly: 12,337 representations received in total - 6,250 to DM/19/03567/MIN and 6,087 to DM/19/03569/VOCMW with the number of objections being 11,908 in total, 6,023 to DM/19/03567/MIN and 5,885 to DM/19/03569/VOCMW.

In terms of support, she explained there had been 423 responses in total, 223 to DM/19/03567/MIN and 200 to DM/19/03569/VOCMW, with the letters of support received being from: residents living in the vicinity of the proposed extension site; a few from further afield; Banks employees; and suppliers.

The Principal Planning Officer noted the range of organisations that had made representations and explained representations from internal and statutory consultees, objectors, supporters and the Applicant were set out within the report at paragraphs 110 to 178.

She noted that the issues raised included: climate change; the need for coal; noise; duration of the development; restoration; employment and economic benefits; and the Applicant.

The Committee were asked to note that in terms of the decision making policy framework, it was considered that the most important policies for determining the applications were out of date therefore Paragraph 11d of the NPPF applied. The Principal Planning Officer added there were no specific policies within the NPPF that protect areas or assets of particular importance which provide a clear reason for refusing the development. She noted therefore, planning permission should be granted unless the adverse impacts significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole. She noted that the report set out the likely impacts of both proposals have been considered. It was noted that inevitably there would be some disturbance and disruption from temporary operations for those living close to the proposed extension, but this would be for a limited period. She explained that it was considered that impacts upon local amenity associated with noise, dust, blasting and visual impact would be at acceptable levels and would be controlled through the implementation of appropriate mitigation measures, including site design and planning conditions.

The Principal Planning Officer added in was considered that there would be no adverse impact upon the AHLV designation or flora or fauna, including protected species and in addition it was also considered that there would be no adverse impact on the setting or significance of the designated heritage assets close to the site. She explained that, subject to conditions where appropriate, the impacts upon recreational amenity, hydrology and hydrogeology, access and traffic, contamination, geotechnical and stability, mine gas and cumulative impact were also considered to be acceptable.

Members were asked to note that although there would be a loss of agricultural land it was not high grade and would be reinstated upon restoration, as would footpaths that had been diverted, and restoration proposals would deliver a quality restoration and after use of the site with opportunities to increase biodiversity interests and extended management.

The Principal Planning Officer noted that benefits of the proposal included the restoration proposals extended management and gifted land, increased community fund, contribution to economic growth through supply of domestically produced coal reducing reliance on imports and additional CO₂ emissions from transportation over great distances, securing the end use of the coal, job retention, direct and indirect expenditure, payment of mineral rates, taxes, coal royalties and the contribution of the development to the balance of payments, payment of business rates and the supply of fireclay.

She explained that, having taken those matters into consideration, on the balance of planning considerations it was considered that the proposed development meets the tests for acceptability of opencast coal proposals as set out in MLP Policy M7(a) and surface mined coal as set out in Paragraph 211(a) of the NPPF in addition the proposed national, local and community benefits of the scheme would outweigh the short term environmental damage and loss of amenity that would be caused having assessed the proposals under Paragraph 11(d) of the NPPF.

She noted it was acknowledged that there was significant public interest in the two planning applications with representations reflecting issues and concerns of local residents directly affected by the proposals as well as from people from further afield. She added that the impact of upon climate change had been at the forefront of objections, however, given the duration of the proposed developments it was not considered that they would impact upon longer term climate change targets. She noted representations received had been weighed along with other responses including those of statutory consultees who had raised no overriding objections based on the submitted details and assessments. The Principal Planning Officer noted that whilst mindful of the nature and weight of public concerns it was considered that these were not sufficient to outweigh the planning judgement in favour of the proposals comprised in both applications.

Accordingly, the Principal Planning Officer noted the recommendations for the two applications were for approval, subject to a Section 106 Legal Agreement, a Section 39 of the Wildlife and Countryside Act 1981 Agreement and the conditions as set out within the report.

The Chair thanked the Principal Planning Officer for her comprehensive report and asked Councillor J Clare if a point he wished to make related to a clarification on the Officer's report.

Councillor J Clare noted it was a point of clarification in terms of the NPPF Paragraph 11(d) weighted balance test which required adverse impacts to be demonstrably shown in order to refuse an application, whereas the NPPF Paragraph 211 test required that the benefits must clearly outweigh the negatives in order for an application to be approved and he felt was apparently contradictory. The Principal Planning Officer noted that the application was considered in terms of Policy M7 and M8 and Officers had to consider whether the policies within the MLP were up-to-date and consistent with the NPPF. She added they were not felt to be consistent and therefore the balance test in Paragraph 11 of the NPPF would apply. She explained that there was also Paragraph 211 of the NPPF that referred to opencast coal and therefore this was another test that should be considered.

She reiterated that Officers felt that Paragraph 11 did apply, however, other material considerations would apply, and some weight could be attached to MLP Policies M7 and M8 and therefore an assessment needed to be made against Policy M7 and NPPF Paragraph 211 in order. It was explained there were two tests within that: whether the application was environmentally acceptable or can be made so by conditions; and if it could not then if there were community or national benefits to the scheme. The Principal Planning Officer referred to paragraphs 183 to 188 of the report as well as paragraph 562 referring to the NPPF Paragraph 11 balance test which was somewhat similar to the test in NPPF Paragraph 211.

Councillor M Wilkes asked for clarification of the use of business rates as a consideration when assessing an application, he understood New Homes Bonus (NHB) or Community Infrastructure Levy (CIL) could be considered, however, he thought business rates could not be taken as a material planning consideration and noted that there were financial considerations in the opposite direction in terms of addressing CO₂ emissions. The Principal Planning Officer noted that she could not see any reason for business rates not to be considered, with NPPF Paragraph 211 looking at national, local and community benefits, with paragraphs 545-560 setting out all the potential benefits. She added that paragraph 554 dealt with business rates and noted a moderate benefit and therefore it was not afforded much weight. The Solicitor – Planning and Development noted business rates could be considered as a material planning consideration.

The Chair noted Councillor A Shield would speak as Local Member in relation to the application and then leave the meeting. Councillor A Shield explained he had a question relating to clarification on a point prior to speaking. Councillor A Shield asked as for clarification regards paragraph 505 of the report: *“the proposed cash deposit would replace the existing performance guarantee but flexible wording in the new planning obligation would allow the cash deposit to be replaced by an alternative bond in the future, should the applicant so wish”*.

He added that he would be happy for his fellow Divisional Member for Leadgate and Medomsley, Councillor W Stelling to speak first as Local Member. The Solicitor – Planning and Development firstly noted that Councillor A Shield could stay in the meeting to hear the other registered speakers give their statements, however, leave the meeting prior to the Committee debate upon the application. In reference to the bond, the Solicitor – Planning and Development noted the present application operated on the basis of a performance guarantee, issued by a bank, which guaranteed a sum of money in order to ensure restoration works would be completed if not done so by the site operator. He added that the new application set out a new guarantee, via the Section 106 Legal Agreement, which would be comprehensive and include the original site and the proposed extension.

He noted that the new guarantee was not to be provided via a bank, rather a sum of money that would be held by Durham County Council. The Solicitor – Planning and Development noted the flexibility was to enable the operator to substitute a bond at a later date for the sum of money, as currently in place, with the Council having the same security whether this was via cash or a bond.

The Chair thanked the Members and Officers for their comments in terms of clarifications on the report and asked Councillor W Stelling, Local Member to speak in relation to the applications.

Councillor W Stelling thanked the Chair and Committee for the opportunity to speak first. He noted it was difficult to know where to begin, adding that if he started at the beginning, he would be speaking to Committee all day as the issues with the site stretched back even before 1969 when the site hit the headlines. He added that in all that time, Durham County Council had refused all applications put in on this particular site, previously known as the Medomsley site, Billingside site, the Drovers site and now known as the Bradley site. He reminded the Committee that only once was it overturned, in 2015 at a second Planning Appeal, with the first Inspector refusing the application, the second Inspector deciding that the operations could go ahead.

He explained he had lived in the area all his life and noted that while it appeared there was more support for the application from local residents than objecting he had experience as Local Member for 20 years, going into the village and speaking and listening to people as well as those from further away. He noted the issues were global and the Committee were being watched by the world as there was great interest in the decision to be made. He noted that in terms of local people that had spoken to him as regards their support for the application, they had been of the opinion of the opencast getting on with their operation and clearing out as soon as possible.

He noted the various reasons set out by objectors to the application such as climate change, landscaping, noise, dust and blasting amongst other reasons that would be set out later by speakers in objection to the application. He noted that, as residents in support in the near area outnumbered the objectors in the near area, the Applicant thought the application should go ahead. He noted that in 2015 there were many thousands against that application and that application was rejected by Durham County Council and then was subject to Appeal. Councillor W Stelling added that he felt the Bradley West site was a new application and he noted his objections were many and that the views of the community would be given by the speakers.

He noted that the drone video footage did not show the full extent of the AHLV, or what came before the operations on site, namely a wetland that was removed and relocated to an area further down the valley. Councillor W Stelling noted his main objection to the application was in terms of climate change, noting that while it was a global issue, his number one case was to stop the burning of coal. He noted that the issue had been mentioned by the Case Officer as the main reason cited by objectors and stated that coal was no longer king in North West Durham, or County Durham, or indeed the world and it should not be burned. He asked that the AHLV be left alone, and while he acknowledged that restoration would be good, he noted that it would not repair or be a repeat of what was there prior to extraction and it would not need restoration if it was left in its current state. Councillor W Stelling noted that Members should be looking at the bigger picture and stop the burning of coal, for whatever reason, and for whatever size of site. He concluded by noting that Durham County Council should refuse the application.

The Chair thanked Councillor W Stelling and asked Councillor A Shield to speak as Local Member in respect of the applications.

Councillor A Shield thanked the Chair and noted prior to speaking he would wish that it be made clear for the Committee, wider community watching and recorded for the minutes, that he had been participating as Co-chair for the Banks Liaison Committee and Funding Committee during the last two years of mineral extraction. He noted in that time there had not been, and never had been, any particular allegiance to any group, Banks, Durham County Council and residents, and that he had always exercised an independent, impartial and non-partisan approach to any issues that had arisen. He noted he did not believe there was any conflict of interest involved having represented both Durham County Council and especially the residents of his community that he was elected to serve dealing with issues with the Applicant, Banks. He noted, however, that he was obliged to accept the legal advice provided by the Head of Service.

He noted he must however register his frustration and serious disappointment that, at this eleventh hour, a legal decision had been made which excluded him from participating as a bona fide Committee Member. Councillor A Shield noted that this was the second time in successive planning meetings where legal advice had been provided at an extremely belated time advising him not to participate in the debate. He noted that this meant that there had been insufficient time to allocate a Substitute Member to represent his group on the Committee. He noted he must advise that this decision may have a direct consequence on him being able to participate in future community meetings if it would conflict with his position as a Member of Durham County Council Planning.

Councillor A Shield noted that, as a Local Member, when the indication that Banks would be looking to extend the Bradley site were made his initial thoughts were “here we go again”, 50 years of repeated planning applications from a variety of companies wanting to opencast in the beautiful Derwent and Pont Valleys.

He advised that he had received a somewhat mixed response from local residents across the area. He explained that some saw the additional benefits, especially the additional £48,000 into the Banks Bradley Opencast Community Fund, however most believed that enough was enough and that there was insufficient justification and mitigation measures to extend the mining operation. Councillor A Shield noted that the issue had been one of the most difficult planning applications to be considered, adding it was extremely contentious and controversial, as well as being local to his area. He noted that the reasons to support the application were substantial and the application had some compelling arguments, however, he felt there was an equal base for constructive reasons to refuse the application. Upon repeated reading of the application he noted that the planning balance, in terms of the benefits both local and national versus the impacts must be considered to determine Members’ decision.

He noted the Officer had already given an outline of the benefits and summarised that they were: that 39 FTE jobs would be retained, providing support for local retail outlets for an additional 12 months; potential ecological and biodiversity development and the promise of gifted land; the extraction of coal and restoration within the given timescale for the Bradley site, August 2021; the additional £48,000 into the community fund, noting if only UK Coal had offered a similar fund the community would have had around £250,000 to share amongst the three villages, rather than fighting over the remaining £48,000; an increase in restoration funding; and the potential national benefit of mined coal for steel making, albeit with a question mark.

Councillor A Shield noted that it was necessary to clearly understand and note the adverse impacts including the affect and impact on landscape harm, with paragraph 543 of the report noting the Planning Inspector's comments that the previous mitigation did not clearly outweigh the residual adverse impact. He asked if those comments applied to the current application, adding he felt that the answer was probably yes. He noted the impact upon residential amenity, the close proximity of the properties to the application site and felt that the application would impact climate change, whether the coal was used for steel production or for power generation it would directly effect in terms of greenhouse gas emissions and therefore, especially in light of Durham County Council's Climate Change update on 17 July 2019, the impact of the continuation of the opencast could be huge, impacting locally, regionally and globally.

He added he would be interested to hear the comments from the Council's Climate Change Champion, Councillor J Clare and noted the report from Professor Paul Ekins, Economist, who made challenging arguments in terms of the steel industry and cement production and dismissed the environmental statement from Banks in terms of greenhouse gas emissions as economic nonsense.

Councillor A Shield noted the continued harm to the Derwent Valley needed to be carefully considered, with the previous Chair of the Pont Valley Network, Miss K Adamson giving a passionate speech when speaking against the UK Coal application in 2011 which compared the natural and untouched beauty of the Pont Valley with the Mona Lisa and the artificial, cosmetic development after extraction to a cross between the Bride of Frankenstein and the TV character Vicky Pollard, nothing natural. He referred he Committee to paragraph 254 and 255 of the report which in turn referred to NPPF Paragraph 170, 180 and 205 which noted planning conditions which must contribute to and enhance the natural local landscape by preventing any new development contributing to the risk of adversely effecting, and referred Members to the closeness of nearby properties, especially in terms of blasting, well within the 250 metre threshold imposed in terms of the development at Hedley Terrace, Douglas Terrace and High Stables. Councillor A Shield asked how it was enhanced for residents living within 33 metres of the proposed boundary and 178 metres of the blasting sites, and also the Jolly Drover Public House being only 27 metres from the boundary and 75 metres from blasting. He asked would residents let their children in the garden, have barbecues and would they need to wash their cars and windows more frequently and would take comfort from knowing the dust particles would only affect them for five and a half days per month over 12 months. He noted that Banks had spoken to the nearby residents as regards the impact, however, those residents should ask those living at Douglas Terrace and High Stables as regards their experiences.

Councillor A Shield noted that, in his experience, the settling of the ground in relation to the opencast was continuing, with continuing stone migration. He added that a site visit with the Liaison Committee was prior to a mechanical pick and advised Members that one pick did not resolve the situation. He explained that the piecemeal working of surface coal sites was contrary to Policy 54 of the soon to be adopted CDP and noted the report state MLP Policy M8 was out-of-date, however Policy 54 of the CDP was a direct replication. He noted the definition of piecemeal was in stages, not as a whole and asked the question would all of the site, including the West Bradley site, received planning permission. He noted that the Planning Inspector that granted permission for opencast in 2015 was not minded to support the application as the mitigation measures did not clearly outweigh the residual impacts.

He noted that instead the national benefit of the scheme was a key factor in the decision to approve, however, the Inspector noted that approval did not provide a foot in the door for future applications. Councillor A Shield noted the world had changed since that decision and the national benefits were very different from 2015 and added he was not convinced by the Officer's report, as comprehensive as it was.

He explained he had not supported the previous applications and noted he believed the disbenefits outweighed the local and national benefits of the scheme. He added he did not believe the application complied with NPPF Part 15, NPPF Paragraph 211, Policy EN6 of the Derwentside Saved Local Plan, or Paragraphs 170, 180 or 205 of the NPPF in that it would not conserve or enhance the national or local environment, was development within an AHLV and also in terms of impact upon the environment and human health the risk of dust and noise and particle emissions NPPF Paragraphs 254 and 255. He added he felt the application did not comply with MLP Policy 37 in terms extraction of minerals within 250 metres and with a blasting distance of 500 metres, noting examples previously given where this was not the case. He noted that it failed to satisfy Policy M7 and some conflict with Policies M23, M34 and M36 as noted by the Inspector at the second Public Inquiry.

Councillor A Shield appreciated that the application was controversial and contentious and noted that Planning Committees liked to hear the views of Local Members. He reminded the Committee that the two Local Members had spoken at length giving the background of the issues blighting the area for over 50 years, also giving examples of non-compliance of planning policies. He concluded by urging the Committee to listen to all the speakers, both in objection and support of the application, and to carefully and seriously consider the issues and vote accordingly.

The Chair thanked Councillor A Shield and asked Mr Dmytro Vasyanovych to speak in objection to the application.

Mr D Vasyanovych noted he represented himself, a member of the public, and explained that he was totally opposed to the extraction of coal whether local to him or further afield. He noted that the Pont Valley was a very beautiful place and his opinion was that further coal extraction would worsen the situation and that the use of fossil fuels was an old technology and would worsen the climate. He noted the report referred to 90,000 tonnes of coal to be extracted and did not show any signs to stop expansion and if the expansion was allowed, he felt another application would be submitted. He added that if there was to be 800,000 tonnes to be extracted in the region then other places would lead to other similar applications being approved. He explained approval of the application could lead to an environmental catastrophe. He noted the use of coal was bad, the damage caused by extraction and the irreversible damage caused, which could be prevented. He noted the benefits that had been set out in terms of the production of steel, electricity, metals and cement. He noted there would be profits for companies, however there would be 200,000 tonnes of CO₂ per 50,000 tonnes of coal, 100,000 tonnes of SO₂ and 300,000 tonnes of various NO_x and other toxic and noxious gasses.

He explained that there would be an injection of 300,000 tonnes of gaseous mercury which was proven to be bad for health and also the physical particles of ash. He noted his mathematics was simplified, however, for each tonne of coal extracted there would be five times the emission of noxious chemicals released. He added this could enter rainwater and produce acid which would harm crops, soil and living creatures and damage buildings. Mr D Vasyanovych noted that it angered him to see the greed and wish for today's gains at the cost of the future and would ask the Committee to consider the damage to the Earth and the futures of our children and grandchildren and of other living creatures. He added that the application went against climate change goals and urged that old technology was left in the in the ground where it belonged.

The Chair thank Mr D Vasyanovych and asked Mr Alan Holmes to speak in objection to the application.

Mr A Holmes thanked the Committee for the opportunity to speak against the application and noted he represented the Campaign to Protect Pont Valley; a local community group formed in opposition to Banks taking over the planning permission obtained in 2015 by the now liquidated UK Coal. He explained that there were local, national and global grounds to reject the application to extend the current opencast coal site at Bradley and added that there was no doubt the Committee's decision today would attract national attention.

He noted the Officer's report was long, however, it lacked critical analysis, overstating benefits and understating adverse impacts. He explained that local people had very different experiences of living close to opencast operations than the Applicant's PR would have you believe. Mr A Holmes noted that numerous complaints submitted to the Council had included those associated with noise, dust and two reports of run-off potentially containing heavy metals, which the Operator was not even aware of until reported by members of the public.

Mr A Holmes explained that the application was also much closer to houses, with Members being asked being asked to permit blasting only 150 metres from homes at Leadgate, while it was considered necessary to have a 500 metres stand-off zone from blasting on the eastern side of the current operational site. He noted that the report stated, "*The retention of 39 full time jobs at the site would be a benefit*" and added that these were the same jobs cited as benefits in the 2015 appeal decision and must therefore be discounted.

He explained that employees at the Bradley site were either on temporary contracts or would expect to move to another of the Applicant's sites adding that there was only the five to six month's work for five drivers, during the coal extraction phase, that could be considered as additional. He noted that if the Committee accept that expansion of the site was not piecemeal development, it opened the door for further extension applications in the North East direction.

Mr A Holmes advised that the Committee should also be aware that the Applicant did not have an unblemished record on restoration citing Pegswood 'Leaky Lake', as an example, now 'gifted' to a community organisation, which was still a problem 16 years on. He noted that the report cited fireclay as a benefit, ignoring the provision for fireclay included in the CDP. He added that the Todhills fireclay excavation would supply the Todhills Brickworks with "76 years of permitted reserves" as cited in the CDP 'Addendum to Potential new mineral and waste sites in County Durham 2019'. He noted that the fireclay the Applicant wants to extract from Bradley West was strategically unnecessary and the Plan asserted that "*that no new surface coal mined site ... could be viewed as being strategic.*"

Mr A Holmes reminded the Committee that Durham County Council had declared a climate emergency, and the Committee report's sole mention of that was within the summary of the 6,000 public objections. He noted the CDP asserted that climate change issues should be considered in every aspect of strategy and decision making, however, the Committee report recommended that no weight was afforded to the emergent CDP, even though it would form the basis of decision making well into the future.

He added the report also asserted the coal seams at Bradley “*typically contain very high volatile grade coal, of the type ideally suited for use in steel manufacture*”, yet previous Environmental Statements had identified only 14 percent of coal from the target seams as coking coal. Mr A Holmes noted the Applicant relied on a non-binding letter of support from TATA Steel as evidence of a market for coal from the Pont Valley, however, TATA had not said it would, or has, bought coal from Bradley so far only from Shotton. He added that the Welsh government had recently refused a permit to continue opencast mining at Nant Helen, with Nant Helen being much closer to TATA's Port Talbot steelworks, the Welsh government decided that climate considerations were more pressing than local supply.

Mr A Holmes noted Professor Paul Ekins had already been mentioned and he had stated that “*Basic economic theory suggests that ... an increase in the supply of a commodity such as coal will reduce the price of the commodity, leading to increased demand, and therefore increased emissions.*”

He noted that 90,000 tonnes of coal dug out of a Durham valley would not result in 90,000 tonnes being left in the ground elsewhere in the world. It would merely produce more greenhouse gases and added that there was no doubt this application was a last-minute money grab made by the only remaining expansionist coal company in the UK.

He noted that the Council was in possession of a letter from Solicitors questioning the legality of making a decision today and noted that should be considered by Members.

The Chair thanked Mr A Holmes and asked Mr Michael Lichfield to speak in objection to the application.

Mr M Lichfield thanked the Chair and Members for the opportunity to speak to the Committee regarding the Bradley West application and the Officer's report. He explained he represented the Derwent Valley Protection Society, (DVPS), representing views of the people of the Derwent Valley, still a beautiful place except for the scar of Bradley Opencast mining which Members had all seen. He noted that the application was a commercial grab by the Applicants to further rip apart a valuable part of our environment for short term commercial gain and that once they had done the least possible to satisfy planning conditions and avoid enforcement action, they would leave behind an area, which even their own report recognises would take around twenty years to recover. The retained land would have to be restored from and maintained from a public purse and the land sterilised from any future potential use for housing or employment land.

He asked the Committee to excuse the pun stating that the extent of the Applicant's ambition had no boundary and that if they won Bradley West it would be the next site to the north, east or both. Mr M Lichfield noted opencast needed to be stopped here and now and asked why the Applicant was coming back to inflict more damage on the Derwent Valley, he added it was money. He noted that this was not for the benefit of local people in the long term and added that at the pre-inquiry meeting for the current opencast site on 2nd June 2014 the Applicant set out the excavation distance the distance at around 250 metres from Douglas Terrace, yet the Committee were now looking at this application with excavations just 150 metres from homes at Pont Lane and spoil heaps at just 40 metres. He asked why Banks thought the residents of Pont Lane deserve to be treated considerably worse than those at Douglas Terrace.

Mr M Lichfield noted that the DVPS had reviewed the Officer's report and while it was a comprehensive review of policy, it was an unquestioning acceptance of the submissions by the Applicants coming back for "a second bite of the cherry".

He noted that within the amended CDP it was apparent that the Council had recognised the risk of sequential planning applications and set this out in Policy 54 which stated '*in order to minimise the environmental impacts of surface coal extraction and provide certainty, the piecemeal working of surface mined coal sites will not be permitted*'.

He stressed that policy must be afforded weight and that the DVPS totally disagree with the Officers report and could see no justification in the assertion that Policy 54 be given no weight. Mr M Lichfield noted that the NPPF stated that decision makers could give weight to policies in emerging plans and that by giving weight to Policy 54 the incremental and opportunistic application before the Committee could be refused.

Mr M Lichfield explained that since the Applicants won the appeal to start open cast mining at Bradley the world had moved on and, in terms of the NPPF, no nationally strategic need was demonstrated for the Bradley phase two site. He added that environmental standards and renewable sources of energy had almost eliminated the market for Coal, and that since April the country has not used coal fired stations for 67 days, with the Department for Business, Energy and Industrial Strategy estimating that coal delivered just 3.8% of energy our national need. He continued and explained that the Government has committed to closing the last four coal fired power stations by 2024/5 and the open cast site at Highborn, near Druridge Bay, proposed by the same Applicant, had been called in by the Secretary of State, noting the writing was on the wall.

Mr M Lichfield noted the Applicants made reference to the type of material extracted being appropriate for TATA, however most of TATA's requirement was satisfied by mines closer to their Merthyr Tydfil area. He added that for the much reduced national need Planning was very likely to be granted for the Woodhouse deep mine near Whitehaven in Cumbria, which would provide long term employment for between 200 and 500, totally different to the opportunistic short term open cast proposed by the Applicants at Bradley West.

Mr M Lichfield noted that Durham County Council had for many years been at the forefront of improving environmental standards, historically the County led the way in the removal of Pit Heaps and its own climate change policy was clear with immediate action being critical. He noted the Committee should refuse the application on the grounds of Policy 54 regarding incremental applications, environmental, economic and social impact and crucially that the report and the recommendation of the Officers did not satisfy the requirements of National Planning Policy Framework 211 (b) as the application did not provide 'national, local or community benefits' that 'clearly outweigh' the adverse environmental impacts' on the constituents of County Durham and the Derwent Valley.

He concluded by asking the Derwent Valley should be further damaged by short term commercial opportunism.

The Chair thanked Mr M Lichfield and asked Mr Lewis Stokes from Banks, the Applicant to speak in support of the application. The Chair noted that Mr L Stokes had a number of colleagues that would also provide information as appropriate.

Mr L Stokes thanked the Chair and for the opportunity to speak to the Committee. He explained he was the Community Manager at The Banks Group with responsibility for Bradley West and all their projects across the County. He explained the Banks Group was a family-owned employer established over 43 years ago in County Durham, employing around 350 staff. He noted Banks were experienced in bringing forward property and energy projects which had included 32 surface coal mines owned, operated and fully restored in the County. He continued noting that he supported the Planning Officer's report and robust assessment which confirmed that the Bradley West proposals were environmentally acceptable and recommended the approval of the two planning applications.

Mr L Stokes explained he would address five key points today: planning; the need for coal; economic benefits, social benefits; and environmental benefits.

He explained that Bradley Surface Mine has been operating since 2018 to the highest environmental standards and was visited regularly by Council Officers and there had been no incidents of enforcement action. He added Bradley West was a small extension that had been carefully designed with consideration for the local community and could be worked using existing site infrastructure, with minimal additional effects, and would not extend the overall end date for restoration and landscaping. He noted there were no objections from statutory consultees to the proposals and the Officer's Report confirmed the scheme was environmentally acceptable.

In respect of the need for coal, Mr L Stokes explained the Bradley site had produced exceptional quality coal for use in UK industry and that every tonne of coal recovered from the Bradley West site would also be used to support British industry and British jobs. He noted the UK still needed around five million tonnes of coal every year for essential industries, including raw steel manufacture. He added the country was not producing enough coal here to meet this need and in 2019 the UK imported equivalent to 86 percent of the coal it used. Members were asked to note that TATA Steel had expressed their support for Bradley West because they need that coal, and wished to use well mined, indigenous coal produced in the UK, with Bradley coal not destined for use for electricity generation.

In terms of the economic benefits, Mr L Stokes explained that, to date, Bradley has already delivered over £5.2 million investment in the local economy through contracts to 49 local companies, local salaries and business rates.

He added the Bradley site currently supported around 40 highly skilled and well-paid jobs directly, plus wider head office and operational staff. He stressed these were not temporary jobs and noted that the average length of service at the Banks Group was 10 years, with many people at Banks mining sites having worked for the company for 30 and 40 years. He explained the company had trained six apprentices and 18 staff on the Bradley site and had undertaken NVQ qualifications. He noted Bradley West provided the opportunity to retain staff for longer and to continue to capture these local benefits. He added the site would also produce fireclay for use in local brickmaking, creating further economic investment. He explained that Business Durham, the North East England Chamber of Commerce and Unite, the Union, had all expressed support for the scheme.

Mr L Stokes noted the Bradley Surface Mine Community Fund had already distributed tens of thousands of pounds to groups in and around Leadgate, Dipton and Medomsley and noted that should planning permission for Bradley West be granted, the fund would increase by £48,000 to be spent supporting similar types of projects in the communities living closest to the site.

He explained the company were immensely proud that every site they had worked had been restored to the highest standards, many winning awards including the Oakenshaw wildlife reserve near Willington.

He explained the restoration scheme for Bradley West would create additional woodland planting, footpaths and enhanced habitats, and would gift a further eight hectares of land for conservation in perpetuity, ensuring lasting benefits for wildlife and the community.

Mr L Stokes noted that the company was aware that coal was being phased out for use in electricity generation and supported the transition to a low carbon economy and Mr L Stokes noted he was proud to work on Banks' portfolio of ten operational onshore wind farms. He reiterated there was still a need for high quality coal to support UK industries for the foreseeable future and it was a fundamental part of the chemical process of making steel. He added that, without using the coal here which could be mined to the highest environmental standards, there would be a need to import coal from countries such as Russia, the US and even Australia, and in turn unnecessarily emit additional greenhouse gases through transporting coal over huge distances. He explained that mining coal in the UK, close to where it is used in the UK, was clearly logical and part of the solution of reducing global greenhouse gas emissions. He added that approving Bradley West would reduce the need for imported coal, effectively saving greenhouse gas emissions.

In summary, Mr L Stokes noted that the Bradley West scheme delivered significant social, economic and environmental benefits to the north east economy and the UK as a whole, and residents and businesses surrounding the site. He highlighted that, in contrast to the many objections from outside the region, within one mile of the site 124 residents had expressed support for the extension compared to only 33 objections, demonstrating that the site was operating to high standards and that the company had significant local support. He explained that throughout the current COVID-19 crisis, Banks had been able to continue operating mining sites safely and efficiently, with their new safety protocols having been endorsed by the Health and Safety Executive and were being used as an example for other businesses. He added that at a time of unprecedented economic upheaval, Banks were continuing to provide employment and investment in the County Durham economy, as well as a secure supply of coal to UK industries when trade was more challenging than ever. Mr L Stokes noted he was from County Durham, lived locally and while he knew the area well, he would always speak with local people about what is happening in their area. He explained that, as part of Banks' proactive approach to community engagement, the company had met, spoken to, and listened to the views of a wide range of local people and interest groups in line with the company's development with care approach whilst developing these proposals.

He reiterated that he supported the Planning Officer's report and respectfully requested that Members approve the applications before Committee today, in line with the Officer's recommendation. He added that either he or his colleague Jill Lomax, Senior Development Planner, would be pleased to answer any questions Members may have.

The Chair thanked Mr L Stokes and noted there were some additional speakers representing the Applicant.

Mr G Stott thanked the Chair for the opportunity to speak in support of the application and hoped Members could understand the importance of supporting the scheme for himself and his colleagues. He noted he started work with Banks as a trainee when the Bradley site began operations, along with a number of colleagues, all from the local area. He explained he undertook an apprenticeship and gained a number of NVQs via Banks and was now one of the Training Supervisors as well and the Health and Safety representative at the site. He noted that the Bradley West site would provide an opportunity to further his qualifications and experience, making a positive impact upon his family, and it would be similar for other colleagues. He noted there was the need for UK produced coal to support UK industry, especially in the recovery period following COVID-19. He asked that the Committee support the project.

Mr M Thompson thanked Members and noted he worked for Banks for five years, two years at the Bradley site delivering training. He noted he too lived locally, as did many of the employees, and added that speaking to local residents he felt that there was support for the project, with employees supporting the local shop and with their children attending local schools. Mr M Thompson noted, as a former member of the Armed Forces, he appreciated the opportunity to work locally and the stability of the job had helped with the family environment. He asked for the support of the Committee for the project which would in turn support the men and women working at the site, enabling them in turn to support the local community.

Mr A Mayman thanked the Chair and noted he had worked for the Banks Group for around seven years as a Plant Operator and noted he felt the project would add value to the local economy and could not see any negative impact to the local community, the operations and restoration would be completed by August 2021 and the proposed extension would not require new roads to be constructed. He asked that the Committee support the applications, which in turn would support the economy and jobs, especially in the current uncertain climate.

The Chair thanked the Speakers and noted he had a request for clarification from Councillor F Tinsley then he would ask Officers to make any comments on the issues raised by the Speakers.

Councillor F Tinsley asked as regards jobs, noting the operations and restoration would be completed by August 2021 and it had been stated that the extension would safeguard 36 jobs, however, Objectors suggested that only five jobs. He asked if the application did not go ahead then would 36 jobs be lost, and if the application did go ahead what positives would here be in terms of safeguarded jobs or would there be additional jobs. The Chair asked if Officers could answer, the Principal Planning Officer noted the question was directed at the Applicant. Mr L Stokes noted the 39 FTE highly skilled, well paid jobs at the site would be sustained longer as whilst the August 2021 date referred to the end of operations and restorations, there would be a requirement for more staffing. He added that if Bradley West was not approved a number of those jobs would be lost.

The Chair asked if the Principal Planning Officer and Solicitor – Planning and Development could comment on the issues raised by the Speakers.

The Principal Planning Officer noted that demand for coal was not a planning matter and the key issue was site specific environmental acceptability of the development and noted this was set out within the report.

She added that there was requirement for the use of coal in the steel, and other industries, and neither the NPPF nor Planning Practice Guide (PPG) contained advice that sought to restrict surface mined coal on climate change grounds, noting relevant paragraphs within the report (464-466). In reference to several issues raised by Mr A Holmes, she noted her response in terms of the Richard Buxton Solicitors letter covered many of the issues. In terms of complaints, she noted that the relevant information was set out within the report at paragraph 311 and noted the Council had not considered it necessary to take any enforcement action, with an issue regarding drainage being proactively dealt with by the Applicant once alerted to the issue. She added that there had been eight visits to the site in terms of monitoring, the statutory requirement, and the site would continue to receive visits during operation. She added that additional visits would be undertaken should a specific issue be raised with the Council.

The Principal Planning Officer noted the 500 metre blasting stand-off distance from Douglas Terrace was a design feature of the UK Coal proposal. She added the application considered in 2011 did have the site boundary closer to those properties, however, the operational elements were a little more distant as set out in the table within the report. She noted that the impacts on residential amenity of the scheme had been considered and while there would be disturbance, as set out within the report, it was considered that the proposals were acceptable subject to conditions.

She noted the report set out issues relating to job and the local economy at paragraph 552 and that in terms of any future proposals for extension, each application would be looked at on its own merits, with paragraph 485 noting that approval would not be considered a significant factor favouring any future coal extraction applications in the area.

The Principal Planning Officer noted she was not able to comment on the Pegswood site mentioned by an Objector, however, she noted the restoration plans for Bradley West were considered acceptable and the financial contribution as previously referred to would ensure the restoration would be completed as well as the extended management. She noted that in terms of the point raised as regards the land being sterilised, with no possibility of the land being used for housing or employment land locally in the future, she explained that the rural nature of the site meant it was highly unlikely that permission for such use would be acceptable in that location. In relation to the fireclay, it was noted that the working of two minerals was encouraged and avoid the unnecessary sterilisation and was set out within paragraphs 226-238 of the report. She noted the fireclay underlies the Top Brass Thill and the Bottom Brass Thill coal seams and would be disturbed in order to extract the coal. She added that paragraph 556 of the report acknowledges that the amount of fire clay to be extracted was not a significant amount and only modest weight should be given to that benefit.

The Principal Planning Officer noted that statements had been made to the report lacking reference to the Council declaring a climate change emergency, and only doing so when referencing Objectors' comments. She highlighted that there were in fact several references within the report at paragraph 468, 473 and 584. She noted it was secured via legal agreement that the coal extracted under the proposals could not be used for energy generation and the Applicant had stated the coal would be used by TATA similar to the coal extracted from the existing Bradley site. She explained that in terms of the decision referred to in Wales, she could not comment on the decisions of other Authorities. In terms of the CDP and affording weight, she referred to paragraph 108 of the report and noted the similarities to policies M7 and M8, however, noting that the acceptability of CDP Policy 54 would be down to the Inspector and a decision on that was not known until the final recommendation on the CDP were received.

The Solicitor – Planning and Development noted a minor correction to a paragraph in the report, namely at paragraph 396, the final sentence referred to the completion of a Section 25 Agreement; he explained the Agreement was on its way to the Council in the post and, though it had yet to be received, he expected it would be in place imminently.

The Chair noted that there would be votes on each of the applications separately at the appropriate time.

Councillors I Jewell and A Shield left the meeting at 12.50pm

The Chair asked the Committee for their comments and questions on the applications.

Councillor M Wilkes asked for clarification as regards the Officer noting that the demand for coal was not a planning issue, but Members were being asked if local issues outweighed national issues, including the demand for coal. The Principal Planning Officer noted it was not a planning issue and explained that test at Paragraph 211 of the NPPF asks: firstly, whether the proposals are environmentally acceptable and if they were not; secondly whether other matters outweigh the environmental impact, be that national, local or community benefits. She reiterated that paragraph 545 of the report listed those benefits and the need for indigenous coal was a national benefit carrying modest weight (paragraph 548). She noted that Officers felt that in terms of Paragraph 211(a) and Policy M7(a) the application was environmentally acceptable, however, the report also set out the reasons why she felt the application met the second test, in terms of other elements.

Councillor M Wilkes felt there was some semantics in whether or not Members were meant to take into account national interests in coal as that seems the primary part of one side of the argument. He noted there were two issues, how much the local environment and residents were impacted and then consideration of the benefits of extracting the coal and fireclay and to look at the balance. He noted in reality there were a lot of local impacts and he had listened to the Local Members as regards their comments and the speakers in objection and support of the application. He noted the original application, around 10 years ago, was finally decided by the Inspector and their decision they had noted that there was impact upon the environment and residents and the application could not be made environmentally acceptable and he saw nothing in this application that was more environmentally acceptable. He added in that original case some properties were only 77 metres away from the site and noted that original report stated 95 percent of dust particles emitted from mineral working settle within 100 metres. He noted that in terms of the application being considered, then there was a residential property within 33 metres and a public house within 27 metres. He noted that Councillor A Shield had noted works should not take place within 250 metres and Councillor M Wilkes felt in went against policy and did not think it was defensible and the Inspector had noted in the original case it could not be mitigated. He therefore concluded that it was a fact that the application was environmentally unacceptable. However, he noted the NPPF requires that the national benefit be considered and therefore it was to consider digging 100,000 tonnes of coal and fireclay was in the national interest.

He noted there were objections to the use of coal, however, at the current time coal was used in the production of bricks and steel. He explained he checked as regards new and old techniques and noted there were methods of producing bricks without fireclay and indeed the Officer's report noted there was a good chance the fireclay would not be able to be used in brick production rather as backfill. Accordingly, he could not accept the benefit as set out in terms of fireclay, rather it was an attempt to bolster the case by linking the use to a local firm.

Councillor M Wilkes explained that only left the consideration of the coal and whether it was going to be used to make steel and if that was sufficient an argument to override the local issues. He had researched the production of steel and believed it had originated in 11th Century China, with the process having changed little for centuries as the method was cheap and therefore new technologies were ignored, similar to the case of the battery powered vehicles replaced by the use of oil in the early 20th Century. He added renewal energy could be used to produce hydrogen and then this could be used to heat and produce steel, citing several countries and companies utilising this technology, the by-product of hydrogen being water. He asked whether it could be in the national interest to use polluting coal to produce steel in this manner, or whether it was in the national interest for the country to look to utilise modern technology and to be at the forefront of that field. He added that rather than a benefit, using coal could be starving the UK the opportunity to develop that new technology and processes.

He noted that 10 years ago it had been judged it was in the national interest to dig out the coal at the Bradley site, he suggested that now it was not in the national interest to dig out and use that coal. He added that the Government in August 2019 committed £250 million for "clean steel" and therefore we needed to move on from a 900 year old process. He noted that the Committee needed to protect the local community as well as the nation from unacceptable impacts and recommended refusal of the application on the grounds that: the proposed development would have an unacceptable impact on the environment and amenity of local communities; it was contrary to the policies within the local plan; it was contrary to the policies within the emerging CDP; the community and national benefits, when considered alongside the NPPF and policies from the emerging CDP, do not outweigh the unacceptable impact on the environment and amenity of local communities; the national benefits were not as significant as they were in the past and the impacts of the development would be far greater on the local community.

He concluded by noting that he felt that the decision was not in the balance and was contrary to: Policy M8 in relation to piecemeal working; M7 in the presumption against opencast mining of coal and fireclay; M23 designated landscape; M24 local landscape; M36 protecting local amenity; and M37 stand-off distances; and the relevant policies within the emerging CDP and the paragraphs within the NPPF as detailed by other Councillors.

Councillor A Laing thanked the Officer for her comprehensive report on the applications. She noted that the Committee had heard that it was a complex proposal and required careful consideration. She added she had previously raised concerns in relation to the impact opencast schemes can have on the landscape and communities of parts of the County. She noted that not all schemes that have been allowed have been restored to the standards that we require today and not all sites had passed without causing problems for our residents. However, she noted it was important to consider all applications on their individual merits and explained that was what she had done. Councillor A Laing felt that in this case there were a number of factors associated with the expansion proposed that were, in her experience, unique. She noted the proposed extension was relatively small and could be delivered in a manner that caused no harm to a valued and important landscape. She noted the proposals were for a very short time, worked for a few months and not lead to long term impacts to the area. She explained that the short term nature of the works also helped in her consideration of the impacts upon local residents, with some of the works being with the normal stand-off distances. She added she was comforted by the monitoring taken by Officers in terms of the existing site which seemed to suggest that all operations have been taken in a careful manner and could be controlled through the recommended conditions.

She explained that she had given consideration to the benefits of the application and noted the local employment benefits and the support that had been received from Business Durham and the North East Chamber of Commerce and, whilst short-term, she felt was something that should be given weight to. She felt the assurance that the coal produced would only go into UK industry and not to domestic power production was important. Councillor A Laing noted that at a time where the County and UK economy was fragile and facing an unprecedented challenge the fact that this commitment would be locked into the Section 106 Agreement was a factor, she felt was influential to her overall consideration of the scheme. She concluded by noting she felt the economic benefits of the scheme, both local and national outweighed the limited and short-term harm to landscape and residential amenity and moved the applications be approved.

Councillor J Clare noted he agreed with Councillor A Shield that it was a difficult and finely balanced decision to make. He noted within the comments of the supporters that there were positives to the application and the Committee could not ignore those, including the investment in the local economy, jobs and the fact that Business Durham recommended approval on business grounds. He noted he was disappointed to see many criticisms of Banks and he disassociated himself with those, noting Banks as a major local company that was supportive of the community and was moving to low carbon and this would involve substantial donation to the community fund. He reiterated the point made by Councillor A Laing in terms of the development being relatively small and short-term so it was not the case that it could be suggested that there was nothing to recommend the applications.

Councillor J Clare went on to note that on the other hand what he had heard was significant problems with the application and was disappointed, in a similar manner to Councillor M Wilkes, as regards the much reduced stand-off distances, as also mentioned by Councillor A Shield. He agreed with the comments from Mr M Lichfield in respect of being able to give some weight to the emerging CDP, limited though it maybe, and agreed with Councillor Shield that the application was, by definition, piecemeal development and against Policy 54 of the CDP. He noted agreement with Councillor W Stelling that it was against the AHLV and asked what the point was of designating an area as an AHLV if that was not taken into account when applications looked to develop an area. He noted that the presentation slides noted no adverse impact to the AHLV, he suggested that the AHLV would be obliterated, the surface and all the layers beneath it and he agreed with the comments of Councillor A Shield that restoration was a misnomer, it would not be restored, the land was the result of 12,000 years of contextual development and stood as a result of that and would be replaced with an entirely man-made creation.

In respect of emissions, Councillor J Clare noted that the report stated that the NPPF supported the transition to the low carbon economy, however, he then reads that the NPPF did not seek to restrict opencast on climate change grounds and had no requirement to consider CO₂ emissions. He noted he regarded this as contradictory and one of the most amazing things he had ever read. He added he did not buy into the argument that if the coal was not mined within the UK then the country would need to import coal from Russia or Australia and that would lead to greater CO₂ emissions. He noted that there was an argument in terms of supplying the coal as a benefit and therefore felt that there was a responsibility in terms of the emissions that would come as a result and he noted the report and the NPPF appeared to want to have it both ways: *“it was not for the planning process to consider the consequences of emissions from industrial processes”*. He noted it appeared that it was possible to only mention the benefits, and not mention the negatives.

He noted the fact the coal was not being used for generating electricity, however, the use of coal in production would still produce emissions. He added he could not believe that the NPPF would only allow citing the use of coal as a benefit and not allow it to be cited as a detriment, he felt the two went together. He noted it came down to a balance and reminded the Committee he was the Cabinet Support Member for the Economic Regeneration, so noted the economic benefits and that he was also the Council's Climate Change Champion he had to take into account the carbon cost. He noted from NPPF Paragraph 211 that the benefits must clearly outweigh the impact and he noted that the Inspector in 2015 came to the conclusion that she was not persuaded that was the case. He noted he had not heard anything at the meeting to suggest that was not still the case and therefore wider issues, such as the national economic context and the benefits of coal. He suggested to the Committee that the world we lived in was very different to 2015 and whilst it was then possible to argue the national interest was to produce coal and use it, he felt that now five years later and it was not just Durham County Council that was declaring a climate emergency, Parliament had and in their Climate Change Committee released a report which stated the country was falling short on its targets. Councillor J Clare suggested that if the Committee was going to consider the national economic context of the application, given agreement with the Inspector from 2015 in that it was felt there was residual adverse impact, then the Committee had to also accept that climate emissions, climate change issues and the economic advantage in pursuing newer technology, as stated by Councillor M Wilkes, needed to be taken into account, alongside the fact it was a smaller site and would have a smaller yield of coal. He concluded by noting that overall, on balance, he felt he could clearly say he did not feel the Committee should approve the applications.

Councillor F Tinsley noted the application was contentious and felt there were three main issues: the principle of coal extraction; the impact upon the local environment and residential amenity; and the national and local benefits. He noted he shared the frustrations of Councillor J Clare in respect of Part 14 of the NPPF which made it clear that the Committee could not take into account CO₂ emissions in terms of coal extraction. And noted while Government spoke soothing words and signed international declarations it was not following this up with its planning policies and therefore emissions as a reason could not be used for refusal as it would not stand up at appeal, as it did not at the previous appeal.

In terms of local amenity impacts, he noted the situation in terms of blasting and the close proximity to residential properties, with paragraph 248 of the Officer's report stating, "*Blasting would take place within 500m of a great number of residential properties*". He referred to the table set out at paragraph 244 of the report noted six of the eight nearby locations were within 500 metres of blasting.

He added that the Officer's report noted that the mitigation in place would mean the blasting acceptable and national policy was such that an application should not be refused on stand-off distance alone and there should be some flexibility used. Councillor F Tinsley noted that this concerned him as in 2015 permission was granted by the Inspector, in the context of the PPG in respect of minerals, specifically Section 4, which was adopted in October 2014. He noted that the Inspector in the context of the previous application, in June 2015, saw fit to include a condition in that permission that no blasting should take place within 500 metres of Douglas Terrace or Hedley Terrace. He noted that, as there would be numerous residential properties with a distance less than this in terms of the current applications, he had serious concerns.

In turning to the national and local benefits, Councillor F Tinsley explained that he agreed that, as stated at the previous application approved by the Inspector, the adverse impacts could not be outweighed by mitigating initiatives onsite and therefore one had to look to national and local benefits if one wished to approve the application. He noted the contribution of £48,000 to the community fund, he noted it was a significant sum, however, not a transformative sum in the order of millions of pounds as mentioned by Councillor A Shield. Councillor F Tinsley noted the potential in terms of sustaining jobs on the site, however, he noted operations would be taking place on the Bradley site until August 2021 in any case. He therefore noted there would be jobs, just not sufficient to represent a major national and local benefit associated with the scheme or have a major impact on the local economy. He noted the inclusion of eight hectares for a nature reserve, in the context of 20 hectares for the original application, and this was positive for the community, noting a nature reserve provided in his Electoral Division provided by Banks through a similar mechanism.

However, to provide an eight hectare addition to an existing 20 hectare provision was not that significant of a benefit. He noted that there was the issue of the benefit of the amount of coal to be extracted, regardless of one's view in terms of the principle of burning coal. In respect of the previous application, he noted that 500,000 tonnes of coal were to be extracted and permission was granted on the basis of that amount of coal represented a strategic national asset in terms of the extraction of coal. He noted the current application represented less than a 20 percent increase in the extraction of coal, a relatively small amount. He noted that there was a benefit in that the extraction of a small amount minimised impacts, however, that amount of coal being put into the market was potentially not that significant or strategic to warrant overcoming the local impacts.

Councillor F Tinsley noted he shared the concerns but noted that the application could not be refused on climate change grounds alone as Government had not provided the planning policies to do so.

He noted he felt that the local impacts were significant, and potentially more significant than the benefits, especially in terms of the blasting proximity, given the Inspector inserting that particular condition in relation to the previous permission. He added that in terms of the national, local and community benefits that might result as a consequence of the proposals, he did not feel that they were sufficient to override the local impacts on the site. He noted he would listen to the rest of the debate, however, at this point he was minded to support the refusal of the application.

Councillor S Wilson noted the application represented a paradox in that the extraction of less coal was good from an environmental perspective, however this provided less of a strategic national economic benefit. In terms of blasting distances he noted real concerns as it would impact upon people in the local area and while he understood the concerns of Banks in terms of supporting local employment and supporting national business, and understood the operations would be relatively short-term, he wondered what kind of ecological and health damage would be caused in terms of the particles being put into the air and noted he was still undecided at this time.

Councillor J Shuttleworth reiterated that he felt it was important to listen to the comments of Local Members, they have their ears to the ground and were elected to represent those local people. He added that it had come across to him quite clearly that the people of Leadgate and Medomsley were not in favour of the application.

Councillor J Atkinson noted it had been a long debate and he had been listening very carefully, understood the arguments that were being made, and felt he agreed with the comments of Councillor A Laing.

He noted the 90,000 tonnes of coal was a relatively small amount and as the main site was already up and running, any problems would have already been identified. He noted the short period of operation was also a consideration and as climate change was not an issue that could be considered from a planning perspective, the economic benefit was the issue to consider and therefore he seconded the proposal of Councillor A Laing for approval of the applications.

The Senior Committee Services Officer asked the Chair to note that in order to continue, Members would need to agree to suspension of Council Procedure Rule 4.2 in relation to the duration of meetings. The Chair asked for a proposer and seconder. Councillor A Laing proposed the suspension of Councillor Procedure Rule 4.2, she was seconded by Councillor F Tinsley. The motion was agreed unanimously and therefore **CARRIED**.

Councillor G Richardson noted he seconded the motion of Councillor M Wilkes to refuse the application.

The Chair asked the Principal Planning Officer to respond to the issues raised by Members of the Committee.

The Principal Planning Officer noted that Councillor M Wilkes had referred to the table at paragraph 214 of the report setting out distances from properties to various site operations. She noted Councillor M Wilkes had referred to particle drop-off of 100 metres and referred to a property at Pont Road being 33 metres away. She clarified that the property was 33 metres from the site boundary, however it was 141 metres away from the operational boundary. She noted that in respect of the 500 metre blasting distance and the condition included by the Planning Inspector relating to the previous application, that this was as that scheme, designed by UK Coal, already had a 500 metre blasting stand-off as part of that design. She added that the Inspector at the time, whilst approving the plans which included the 500 metre distances, took a “belt and braces” approach and included a condition setting it out specifically. She noted that it was already included as part of the design of that particular scheme and explained that the application before Members today was a different scheme that proposed operations closer to residential properties than the previous scheme. She noted Policy M37 did look to preclude development within certain distances, however, unless it is demonstrated that the amenity of local communities can otherwise be protected from the adverse impacts of mineral working, mineral development will not be permitted in terms of 250 metres and blasting within 500 metres. The Principal Planning Officer noted her report took the view that it had been demonstrated that the amenity of local communities could be protected, taken on the view that suitable conditions, as detailed in the report to Members, would seek to control the environmental impacts of blasting.

The Chair asked the Solicitor – Planning and Development to speak in relation to the procedure for voting on the two motions put: by Councillor A Laing, seconded by Councillor J Atkinson for approval of the applications; and of Councillor M Wilkes, seconded by Councillor G Richardson for refusal.

The Solicitor – Planning and Development noted effectively it was a binary position in terms of being for or against the proposals within the applications and noted it would therefore be for the Chair to decide in which order to take the motions. He added that if the motion from Councillor M Wilkes would be considered first, he would need to seek clarification from him first in terms of refusal reasons for each of the applications. The Chair noted he would take the motion as put by Councillor A Laing for approval first.

The Solicitor – Planning and Development noted he would carry out a roll call of Members for the votes on the two applications, the first being for approval of the extension to the extraction site - DM/19/03567/MIN, upon a vote being taken, the motion was **LOST**.

The Solicitor – Planning and Development noted the second vote would be for the approval of the Section 73 application relating to variation of conditions - DM/19/03569/VOCMW, upon a vote being taken the motion was **LOST**.

The Chair noted the motions for approval for the two applications had been lost and therefore asked Councillor M Wilkes for his refusal reasons.

Councillor M Wilkes noted he had previously set out his refusal reasons, however, reiterated they were on the grounds that: the proposed development would have an unacceptable impact on the environment and amenity of local communities; it was contrary to the policies within the local plan; it was contrary to the policies within the emerging CDP; the community and national benefits, when considered alongside the NPPF and policies from the emerging CDP, did not outweigh the unacceptable impact on the environment and amenity of local communities; the national benefits were not as significant as they were in the past and the impacts of the development would be far greater on the local community. He added that he felt the application was contrary to: Policy M8 in relation to piecemeal working; M7 in the presumption against opencast mining of coal and fireclay; M23 designated landscape; M24 local landscape; M36 protecting local amenity; and M37 stand-off distances; and the relevant policies within the emerging CDP and the relevant paragraphs within the NPPF.

The Solicitor – Planning and Development asked if the reasons put forward were for refusal of both applications, noting he understood how the reasons put could relate to the extension application, however, he was less clear in how they would be sustainable in connection with the variation, given there was already an existing permission and that application was for variation of conditions only. Councillor M Wilkes noted that the specific policies reasons he put forward did relate specifically to the extension proposals. The Solicitor – Planning and Development asked if he would be correct in saying the reasons referred to related to the extension application only and not the Section 73 variation application. Councillor M Wilkes noted that was correct.

The Solicitor – Planning and Development noted the motion for refusal of the extension had been made and seconded and asked Councillor M Wilkes what he was proposing in relation to the Section 73 variation application. Councillor M Wilkes noted he did not have an answer as regards that, he was specific as regards the extension application. The Solicitor – Planning and Development noted that the vote on refusal of the extension could be put. Councillor M Wilkes asked for clarification in terms of the variation conditions, one referred to the extension of the site, another to the working period, and he stated that the reality was if the extension of the site did not go ahead, some variations becomes irrelevant, some become open to further discussion as regards there value and what they would mean.

The Solicitor – Planning and Development noted that the applications did go together “hand in glove”, however, should the Section 73 Application be approved it may be subject to some slightly different conditions than contained within the report. He added he was seeking clarification on what Members’ wishes were in relation to the variation application.

Councillor J Atkinson asked as regards the proposals from Councillor M Wilkes, as they appeared to be opinions stated as facts. The Solicitor – Planning and Development noted the reasons Councillor M Wilkes put forward would be based upon his judgement and assessment of the application and noted there would be an element of subjectivity and opinion involved in that assessment.

The Solicitor – Planning and Development noted he would carry out a roll call of Members for the vote for refusal of the application for extension to the extraction site - DM/19/03567/MIN, upon a vote being taken, the motion was **CARRIED**.

Councillor J Clare asked for clarity from the Solicitor – Planning and Development, what Members were presented with was variations to the existing application that would allow the full application for the extension to take place, therefore he would agree with Councillor M Wilkes that they become irrelevant and the variation application becomes irrelevant and if that was not the case he would appreciate further explanation.

He added that it would be very difficult to have any decision, for or against, the variations if they took place in a vacuum without any substantive application that they were supporting. He suggested if that was the case then the reasons why the variation would be opposed were exactly the reasons that opposed the substantive application.

Councillor A Bell suggested that the same reasons be used.

Councillor F Tinsley noted for clarification that the Committee had carried a motion for refusal of the extension to the opencast mine and added that the second application was a Section 73 Application that amends the conditions that were attached to the Appeal decision from 2015. He noted the issue he had was, if the Committee refused permission for the Section 73 application, did that have any impact upon, negative or otherwise, upon the continued excavations at the existing site. He added that if it did impact negatively, he felt the Section 73 Application should be approved, as it would be irrelevant in terms of the extension application but may have some relevance in determination of the Appeal decision from 2015, pursuant to which Banks were working on site at the moment. The Principal Planning Officer noted that the Section 73 Application was solely to enable the extension, if permission was granted for that application it could not be implemented as permission for the extension itself would also be required to do so.

In terms of the Appeal decision, that permission would continue without the extension or Section 73 applications. Councillor F Tinsley asked for clarity that if the Section 73 Application was approved, it would not be implementable as the extension application had been refused and asked if therefore refusal reasons were required in terms of the variation application.

Councillor M Wilkes asked if the Committee approved all of the conditions that would have applied to the extension, would that give the Applicant ammunition to go to the Planning Inspectorate and say that the decisions on the two applications had not been made in the correct manner as on the one hand the Committee would be approving all of the variation conditions, but on the other hand not approving the extension, he added he felt both should have been voted on at the same time. The Chair noted they were two applications and the advice had been for separate votes.

The Solicitor – Planning and Development noted two potential ways forward, to put the Section 73 Application to the vote, for refusal as per the reasons put forward by Councillor M Wilkes, or for an alternative motion to be put, this being a decision for Members. He reiterated that there were two separate applications and therefore two separate motions and votes were required to be taken, with reasons potentially not being the same for each. He added that clearly the Applicant would need both permission for the extension and the Section 73 permission in order to carry out the extension scheme. He noted that it was not the case that if the Section 73 Application was approved that the extension could go ahead as that extension application had already been refused by the Committee.

The Chair noted there was a proposal for refusal of the Section 73 Application by Councillor M Wilkes, for the reasons he had stated, seconded by Councillor G Richardson and asked the Committee if there were any other proposals. The Chair noted no further proposals and asked the Solicitor – Planning and Development to put the motion to a vote.

The Solicitor – Planning and Development noted the vote would be for the refusal of the Section 73 application relating to variation of conditions - DM/19/03569/VOCMW, upon a vote being taken the motion was **CARRIED**.

Resolved:

That applications DM/19/03567/MIN and DM/19/03569/VOCMW be **REFUSED** for the for the following reasons:

1. The proposed development would not be environmentally acceptable with respect to landscape and visual impacts and residential amenity impacts, and could not be made so by planning conditions or obligations contrary to saved County Durham Minerals Local Plan Policies M7a, M23, M24, M36 and M37, Paragraph 211a) of the National Planning Policy Framework and Emerging County Durham Plan Policy 54.
2. Contrary to saved County Durham Minerals Local Plan Policy M7b), Paragraph 211b) of the National Planning Policy Framework and Emerging County Durham Plan Policy 54, it is considered that the proposal does not provide national, local or community benefits which clearly outweigh its likely impacts (taking all relevant matters into account, including residual environmental impacts) to justify the grant of planning permission. Accordingly, the proposed development is also contrary to Paragraph 11d) of the National Planning Policy Framework as the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits specifically in respect of adverse landscape and visual and residential amenity impacts.
3. The proposed development constitutes unacceptable piecemeal development and is contrary to saved County Durham Minerals Local Plan Policy M8 and Emerging County Durham Plan Policy 54.