

**South Lakes Action on Climate Change (SLACC) press release
13th September 2024**

High Court Judge Overturns Planning Permission for new UK Coal Mine

West Cumbria Mining's attempt to open a new coal mine at Whitehaven, Cumbria was dealt a severe blow today, as a senior High Court judge ruled that the planning permission granted by Mr Gove, the previous Secretary of State for Levelling Up Housing and Communities, in 2022 [1] should be "quashed".

Mr Justice Holgate accepted all but one of the "grounds of challenge" submitted by South Lakes Action on Climate Change (SLACC) and Friends of the Earth [2], ruling that Mr Gove's decision was unlawful in several respects.

The Secretary of State conceded on the 10th July that the Cumbria coal mine approval was unlawful as a result of the *Finch* judgment [3]. However, West Cumbria Mining attempted to argue before Holgate J that the false promise of "perfect substitution" [4] meant their mine would not add any greenhouse gases to the atmosphere, and the coal mine consent should stand.

Instead, Mr Justice Holgate's ruling sets out in great clarity that WCM's 100% substitution claim was not backed by the evidence at the public inquiry, nor by the findings of the Inspector or Secretary of State. Even the mining company's own experts had not asserted that there would be no increase in total coal consumed if the mine opened. Misuse of the substitution notion had led to inconsistencies and "muddle" in the former Secretary of State's decision and errors of law on other issues as well.

Matthew McFeeley, a Partner at Richard Buxton Solicitors representing South Lakes Action on Climate Change said:

Today's detailed and well-reasoned ruling clearly shows the logical flaws that infected the grant of permission for the mine and deserves close reading; it exposes the fallacies that led to the conclusion that this mine was "carbon neutral".

The Finch ruling means that combustion emissions must be assessed in the Environmental Statement, while today's judgement means any claim those fuels would "substitute" for other fossil fuel sources must be also assessed robustly in the Environmental Statement. Simple assertions will no longer pass muster.

In addition, the Court found that there is clearly a potential negative impact on the UK's climate diplomacy, which was ignored.

SLACC Trustee Duncan Pollard said:

"West Cumbria Mining has been roundly defeated today, and the phasing out of fossil fuels has taken a small step forward, In the future, developers will have to do a genuine assessment of climate harms from any new fossil fuel extraction and enable proper public consultation.

Our small charity is delighted to have helped achieve this important result.

West Cumbria Mining may try to appeal today's decision, but if that fails, Angela Rayner, the current Secretary of State for Housing Communities and Local Government, will set out a process for reconsidering the planning proposal.

ENDS

To arrange interviews with SLACC contact Maggie Mason 07551 180221, or Helen Dugdale, media contact Helen@scribbleaway.com : Mob 07780 614898

NOTES FOR EDITORS

A summary of SLACC's legal case is available here:

<https://www.richardbuxton.co.uk/case/challenge-to-cumbria-coal-mine/>

Friends of the Earth's legal briefing

<https://friendsoftheearth.uk/climate/whitehaven-coal-mine-july-2024-legal-briefing>

[1] The previous decision to approve the mine had been made on 7th December 2022 by Michael Gove, the then Secretary of State for Levelling Up Housing and Communities and the current Secretary of State of a renamed Ministry of Housing Communities and Local Government MHCLG is Angela Rayner.

[2] Both South Lakes Action on Climate Change (SLACC) and Friends of the Earth had objected to the mine from its early stages, pushed for it to be called in by the national government, presented comprehensive evidence at the Public Inquiry in 2021, and launched legal challenges of Mr Gove's decision in early 2023.

[3] On Thursday 20 June 2024, the Supreme Court ruled that Surrey County Council acted unlawfully by giving planning permission for oil production at Horse Hill in the Surrey countryside without considering the climate impacts of when the oil is inevitably burned. The landmark judgment followed a legal challenge brought by former Surrey resident Sarah Finch, on behalf of the Weald Action Group, and by Friends of the Earth as a legal intervener: The Supreme Court held that environmental impact assessment of fossil fuel projects requires measuring the emissions from 'downstream' combustion of the fuels.

[4] "Perfect substitution" is the argument advanced by WCM at the planning inquiry that demand for metallurgical coal would not increase, and so if coal were mined in Cumbria, precisely the same amount of coal would inevitably be left unmined elsewhere in the world.

[5] **About SLACC:** South Lakes Action on Climate Change (SLACC) is a small charity based in Kendal, Cumbria and is part of the Transition Town Network, bringing together those who want to act to address the climate and ecological crisis. It aims to decrease local dependence on fossil fuels, reduce carbon emissions, and build resilience in key areas such as economics, energy, transport and food. For more information visit: www.slacc.org.uk and follow @slacctt

SLACC is represented by barristers Estelle Dehon KC and Rowan Clapp, of Cornerstone Barristers, and by Matthew McFeeley and Holly Law at Richard Buxton Solicitors.

[6] **About Friends of the Earth:** Friends of the Earth is an international community dedicated to the protection of the natural world and the wellbeing of everyone in it. We bring together more than two million people in 75 countries, combining people power all over the world to transform local actions into global impact. For more information visit: <https://friendsoftheearth.uk/>