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# Appeal Decision

Inquiry opened on 25 October 2011  
(Sitting days 25-28 October, 1-4 and 8-11 November 2011)

Site visits made on 9-10 and 23 November 2011

**by J S Nixon BSc(Hons) DipTE CEng MICE MRPTI MCIHT**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 23 February 2012**

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**Appeal Ref: APP/X1355/A/11/2150277**

**Land adjacent to the A692 Road, known as Bradley, Near Leadgate, Consett, County Durham, DH8 7SL.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
  - The appeal is made by UK Coal Mining Ltd (UK Coal) against the decision of Durham County Council (County Council).
  - The application (Ref. No:1/2007/1049) dated 11 December 2007 was refused by notice dated 18 February 2011.
  - The development proposed is for the surface mining of coal with restoration of the site to include woodland, species rich grassland and hay meadow, scrub, water features and agriculture.
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## Decision

1. For the reasons given below, this appeal is dismissed.

## Introduction and clarification

2. Considered alongside the s.78 appeal is an application to the Secretary of State for the Environment, Food and Rural Affairs under s.247 of the Town and Country Planning Act 1990 to divert temporarily Footpaths 26 (part), 27 (part), 28 (part) and an unregistered path, all in Consett. This is considered in a separate Decision (Ref. No: FPS/X1355/5/1D).
3. The access arrangements to serve the Bradley site have varied over time, but an August 2011 update settled that the Bradley site would be served from a new priority junction on the A692, including a dedicated right turn lane. Confirmation of this was given at the Pre Inquiry Meeting <sup>(Document 1)</sup> and in the Statement of Common Ground <sup>(Document 3)</sup>. This had the effect of withdrawing from the appeal proposals all commitment to move to an access taken from a new roundabout, proposed by Durham County Council to be constructed at the junction of the A692 and A693. It is on this basis that the appeal has been decided, although further reference will be made in this decision to a prospect of using the new roundabout, in the event this became available within the timescale of the coaling operations at Bradley. In this regard a s.106 Agreement/Undertaking would be employed.

4. In addition, 2010 and 2011 revisions to the original proposals (**Document 3**) include changes to the boundary treatment, a reduction of the three coaling areas to two, an increase in the size of the water treatment area and an extension of a screening mound at the north east corner of the site, adjacent to Douglas Terrace (**Document CD3jjj**). All accept that these changes would not materially worsen any interested party's position, with the possible exception that there may be a longer period of increased noise for residents of Brooms Farm and the nearby Church Manse and Cemetery. This is addressed when the implications of noise are discussed. Most changes, however, would lessen impact and/or deliver improved mitigation.
5. These latest amendments were, of course, not covered in the original Environmental Statement (ES) (**Document CD1a**) or the Addendum ES (**Document CD1b**). As such, a Regulation 19 Direction was issued on the 2 August 2011 requesting further environmental information to cover these proposed changes. This further information was submitted and, along with the original and addendum ESs, comprises the substantive ES. Together with a non-technical summary and planning supporting statements, the substantive ES accords with the provisions of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 and is judged adequate. The content of the substantive ES has been taken into account in this decision.
6. In addition to the main parties, the Campaign to Protect Rural England – County Durham Branch was afforded Rule 6 status on 23 June 2011. A Pre Inquiry Meeting was held at County Hall, Durham on 29 July 2011, and a copy of the minutes is included with the inquiry documents (**Document 1**).

## **Main Issues**

7. Having regard to the evidence presented, the written representations and visits to the site and surroundings, it follows that there are two main issues to be decided in this appeal. These are first, the effect the proposed surface working to win coal and the restoration would have on the character and appearance of the landscape of the Pont and Derwent Valleys and the living conditions and experience of the local community. Secondly, if harm to these interests is established that could not be addressed satisfactorily by conditions or agreements, whether there are any other material considerations or benefits that would clearly outweigh the identified harm.

## **Reasons**

### **Background**

8. Both the appeal site and the surrounding area have a history of surface coal mine working. The Billingside site operated between 1952 and 1953, incorporating land within the current appeal site. Winning the coal within the Bradley site proposed today has also been the subject of two more recent proposals. The first of these (Billingside) (**Documents CD9, CD10 and CD11**) was dismissed on appeal in 1988 and the second (Jolly Drovers) (**Document CD13**) was refused by the County Council in 2001 and a subsequent appeal

withdrawn. In each case the schemes differed in a number of ways from the current proposal and, of course, this appeal project has been considered on its individual merits against the policy and circumstances prevailing today.

9. In the immediate area, and in addition to Billingside, there have been many other surface coal workings within the last 60-years. These include to the northwest the Medomsley and Pont Lane sites. To the south and southwest were the Bantling Castle, Leadgate, Low Brooms, Brooms Dene and Burnhouse sites. Most recently, there has been the Stony Heap reclamation and minewater remediation scheme located to the southeast (**Document 3**), which has only just been restored.

#### Policy framework

10. The statutory development plan includes policies within the North East of England Plan - Regional Spatial Strategy to 2021 (July 2008), and the saved policies from the Durham County Minerals Local Plan (December 2000) (MLP) and the Derwentside District Local Plan (January 1997) (DLP).
11. In broad terms these establish a presumption against surface working for coal unless a project is environmentally acceptable, or could be made so by virtue of planning conditions or obligations/agreements or, failing this, proposals would provide local community benefits that clearly outweigh the impacts. This approach is consistent with Government guidance contained in Minerals Planning Guidance 3: *Coal Mining and Colliery Spoil Disposal* (1999) (MPG3). In addition to the in principle policy, there is a raft of supporting policies seeking to safeguard such interests as landscape, environment, heritage, ecology, amenity, access/transport etc..
12. The evidence also draws on several Planning Policy Guidance Notes (PPGs), Planning Policy Statements (PPSs), Mineral Planning Policy Statements (MPPSs) and Mineral Planning Guidance Notes (MPGs). Reference was made to the recently published draft National Planning Policy Framework (NPPF). Although this is at an early stage in its development, and subject to change, with regard to the surface extraction of coal it proposes nothing inconsistent with the existing presumption against. However, it does seek to weigh national alongside local benefits, where a balance of benefits against harm proves necessary.
13. Finally, the County Durham Core Strategy Policy Directions Consultation Paper was published in May 2011. As this is at a very early stage, there is unanimity that this should carry negligible weight in relation to this appeal.

#### The negative presumption

14. The main and some third parties had differing views about how the presumption against surface working should be applied. Clearly there is an intention that a different approach should be taken for proposals falling under this head, as opposed to those where there is a presumption in favour i.e. where a proposal accords with the development plan.

15. Having said this, it is acknowledged that there is no presumption against surface working, where the mineral planning authority (MPA) concludes that the predicted levels of environmental harm would be acceptable. However, where the MPA judges there to be material harm to the environment the presumption against changes the onus of justification from one where the MPA has to defend its reasons for refusal to one where the onus falls to the developer to demonstrate why the MPA's reasons are unjustified and, if necessary, why any benefits clearly outweigh the identified harm found.
16. The second point aired pertains to the reasons behind the change in presumption. It is clear from the wording that the local understanding of the anticipated impacts and changes should carry much more weight at the decision stage. The justification for the policy is all about the 'local knowledge and judgement' and encapsulated in MPG3<sub>(7)</sub>, which says: "*...the Government takes the view that, although some sites are capable of being well restored, opencast coal mining can be extremely damaging to the environment and amenity of a locality whilst it is taking place, and the restored landscape can take many years to mature*" and MPG3<sub>(8)</sub>, which states that: "*The Government recognises that the costs and benefits of an opencast proposal can best be assessed by the communities and local authorities who know the area best and are most directly affected*".
17. Against this guidance, the submission by UK Coal that this does not carry through to the appeal scenario is unsupportable. Whereas an appeal triggers a fresh look, that does not devalue the local view, which remains a very important consideration to be weighed in the balance. In this context, all levels of the policy appreciate that the local community and elected members will know their area best. Thus, merely because the policy advises that local views that deliver a refusal are subject to normal rights of appeal does not mean that the local appreciation should be discarded once an appeal is lodged. The local view must carry significant weight, even in the appeal situation. Not to do so would render the presumption meaningless.
18. As such, applying this particular policy means that harm to the environment or other interests of acknowledged importance should not stop at breaches at national or regional level or significance, but reflect local community concerns to a much greater degree. Even so, this does not mean that the effects on the living conditions of the local community from such as dust and noise should automatically attract a lower threshold for the establishment of harm. In this regard, the published policy and guidance prevails and this is consistent with the normal appeal process.
19. It is against this policy background that this appeal has been decided.

#### Effect on the landscape

20. The appeal site does not attract the protection of any national landscape designation such as Area of Outstanding Natural Beauty (AONB). Having said this, the entire Derwent Valley was protected from surface coal workings in the former Durham County Structure Plan <sup>(Document CD9)</sup>, by Policy 90, which stated that such applications would normally be refused. This was referred to both historically and at the inquiry as a 'no go area'. Such

protection carries no weight today by dint of development plan policy, but it did establish the perception that the Derwent Valley has integrity as a whole, is locally important and is not something that should be looked at piecemeal. This position has not changed and, if anything, its intrinsic value has consolidated over the intervening years.

21. Today, some two thirds of the Bradley site is designated in the DLP as an Area of High Landscape Value (AHLV). The remainder falls to be considered against the guidance in PPS7: *Sustainable Development in Rural Areas* that seeks to protect the countryside for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources and so it may be enjoyed by all.
22. UK Coal promote a view that, as PPS7 does not encourage the introduction of further local landscape designations, the local AHLV designation should now carry far less weight. On the other hand, the County Council submits that PPS7 does not preclude introducing local protection or, in this case perhaps more relevant, require existing designations to be revoked, when the development plan is updated. The only fundamental change elicited by PPS7 is the need for a more criteria based character assessment. The later PPS4: *Planning for Sustainable Economic Growth* does not demur from this position.
23. Either way, merely because the appeal site has not been specifically designated as a 'special' landscape area in national terms, this should not be seen as relegating its landscape contribution to something poor or substandard. Put another way, where landscape is not recognised by a national notation such as AONB, PPS7 places reliance for protection on the general, national countryside designation to "*ensure the effective protection and enhancement of the environment, and to make sure that all development in rural areas is sensitive to the character and local distinctiveness,.....*".
24. The character and other judgemental assessments, by both main parties, largely concentrated on comparing the appeal site to national benchmarks. Of course, such assessment would always find the appeal site wanting. It does not and is unlikely to meet the criteria for national designation. Even the AHLV local designation was belittled by UK Coal on the basis that most of the wider area was similarly covered.
25. Paradoxically in this case, the fact that a considerable area is so designated is a point more in its favour than against. The inference either that a small loss or infringement would be acceptable or that because the area designated is so large it must contain weak elements within it carries little or no weight. Such arguments could be repeated throughout the entire designation and ignore the fact that the responsible Council and those people living in and near to the area and visiting see it as very important in its local context. They also forget the 'no go area', which read the Derwent Valley very much as a whole.
26. Crucially, with the possible exception of hedgerows and hedgerow trees, there has been no overall deterioration in the landscape quality and

contribution since the Secretary of State's decision on Billingside in 1988. In fact, common sense suggests that the landscape will have matured and become more settled in the wider environment after the completion of the nearby surface workings, especially to the northwest, where there are extensive public views into the appeal site. As noted above, the area has been 'opened up' numerous times during the past 60-years and it has taken many years for the scars to heal.

27. Put simply, when viewed externally, the landscape that is the appeal site looks settled in the Pont Valley area and contributes to the wider framework of the Derwent Valley. There is no noticeable dereliction or other eyesore and the 'humps and bumps' that contribute to its internal character are not evident from or detract from distance views. Visually it is a quietly maturing landscape, not materially affected in more than 30-years and one that continues to absorb and develop the poor industrial legacy it was bequeathed. Even the boundary hedges and fences that were said to be deteriorating are difficult to pinpoint from the wider vantage points.
28. From the north and west, in and around Medomsley, Bradley Cottages and North Leadgate the appeal site sits comfortably in its setting. At Medomsley there is public open space and a walk on land reclaimed from previous works, much of which overlooks the site. Similarly, from the highway network along the A692, B6309 and B6310 and more local roads, nothing stands apart and views are afforded of the appeal site in the wider context of the Pont and Derwent Valleys. The loss of views from the A692 would be particularly noticeable on a gateway approach to Leadgate and Consett. Here a screening mound would remove distance views for the duration of the operation.
29. Incidentally, the views from highways were given low weight in UK Coal's assessment, yet they carry substantial volumes of traffic that would experience the change on a regular basis. To suggest that drivers are unaware of their surroundings or are driving dangerously if they look around them condemns every roadside advertisement sign or hoarding. Local people certainly attest to their pleasure when driving around the area, both as drivers and passengers.
30. There is a suggestion from UK Coal that the built development around and visible within the same views as the open landscape of the Pont Valley, including the appeal site, detracts. In fact, it is the reverse. The Pont Valley's undeveloped and passive nature softens the hard edge of development and mellows the former industrial scars. Once again, it is the landscape's integration within the local context that gives it its strength. The threat to this, and the anticipated harm, is emphasised by the spread of objections, literally all around the site, as well as those from further afield.
31. The Sustrans C2C route passes close to the south of the appeal site and conveys considerable numbers of walkers and cyclists into and through the area. Although the appeal site operation would not be seen from the C2C route itself, it might detract in other ways, by discouraging people from stopping to look into and along the Pont and Derwent Valleys or link into

local walks promoted by the Pont Valley Network or stop for refreshment nearby.

32. Turning now to the internal perspectives, here again there is nothing that jars. Yes, the character is established in some areas by the 'humps and bumps' or the localised collapse of pillar and stall digging or bell pits, but these are not detractors. Seen in the local context, these are the very points of interest that generate debate and furnish history at the local level. What is there does not need fixing is the consistent message from local people.
33. Even the field boundaries that are gappy are more likely to be the consequence of recent poor management and current animal husbandry needs than any systemic failure. Billingside Farm was demolished more than 30-years ago, when mixed farming was much more prevalent. Since then it appears that the land has been tenanted or grazed on an agricultural licence, but used exclusively for grazing and rearing stock. The loss of field boundary trees is regrettable, but not especially noticeable in the local context. It is what it is, low grade agricultural land supporting grazing, with no expectation or aspiration to host arable farming. As such, hedges and hedgerow trees will always be under threat from the attentions of stock and superseded or reinforced by post and wire stock proof fencing, when the occasion demands.
34. The appeal site is approached and crossed from all directions by a comprehensive network of public footpaths. Within the appeal site boundary, the proposal is to temporarily divert these round the edge of the workings. Even so, views from those routes leading to the site would be compromised markedly and the tranquillity and rural ambience lost. The surface working would be up close and personal. Moreover, the works would jeopardise two of the walks across the appeal site published and promoted by the Pont Valley Network. In addition to the loss of views, the activity and noise on the site would also detract.
35. Of course some might walk the diverted routes to observe the coaling operations, and if so they could not be anything but impressed by an operation that appears supremely efficient in the management of space, activity, movement and time. However, this 'experience' was far outweighed at the inquiry and in written representations by those portending visual and amenity harm.
36. Moving on to look at the implications for private views, most are relatively distant, but many would have their outlook interrupted. Some, like Bradley Hall and Low Bradley Farm and to a slightly lesser extent High Bradley, would suffer significantly. Importantly, their relative disposition to the Bradley workings would allow very little, if any, opportunity to screen. Screening mounds alongside the A692 would remove distance views for those residing at Brooms Farm.
37. Views would also be intruded upon from dwellings a little further distant, such as those at Medomsley and Bradley Terrace and again, being more elevated, screening could offer little respite. As for Douglas and Hedley Terraces, some screening would be available and there would be only

intermittent loss of views from gardens and windows at ground and first floor levels, but of course there would be visual intrusion from the bland screening mounds themselves and the loss of some trees for many years.

38. Rights to a private view generally attract less weight than public views, but, in law, this is a matter of fact and degree. Here, there would be a measure of harm, but not sufficient to be compelling in its own right, especially bearing in mind the comparatively short length of contract.
39. One further aspect merits attention and this is the fact that during the winter work would start in the mornings when it is still dark and continue until 1900 hours. The lights of vehicles working on the site would be visible from far and wide and again especially from the north and west. This would add to the overall visual intrusion.
40. Taking all these factors together, there can be little doubt that, for the duration of the contract, the landscape opportunity for the local people and those traversing along roads and footpaths would be affected adversely and inordinately and, thereby, constitute the kind of environmental harm envisaged by the policies. Having reached this juncture, it is now necessary to look and see if this harm could be adequately assuaged through conditions or agreements/undertakings.
41. In this regard, the first aspect to consider is the amelioration proposed during the coaling operations themselves. The plan is to achieve 'green to green' within 42-months and to employ a phased restoration within this period, with coaling taking only 27-months. In addition, the intention would be to create screening topsoil and subsoil mounds and in some cases overburden mounds, though it is accepted that these would have less attenuating effects visually. All mounds would be seeded.
42. The downside is that these mounds would themselves constitute alien features in the landscape and, whereas they may attenuate noise, they would merely block views from external public and private vantage points. They certainly would not address or overcome the visual harm for the contract period. They would be just what they would be, unnatural interlopers into an otherwise settled landscape. Even then, the achievement of the programme would be subject to the vagaries of the weather and other influences that could delay progress or success. UK Coal are about as professional as they come in this sphere of operations, but even they cannot control the weather, and delays have occurred on some sites.
43. On completion of extraction in each coaling area, restoration would commence and an overall maintenance period of 15-years would follow. It is said that 10-years after restoration meaningful reinstatement would have been achieved, though the intervening years would deliver continuing improvement. There is no suggestion that the input of UK Coal to the restoration would be skimped. The thought, attention to detail and the effort that has gone into the nearby Stony Heap is testament to that. However, the difference is that Stony Heap was a site in need of remediation in terms of ochreous minewater discharge and reclamation of dereliction associated with the former Stony Heap Colliery. Bradley exhibits none of



these features and consequently the landscape proposals, beneficial though they may be judged, are essentially 'add-ons' that could largely be achieved over time without surface coal working. Put bluntly, the coal extraction is not a necessary prerequisite.

44. The restoration would attempt to replicate the present landform, but without the existing imperfections so key to defining its character. It would look similar from distance, but singularly bland from closer to and within the site. If other restored sites are anything to go by, and both Stony Heap and Lodge House were visited, colours would be much more muted or uniform until local regeneration takes hold and, although the trees would show growth, they would lack maturity for many years to come.
45. The woodland planting would accord with MLP Policy M24, but as depicted would be at the expense of some medium to long distance views, particularly when walking the public footpaths. Of course the planting plan could be amended as part of the submission of landscape details. This would allow the creation of rides and maintain some distant views. Even so, it is difficult to see how the planting could be seen as a viable extension to Billingside Plantation, without substantially blocking valuable open views across the Valley. The more cynical might see this as merely an attempt to tick off a policy and not something essential to or of particular relevance for this site.
46. On the surface, the creation of new hedgerows and the replacement of existing ones lost as a result of working the site would be a benefit. However, as observed at Stony Heap, for protection the hedgerow planting goes hand in hand with a run of stock proof fencing. On the Bradley site this would be the same, certainly in those areas intended for stock grazing, namely the very areas where there is criticism that the existing field boundaries have fallen into disrepair. Where grazing takes place on both sides of a field boundary, two rows of stock proof fencing would almost certainly be necessary. The translocation of some holly hedging would help, but holly is very slow growing and, with pollarding almost to root level, it would take many years to replicate the existing feature.
47. Hedges do not become stock proof for many years and only then if they are managed to encourage growth from the bottom, something difficult with the fencing approach, or are layered after being allowed to grow for several years. This latter option is costly and experience shows it would be unlikely to happen. Stock proof fencing is cheap, effective and relatively easy to maintain. If hedges had been an advantage when using the land over the last 30-years, they would have been reinforced or planted when grants were available. Again they are not something that first requires coal working. The same can be said of boundary trees and where planted they would require robust protection from the attention of stock.
48. If Stony Heap is anything to go by, what is perhaps of greater concern is that UK Coal would wish to sell off the land as quickly as they reasonably can after the restoration. This is perfectly understandable from a business standpoint, but, it follows that the requirement to maintain would transfer to the new owner, who's needs and expectation might be in tension with UK Coal's post restoration obligations for the site.

### *Summary on landscape matters*

49. It is accepted that no nationally recognised landscape of worth would be affected by the proposals. However, the locally important and designated AHLV would, as would be the balance of the open countryside. It is the threat to this settled landscape of local merit and attraction that the Local Planning Authority unanimously decided to protect.
50. There is no doubt that the period of coal working would introduce dramatic and inordinate environmental harm to an area that has regenerated pretty much unfettered for the last 30-years or more. The management of the coaling operations and the attenuation that would be provided would not address this harm adequately, merely blocking out some views and denying access to key areas in the Pont Valley. The local landscape features that give the area its particular character and resonate with the past industrial legacy would be lost.
51. The Pont Valley Network says it would cause the loss of half its area of interest. While this might be stretching a point in physical terms, in visual terms it would not. Both external and internal views would be materially devalued and while it might be argued the restoration would achieve landscape benefits, most if not all would be possible without first winning the coal. The landscape is settled and restored and does not suffer from dereliction or any measurable degree of instability.
52. The one point in favour is that the working and substantive restoration would be for a temporary period of 10-15 years and minerals can only be won where they are found. On the one hand, 10-15 years represents a childhood or a retirement. On the other hand, the winning of some 0.5M tonnes of coal provides only a little over 3-days national supply. This creates a balancing exercise that is impossible to reconcile in favour of coal extraction in a location where there is no specific need now and no threat to its preservation should its winning prove essential in the future.
53. Thus, the clear conclusion on this strand of the first issue is that the proposal would create landscape harm that could not be addressed by condition, agreement/undertaking or the restoration. As such, it would run counter to MLP Policy M23 and national policy guidance.

### *The quality of community life*

54. A vast array of local objection was lodged under this head. Topics include dust, noise, blasting, light pollution, matters of property stability and loss of amenity. Each of these is looked at in turn.

### *Dust*

55. The threat of dust was the second string to the County Council's bow and argued as a further specific reason to resist the proposal. Its view is supported by many local residents and businesses. At present, there is no statutory guidance for dust and the most up-to-date advice is delivered by Annex 1 to MPS 2: *Controlling and Mitigating the Environmental Effects of Mineral Extraction in England* (2005). Taking this on board, UK Coal's

appraisal is comprehensive and shows convincingly that there would be no statutory nuisance as a consequence of entrained dust or any material adverse effects on trees in the adjacent woodland.

56. In fact, it is possible to say that, with a sensible and well monitored Dust Action Plan (DAC), the adverse effects of dust would be minimised. The keys to a good DAC are ownership and monitoring and, by dint of condition, this would be within the gift of the County Council and UK Coal. UK Coal present compelling testament for their success in this regard on other sites. Even without a DAC most visible dust (the heavier particles) would have dropped out well short of the residential properties at Douglas and Hedley Terraces. As for smaller particles, the PM10s and PM2.5s, the modelling shows there would only be a marginal increase in concentrations over the baseline level, such that the cumulative concentration would fall well below the thresholds given in Air Quality Objectives.
57. The one uncertainty with UK Coal's dust evidence is the windrose details used in the predictions. Newcastle Albermarle windrose is somewhat distant from the appeal site and shows that the prevailing wind is from the north and west. However, visual inspection on the Bradley site shows trees leaning very much towards the east and north east, no doubt as a result of strong westerly and south-westerly winds. As such, and without any evidence to sensitivity test the windrose used, this suggests that it may not be fully representative of local conditions. Certainly, one would be wise to take higher figures for the key west and south west directions.
58. The two closest locations that could fall within greater areas of dust influence are Brooms Farm and the nearby Cemetery. These would lie within 250m of coaling operations and would be particularly susceptible to dust in the early stages and as a result of any dust entrained from the proposed access and highway surfaces. As northerly winds are said to be most frequent – 14-25% of the time - this could highlight a potential problem. Douglas and Hedley Terraces would be the next in line and then, being separated from the coaling by 285m, primarily only for smaller particles. However, even allowing for the higher end of the wind exposure range of 15-24%, the existing background levels are low and the added values predicted would still leave the situation well below any advisory threshold. In both cases, the site operational work that might lead to higher levels of entrained dust deposits on a particular location would only occur for short periods and not necessarily when the prevailing wind is from the critical directions.
59. Of course, Action Plans can fail or respond to circumstances more slowly than desirable and one or two dust events might occur during the lifetime of a site such as Bradley. Having said this, the information supplied by UK Coal in respect of the nearby Stony Heap site indicates high levels of success in averting the potential for dust events in a location where a similar wind regime might be expected to pertain. Thus, although the effects of dust might count as a very small point against any surface coal working, it does not approach being a defensible objection in terms of the guidance in MPS2 and accords with the expectation for acceptable mitigation of harmful impacts from dust evinced by MLP Policy M36.

## Noise

60. Surface coal extraction operations are noisy. Of this there can be little doubt and Annex 2b of MPS2: *The Control of Noise at Surface Mineral Workings* delivers the most up-to-date guidance. However, even with surface working much of the noise would be contained within the extraction void and being below ground level this would add to the attenuation. It is only when vehicles are working at or near the surface that the highest predicted noise levels would occur.
61. To address these occasions, baffle mounds would be erected and with these the maximum predicted noise levels from general operations on site would be at Brooms Farm (54dB<sub>L<sub>Aeq</sub></sub> 1 hour) and no doubt the nearby Cemetery, Douglas Terrace (48dB<sub>L<sub>Aeq</sub></sub> 1 hour) and Pont Lane (47dB<sub>L<sub>Aeq</sub></sub> 1 hour). Again these would only be for relatively short periods as the working and restoration would be progressive and further away from the noise sensitive receptors for much of the time. At their worst, such increases as are predicted - 8 dB<sub>L<sub>Aeq</sub></sub> 1 hour at Douglas Terrace - would be noticeable, and, albeit less than the 10dBA, increase that PPG24: *Planning and Noise* advises would be likely to give rise to complaint, appreciably above the 5 dBA increase said to be of minor significance.
62. It was noticeable when walking around the site near to the key receptors alongside the A692 that the existing noise climate is strongly influenced by the traffic noise from the A692 and A693. Without this, any increases from the coal working would be far more noticeable. Crucially, the maximum noise level during normal operations would always remain below the 55dB<sub>L<sub>Aeq</sub></sub> 1 hour and the +10dB(A), given in MPS2 as the preferred maxima.
63. The one feature of the normal operations that might occasion noise levels above those predicted would be around the proposed priority junction access. Here HGVs would be turning out of the site from a standing start and to gain speed to merge with other traffic they would be under maximum power for the relatively short distance to the junction of the A692 and A693. Similarly, when turning into the site drivers would brake and then accelerate into the site when an opportunity provides itself. For the period of coaling, the 64 HGV movements a day could appear as single identifiable events and prove extremely irritating for those living at Brooms Farm, even without breaching any quoted standards. This is not to suggest that the increase in HGVs would materially add to the ambient noise levels, but the need to manoeuvre might add to the peaks. Of course, if the access was relocated to the proposed new roundabout, noise levels at Brooms Farm would fall.
64. By far the most intrusive activity on the site would be the soil stripping and creation of top and sub-soil mounds. These would be on the extremities of the working area and the closest operations to the agreed noise sensitive receptors. MPS2 recognises that this activity is for a limited duration at the beginning and end of the coaling operation. As such, it allows a higher threshold of 70dB<sub>L<sub>Aeq</sub></sub> for 8-weeks annually and from the unchallenged assessment it is clear that this figure would not be approached. In fact, the normal maximum threshold of 55dB<sub>L<sub>Aeq</sub></sub> 1 hour would not be exceeded at Pont Lane or Douglas Terrace, and only equalled at Brooms Farm.

65. Thus, there is no substantive evidence to justify the increase in noise as a discrete reason to resist the proposal at Bradley. There would be increases during certain phases of the operations and nearby residents would be aware of these and they could be an irritating reminder of the coaling operation. For example 8dB increase at Douglas Terrace. Even so, this would not be to the extent of the increase being untenable. As such, additional noise contributes only little to the environmental harm and would not breach the objectives of MLP Policies M36 in terms of mitigation and M37 concerning the effect on groups of 10 or more properties.

### *Blasting*

66. Fears are expressed about blasting and the potential for both psychological and physical impacts. In past times, the use of explosives for blasting invariably attracted a level of complaint, fuelled by a fear of the unknown, the effects of air overpressure creating vibration and rattling of ornaments etc and the perceived threat to the stability of homes and other buildings. Today things have moved on. The use of pattern blasting with mille-second delays has reduced the impact and levels of concern appreciably. Even so, Brooms Farm and Our Lady and St Joseph RC Church and manse lie within the 500m desirable stand-off.
67. To allay these worries, the geology of the area has been checked to ensure there would be no adverse effects, transmitted through the ground to the nearest group of 10 properties or more, and especially Douglas and Hedley Terraces. Conditions would limit the times of blasting and the intensity of the blast effects. All this would ensure with a significant level of confidence that this would have no physical effects on property and would minimise the occurrences of distress, for such as funerals. In practice, blasting would be used only as a last resort – it is more expensive – as the geological information has not confirmed that blasting would be essential, only that it might be necessary, depending on the final geological conformation.
68. In a nutshell, nearby residents may be aware of blasting, but the controls that would be in place grant assurances that there would be no unacceptable impacts. Although isolated properties would lie within the 500m stand-off, no groups of 10 or more properties would and, thus, the intention of MLP Policy M37 would be met as, once again, would the mitigation required by MLP Policy 36.

### *Lighting*

69. As pointed out previously, the working day on site would extend beyond daylight hours for the winter months in a northern locality where the daylight hours are short. As such, the lights of vehicles and those necessary for the operational and site office areas would draw attention to the site, even if best practice were adopted. This would be in sharp contrast to and detrimental to the usual darkness of the open countryside during these periods of the day.

### *Hydrological effects*

70. Concerns are expressed about the drawdown effects triggered by the surface working arrangements and the implications of consequent de-watering on the stability and integrity of nearby properties and woodlands.
71. The starting point here is that the water table and hydrological landscape at Bradley is such that the coal would be won without compromising the underlying hydrological regime. Put simply, the water table is so low that the extraction would not breach it and, thus, the effects of drawdown on homes and woodlands would be non-existent. Where water does appear on the surface in ponds and wet weather features, this is most likely as a result of rainwater run-off being retained by a localised perched water table above a stratum of clay or similar.
72. If for any unforeseen reason the hydrological map was compromised during extraction, and potential problems were envisaged or encountered, there are tried and tested protocols for management and recharge available. However, all the submitted hydro-geological and hydrological information suggests that one can confidently predict this would not be necessary. Once again, this accords with MLP Policy M38, which requires adequate mitigation of activities that might adversely affect underground or surface water by way of quantitative change or contamination.

### *Loss of amenity space*

73. One of the points raised repeatedly by third parties was not the loss of views *per se*, though these did feature strongly in many representations, but the loss of opportunity and experience. As noted, this part of the Pont Valley lies close to developed areas and it is very accessible and well used. Local interest is 'overseen' by the Pont Valley Network. It might not attract the numbers walking or cycling the nearby Sustrans C2C route, but in local terms it is a very important resource for walking, observation, ecology, heritage, education, innovation and experience.
74. Although UK Coal undertook a considerable amount of investigation in many areas, this use was not something they appear to have valued highly in their assessment, and perhaps not proportionate to the level of local interest voiced. Footpath counts were taken and registered moderate usage. However, the dates of the counts were probably not during the busiest period or most informative times of the year. In addition, the weather was reported to be poor during the survey period. As noted, the footpaths crossing the site feature in two walks publicised by the Pont Valley Network, and the area is clearly used by schools and other organisations for educational purposes. In addition many local individuals enjoy the area for amateur ecological or landscape reasons and interest, down to those who use the area for dog walking and general exercise. As part of the restoration additional footpaths would be provided, but in an area already well served, more new footpaths count for less.
75. The UK Coal proposals would materially inhibit this community activity for the duration of the contract. To this must also be added the length of time

post restoration that would be needed to present a reasonable environment that would invite and attract similar levels of access and interest to those today. On certain matters, such as the mining heritage, the opportunity for tangible experience would be lost forever. Interpretative boards to relate the past 'history' would never be a meaningful substitute to experiencing the 'humps and bumps' etc. In other areas, for example landscape and farming the duration of interruption would still be lengthy. The Pont Valley Network says that it would affect a half of their area of interest and this organisation certainly generates significant local support and activity.

76. All in all, the registered level of usage and especially local community interest would be interrupted for a considerable period and may well take many years to fully regenerate. In a nutshell, the benefits to the local community would not be so significant as to outweigh the intrusion for this period. Thus, the loss of the amenity space and opportunity counts as a very strong local objection.

#### *Summary of community impact*

77. With the exception of the loss of access and community dislocation during and after the surface working, none of the other areas generates harm of such an extent to justify a specific reason for refusal. No recognised standards or thresholds would be breached and almost invariably the MLP Policy aims would be met. Even looked at on a cumulative basis, there is no objective evidence to suggest that this justifies resisting the project. Having said this, it is impossible to conclude other than local people would be aware that the coal extraction was continuing. Even with the high levels of attenuation proposed, it is inevitable that the environmental climate would be dustier and noisier. If one adds the disruption to access and community use, this registers a much stronger objection to be weighed in the balance.

#### *Other matters*

##### *Access*

78. As noted previously, the proposed access arrangements for the Bradley site have changed over time. In the original format (2007), the site would have been served initially by a temporary, low spec priority junction between the appeal site and the A692. After a short time, this would have been closed and access transferred to a proposed new roundabout at the junction of the A692 and A693. This roundabout is a high priority scheme within the Council's Local Transport Plan 2011 and, subject to planning permission being granted without having to go to appeal, UK Coal were prepared to offer about 50% of the cost. Once planning permission was refused in February 2011, the offer of the UK Coal contribution to the roundabout scheme effectively ceased.
79. However, the low spec priority junction option was not considered acceptable to meet the demands of site traffic for the duration of the Bradley operation. To address this and to take the matter forward to appeal, an alternative junction access was proposed. This is a higher spec priority junction, with a

right turn harbourage lane. This was the access option before and considered by the appeal inquiry.

80. The Bradley site would generate traffic including 64 HGV movements each day and a similar number of car and van trips. The evidence shows that this level of additional traffic would not impact unduly on existing traffic flows. To protect local roads, there would be a routing agreement, offered as part of the s.106. Crucially as far as the appeal scheme is concerned, and irrespective of the progress of the roundabout, the proposed priority junction on the A692, with a right turn harbourage lane, represents a perfectly acceptable solution to access the Bradley site for the entire duration of the surface working. Thus, the access layout and the traffic that would be generated do not constitute a reason for resisting this surface working scheme and means that access to the roundabout would be unnecessary. Accordingly, MLP Policy 42 requiring suitable access arrangements would be met.
81. Notwithstanding, about the time of the Pre Inquiry Meeting, UK Coal resurrected its offer to contribute to the roundabout scheme and resite the Bradley access should the roundabout come on stream within the operating life of the Bradley site. However, for this scenario, and at that stage, the cost of constructing the priority junction, which would become redundant should the roundabout be completed, would be deducted from the amount UK Coal proposes to contribute to the roundabout. The cost is variously estimated to be between £134-300,000, depending on service diversion costs.
82. Before and during the inquiry, a s.106 Unilateral Undertaking/Agreement was worked up to deliver this. However, when it became clear that the Council was unable to sign up to this commitment, work on an Agreement ceased and the Undertaking option was progressed. This resulted in the inquiry being presented with a signed s.106 Undertaking to facilitate the contribution to the roundabout works and to ensure the County Council promoted the roundabout scheme expeditiously.
83. During discussions at the inquiry, it became clear that even this proved a stumbling block for the Council who, apart from having identified no monies in the short term, believed it could not meet the s.106 timescales in terms of land acquisition, preparation of Side Road Orders and the letting of the contract. On this basis, there would not have been a realistic prospect of the roundabout being delivered in a timescale commensurate with the proposed Bradley surface working. Importantly, the appeal application was not changed to reflect this and the priority junction remains the only access covered by the application.
84. After further discussions between UK Coal and the County Council, and to see if the differences could be resolved, it was agreed that further time would be allowed for UK Coal to review their position and see if a satisfactory form of words could be found to meet Durham's concerns. The views of the parties on this were placed on record (**Documents UKC10 and DCC6**).



85. This came to nothing and, at the 11<sup>th</sup> hour, UK Coal formally withdrew their signed s.106 Undertaking and, as such, it could not become a fall back position. In replacement, an agreed submission <sup>(Document 13)</sup> was presented to the inquiry by the main parties. This advances a belief that a s.106 Agreement could now be achieved and again time to complete was requested. A timetable was agreed and, although not met by the parties, a s.106 Agreement was finally signed on 16 January 2012 and its content now falls to be considered.
86. At the start of the inquiry, the only access proposal was for a priority junction from the A692. Although a s.106 was mooted to include the possibility of transferring the access to an arm from the proposed new roundabout sometime later, the s.106 was not signed at that stage. The s.106 Agreement signed on 16 January 2012, seeks to change the access arrangement to one where the access would be taken initially from the roundabout, with the priority junction left only as a fallback. This was a scenario not aired or tested in any detail at the inquiry. Clearly, to achieve this new arrangement, there would first, have to be a successful appeal granting planning permission for the priority junction. This would be followed, subsequently, by a s.73 (of the Act) application to change from the priority junction access to one taken from the roundabout.
87. Put another way, the priority junction, which represents the only access for which planning permission is currently sought, would be a fall back and only pursued should the Council fail to progress the roundabout scheme according to a timetable given in the s.106 Agreement. As such, the effect of granting a planning permission, subject to the s.106 Agreement, would leave the Bradley surface working proposals with a preferred access that had not received planning permission.
88. A further complication is that Durham County Council, as highway authority, has introduced a right turn harbourage lane at the junction of the A692 and A693, to address a rear end shunt accident problem for vehicles on the A692 wishing to turn right onto the A693. This was accompanied by anti skid surface treatment on the A693 approach to the junction to reduce rear end shunts for queuing traffic waiting to turn onto the A692. Early results show that both actions have been very successful in addressing the respective accident problems, and in addition the capacity of the junction has improved. So much so that site inspections showed very little if any queuing taking place on the A692, with only short queues of vehicles on the A693, waiting to join the A692.
89. Of course, if planning permission were granted for the appeal scheme, substituting the roundabout access would be a matter between UK Coal and the County Council, by invoking the s.73 procedure. However, there are some obvious caveats to achieving this now preferred option. First, although the roundabout is shown as high priority in the Local Transport Plan, no objective assessment was placed before the inquiry to confirm that the roundabout would deliver the benefits expected, even with the already completed improvement at the A692/A693 junction. Without such an assessment, it is not clear if the roundabout would still remain as a high priority scheme in the Local Transport Plan. For example, the left turn

manoeuvre from the A693, said to be an outstanding problem **(Document DCC6)**, may not be solved in the most cost effective manner by a full blown roundabout.

90. Secondly, the s.73 application would have to be submitted and a variation to the appeal permission approved. To achieve this, it seems inevitable that an update to the Environmental Statement would be required, along with an appropriate consultation period. Next, there are the Side Roads Order (or possibly a Prohibition of Driving Order) and design, tender and contract negotiations etc that will all take time.
91. Additionally, if the priority access scheme to the Bradley site were pursued, because the terms of the favoured solution in the s.106 Agreement could not be met, this would effectively reduce the UK Coal contribution to upgrading the A692/A693 junction and add, by a similar amount, to the financial burden on the County Council. That is if it wished to pursue the roundabout some time later. No expert highway witness was proffered by the County Council to clarify its position on either technical or financial matters.
92. One final twist is that, if the Council could not meet the timetable for constructing the roundabout embodied in the s.106 Agreement **(Document 6)**, the balance of the contribution i.e. that money not used to construct the priority junction to serve Bradley, would still remain vested with the County Council. It was suggested at the inquiry that this would be transferred to the Community Fund, to be added to the already promised 10p per tonne for coal won and used for local benefit.
93. This merely adds another layer of uncertainty. On the one hand, if the priority junction was built, the s.106 Agreement would allow the County Council to retain the option of using the balance of money for the roundabout scheme at a later date, by retaining the money under its control. However, this would not fulfil the intention aired at the inquiry of up-rating the Community Fund for the use by local people.
94. On the other hand, should the balance of any money after building the priority junction be transferred to the Community Fund, there would be no certainty that those overseeing the Fund would vote in favour of using the money for the roundabout junction improvement. In fact, as the Community Fund would be administered by local groups and representatives, common sense suggests that this prospect would be unlikely. An access from the roundabout would provide a permanent opportunity to serve extensions to the Bradley surface workings should suitable conditions arise, and it is doubtful that this would find favour with the local community.
95. In summary, the bottom line of a complex set of events is that the priority junction forming a part of the appeal proposals would be a perfectly acceptable solution for accessing the Bradley site for the entire duration of the operations. In the event this appeal succeeds, this is what would be granted planning permission. As such, the s.106 Agreement that seeks to relegate this to a fall back position makes things far less straightforward. The signed s.106 seeks to promote an alternative access, namely one from the proposed roundabout at the A692/A693 junction. As this does not form

part of the appeal proposals, a s.73 application would be necessary to vary the approved appeal scheme. This invites a number of questions, but, at the very least, introduces a significant element of uncertainty. As a consequence, and if one was minded to allow the appeal, further information would be required. Without this clarification, little if any weight should be afforded the s.106 in respect of the roundabout, which is unnecessary and is not advanced as in compliance with the Community Infrastructure Levy (CIL) protocol.

### *Need*

96. The need for indigenous coal, whether deep mine or surface worked, fuelled an intense debate at the inquiry. The starting point is that there are no targets for production and, MPG3<sub>(2)</sub> says that: "*.....no specific role is identified for opencast in particular*". Moreover, for surface working we have the negative presumption and MPG3<sub>(7)</sub> advises that the presumption against winning surface worked coal follows the application of the principle of sustainable development. Put simply, this acknowledges that the winning and burning of coal are not sustainable activities.
97. However, one could take a more pragmatic view, by accepting that coal is a necessary resource to generate power and use for the wider industrial base, at least in the short to medium term. In recognition of this, UK Coal submit that there is an informal approach, drawn from Ministerial statements and Secretary of State decisions, which accepts that surface won coal should continue to be won at or around historic levels.
98. To serve this 'unofficial' production level, we can certainly include any sites where an underlying coal resource would be forfeit as a consequence of proposed development. Sterilisation of mineral resources is something policy guidance seeks to prevent. Similarly, the winning of surface worked coal to address dereliction, contamination or site instability will invariably attract widespread support as a local benefit, especially where that outweighs any environmental harm.
99. Of course, the surface working of Bradley is not threatened by future development or justified by reason of contamination etc. Neither is there a particular need for the Bradley coal. It is fairly certain that an end user would be found, but none is identified specifically. The particular qualities and quantity of the coal within Bradley are uncertain, with coking coal given a fairly wide range of recovery: as low as 10%, but no higher than 25%. Workable quantities of fire clay are not recorded within the site.
100. In this regard, the winning of measurable supplies of coking coal would be an advantage, both commercially for UK Coal and helpful in terms of the wider economy. However, the expectation at Bradley, where coal has already been won by such methods as pillar and stall, and arguably bell pit working, may not be realised. The outturn at other sites certainly varies (Document UKC9), being sometimes lower, though to be fair, more often higher than predictions. The geological information is based on much earlier NCB surveys and, whereas these will have established the coal seams reasonably accurately, it is not claimed they are precise as to the remaining resource.

Even then, the confidence levels of winning appreciable quantities of coking coal are fairly low, based on the current information. As for use, although a reasonably proximate steel works is due to reopen, the present intention seems to be to supply this by sea.

101. Next, there is nothing in the supply profile (**Document UKC6**) to show that there is an hiatus in the number of sites or quantum of surface worked coal coming on stream. The present position is not dissimilar to that pertaining over the past 7-years and the corresponding projections for the following 10-years. Finally, although UK Coal submitted that the completion of Park Wall North, near Tow Law, would leave them no other resource in Durham with permission to surface work, there was nothing to suggest that this left UK Coal embarrassed. For example there was no detail of possible opportunities nearby in Northumberland etc or sites further afield.
102. The economics of winning and the use of coal also featured in the evidence. Unfortunately, beyond making general observation, these submissions were in insufficient depth and detail to draw any objective conclusions. The first observation is that each tonne of indigenous coal won, means one less that needs to be imported and that has positive implications for the UK balance of payments. Clearly this is so, but the presumptive policy and lack of a target supply figure do not suggest that this should be accorded great weight, and certainly not beyond maintaining surface won supplies at roughly current levels. Equally, it would be wrong to apply the NPPF as published in its draft form. To include in the balance national benefits from factors such as balance of payments, as proffered by UK Coal, should count for very little. If they were seen as crucial then this would again undermine the negative presumption and, almost certainly, rekindle hope for winning coal at every rejected site, especially the larger ones.
103. The second submission was that indigenous coal is mined and transported in a more sustainable manner than imported coal. However, this was only portrayed on the basis of transport costs. Looked at in this way there might be an argument, but without examining the environmental sustainability in an holistic way this attracts very little weight. Coal mined in Russia, Australia and similar horizons would still be mined and exported so long as a market exists. Thus, it is any extra over transport costs to travel to the UK that should be considered. In addition, the calculation only includes one way transport, making no allowance for possible return cargoes.
104. From an entirely selfish UK Plc perspective, in many calculations the environmental implications of winning and transporting imported coal do not count against UK target figures. Conversely, the winning and transporting of indigenous coal does. It is worth noting that the entire resource in Bradley could be transported in five large ships of 100,000+ tonnes and, as quoted previously, this represents a mere 3-days national supply.
105. Next, it was argued by UK Coal that coal represents a flexible resource that can address short term difficulties in power supply and variations in demand. This was countered by opponents saying that coal fired power stations are not as responsive to short term fluctuations in demand as other forms of energy production, such as gas. In certain circumstances, bad weather

coupled with high demand being one, indigenous coal could help in the relatively short term. However, without knowing the end user it is difficult to say how much, if any, weight should be attached to this in this instance.

106. Finally in this context, UK Coal submitted that leaving the Bradley coal in the ground would be a lost opportunity. Implicit in this argument is an acceptance that demand for coal is reducing and that if the Bradley coal is not won soon, the benefits, especially from the standpoint of balance of payments, could be lost for all time. In crude terms this could be so. However, once again, the policy at national and local levels does not suggest that this argument should attract any particular weight. To accept it would re-open a myriad of sites for consideration. On the other hand, resisting 'easy hits' for winning surface coal, focuses attention onto those more difficult sites, where substantial dereliction or similar might be addressed.
107. The 'benefits' elicited above were countered by the many who argue that coal is a major pollutant and its use would not assist in meeting UK Government carbon obligations. Even with Carbon Capture and Storage (CCS), this argument is irrefutable and MPG3 guidance is broadly at one with this. Nevertheless, the use of coal in power generation is a feature of the energy landscape that will continue for many years. Thus, denying coal won from Bradley to meet the market would not change things. A little was mentioned about CCS, but there seems no guarantee that this would be available on a commercial scale during the lifetime of Bradley, to say 2016.
108. To sum up, beyond commercial benefit for UK Coal there is no stated need for the Bradley coal in policy or for a specific end user that should outweigh the environmental harm. However, the 'benefits' and 'disbenefits', albeit low level should be weighed in the overall balance.

### *Ecology*

109. Within the appeal site, there are no habitats or species of fauna or flora that warrant national or even regional protection. There are habitats for species such as badgers and bats and species such as great crested newts that need to be safeguarded. Several UK red list bird species are recorded on site. Within the southern part of the Bradley site, there is the Brooms Pond Local Wildlife Site, where interesting species, including great crested newts, reside. The previously designated West Billingside Meadow Site of Nature Conservation Interest (SNCI) in the north-east part of the site, has not been carried forward into Durham County Council's definitive list of local wildlife sites.
110. If permission was granted, then the ecology of the site could be interrupted for the duration. However, some pre application work was undertaken by UK Coal to provide habitat for translocated newts and as restoration takes place progressively this may facilitate the return of some ground nesting birds. In the main, one could expect that the wildlife larder would be greatly diminished and the restoration take some appreciable time before berries and the vertebrate and invertebrate stocks that support the local food chain are replenished.

111. Although translocation of newts from Brooms Pond to the newly created Billingside Ponds is presented as a benefit rather than as a loss, Natural England's consultation response is clear. Translocation should only be undertaken as a last resort and even then it is extremely difficult to carry out successfully, and is not normally considered as an appropriate alternative to the conservation of the population *in situ*. This really means that if a development is inevitable then translocation is the best option. It does not mean, however, that there is a benefit from translocation that can be weighed in the balance as a positive element, irrespective of the scheme. Although the new ponds might encourage population expansion, the existing Brooms Pond, might achieve similar with conservation work.
112. In time, an arguably more diverse habitat would be created, but much of this could be encouraged without the need for surface coal working. Even the management of Billingside Plantation/Woods promised is something that could be achieved by local input. Clearly funding might be something of a problem, but the Pont Valley Network does seem capable of raising funds and undoubtedly devoting the necessary time, commitment and interest. The key point is that local groups and people would much rather wait for any benefits than suffer the loss of the local asset for the 10-15 years of the coal operation and meaningful restoration.
113. Once again, the disruption to the local ecology would be extensive and for a considerable time. The benefits in terms of creating a more diverse habitat do weigh positively in the equation, but the disadvantages of the disruption and the loss of community use and experience for a significant period produce a negative balance overall. As such, meeting the objectives of the MLP Policies M27 and 29, which look respectively for a need to outweigh safeguarding the intrinsic quality of the site and the preservation of a local feature of nature conservation value, is distinctly tenuous.

### *Heritage*

114. Once again the arguments are similarly arrayed. There is nothing of national or regional significance that requires safeguarding and nothing concrete to show that any of the artefacts and features of past mine working would be worthy of preservation *in situ*. It is the local context that again wins the argument.
115. The legacy of the earlier mine workings has created much of the character of the area, with what was referred to at the inquiry as the 'humps and bumps'. Moreover, this is now portrayed in a regenerated landscape that facilitates the past history of the area being visited and discussed at the same time as appreciating the landscape and the fauna and flora. It provides the local community, schools and other groups with an asset that embraces several disciplines. This enthusiasm and the debate generated by the past makes it all the more interesting and important locally.
116. We have the local perception about the historic wagonway (the Western Way), the bell pits and the stone Billingside Dyke and the history that accompanies them. UK Coal did present what may well be a far more learned thesis, but like so much of their evidence it concentrated on the

higher plain and largely disregarded and certainly played down the local input and folklore. It is this that creates the community interest and being able to point things out on site something that supports preservation of the features *in situ*.

117. Surface working of the Bradley site would remove all this and, following investigative work, be replaced with recreation and interpretive boards. No doubt these would inform and arguably be more accurate, but they do not constitute a replacement for what generates the interest today. There would be little left to see in context and this fact alone militates against allowing the site to be worked.
118. One positive would be the rebuilding of the Billingside Dyke, but again, the line is generally known and it could be promoted by the community if it felt so inclined. Certainly, there is little doubt that the wall has been repaired, if not rebuilt, several times over the years. However, it is the poor management of the site and the farming practices involved today that have left it in an unkempt state of repair. Crucially, without local community 'ownership' and involvement, there is little to suggest that if reinstated it would not be left to deteriorate again.
119. Looking at the heritage policies, MLP Policies M30 relates to the effects on Listed Buildings and Conservation Areas and there is little contention about these interests. Similarly, MLP Policy M31 requiring an archaeological field evaluation would be met as would MLP Policy M33, which seeks the satisfactory recording and, if necessary, recovery of any worthwhile archaeological remains. As such, the objection in this context stems from the loss of local interest and appreciation.

### *Employment*

120. The working of the Bradley site would generate some 38 full time jobs and in a period of severe recession this would undoubtedly be a benefit. Even so, the 38 jobs would not all last for the duration of the operation and there can be no guarantee that any would be sourced locally. The employment profile at Stony Heath, which is next door, does not show many truly local workers, with a good few travelling long distances. This is perfectly understandable as UK Coal will sensibly want first to engage workers who have proved themselves previously.
121. In addition, the 38 jobs would not all be pluses and there has to be a contra entry for those jobs that would be lost as a result of coal not being imported. Of course most of these would be jobs in other countries, but some would be those working on the docks unloading and loading the imported coal from the bulk carriers onto the road or rail transport.
122. Next, there is the potential for linked jobs arising from money spent by UK Coal and their workers locally. This is extremely difficult to quantify from the information provided, but one can assume there would be some. Having said this, there could equally well be negative consequences for the local labour force. The locality would be less attractive for many years and this might inhibit inward investment in an area that is clearly on the up following

past reclamation and landscape regeneration. Linked trips from the C2C might be lost and even existing businesses, especially pubs and restaurants, could suffer for the duration and have to rebuild afterwards.

123. With the best will in the world, the local area would not escape blight in one form or another. New houses on land observed on the site visit as being within existing development boundaries and that would overlook the Bradley operation might be delayed or not built out at all. The local housing market and all investment in housing improvements could well be inhibited for a considerable time. Inward investment generally could be lost.
124. On balance, the new jobs might be seen as a very small benefit in the overall assessment, but they might deliver little locally, in the very area that would be most directly affected by the project. The downside is that inward investment may stall and once again the local Council and community do not see the 38 jobs as worthwhile compensation.

#### *Precedent*

125. It is a well quoted mantra that each application for development will be considered on its individual merit. Even though there has been no surface working in the Derwent and the Pont Valleys for over 30-years that has not offered remediation of dereliction or similar, any future new proposal would, of course, have to be considered afresh. However, for the local community, which has already opposed the winning of the coal in the Bradley site on two previous occasions, one can understand their doubts about the system.
126. In addition, it is clear that some of the older and longer term residents have experienced surface working previously at any number of sites in the immediate locality. The cumulative effect of these might indicate enough is enough and, when coupled with the 'no-go area' in the Derwent Valley for 30-years, suggests things should be left in peace, unless there is an urgent need for this coal that could not reasonably be met elsewhere.
127. Looking at the portends that would arise if the Bradley scheme went ahead, the big fear is that allowing Bradley would be the thin end of the wedge, leading to extensions and the opening up of the Pont and Derwent Valleys for further surface working. Emotionally one can understand the local view, especially as many sites have been advanced during the last 30-years and, where remediation was not a compelling argument, they would seem to have all been successfully resisted at planning application and/or appeal stage. Certainly, no site in the Derwent or Pont Valleys was advanced by UK Coal as an example where remediation or similar was a not a benefit, but where the operation had breached a landscape designation as at Bradley or had provided community benefits that clearly outweigh the environmental harm.
128. Looking at things more objectively, the ES concludes that any extensions to the Bradley site would be uneconomical and/or environmentally unacceptable. Even so, an increase in the price of coal at any time in the future could reverse the viability conclusion, and with the ever escalating oil prices, this cannot be discounted.



129. As for the environmental objections, there is nothing to suggest that these would not be sustained, but a little chink in the armour of this could flow from the MLP Policy M8, which states that: "*The piecemeal working of opencast coal deposits will not be allowed*". Read simply this means that if opencast or surface working starts within a wider coal deposit, this could be argued as a precedent for working more or all of that deposit. Such activity would conform to the development plan and once local disruption had started it would be better to get it all over in one go. Coal resources contiguous to Bradley would remain untapped.
130. At the very least, this creates a tension between the presumption against opencast and the presumption in favour of 'extension'. As such, the onus of justification would revert to the MPA having to justify its reasons for refusal. It might be said that UK Coal would be 'bound' by the findings of the ES and the 'once and for all' in the s.106 Agreement. Notwithstanding, any successors in title may not see the Agreement as quite so binding and seek, with some reason, to argue that it conflicts with another planning policy and the 'national benefit' espoused by the draft NPPF could also be invoked.
131. On balance, if this appeal was allowed, the long term and successful protection of the sensitive parts of the Derwent and Pont Valleys would be breached. Even though any future applications would be treated on their individual merits, the fear of the local community and the possibility of arguing MLP Policy M8 in favour count against this scheme, if only to a small degree.

### *Sustainability*

132. The sustainability accreditation of the proposed development was not at the forefront of the Appellants' case. Perhaps this is surprising, given Government's stated position that it plans to put the UK on a path to sustainable, long-term economic growth by introducing "*....a powerful new presumption in favour of sustainable development, so that the default answer to development is 'yes'*". As this is only in draft at this stage and subject to change, it can be afforded only little weight. However, sustainable development is a material consideration and is clearly the Government's aim. As such, it merits a more detailed look at the appeal proposals in this regard.
133. In site specific terms, the sustainability of the Bradley proposal offers little, if anything, of merit during the operation itself. The access would be exclusively by road, with no rail or water transport opportunity nearby. In addition, no thought had been given to a Travel Plan and it was only at the 11<sup>th</sup> hour that a draft condition was proffered, but without any real thought or expectation of delivery. Similarly, the proposed priority access, which forms the appeal option, was not considered in the context of the works leaving a legacy in terms of a bus stop, long vehicle lay-by or forming part of any A692/A693 junction improvement. Inexplicably, the cost of the priority access, up to £300,000, could be entirely wasted and either have to be removed or be left as a maintenance liability for the next generation.

134. As for the power supply for operational works, in terms of lighting and running the compound, this would be drawn from the national grid and not locally generated. When asked about this, UK Coal opined that a wind turbine in the landscape would be unacceptable to the local community. As a free standing feature merely to serve the development, this is probably true. Even so, the nearby hillsides already host alien masts and transmitters and the suggestion as to whether a turbine or any other form of locally generated heat and/or power that could bequeath a beneficial legacy for the local people was not canvassed.
135. As mentioned, there was the argument about sustainability of coal generally and the benefits of indigenous as opposed to imported coal. However, the winning of surface worked coal starts off from the position of a poor relationship when the principles of sustainable development are applied, and this is a key driver for the presumption against. To compound this, is the serious lack of environmental sustainability, as concluded in the earlier landscape sections, and sought by PPS1<sub>(5)</sub>. This says that: *"Planning should facilitate and promote sustainability and inclusive patterns of urban and rural development by (inter alia) protecting and enhancing the natural and historic environment, the quality and character of the countryside, and existing communities"*.
136. All in all, this project would generally offer significant sustainability disbenefits, and certainly would not attract any powerful new presumption.

### *Localism*

137. The Localism Act 2011 gained Royal Assent shortly after the inquiry closed. At the inquiry it was clear that its intention is understood in a number of ways and, as a consequence, the expectation following its enactment varies significantly. Many individuals expressed the view that if the local consensus is against a development then it should not be granted a planning permission, irrespective of any merits it might boast. It seems that the definition of local can be very parochial and in some cases confined to those residents and others who consider they would be directly, albeit no doubt 'adversely', affected by any proposed development.
138. Nowhere is it said that Government sees its localism agenda as one to promote nimbyism. It seems aimed at empowering local agencies and people to deliver and better the Government agenda, without interference in the detailed management from the centre or from regionally appointed bodies. It is not, however, directed to deliver less, but to deliver at levels to maximise or exceed Government strategic objectives. Against this background, very little weight can be afforded to those who do not wish for any more development of this kind. The bottom line is that development plan policies exist and the Localism Act does not change this.
139. On the other hand, in a situation like this, where the County Council and local groups and individuals are unified in their objections, based on their understanding of the prevailing planning policy, then greater weight can be given. The unified view is that there would be environmental harm and the

benefits on offer to the local, and even wider, community do not clearly outweigh the harm.

140. The Localism Act offers the opportunity for communities to require LPAs to make neighbourhood development plans, which will set out policies for development for a particular neighbourhood area specified in the development plan. These provisions will enable the County Council to review the acceptability of surface working proposals in the Derwent and Pont Valleys through the emerging Unitary Development Plan and foster action to encourage local communities and groups to take greater ownership of their area, within a broader policy framework.

#### Benefits

141. The second issue looks to appraise the benefits arising from the scheme to see if they clearly outweigh the combined environmental and amenity harm. Several are arrayed by UK Coal and those not previously reviewed are looked at here.
142. The first of these is the benefit of the restoration scheme. The MLP policies look to recreate the former landscape and where possible enhance it. To this end for the appeal site, there would be replication of the same generic physical landscape. On to this the intention would be to add value, such as woodland planting, improved habitat, hedges, hedgerow trees and the reconstruction of the stone Dyke.
143. In a number of areas UK Coal's claims appear relatively strong. A case in point would be the management of the Billingside Plantation. Even so, the starting point is always what could be achieved if the surface working of the site were permitted. It does not assess what aspects of this could be achieved without winning the coal first or through sensible and targeted land management and natural maturation. Accordingly, the restoration proposals have to be looked at from two other perspectives.
144. First, most of these features could be achieved without the surface working, but with local input and commitment and much better land management. Importantly, local 'ownership' is crucial if any improvements are to be enduring. The second point pertains to the future use of the land. If, as seems likely, it would be sold on after restoration then the restoration has to be compatible with the likely future use. Today we have low grade grazing land in the main and there is nothing to suggest any changes to this in the future. As such, the creation of hedges and high quality grassland may not be an appropriate way forward.
145. As for the biodiversity improvement, once again better land management coupled with local 'ownership' could achieve very much the same. The one area where there would be benefit from the restoration is the financial input and immediacy of the work, but this has to be balanced against the 10-15-year loss of what is currently a settled landscape, habitat and local experience.

146. The next benefit argued is that pertaining to heritage. However, as concluded in the earlier section, the interest created by actually seeing and interpreting the 'humps and bumps' and other features far outweighs the recreation and interpretive boards. Moving on to improved public access this is again a claimed advantage, but as noted previously, in a location already well served by public footpaths, the additions would count for much less.
147. The need for coal, the stabilisation of land and the creation of jobs and economic benefits have all been considered in some detail, but when taken individually or cumulatively, they do not present a clear overriding local benefit. Incidentally, the submission that the site would be stabilised by the coaling operation holds very little, if any, weight. The fact is that if there was any danger, then the areas of concern would have already been cordoned off by UK Coal, as landowner. This is not the case and so, it is reasonable to assume that the potential risk is very small and unfettered access to observe the 'humps and bumps' perfectly acceptable.
148. Similarly the promise of monies for the roundabout scheme at the junction of the A692 and A693 does not stand as a beacon. This is because the successful works that have already been done largely address the previous accident blackspot and, importantly, in rejecting the Bradley application the County Council did not see this as a compelling benefit. In any event, there remains uncertainty about completing the roundabout works, and the original investment promised by UK Coal could be reduced by the cost necessary to construct the priority access should this go ahead.
149. Finally, there is the Community Fund. This is estimated to be some £50,000, unless there is an additional transfer from the unspent monies from the roundabout scheme. The first, guaranteed figure is relatively small, but more importantly, the local community sees it as such. Also, it lacks focus in not having identified anything specific and locally to contribute to. Without this there is every chance it would be 'frittered' away without delivering any sustainable community benefits. Even if the extra money became available, no-one suggested any particular use to which even an enhanced sum could be dedicated.
150. Perhaps crucially in this case, is the rejection of the offers by the County Council as well as the local communities and population. This says firmly that the benefits to the local community would not clearly outweigh the harm. Looked at another way, the offers or outcomes would not be so beneficial as to justify the intrusion and environmental disbenefits that would accompany working the Bradley site.

#### Conditions and s.106 Undertaking

151. A draft s.106 Unilateral Undertaking was discussed at the inquiry and, although eventually signed, shortcomings were identified within it. The views of both sides were produced <sup>(Documents UKC10 and DCC3)</sup> and the Unilateral Undertaking was withdrawn <sup>(Document 13)</sup>. The parties took this away and amendments were made, which now satisfy the County Council. This became a s.106 Agreement and was engrossed into a signed version dated 16 January 2012. Unfortunately, as explained under the earlier section on

access, this Agreement would have the effect of changing the preferred access from the A692 to the Bradley site. As there would be a significant number of processes to undertake to achieve this outcome, it is difficult to afford weight to any advantages that might flow from the changes proposed.

152. The other aspects of the Agreement, covering such topics as routing, ecological management, Community Fund, commitment not to extend the workings and the creation of a Liaison Committee, would still pertain and the parties are content that, with regard to these, their compliance or otherwise would accord with the principles of the CIL Regulations <sup>(Document 12)</sup>.
153. Draft conditions <sup>(Document 4)</sup> were also discussed in detail during the inquiry and an agreed list submitted. These draft conditions are vast in number and, while accepting that permissions for surface coal working have a tendency to generate larger numbers of conditions than many other forms of development, the total of over 100 seems somewhat excessive and would bequeath the local community as well as the County Council a mammoth task in monitoring and enforcement. It does seem that a significant proportion of these conditions could be consolidated into many fewer and, thus, be more manageable. However, it is fair to say that, as they stand, they would cover all the points necessary to secure the working, restoration and community environments intended.
154. Having said this, neither the s.106 nor the conditions overcome the fundamental objection arising from the environmental and amenity harm.

## Summary

155. In summary, the overarching policy is clear and consistent at all levels. In applying this, there is a strong and unequivocal conclusion that the winning of coal by surface working at Bradley would have a material and detrimental effect on the settled environment of the Pont Valley and the wider Derwent Valley. It is true that no landscape of a nationally recognised status would be affected. However, the local AHLV designation of and the use of this resource and adjoining countryside for the local communities would be lost for a childhood or a retirement. As it is the local community that would bear the brunt of the works, it is the effect on this that carries the day. Moreover, the s.106 Agreement and draft conditions would not address or outweigh this harm in an area previously a patchwork of coal mining activity, but one that has been largely restored and remained stable and untouched for more than 30-years.
156. To this landscape objection must be added the loss, for 10-15 years, of an important local resource, which is well used and appreciated by local people. Minor adverse effects on local living conditions would occur, but not sufficient either singularly or cumulatively to hold sway. UK Coal are leaders in their field and would manage the site in a way that minimises residential impact through noise, dust, vibration etc and their actions would be overseen by a Liaison Committee.
157. The restoration would offer some benefits in terms of landscape and habitat enhancement, but these would only occur as a consequence of the working

and winning of coal. Importantly, virtually everything of value could be achieved without the need to first win coal. They are, therefore, of lesser benefit and could be delivered by local community enterprise and good land management in the future, albeit in a longer timescale. Similar arguments apply to the heritage assets of the site, though, in this case, if coaling took place some would be lost and replaced by something perceived to be of much less value to the local community.

158. Although there is little doubt that the coal won from Bradley would find a market, it is not something required by policy or with an identified and needy end user. Neither is the working of the site something claimed by UK Coal to be essential for their future financial security. As espoused by Government policy, the winning and use of coal offers little or no sustainable credentials, and the savings in transport would be limited. Even then, the information available does not allow an holistic view to be taken. No other tangible sustainable benefits are proffered and the cost of the priority junction, if constructed, represents a significant negative factor in the sustainability audit. The creation of jobs would grant short term benefits, but the effect of the surface working could just as equally deflect inward investment and inhibit new development and upgrading of existing property.
159. The community benefits are not sufficient to outweigh the harm and, in the case where this accords with the local view, this must carry extra weight. Crucially they lack focus. The part funding of a junction improvement is still uncertain and not necessary for working the Bradley site. As such, it is easy to agree with the conclusions of the County Council and the local community that they do not outweigh the harm. In a nutshell, approaching a 15-year period to achieve what UK Coal contend would be equivalent status, would deliver a mere 3-days national coal supply. This does not seem to be a fair balance of harm to need, where no national policy need is identified.
160. All other matters raised in the evidence and representations have been taken into account, including the local views and the Planning Officer's recommendation for approval. On this last point, the planning witness acting for the County Council did say that the Officers had found it to be a finely balanced case. Consequently, there is nothing of such significance as to outweigh the material planning considerations leading to the clear conclusion that this appeal should fail.

*JS Nixon*

Inspector

## **APPEARANCES**

### **FOR DURHAM COUNTY COUNCIL:**

Ruth Stockley	Of Counsel, instructed by Ms Collette Longbottom, the Head of Legal and Democratic Services, Durham County Council
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She called

Mr G Halliday MA MURbD MRTPI	Independent Planning Consultant
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Mr P Barker M Phil CMLI	Senior Landscape Architect with Glen Kemp
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### **FOR UK COAL:**

Mr T Corner	Queens Counsel, Nabarro LLP, Solicitors, 1 South Quay, Victoria Quays, Sheffield, S2 5SY.
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Assisted by

Mr A Fraser-Urquhart	Of Counsel
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They called

Dave Bolton FIQ	National Operations Manager UK Coal.
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Phil Garner	Commercial Contracts Director UK Coal.
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Peter Hepworth BSc FIOA	Managing Director Hepworth Acoustics
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Dan Godfrey MSc MA (Cantab) MCIHT CMILT TPP	Senior Transport Planner with URS Scott Wilson
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Dr David Blythe MA (Oxon) PhD MIMMM IQ FGS CEng CGeologist	Director Scott Docherty Associates Ltd
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Niall Hammond BA (Hons) MIFA	Director A-Environment
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Dr Suzanne M Mansfield PhD BSc (Hons) MIEEM SMLI	Director of FPCR Environment and Design Ltd
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Phil Rech BA (Hons) B.Phil MLI	Director of FPCR Environment and Design Ltd
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UK Coal witnesses  
cont'd

Mark Dawson BSc MA  
Dip APC Dip NVC CEnv  
MIES MIAQM MIA

Technical Director and Principal Environmental  
Scientist with Wardell Armstrong

John Dickinson  
BSc(Hons) Dip TP MA  
MRICS

Regional Director (Planning) WYG Leeds

## **RULE 6 PARTY:**

Mr G K Wilson

Vice Chair CPRE (Durham Branch) and Secretary  
of the Derwent Valley Protection Society

## **INTERESTED PERSONS AND PARTIES**

Pat Glass MP

Cllr Watts Stelling

Ward Councillor

Cllr Alan Shield

Ward Councillor

Liam Carr

Lecturer in Newcastle

Mr E Murray

Secretary, Pont and District Community  
Association

Mr H Rocke

Resident Douglas Terrace

Mr K Osborne-Grant

Founder of the Osborne Conservation Trust

Mr Dennis Wichol

Employee and supporter of UK Coal

Mr G Blenkhorn

Resident of Ebchester and supporter

Mr David Marrs

Local historian, born in Douglas Terrace and  
member of Dipton History Group

Karen Adamson

Chair of the Pont Valley Network and Chair of  
Governors at St Patricks

Mrs Joanne Carr

Resident, Chair of Dipton Community Partnership  
and former Councillor

Anne Grainger

Objector

Sophie Cooke

Worker for Rising Tide on Climate and Coal issues



Zoe Tristan	High Stables
Tim Tristan	High Stables
Oliver Munnion	Coal Action Scotland
Chris Hearing	Coal Action Scotland
Tom Bradley	Supporter of National Renewable Energy
Michael Jones	Resident of Dipton
Frederique Blue	Resident of Bradley
Rob Blues	Resident of Bradley
Mr R Griffin	Resident of Dipton
Miss Roche	Resident of High Stables
Carol Roche	Resident of High Stables
Matthew Roche	Resident of High Stables
June Davison	Resident of High Stables
Julia Tristan	Resident of High Stables
Nick Brereton	Resident of Douglas Terrace
Jane Dodds	Resident
Dan Seele	Resident of Hedley Terrace
Peter Brown	Local resident
Allison Mountain	Resident of Hedley Terrace
Fiona Clelland	Local resident
Karen Thompson	Former resident of Billingside Farm
Lulu Poad	Resident of High Stables
Ellen Wilson	Derwent Valley resident
John Dodds	Resident of Douglas Terrace
Nina Adamson	Resident
Drummond Orr	Resident of Douglas Terrace

Jean Findlay	Resident of Blackhill/Shotton Bridge
Eric Morton	Resident of the Derwent Valley
Lyn Morton	Resident of the Bernop Field in Derwent Valley
David Shields	Resident of Leadgate and supporter of the Pont Valley Network
Jaduiga Billewicz	Resident of Hedley Terrace
Barbara Seale	Resident of Douglas Terrace
Alison Henderson	Resident
Brenda Bell	Resident of Dipton and Beaver Scout Leader
Guy Hutchinson	Student at Durham University
John Bewley	Member of Durham Miners and other Co-operative and employment interests

## **INQUIRY DOCUMENTS**

- 1 Minutes of PIM
- 2 Letter from Durham County Council withdrawing the noise objection
- 3 Statement of Common Ground
- 4 Draft Conditions
- 5 Draft s.106 Agreements/Undertakings
- 6 Signed copy of final s.106 Obligation
- 7 Additional viewing points suggested by third parties
- 8 Third party submissions
- 9 Additional third party letter
- 10 Site visit itinerary
- 11 Core Document list
- 12 Agreed Note re Community Infrastructure Levy Regulations 2010
- 13 Position Statement re substitution of s.106 Unilateral Obligation by an Agreement

## **CORE DOCUMENTS**

- |     |  |
|-----|--|
| CD1 | (a) Planning- Application and Environmental Statement                                    |
|     | (b) Environmental Addendum July 2009   |
| CD2 | Pre-Application Correspondence between UKC and LPA's                                     |
| CD3 | Officer's report to committee dated 29 September 2008 relating to the appeal application |
| CD4 | Report to Committee  |
| CD5 | Decision Notice  |
| CD6 | Minerals Local Plan 2000   |
| CD7 | Nabarro letter to PINS   |
| CD8 | Nabarro letter to DCC  |

CD9	Billingside Committee Report
CD10	Billingside Decision Notice
CD11	Billingside Inspector's report Lichfield and Partners
CD12	Jolly Drovers Committee Report
CD13	Jolly Drovers Minutes of Committee Meeting
CD14	Billingside Ponds Committee Report
CD15	Billingside Ponds Decision Letter
CD16	UK Coal landholding in Derwent Valley
CD17	Draft s106 Agreement
CD18	Existing Features Plan 176/D01d
CD19	Site Plan 176/D02d
CD20	Restoration Plan 176/D03d
CD 21	Good Practice Guide for Handling Soils - Natural England
CD 22	Agreed draft section 39 agreement
CD23	Derwentside Local Plan
CD24	Regional Spatial Policy for the North East
CD25	ASDU Report, Billingside Ponds, August 2010
CD26	Agreed Zones of Theoretical Visibility
CD27	DCC Statement of Case
CD28	Appellant's Statement of Case
CD29	Statement of Common Ground (October 2011) See Inquiry Document 3
CD30	Regulation 22 Information, 24 August 2011
CD31	Stopping Up Application under s247 TCPA
CD32	Previous Workings Plan 176/D41
CD33	The Noise Emission in the Environment by Equipment for Use Outdoors Regulations 2001

CD34	BS 4142 1997
CD35	BS5228: Part 1 2009
CD36	BS5228: Part 2 2009
CD37	Calculation of Road Traffic Noise
CD38	Noise from Opencast Coal Sites: A Study into Prediction Accuracy —Hepworth Acoustics
CD39	BS 6472: Part 2 2008
CD40	Guidelines for the Environmental Assessment of Road Traffic — Institute of Environmental Assessment
CD41	British Standard 7385 Part 2 - Evaluation and Measurement for Vibration in Buildings
CD42	Design Manual for Roads and Bridges, Volume 11, Section 3 — Environmental Assessment, Part 1, Air Quality
CD43	Minutes of Bradley Committee Meeting
CD44	Mineral Extraction and Archaeology and PPS5 Attachment
CD45	Scheduled Monuments (Department of Media, Culture and Sport)
CD46	Landscape Character Assessment: Guidance for England & Scotland, 2002 – SNH / Countryside Agency
CD47	Photography and photomontage in landscape and visual impact assessment, Advice Note 01/11: Landscape Institute
CD48	Draft National Planning Policy Framework

## **FURTHER UK COAL DOCUMENTS**

UKC1	Press Release – Longannet
UKC2	Noise Note – Additional Definitions and Time periods for short term operations
UKC3	Bradley Employees
UKC4	D Bolton response to A Grainger
UKC5	Additional Information re Archaeology
UKC6	Total UK Coal Permitted Surface Mine Tonnage
UKC7	Note from D Bolton – West Billingside Farm
UKC8	Note from D Bolton – Dust Complaints at Stony Heap

UKC9	List of Sites started and restored
UKC10	Nabarro Note on Bradley Unilateral Obligation
UKC11	Niall Hammond Overlay Plan
UKC12	Note on "Conserve and Enhance"
UKC13	Opening statement
UKC14	List of witnesses
UKC15	Extract from PPS7
UKC16	List of objectors and map showing locations
UKC17	Extract from Shotton Opencast report
UKC18	Closing submissions

#### **FURTHER DURHAM COUNTY COUNCIL DOCUMENTS**

DCC1	Potland Burn sub soil mound S4 – view east
DCC2	Potland Burn sub soil mound S4 – view west
DCC3	Note re Planning Obligation
DCC4	Note on cumulative impact
DCC5	Note on derelict land
DCC6	Note on highway improvement works
DCC7	Closing submissions

#### **FURTHER RULE 6 PARTY DOCUMENTS**

R6.1	Response to rebuttal evidence document
R6.2	Report of County Planning Officer 13 February 1974
R6.3	Extract re Hobson Opencast from Development Control Sub Committee dated 13 September 1977
R6.4	Extract re Ploughsett Opencast from Development Control Sub

Committee dated 8 June 1982

- R6.5 Response to Mr Garner's rebuttal
- R6.6 Decisions by Inspectors and/or Secretary of state
- R6.7 Longannet CCS Project Cancelled
- R6.8 Longannet CCS Project Cancelled
- R6.9 Longannet CCS Project Cancelled
- R6.10 Scunthorpe Run down
- R6.11 Demand forecast for coal extrapolated from 1950-1978
- R6.12 Closing submissions