

Trevor Parkin  
Entec UK Limited  
Abbey Lawn  
Abbey Foregate  
Shrewsbury  
SY2 5DE

Our Ref: APP/C3240/A/08/2090405

Your Ref: S23231PI740/TJP

6 October 2009

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78.  
APPEAL BY UK COAL MINING LTD  
APPLICATION REF: W2007/1648  
SITE AT WEST OF TELFORD, 250m SOUTH OF THE M54 JUNCTION 6-7, 100m  
WEST OF THE SETTLEMENT OF NEW WORKS, TELFORD.**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, A Mead BSc (Hons) MRTPI MIQ, who, assisted by Miss E Ord LLB (Hons) LLM MA DipTUS, held a public inquiry between 28 April and 4 June 2009, into your client's appeal under Section 78 of the Town and Country Planning Act 1990 against the failure of Telford and Wrekin Council (the Council) to give notice within the prescribed period of a decision on an application for a proposed surface mining site involving the working of 900,000 tonnes of coal and potentially 250,000 tonnes of fireclay over 32 months, on land west of Telford, 250m south of the M54 junction 6-7, 100m west of the settlement of New Works, Telford in accordance with application reference W2007/1648 dated 28 November 2007.
2. On 8 December 2008 the appeal was recovered for the Secretary of State's own determination, in pursuance of Section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990 because the appeal relates to major proposals involving the winning and working of minerals.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeal be allowed and planning permission granted, subject to conditions. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and with his recommendation. A copy of the Inspector's report (IR) is enclosed for the main parties and a copy of his conclusions is enclosed for all other copyees. All references to paragraph numbers, unless otherwise stated, are to that report.

## **Procedural matters**

4. The Secretary of State has taken account of the minor amendments made to the appeal proposals as described by the Inspector at IR19 – 20. The Secretary of State notes that the Council did not object to these changes. He considers that no prejudice has been caused to any party by the changes and, like the Inspector, he has determined the appeal on the basis of the amended details.
5. In reaching his decision, the Secretary of State has taken into account the Environmental Statement submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 ("EIA Regulations"), and all the other environmental information submitted in connection with the appeal. The Secretary of State is content that the Environmental Statement complies with the above regulations and that sufficient information has been provided for him to assess the environmental impact of the application.

## **Matters arising after the close of the inquiry**

6. A schedule of correspondence received by the Secretary of State following the close of the inquiry is attached at the end of this letter. The Secretary of State has taken all the representations into account in reaching his decision but he does not consider that they raise any new issues that either affect his decision or that require him to refer back to the parties prior to reaching his decision. Copies of this correspondence can be made available on request to the address at the foot of the first page of this letter.

## **Policy considerations**

7. In his determination of this appeal, the Secretary of State has had regard to Section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
8. In determining this appeal, the Secretary of State has taken into account the fact that the site includes part of a scheduled monument (SAM), and that the local area includes other SAMs. He has also taken account of the fact that two listed buildings lie in close proximity to the site boundary, and in accordance with section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, he has paid special regard to the desirability of preserving the listed buildings and their setting or any features of special architectural or historic interest which they may possess. In relation to the Wrockwardine and Wellington Conservation Areas, the Secretary of State has had regard to section 72(1) of the same Act, which requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
9. In this case, the development plan comprises the Regional Spatial Strategy for the West Midlands, incorporating Phase One revisions in respect of the Black Country, published in 2008 (RSS), saved policies from the Shropshire and Telford & Wrekin Joint Structure Plan (JSP) (adopted 2002), saved policies of the Shropshire and Telford & Wrekin Minerals Local Plan (MLP) (adopted 2000) and saved policies of the Wrekin Local Plan (WLP) (adopted 2000). The Telford and Wrekin Local

Development Framework: Core Strategy (LDF (CS)) (adopted 2007) is also part of the development plan. The Secretary of State considers that the development plan policies most relevant to the appeal are those set out by the Inspector at IR31-42, but including WLP policy E6 (not policy 6).

10. The West Midlands Regional Spatial Strategy Phase Two Revision – Draft Preferred Option December 2007 is an emerging part of the development plan and the Secretary of State considers that it can be accorded some weight.
11. Material considerations which the Secretary of State has taken into account include Minerals Policy Statement 1 (MPS1): *Planning and Minerals*; Minerals Planning Statement 2 (MPS2): *Controlling and Mitigating the Environmental Effects of Mineral Extraction in England*; Minerals Planning Guidance 3 (MPG3): *Coal Mining and Colliery Spoil Disposal*; Minerals Planning Guidance 7 (MPG7): *Reclamation of Mineral Workings*; Planning Policy Statement 1 (PPS1): *Delivering Sustainable Development* and its supplement *Planning and Climate Change*; Planning Policy Statement 7 (PPS7): *Sustainable Development in Rural Areas*; Planning Policy Statement 9 (PPS9): *Biodiversity and Geological Conservation*; Planning Policy Guidance note 13 (PPG13): *Transport*; Planning Policy Guidance note 15 (PPG15): *Planning and the Historic Environment*; Planning Policy Guidance note 16 (PPG16): *Archaeology and Planning*; Planning Policy Statement 24 (PPS24): *Planning and Noise*; and Circular 11/95: *The Use of Conditions in Planning Permission* and Circular 5/2005: *Planning Obligations*.
12. The Secretary of State has also taken into account *Meeting the Energy Challenge: A White Paper on Energy*, published in 2007.
13. The Secretary of State has also had regard to the consultation paper on a new Planning Policy Statement 15: *Planning for the Historic Environment*, published in July 2009. However, as this document is in draft and may be subject to change, he affords it little weight.

## **Main Issues**

14. The Secretary of State agrees with the Inspector that the main issues in this appeal are whether the proposal is in accordance with the development plan, the need for the minerals, and the issues set out in IR478.

### The development plan

15. Whilst recognising that Policy M21 of the MLP has been saved and remains part of the development plan, the Secretary of State agrees with the Inspector, for the reasons given in IR481-482 that the weight to be attached to Policy M21(D) of the MLP has diminished. He has considered below the extent to which the appeal scheme complies with specific policies in the development plan.

### Need for the minerals

16. The Secretary of State agrees with the Inspector's reasoning and conclusions on the need for the minerals as set out in IR483-489. He observes that there was no dispute at the inquiry about the importance of coal in the UK's domestic energy

mix (IR483) and, like the Inspector, he considers that there is every likelihood of the demand for home sourced coal continuing into the foreseeable future (IR484). The Secretary of State recognises that there was limited evidence to substantiate the appellant's claim that there would be a significant benefit from reduced CO2 emissions if imported Russian coal were to be replaced by coal from the appeal site but, for the reasons the Inspector gives in IR485-486, he agrees that there would probably be a benefit from the proposal in terms of reducing carbon emissions. The Secretary of State also recognises that there are no contracts in place to demonstrate the guarantee of a market for the Huntington Lane coal but, for the reasons the Inspector gives in IR487, he agrees that it is highly likely that the coal would be sold for use at the Ironbridge Power Station. Overall, the Secretary of State agrees with the Inspector that there is a need for the coal, as expressed in the 2007 Energy White Paper and MPS1 (IR488).

17. The Secretary of State agrees with the Inspector that the transportation of fireclay away from the site by road would be a negative sustainability factor to take into account (IR489).

#### The landscape of the area, including the Area of Outstanding Natural Beauty (AONB)

##### *Character and appearance*

18. Having had regard to the matters set out by the Inspector in IR490-493, including the fact that the harm that would be endured would be temporary, and mitigated by progressive backfilling and restoration, the Secretary of State agrees that, on the whole, the direct effects of the scheme on the character and appearance of the site would either be insignificant per se, or of a sufficiently short duration so as to render them insignificant (IR493). Like the Inspector the Secretary of State considers that, following restoration of the site, there would be an overall benefit to the landscape, which would outweigh the temporary harm (IR493). For the reasons the Inspector gives in IR494, the Secretary of State agrees that the detriment to the character and appearance of the wider landscape would be slight.

##### *Visual impact*

19. The Secretary of State agrees with the Inspector's assessment, set out in IR495, that the harm to views from the summit of the Wrekin would be slight and that, apart from the impact on the public rights of way network, which is considered below, there would be no other material visual impacts from the public domain. The Secretary of State has had regard to the Inspector's comments on the scheme's visual impact from a number of private viewpoints (IR496), as well as his remarks about the site's natural screening, the screening measures proposed by the appellant (IR497) and the duration of the visual impacts (IR498). Overall, for the reasons given in IR496 - 499, the Secretary of State agrees with the Inspector that the natural screening, the mitigation measures proposed, and the short operational time scale render the proposal acceptable in terms of visual impact (IR500). He also agrees with the Inspector that once restoration took hold the visual effect would be markedly reduced and, in the long term, the site would probably appear more visually pleasing than now (IR498).

##### *Recreation*

20. The Secretary of State agrees with the Inspector that, for the reasons given in IR502, whilst there would be a significant visual impact on a small number of

public rights of way, overall the effect would be acceptable. Having had regard to the Inspector's comments in IR503, he also agrees that the provision of new routes, surfacing, signage and parking, would be a material benefit which would outweigh the temporary adverse impacts and render the short lived conflicting land uses acceptable.

#### *Restoration*

21. For the reasons given by the Inspector, the Secretary of State shares his view that the proposed restoration scheme would bring about significant benefits to the landscape once planting has matured (IR504).

#### *The landscape/quality and setting of the AONB*

22. The Secretary of State has had regard to the fact that a very small part of the Shropshire Hills Area of Outstanding Natural Beauty (AONB) extends into the site. The Secretary of State has taken account of the Inspector's view that this area of land fails to reflect the beauty of the adjacent AONB, but that it is nonetheless AONB and retains its important policy status (IR508). For the reasons given in IR509, and taking account of the proportion of the AONB which lies within the appeal site, the Secretary of State agrees with the Inspector that the scheme's impact on this part of the AONB would not be substantial overall and that, in the long term, its quality would be improved, allowing it to fulfil more of an AONB function than at present. In terms of visual impact from the surrounding AONB, the Secretary of State also agrees with the Inspector, for the reasons given in IR510, that taken as a whole, the integrity and setting of the AONB would not be significantly affected. Overall, the Secretary of State agrees with the Inspector's conclusion that the proposal would not cause significant detriment to the environment and landscape and that, in the long term, it would provide an improvement to the AONB within the site, which would benefit the scenic beauty of the AONB as a whole (IR511).

#### *Conclusion*

23. The Secretary of State's shares the Inspector's view that the effect of the scheme on the area of countryside surrounding the Shropshire Hills AONB would be environmentally acceptable (IR507). He further agrees with the Inspector (IR512), that the impact of the scheme, both on the site and on the setting of the wider AONB would be temporary and, overall, insignificant and that after restoration there would be an improvement to the AONB as a whole.

#### Cultural heritage and the New Works Wood Scheduled Monument

24. For the reasons set out at IR514, the Secretary of State shares the Inspector's view that the character and appearance of the setting of the nearby listed buildings would be preserved, and that there would be no significant effect on the settings of St John's Church in Lawley or the Wrockwardine or Wellington Conservation Areas. Having taken account of IR152 and the Inspector's comments at IR515, the Secretary of State agrees with the Inspector that the appeal scheme would have no effect on the setting of the SAM at Willowmoor and no significant impact on the setting of the SAM on the summit of the Wrekin.

25. The Secretary of State has had regard to the advice in PPG16 which states that there should be a presumption in favour of the physical preservation of nationally

important archaeological remains and a presumption against proposals which would involve significant alteration or cause damage. He observes that English Heritage raised no objection to the scheme at application stage and, like the Inspector, he sees no reason to doubt the views of English Heritage (IR519). Having taken account of the Inspectors comments at IR516 –521, the Secretary of State agrees with the Inspector's reasoning and overall conclusion at IR521 that the appeal scheme complies with policy M6 of the MLP and that it should not be dismissed on archaeological grounds.

### Impact on residential amenities

#### *Noise*

26. The Secretary of State agrees with the Inspector, for the reasons he gives in IR523-524, that whilst Policy M4 of the MLP has been saved, the more recent Government advice contained in MPS2 should be afforded considerable weight (IR524).

27. For the reasons given in IR526-528, the Secretary of State agrees with the Inspector that the range of data collected is sufficient to enable a representative picture of the noise climate to be provided (IR528). The Secretary of State also agrees with the Inspector that, for the reasons given in IR529-534, the noise from the scheme would comply with the aims of MPS2 Annex 2 and that the aims of MLP M4 are not compromised and that sound reasons to dismiss the appeal due to the effects of noise do not exist (IR534). In terms of noise, like the Inspector, the Secretary of State concludes that the proposal would not be in conflict with the aims of policies M3, M4 or M21 of the MLP (IR534).

28. For the reasons he gives at IR535, the Secretary of State agrees with the Inspector that there is no reason for limiting Saturday operations any more than is set out in the proposals, and he also agrees with the Inspector in relation to the condition on noise limits. The Secretary of State recognises that the effects of blasting and vibration is of concern for local residents but, having had regard to the Inspector's reasoning and conclusions as set out in IR536, including the fact that no technical aspect of the evidence on blasting or vibration was challenged by the Council, the Secretary of State agrees with the Inspector that the public concern is not of such significance that it would justify dismissing the appeal or that it would contribute to any cumulative effect (IR536).

#### *Air quality*

29. The Secretary of State recognises that dust would be created from a number of activities, with the potential for particles to cause nuisance (IR537). He has taken account of the results of the appellant's dust impact assessment which suggested that New Works Farmhouse, Falcon House and Hilltop Garage would be significantly affected, and that a number of other properties and recreational users would be at risk of material impact (IR538), but he observes that this assessment did not consider mitigation, and the 200-500m analysis did not account for most of the particles having already grounded (IR539). Overall, for the reasons given in IR539-543, the Secretary of State agrees with the Inspector that coupled with the site phasing and temporary nature of the works, mitigation should bring overall dust deposition levels down to an insignificant level, compliant with national and development plan policies (IR543). In relation to fine particulates, for the reasons

given by Inspector at IR544-545, the Secretary of State agrees with him that the relevant Air Quality Objectives would be readily met. Overall, the Secretary of State agrees with the Inspector's conclusion that health effects from dust would be negligible, there would be no conflict with Policy M4 of the MLP in this respect and that, in accordance with government guidance, the proposal should not be refused on these grounds (IR546).

### Cumulative effects

30. The Secretary of State has had regard to the Inspector's comments at IR547 – 549 and he has considered the three categories of cumulative impact referred to by the Inspector at IR549. In relation to successive effects, for the reasons the Inspector gives in IR550, the Secretary of State agrees with him that there would be no undue accumulated harm to the landscape, no cumulative effects on biodiversity, and no significant accumulated impact on local residents. For the reasons set out by the Inspector, he also agrees that, as regards simultaneous cumulative impact, there would be a minimal combination of effects (IR551).
31. The Secretary of State further agrees with the Inspector's approach to assessing the combination of impacts from the appeal scheme as described in IR552. For the reasons given by the Inspector at IR553, the Secretary of State shares his view that, overall, the landscape effects would not come close to being objectionable and their weight in the cumulative balance is negligible. In relation to cultural heritage, he agrees with the Inspector for the reasons given in IR554 that the failure of a small part of the scheme to comply with advice in PPG16 weighs against the proposal to a degree which could form part of a cumulative reason to object to the development. Like the Inspector, the Secretary of State considers that, on the whole, dust emissions would not be near to objectionable and that their weight in the cumulative balance is slight (IR555). In relation to noise and blasting, the Secretary of State shares the Inspector's views that noise would not make a substantive contribution to cumulative harm (IR556) and that blasting would not form a component of a reason to dismiss the appeal on the basis of the cumulative effects (IR557).
32. For the reasons set out by the Inspector at IR558, the Secretary of State agrees that the challenges to the appellant's assessment of the site's ecological interest and value are of limited weight. Having had regard to the matters set out in IR559-565, the Secretary of State sees no basis to disagree with the Inspector's conclusion that there would be no significant harm to nature conservation or water resources and that any impact from the appeal scheme would be temporary (IR565). He also agrees with the Inspector's view that, in the long term, restoration would result in an enhancement of species and habitats, thereby improving biodiversity overall (IR565). Like the Inspector, he concludes that, in this regard, the proposal accords with the development plan and national policy and that its effects do not contribute with any significance to any adverse cumulative impact (IR565).
33. The Secretary of State observes that the main parties agree that the road network is of sufficient capacity to accommodate traffic generated by the proposal, and that neither the local Highways Authority nor the Highways Agency objects to the proposal (IR566). Overall, for the reasons given in IR566-567, the Secretary of

State agrees with the Inspector that the effect on highways and highways users would be insignificant, no breach of policy would result and the highways effects in the cumulative impacts would be negligible (IR567).

34. For the reasons given by the Inspector at IR568, the Secretary of State agrees that, whilst overall and in the long term the environmental and landscape effects on the AONB would be insignificant during the operations, prior to restoration the adverse effects on the AONB within the site would make a minor contribution to cumulative harm (IR568).
35. Overall on the combined effects of the proposal, the Secretary of State agrees with the Inspector that most of the environmental impacts would be negligible and do not make any significant contribution to a cumulative adverse effect (IR569). Like the Inspector (IR569), he does not consider that the impact on the New Works Wood SAM and the impact on the AONB amount to reasons to dismiss the appeal, either in themselves or in combination. He concludes that there would be no conflict with MLP policies M1, M2, M3, M4, M7 or M21.

### **Other matters**

36. The Secretary of State has had regard to The Friends of the Ercall's view that a breach of Article 14 of the European Convention on Human Rights arises because of differences between the planning guidance which applies in England compared to that which applies in Scotland and that which applies in Wales (IR417 and IR570). The Secretary of State has considered this matter but he takes the view that differences in policy do not, in themselves, amount to discrimination. He is satisfied that, having assessed the appeal scheme against relevant national and local policies, he has given proper consideration to all relevant issues.

### **Benefits**

37. The Secretary of State has given careful consideration to the Inspector's comments at IR571 – 575. He agrees with the Inspector's reasoning at IR571 – 574. Like the Inspector, the Secretary of State considers that the following matters are benefits counting in the scheme's favour: the coal would assist in meeting a national need; restoration would reinstate the landscape to a form similar to that which exists, but with provision for 5.8km of species rich hedgerow and a tree belt; agricultural pasture and species rich grassland would be established; new woodland in the part of the site in the AONB would recreate the woodland cover that was present before previous opencast mines removed it and altered the character of that part of the AONB; 4km of new surfaced footpaths would be created; public access to, and interpretation of, the New Works Wood SAM would be improved; land regarded as unstable and classified as derelict because of former mine workings would be remediated (IR571). The Secretary of State also agrees with the Inspector's analysis at IR574 about the socio economic benefits that the scheme would provide and, like the Inspector, he concludes that overall the proposal would have a positive effect on the economy, including the economy locally. The Secretary of State has also taken account of the appellant's provision of £500,000 for a Mineral Trust Fund to benefit the local community by funding community based projects in the area. He observes that many of these benefits would be long-term or permanent benefits.

38. For the reason given at paragraph 40 below, the Secretary of State has given no weight to the covenant at part 2 of schedule 1 of the planning obligation, which relates to the winning and working of minerals in South West Telford.

### **Conditions and obligations**

39. The Secretary of State has considered the proposed conditions and national policy as set out in Circular 11/95 as well as the Inspector's comments at IR470 - 474. He agrees with the Inspector's assessment and conclusions on conditions as set out in IR470 - 474 and has adopted the form of conditions recommended by the Inspector, as set out in Annex A of the IR. The Secretary of State considers that the conditions, as amended, are reasonable and necessary and comply with Circular 11/95.

40. The Secretary of State has considered the appellant's S106 unilateral undertaking, and the Inspector's comments as set out in IR468 - 469 as well as national policy as set out in Circular 05/2005. The Secretary of State affords no weight to the covenant relating to the winning and working of minerals within South West Telford because he has doubts as to the enforceability of such a commitment. With regard to the other provisions in the undertaking, he is satisfied that the planning obligations are relevant to the proposed development and meet the policy tests of Circular 05/2005.

### **Overall conclusions**

41. The Secretary of State has had regard to IR576 – 577. Like the Inspector he has not identified any significant harm which would be caused by the scheme and he concludes that, subject to conditions and the provisions of the s106 obligation (other than the covenant to which he gives no weight at paragraph 40 above), the proposal would be environmentally acceptable. He concludes that the scheme successfully passes the test at MPG3 paragraph 8(i) (IR577).

42. Given his conclusion on this test, the Secretary of State has gone on to consider test (iii) at MPG3 paragraph 8, which refers to paragraphs 28 and 29 of MPG3. For the reasons given by the Inspector at IR580, and also taking account of the appellant's evidence at IR84, the Secretary of State agrees with the Inspector that the shortfall between demand for coal for power generation and demand as indicated by the level of imports suggests a significant need for the coal and a passing of the test at MPG3 paragraph 29(i). In relation to paragraph 29(ii), the Secretary of State agrees with the Inspector that the impact on the local economy of a dismissal of the appeal would be limited because the operation does not currently exist. The Secretary of State's conclusion about the impact on the local economy of allowing the appeal is set out at paragraph 38 above. In relation to paragraph 29(iii), the Secretary of State agrees with the Inspector's analysis at IR581 – 582. Like the Inspector (IR582), the Secretary of State takes the view that, provided the proposed mitigation measures are implemented, the scheme would not cause a detrimental effect on the environment or on the landscape. The Secretary of State is satisfied that the relevant matters set out at paragraph 29 of MPG3 have been properly assessed, and like the Inspector (IR582), he considers that the relevant tests have been passed.

43. The Secretary of State has had regard to paragraph 28 of MPG3 and to IR583. He shares the Inspector's view that there are a number of factors in this case which combine to satisfy the requirement to show exceptional circumstances: only a small part of the site is within the AONB and only a very small part of an outer extremity of the AONB is affected; the inferior landscape quality and setting of the AONB within the site; the short term nature of the operations; and the need for the coal. He also agrees with the Inspector that significant benefits would result from the restoration proposals (IR583). Taking account of the very limited harm which the Secretary of State has identified in relation to this scheme, and his conclusions at paragraph 37 above about the benefits it offers, the Secretary of State is satisfied that a decision to allow the appeal and grant planning permission would be in the public interest. In conclusion, the Secretary of State is satisfied that the appeal scheme complies with national policy as set out in MPG3.
44. The Secretary of State further agrees with the Inspector (IR583) that, having regard to RSS Policy QE1, JSP Policy P59, MLP Policies M3, M7 and M21 and WLP Policy OL2, the proposal is compliant with the aims of the development plan to safeguard the landscape of the countryside, the AONB and its setting
45. The Secretary of State agrees with the Inspector's conclusions at IR584 that the scheme would not prejudice the aims of MLP Policy M4 and that it would be in accordance with MLP Policy M21D. He also agrees that the proposal would comply with all other saved policies of the MLP, and that it would not be in conflict with WLP Policy OL2 or saved policies of the JSP or policies of the RSS. Like the Inspector, the Secretary of State is satisfied that, in relation to the guidance in MPG3, MPG7, MPS1 and MPS2, the scheme is satisfactory (IR584).
46. The Secretary of State has identified an element of conflict with PPG16, but is satisfied that this would not justify dismissal of the appeal scheme. In all other respects, the Secretary of State is satisfied that the scheme generally complies with the development plan and with national policy. Overall, for the reasons given above, the Secretary of State does not consider that there are any material considerations of sufficient weight which would justify refusing planning permission.

### **Formal decision**

47. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows the appeal and grants planning permission for a proposed surface mining site involving the working of 900,000 tonnes of coal and potentially 250,000 tonnes of fireclay over 32 months, on land west of Telford, 250m south of the M54 junction 6-7, 100m west of the settlement of New Works, Telford in accordance with application reference W2007/1648 dated 28 November 2007.
48. An applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the local planning authority fail to give notice of their decision within the prescribed period.

49. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than that required under section 57 of the Town and Country Planning Act 1990.

50. This letter serves as the Secretary of State's statement under Regulation 21(2) of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.

**Right to challenge the decision**

51. The Secretary of State's decision may be challenged by making an application to the High Court within 6 weeks of the date of this letter.

52. A copy of this letter has been sent to Telford and Wrekin Council and all parties who appeared at the inquiry.

Yours faithfully,

**Christine Symes**

Authorised by the Secretary of State to sign in that behalf

## **SCHEDULE OF POST-INQUIRY CORRESPONDENCE**

Mrs L Woodbridge	Dated 23 June
Brian Lee-Hale	Dated 27 June
Mrs J Madeley and Mr C Madeley	Received 30 June
Christine Wells and John Wells	Received 13 July
Mr and Mrs D H Perkins	Dated 14 July
Mrs V Guy	Dated 11 August
Robert Lowe	Dated 15 August
Glenda Lowe	Dated 15 August
Victoria Coleman	Dated 20 August
Ivan D Coleman	Dated 20 August
Janet Mees-Robinson	Dated 28 August
Patrick Judson	Dated 4 September
Janet Mees-Robinson	Dated 12 September
P J D Goode	Dated 29 September
A number of letters in support of CPRE's call to stop opencast mining and boost funding for wave and tidal power.	Various dates in September
Petition presented by Mr John F. Marcham	Dated 18 June
Petition presented by Mark Pritchard MP	Dated 21 July

## **Conditions**

### **Annex A: List of recommended planning conditions**

1. No development including the uses, operations and activities associated with the proposals hereby approved shall be carried out other than in accordance with the details set out in the Application for Planning Permission, as supplemented by the Environmental Statement submitted by UK Coal Mining Ltd on 30 November 2007, and subject to revisions and amendments contained in the documents listed in the Schedule to this Planning Permission.
2. From the commencement of development until its completion, a copy of this permission, including all documents hereby approved or cited in the following conditions and any other document subsequently approved in accordance with any condition of this permission shall be kept available for inspection at the developer's Huntington Lane site offices during the prescribed working hours.
3. Notwithstanding the provisions of article 3 and parts 19 and 20 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 no plant or machinery, buildings or structures shall be placed or erected on the site except as expressly authorised or required by this permission, or otherwise approved in writing beforehand by the Mineral Planning Authority.
4. No materials for infilling, shall be imported to the site and no coal shall be imported to the site for blending or re-sale or any purpose not directly related to the surface mining and restoration works hereby permitted.
5. No soils or any other material suitable for the restoration of the site shall be exported from the site.
6. No excavation below soil level shall take place outside the areas bounded by the dashed line showing the limit of excavation on the approved Site Plan Drawing No. 23231-S91a or below the base of the Little Flint coal seam of the Lower Coal Measures.

### **COMMENCEMENT AND DURATION**

7. This development shall commence not later than two years from the date of this planning permission.
8. All development authorised or required by this permission (with the exception of 5 year aftercare requirements (Condition 42) shall cease and the site shall be restored in accordance with the approved details and conditions of this permission not later than 44 months from the date of commencement of development.

### **PREPARATION WORKS**

9. At least 14 days' notice shall be given, in writing, to the Mineral Planning Authority of the commencement of development.

10. No development shall take place until a scheme has been submitted to and approved in writing by the Mineral Planning Authority setting out those matters to be undertaken before the commencement of mineral extraction and such matters shall include the following:

- The provision of fencing;
- The construction of a new vehicular access;
- Drainage and water treatment facilities;
- Site offices;
- Plant yard;
- Layout of the coal processing area;
- Wheel/chassis washing facilities;
- Shaft treatment works, and
- Addressing risk of spontaneous combustion.

The scheme shall be implemented within a time limit that shall be specified in the scheme as approved.

#### **BLASTING AND VIBRATION**

11. No blasting shall take place except such as will result in a peak particle velocity (p.p.v.) in any place not exceeding 12 millimetres per second, with 95 per cent of blasts not exceeding six millimetres per second in any six month period at the nearest occupied property. Where the p.p.v. exceeds six millimetres per second, the Mineral Planning Authority shall be informed on the same working day, or as soon as practically possible and not later than the next working weekday.

12. Blasting shall be carried out only between 1000 and 1200 on weekdays or at such other specified times as may be agreed in writing in advance by the Minerals Planning Authority. Such blasting shall be carried out only after visual and audible warnings have been given.

13. No development shall take place until a scheme has been submitted to and approved in writing by the Mineral Planning Authority in relation to the following matters:

- Details of the publicity exercise which shall be carried out to advise local residents one week prior to the commencement of any blasting operation;
- Details of visual and auditory signals prior to the commencement of any blasting operation;
- Blasting methods and techniques (including mitigation measures) and
- Monitoring locations and methodology.

The scheme shall be implemented as approved in writing.

14. The results of all monitoring shall be available for inspection by the Mineral Planning Authority at the site office during normal site operating hours.

15. No blasting shall commence until details of the methods to be employed to minimise air overpressure from blasting operations have been submitted to and received written approval of the MPA. All blasting operations shall take place only in accordance with the scheme as approved or with such subsequent amendments as may receive the written approval of the MPA.

## NOISE

16. The operator shall ensure that noise levels generated by the development shall not exceed those specified in the table below when measured at the locations shown on Plan 23231-S108.

Location	Weekday Noise Level due to Normal Operations dBLAeq (one hour) (free field)	Saturday Noise Level due to Normal Operations dBLAeq (one hour) (free field)
1. Huntington Group	47.0	46.0
3. New Works Southwest	49.0	45.0
4. New Work Central	46.0	42.0
5. New Works North (Bel Vista)	47.0	45.0
6. New Works Lane	50.0	49.0
7. New Works Lane Junction	48.0	47.0
8. Dawley Road	51.0	49.0

Where: "Normal operations" comprise surface mining, coal screening, coal washing, construction and removal of overburden mounds (save for those elements included as temporary operations), dispatch and all other operations/activities.

The noise level due to Normal operations at any specified location stated in the table above shall not be exceeded at any time except when temporary operations are taking place.

17. Temporary operations comprise soil stripping, the formation and removal of associated soils mounds, and the construction and removal of the outer faces of the overburden mounds. The noise levels attributed to Temporary operations shall not exceed 70 dB(A)  $L_{Aeq\ 1\ hour}$  and shall be limited to a maximum of eight weeks in any 12 month period at the noise sensitive properties set out in the table above.
18. No development shall take place until a scheme has been submitted to and agreed in writing by the Mineral Planning Authority in relation to the control of noise and vibration from the site (hereinafter referred to as the "Noise and Vibration Management Plan"). The operations on the site (including any monitoring and mitigation measures necessary) shall be carried out in accordance with the Noise and Vibration Management Plan as approved and shall include the following matters:
- The provision of any bunds or barriers and their maintenance for the duration of the development;
  - The use of fixed or mobile plant (including pumps) outside the operational hours stated in Condition 25 below;
  - The type, duration and location of noise monitoring;
  - The qualifications and experience of the personnel to be engaged in undertaking the monitoring and recording;

- The equipment to be used and arrangements for calibration;
- The frequency of monitoring and reporting to the Mineral Planning Authority; and
- The steps to be taken in the event that noise levels exceed those stated in the table above, and
- The steps to be taken in the event that complaints due to noise are received by the developer.

The results of the monitoring and records of any complaints received by the developer due to noise shall be maintained and made available for inspection by the Mineral Planning Authority between reporting intervals at the site office during normal site operating hours.

The scheme shall be implemented within a time limit that shall be specified in the scheme as approved.

19. Before the commencement of development, efficient silencers shall be fitted to, and thereafter used and maintained in accordance with manufacturers' instructions, all vehicles, plant and machinery used on the site. Machinery shall not be operated with covers open or removed.
20. All pumps used in connection with the development shall be powered by electricity or diesel powered units.
21. Reversing alarms used on vehicles on the site shall be either non-audible, ambient related, broadband or low-tone devices.
22. Processing of coal shall not take place until noise baffles are constructed around the perimeter of the "Plant Yard and Coal Processing Area" shown on Site Plan Drawing 23231-S91a in accordance with details submitted to and approved in writing by the Mineral Planning Authority. The noise baffles shall be retained as approved until coal processing ceases.

## **AIR QUALITY**

23. No development shall take place until a scheme for the suppression and control of dust (including PM<sub>10</sub> and PM<sub>2.5</sub> particles) and the monitoring and recording of dust levels has been submitted to and approved in writing by the Mineral Planning Authority. The scheme should include:
  - The methods and frequency for monitoring and reporting to the Mineral Planning Authority;
  - The qualifications and experience of the personnel to be engaged;
  - The equipment to be used to monitor dust levels and the arrangements for calibration;
  - The number and location of monitoring points;
  - A background dust monitoring survey that would be carried out for no less than 6 months prior to commencement of development;
  - The measures to be taken to suppress and control dust;
  - The steps to be taken in the event that dust/air quality control monitoring indicates that further investigation and possible action is required and

- The steps to be taken in the event that dust related complaints are received by the developer and the actions to be taken to investigate the reasons for any such complaint and to instigate remedial actions where necessary.

The results of the monitoring and records of any complaints received by the developer due to dust and the remedial actions taken shall be maintained and made available for inspection by the Mineral Planning Authority between reporting intervals at the site office during normal site operating hours.

The scheme shall be implemented within a time limit that shall be specified in the scheme as approved.

24. There shall be no burning of waste materials on the site.

#### **OTHER ENVIRONMENTAL PROTECTION**

25. No development or other activities associated with the development (other than pumping operations for the removal of water from the excavations) authorised or required by this permission shall be carried out on the site except between the following times:

0700–1900 hours Mondays to Fridays;

0700–1300 hours Saturdays.

In addition, no soils shall be stripped or replaced and no topsoil or subsoil mounds shall be formed or removed within 200 metres of occupied properties except between the following times:

0800–1900 hours Mondays to Fridays;

0800–1300 hours Saturdays.

In addition, coal processing and despatch shall only take place during weekday operations (i.e. not on Saturdays). No mineral shall be despatched after 1830 hours.

There shall be no development or other activities associated with the development on Sundays, Bank Holidays or national holidays.

26. No servicing, maintenance or testing of plant shall take place on the site except between the following times:

0700–1900 hours Mondays to Fridays;

0700–1300 hours Saturdays.

27. All rubbish and scrap materials generated on the site shall be collected and stored, in a screened position within the site area, until such time as they are removed to a suitably licensed waste management facility.

28. The development shall be carried out in accordance with the phased programme and timetable as specified in Figures 23231-S92a to 23231-S98a and 23231-S122a as detailed in the schedule attached to this planning permission.

29. The overburden mounds OB North and OB South as shown on approved Site Plan Drawing No. 23231-S91a shall be formed and the outer faces grassed in accordance with the relevant

particulars contained in drawing no. 23231-S99 and at no time shall material be placed to a level greater than 210m AOD or 15 metres above original ground level (OB North) and 241 metres AOD or 14 metres above original ground level (OB South).

No coal excavation operations shall take place within 20 m of the Ancient Woodland within Short Wood and Limekiln Wood as defined on drawing 23231-S91a.

30. The haul road through New Works Wood shall be constructed in accordance with the Pascoe report dated March 2009 other than as required for archaeological investigations and, before development commences, clear delineation of the haul road will be carried out and approved in writing by the Mineral Planning Authority.
31. No development shall take place until details of any fixed external lighting or moveable external lighting sets to be erected or used on the site have been submitted to and approved in writing by the Mineral Planning Authority. No external lights other than those approved shall be used on the site (other than lights on mobile plant).
32. There will be no stockpiling of fireclay exceeding a total of 15 000 tonnes (or 7 500 m<sup>3</sup>), split between 3 separate stockpiles and the height of each stockpile shall not exceed 5m above existing ground level. Furthermore, there will be no stockpiling of fireclay upon or after completion of restoration.

#### **SURFACE AND GROUND WATER PROTECTION**

33. No development shall take place until a scheme has been submitted to and approved in writing by the Mineral Planning Authority in relation to the following matters:
  - The collection, management, monitoring, treatment and discharge/disposal of surface water, groundwater, foul water and sewerage,
  - The storage and siting of oils, fuels and chemicals and the methods and systems to be used at all oil, fuel and chemical filling points; and
  - Lagoon designs to take into account ecology/biodiversity matters.

The scheme shall be implemented within a time limit that shall be specified in the scheme as approved.

#### **HIGHWAYS AND ACCESS**

34. No vehicle shall enter or leave the site except via the new site access shown on Drawing number 23231-S92.
35. No development shall take place until schemes have been submitted to and approved in writing by the Mineral Planning Authority in relation to the following matters:
  - The layout, form and construction details of the site access to Huntington Lane and the re-alignment of the eastern junction radius of Huntington Lane and Dog in the Lane to be completed before any minerals extraction takes place;
  - Site access and temporary highway warning signage along the public highway from the site access to the Candles Landfill site entrance to be implemented for the duration of the

development;

- Wheel / chassis washing within the site to be implemented for the duration of the development;
- Cleaning / sweeping the section of public highway from the site access to the Candles Landfill site entrance to be implemented for the duration of the development; and
- Inspections and arrangements for completion of required remedial works arising out of use by development site traffic of the section of public highway from the site access to the Candles Landfill site entrance to be implemented for the duration of the development.

36. All heavy goods vehicles loaded with minerals leaving the site shall be sheeted so as to prevent the escape of dust.

### **ARCHAEOLOGY**

37. No development shall take place until a scheme has been submitted to and approved in writing by the Mineral Planning Authority in relation to the following matters:

- The appointment by the developer of an archaeologist nominated by the Mineral Planning Authority to observe the soil stripping operations, conduct archaeological investigations and, where appropriate, excavations, and record and recover items of interest;
- The investigation of archaeology; and
- The completion of work required and arising out of the investigation of archaeology.

The scheme shall be implemented within a time limit that shall be specified in the scheme as approved.

### **ECOLOGY**

38. No development shall take place until a scheme in relation to the protection of matters of ecological and biodiversity interest have been submitted to and approved in writing by the Mineral Planning Authority.

The scheme shall be implemented as approved in writing, with any necessary additions and amendments approved in advance by the Mineral Planning Authority.

### **RIGHTS OF WAY**

39. No development shall take place until a scheme has been submitted to and approved in writing by the Mineral Planning Authority in relation to the following matters:

- Ensuring the safety of users of public rights of way during the course of the development;
- Achieving the temporary closures of any public rights of way; and
- Achieving the creation of the proposed new public rights of way.

The scheme shall be implemented within a time limit that shall be specified in the scheme as approved.

### **SOIL STRIPPING, STORAGE AND REPLACEMENT**

40. No development shall take place until a scheme for the stripping, storage and replacement of topsoil, subsoil and soil forming material to be used in the restoration has been submitted to and approved in writing by the Mineral Planning Authority.

The scheme shall be implemented within a time limit that shall be specified in the scheme as approved.

### **RESTORATION**

41. Within 6 months of the commencement of development a detailed restoration scheme will be submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include details of:

- The areas to be restored to pasture/arable, woodland, woodland edge and wood pasture, species rich grassland, wetland and ponds;
- New fencing, footpaths, bridleways and interpretation boards;
- Progressive and final restoration contours and restoration levels; and
- A detailed programme of implementation.

The scheme shall be implemented within a time limit that shall be specified in the scheme as approved.

### **LANDSCAPING, HABITAT CREATION, MAINTENANCE AND AFTERCARE SCHEMES**

42. Within 6 months of the commencement of development a landscaping, habitat creation, and 5 year aftercare scheme shall be submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include details of:

- Ground preparation;
- Plant species, size of plants, means of protection and density of planting;
- Protection measures for retained ecological features and habitat on the site and others adjacent to the site, that could be affected by site operations;
- Seed mixes and rates of application;
- The phasing of the schemes; and,
- The arrangements for maintenance, management, monitoring and aftercare of the whole development site for a period of five years following restoration of the land to pasture/arable, woodland, woodland edge and wood pasture, species rich grassland, wetland and ponds.

The scheme shall be implemented as approved in writing.

## **COMPLAINTS**

43. No development shall take place until a scheme has been submitted to and agreed in writing by the Mineral Planning Authority in relation to the investigation and resolution of complaints made about the activities on site.

Any complaints made shall be investigated and dealt with in accordance with the approved scheme.