Dear Mr Jenrick

Re: Time-Sensitive: Call-in Request: Woodhouse Colliery, Whitehaven, Cumbria

I am writing on behalf of South Lakes Action on Climate Change- *towards transition* (SLACCtt) to request that you, as the Secretary of State “call in” the following planning application for your own consideration. We understand that you are separately considering other organisations’ call-in requests and have issued a holding direction to the Council, but write to provide additional information supporting such requests for a “call-in.”

**Local Planning Authority (LPA):** Cumbria County Council

**Location:** Former Marchon Site, Pow Beck Valley and area from Marchon Site to St Bees Coast, Whitehaven, Cumbria

**Application Reference No.:** 4/17/9007

**Applicant:** West Cumbria Mining Ltd (“WCM”)

1. **Application history and SLACC’s request**

1.1. SLACC wrote to request a “call in” of the original proposal under this application number following the Council’s March 2019 decision (on 30 March 2019). SLACC wrote a second letter on the 11 September 2019 to draw attention to subsequent changes in circumstances that we believed were relevant to your decision.

1.2. The revised planning proposal submitted in April 2020 dropped the proposal to produce “middlings coal” in response to a Judicial Review commenced by Leigh Day Solicitors, but also sought to amend the planning condition (and definition) controlling the specification of the coal, and therefore where and how that coal might be used.
1.3. We believe that at least two organisations wrote to ask you to call in the amended application and following the issue on 29 September of your Holding Direction, the Development Control and Regulation (DC&R) Committee of 2nd October 2020 resolved that they were minded to approve the planning application with a revised set of planning conditions. This included a condition to limit the life of the mine until 31 December 2049, and another condition to limit production to a specific definition of High Volatility A (HVA) Coking Coal.

1.4. SLACC objected to the original 50-year proposal, the amended 50-year proposal submitted by WCM which no longer proposed to produce middlings coal and the recent altered proposal recommended for approval until 2049 by Council officers. We are now writing to support previous “call in requests” by other bodies.

1.5. This proposal to extract 2.78 million tonnes per year of coking coal for 30 years is of more than local importance and should be called in for your determination because:

   - the significant effects beyond its immediate locality; and
   - the potential for substantial cross-boundary or national controversy:

   have not been adequately addressed by the local planning authority, and the amended proposal they are minded to approve

   - conflicts with national policies on important matters.

2. Significant effects beyond its immediate locality

2.1. Although the Council has concluded that the climate change effects of this coal mine are beneficial, they acknowledge that the GHG emissions from the utilisation (Scope 3 or “end-user” emissions) of the coal would be approximately 9 million tonnes of CO2e per year, equivalent to the carbon emissions of a million UK residents (Officers Report (OR) 7.100) and that “the mine has potential global implications in respect of its effects from GHG emissions” (OR 7.104).

Substitution

2.2. The Council further acknowledges that WCMs argument that these 9 million tonnes of CO2e per year (and any emissions from the construction and operation of the mine) are zero, and have no adverse impact on global climate change, is entirely based on the principle of “substitution” (i.e. that there would be a precisely corresponding tonne-for-tonne reduction in coal production abroad for every tonne produced at this mine). Furthermore, in this case, the Council has concluded from its own experts that the WCM coal will NOT substitute as HVA coal unless the sulphur content of the coal produced is no more than a maximum of 1.6% and averages no more than 1.4% over a year.
2.3. SLACC has presented detailed evidence from a distinguished economist, and from 59 other academics, who say substitution (even without reference to the sulphur issue) will not be 100% over the lifetime of the development.\(^1\) On the contrary, this cheaper supply of coal (“significantly cheaper” in the words of the applicant’s own expert) will affect decisions about replacing blast furnace steel production with lower carbon methods, delay decarbonisation and result in higher GHG emissions. If even some of the coal extracted over the lifetime of the mine is additional, the order of magnitude of the “end-user” emissions is so much greater than the purported savings from transportation that a significant adverse impact must be given considerable weight in the planning balance. In relation to the 50-year proposed mine, SLACC submitted evidence showing that if even 5% of the coal produced by the mine was not subject to substitution (i.e. 95% of the coal production was offset elsewhere, but 5% of the coal production was ‘additional’) this would far outweigh the claimed GHG savings due to reduced transportation distances – representing almost four times the GHG emissions supposedly saved on transportation.

2.4. These are matters of great importance for all UK fossil fuel developments and for the Government’s push to ‘green’ the steel industry, because the low carbon alternatives for fossil fuel use require investment that will depend on relative costs.

2.5. Stepping back, it is simply remarkable that the Council have accepted the applicant’s contention that this would be a carbon-negative coal mine. (The applicant would apparently have us believe that we need more coal mines to solve the climate crisis!) We ask the Secretary of State to seriously consider whether a mine of this magnitude can be approved on this basis, and the national and international effects essentially ignored on the basis that they simply do not exist or indeed are beneficial when the clear expert consensus is to the contrary.

**Lack of Scrutiny of Sulphur limits**

2.6. Ninety pages of highly relevant information from WCM were published on the County Council’s website late on the 21\(^{st}\) September 2020. These included documents that sought to justify WCM’s proposal to change the maximum permitted sulphur content of the coal of 1.25% to a maximum of 2%.

2.7. Further, a report from the Council’s own consultant, Wardell Armstrong, as well as correspondence from steel companies, much of which had been received by the Council in June and July but never previously published, was appended to the Officer’s Report when published on the 24th September. The Council based key conclusions on these previously-undisclosed materials, including its determination

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\(^1\) See Appendix 2, SLACC’s letter to the Council of 1 October 2020, annexes 1 and 2 (Letter from Dr Paul Ekins, OBE, and Open Letter from Academics, respectively).
that coal with a certain sulphur content would be subject to perfect substitution. However, none of these materials were provided to the public prior to being issued as appendices to the Officer’s Report itself, a week before the Committee meeting. SLACC was therefore unable to consider these, or provide them in adequate time for its expert advisers to prepare a full written analysis of these materials. SLACC did provide a summary objection with certain expert evidence on the substitution issue the day before the Committee, but the Materials Processing Institute, which had previously provided an expert report to SLACC on related issues was unable to provide a report with its expert opinion in relation to the Council’s conclusions in relation to the sulphur content limits in the time available.

2.8. SLACC believes (and has indicated to the Council in correspondence) that the Council’s decision to proceed with the consideration of this application at the 2 October 2020 Committee meeting was not in keeping with procedural fairness. Moreover, as explained below, this meant that the Council has granted permission based on a condition with limits to the sulphur content of the coal produced by the mine amended at the last minute without any proper opportunity for public scrutiny of these proposed limits or whether they will have their intended effect. To be clear, it was only with the Officer’s Report and accompanying materials were published, that there was any indication that the Council had determined that the sulphur content of the coal was in any way germane to questions of substitution and national need.

2.9. The sulphur limits proposed by the Council in condition 4 and the related definition of HVA coking coal, and their conclusions that these limits will ensure that the coal meets a national need and is subject to substitution raise various practical and technical issues. The Council (OR 7.328) concludes that information received from British Steel\(^2\), one of two significant UK steel makers, cannot use WCM as a supplier of HVA coal due to its sulphur content\(^3\). However, there is no indication that this has affected the Council’s assessment of how effectively the WCM coking coal supply would substitute for HVA coal from US or other sources, the increase in global GHG emissions if this substitution is less than 100%, or of the economic benefits of the mine.

\(^2\) In response to questions from the Council an email from a representative of British Steel states “The coal has a low moisture & ash, the Sulphur is however higher in comparison to comparable US coals we purchase. … Sulphur is a constraining factor which currently limits the use of the coal. Currently, we have a total sulphur limit applied to the coal blend. … The Sulphur content of the coal is an issue for British Steel currently due to our operations and blend sulphur limit. Dependent of other Steel Mill operations (i.e. De-Sulphurisation Plant) and the other coals used in their blend, the sulphur will present different levels of difficulty for each steel mill to incorporate in their coal blend.” (emphasis added)

\(^3\) OR 7.328 : However I acknowledge the level of sulphur content would need to be managed to supply a product currently suitable for British Steel, and it is not clear whether this can be achieved – so in this case I have considered that is cannot. – corrected in update to “so in this case I have considered that it cannot.”
2.10. Tata Steel, (and a number of EU Blast Furnace based steel makers) could also be limited in their use of WCM coal. Blast Furnaces have operating licences that limit the sulphur content of their input coal, or of their emissions output (which may prevent them from using high-sulphur coal) in order to prevent acid rain. It may be noted, for instance, that the environmental permits for British Steel and Tata Steel contain similar provisions in relation to constraining emissions of sulphur emissions from coke ovens. This casts doubt on the need for this coking coal, and therefore on the weight that should be given to the national economic benefits. It cannot be a vital indigenous source of supply if it cannot be used (or if its use is highly limited due to the need to blend only small amounts with other low-sulphur coals), and the benefit to the UK balance of payments is almost certainly also exaggerated.

2.11. The Council has now acknowledged that the decision balances on two key questions:

- Will the WCM coal substitute for High Volatility A (HVA) coal supplied to the UK and EU steel industry from elsewhere in the world (although they assume that the current UK supply of equivalent High Volatility A Coal is all from the US which may not be the case) and,
- If, and how quickly, will alternative ways of making steel be available commercially and widely adopted in the UK and EU, and therefore the need for coking coal for those markets significantly reduce?

2.12. These are interrelated questions. WCM, and it would appear many Members of the DC&R Committee, consider alternative “coke-free” steel making to be a hypothetical remote possibility, so that the total tonnage of coking coal is a constant, and the only issue is which countries’ coking coal will be used. The OR asserts that a demonstration plant for commercial production of steel will not start until 2035 (although SSAB’s own email\(^4\) to the Council gives this date as 2025); and that significant reductions in the use of or need for coking coal in these markets will not happen until 2050. This conclusion is not consistent with either the Council’s own evidence or SLACC’s evidence from the Material Processing Institute. SLACC’s evidence shows that less coking coal will be used to make each tonne of steel, but also that some uses of steel can be made increasingly using Electric Arc Furnaces which are powered by electricity, and in some cases steel itself can be replaced with other materials.

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\(^4\) “In the autumn of 2019 we decided to start the planning process for the industrial scale demonstration plant and we are right now in the process of site selection for a 1 million ton per annum HYBRIT demonstration plant to be constructed and ready for production in 2025. At the same time, SSAB has started the project of converting 2 blast furnaces and 1 BOF meltshop in the Oxelösund site to an EAF meltshop, to be ready for production in 2025 using the HYBRIT DRI (Direct Reduced Iron)\(^5\). Email from Martin Prei re enquiry to SSAB regarding metallurgical coal vs hydrogen
2.13. The Council has recognised that their whole case hangs on substitution, which SLACC’s expert evidence challenges. However, in addition the Council itself says substitution is itself dependent on the detailed specification of the coal. Their response has been to set out a planning condition, together with particular acceptable levels for sulphur (and ash) content of the coal, relying on the faulty supposition that coal of this specification will substitute for the imported High Volatility A coal, at least up to the end of 2049.

2.14. The local economic benefit of the potential jobs, (the numbers and duration of which would arise from the offshore development not directly from this planning application) is therefore also less certain. However, when an application has an apparent local benefit, in this case jobs, it is very tempting for local politicians to ignore the significant effects of Climate Change which extend beyond the immediate locality.

2.15. Cumbria as whole has already experienced extreme and dangerous flooding from rivers due to climate change, as have relatively nearby Cockermouth and Workington. The costs and disruption to the UK from predicted coastal flooding due to climate change are known to be very high and catastrophic forest fires and flooding are already being seen globally.

2.16. SLACC believes that these impacts have been discounted, and benefits exaggerated, using a claim that US coal mines will close rather than seeking new markets, in order to create an illusion of a reasonable assessment.

3. Potential for substantial cross-boundary or national controversy:

3.1. This application is already causing national controversy, with objections from a number of environmental and scientific campaigners and national media coverage. However the granting of a new deep coal mine must surely challenge the UK Government’s reputation as a climate leader in the lead-up to its hosting COP26 in 2021, and undermine the vital task of influencing other nations to reduce their carbon emissions.

3.2. Although the Council proposes a legal agreement with a mechanism to reduce GHG emissions in the light of reducing carbon budgets, it only applies to operational emissions and SLACC strongly disputes the details and enforceability of that agreement. A coal mine extracting “full tilt” to the last day of 2049 will cause emissions and global heating not just in neighbouring countries but across the globe and allowing an approval for such a mine now would endanger the UK’s status as a country at the vanguard of the international movement to solve the climate crisis.

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5 See Appendix 1, SLACC’s letter to the Council of 1 Oct 2020 at section 7 pages 26-28, which explains why SLACC does not consider that the proposed section 106 agreement represents an enforceable commitment that would allow the Council to require emissions reductions.
4. **Conflicts with national policies on important matters.**

4.1. The Climate emergency is much worse and longer lasting than the current pandemic, and our national commitments on carbon reduction are a vitally important national policy matter.

4.2. When considering the planning balance both under the Minerals and Waste Local Plan (MWLP) Policy DC13 and NPPF paragraph 211 the Council have concluded that the net effect of this proposed mine is a beneficial reduction in GHG emissions due to transportation.

4.3. The report acknowledges:

   - unacceptable damage to Tourism (simply saying it was not enough “on its own” to require refusal),
   - loss of irreplaceable Ancient Woodlands which can only be justified in “wholly exceptional circumstances” under the NPPF,
   - “significant” landscape and visual impacts which would themselves be “unacceptable environmentally” under local policy DC13
   - harm to the significance of designated heritage assets, which must be afforded considerable importance and weight,

4.4. However, in conjunction with the (purportedly positive) climate change impacts, the economic benefits of the mine were determined to “clearly outweigh” all these negative impacts.

4.5. These conclusions are clearly contingent upon the supposedly positive climate impacts of the mine, as well as the Council’s claim that this coal meets a national need. However, the evidence before the Council entirely fails to demonstrate a need for coking coal of this specification, much less such a significant need that would clearly outweigh all the myriad harms that the Council acknowledges that the proposal would have. The proposal, even with its restricted life and conditions on the specification of the coal, does not have benefits that clearly outweigh the significant harms, and the application conflicts with the National Planning Policy Framework in several important regards.
5. Conclusion

5.1. The Council builds a sequence of conclusions that need to be re-examined, with additional and credible evidence (and adequate time to do so), which can be provided by other parties. It would clearly be in the national interest for this proposal to be properly and fully considered by the Secretary of State.

5.2. We look forward to hearing from the Planning Casework Unit and sincerely hope that the Secretary of State “calls in” planning application 4/17/9007 for his consideration.

Yours sincerely

Maggie Mason:
BA (Arch) Diploma in Town and Regional Planning

Angela Lovett
Chair of South Lakeland Action against Climate Change