

W2007/1648 Surface coal and fireclay mine site with associated operations and restoration to open space consisting of grassland, hedgerows with hedgerow trees, rights of way and open wetland habitat at Huntington Lane, near Lawley, Telford, Little Wenlock Village and New Works.

Recommendation: R

APPLICANT
UK Coal Mining Ltd

RECEIVED ON
30th November 2007

PARISH WARD
Little Wenlock Wrockwardine

REPORT AUTHOR
Michael Barker

OBJECTIONS RECEIVED: YES

MAIN ISSUES: Landscape and effect on normally safeguarded land, impact on recreation, environmental health, cumulative impact and general disturbance, biodiversity, impact on Scheduled Ancient Monument, visual amenities, drainage, water supplies and hydro-geology and national energy requirements.

1. THE SITE AND SURROUNDINGS

- 1.1 The Huntington Lane site (93.5ha in total) lies on the western periphery of Telford, about 200m to the south of the M54 between junctions 6 and 7. The nearest settlements are at New Works (100m to the east) and the Telford suburbs of Lawley (600m to the east) and Dawley/Horsehay (1km to the south east).
- 1.2 Part of the site, some 6.6 hectares, lies within the Shropshire Hills Area of Outstanding Natural Beauty (AONB). The AONB lies to the north and west of the northern end of Area A. A small section of Limekiln Wood County Wildlife Site lies within the site. There are also 5 County Wildlife Sites, two Local Nature Reserves and 2 SSSIs (including the Wrekin) within 2km of the proposed development. There are 3 Conservation Areas within 1-5-6 kms of the site and 3 listed buildings within 600 metres, including Lower Huntington Farmhouse, some 50 metres to the south of Area A. New Works Wood is designated as a Scheduled Ancient Monument on the basis of its historic coal mining remains. There are also Scheduled Ancient Monuments on The Wrekin and by Willowmoor House, some 1.9 km and 0.8km to the south west of the site respectively. Part of the site also lies within an Area for Concentrated Biodiversity Enhancement as designated by West Midlands Biodiversity Partnership. A large part of the northern part of the site (Area B) and a small part of Area A is shown as derelict land on the current National Land Use Data Base. However, it is currently in agricultural use and mainly grazed by livestock with some arable production in the most northern part of Area B.

- 1.3 The site is crossed by footpath no. 37 and a Road Used as a Public Path (RUPP) no. 36.

An area of Ancient Woodland lies generally to the west of and adjacent to the site.

2. INFORMATION AND LIBRARY

The following information will be available in the Members' Room for Members to look at in advance of the Board meeting:

1. Reference list of relevant Policies
2. Copy of applicant's Environmental Impact Assessment together with executive summary.
3. Planning Documents
4. Copy consultation responses
5. Plans of site and development proposals

3. BACKGROUND

- 3.1 The applicant, UK Coal Mining Ltd, has appealed to the First Secretary of State because the Council has not determined the planning application within the prescribed period of time (plus agreed extensions) which expired on 8th November 2008. This means that a Public Inquiry will be held in April and May 2009 when evidence from all interested parties will be presented to an independent Planning Inspector. The Planning Inspector will then write a report and a decision will be made by the Government on the Appeal.

- 3.2 This Board report therefore considers the position the Council could have taken if it still had the power to determine the application and the recommended stance to be adopted by the Council at the forthcoming Public Inquiry.

- 3.3 The reasons why the Council did not determine the planning application within the prescribed deadline include the following:

- there is still outstanding information required from the applicant,
- not all consultees had replied to all the documents that form the planning application at the time the appeal was lodged and
- the Council needs sufficient time to evaluate all aspects of the application.

- 3.4 It should be pointed out that complex planning applications like surface coal and fireclay sites usually take a long time to determine.

4. PROPOSALS

- 4.1 Originally it was proposed to extract some 900,000 tonnes of coal and 250,000 tonnes of fireclay from two areas of land (Areas A and B)

forming part of a 93.5 hectare site, 6.6 hectares of which lie within the AONB. The applicant has now calculated that the amount of the best quality fireclay is significantly less than that originally anticipated, possibly 125,000 tonnes, although this figure may be higher with blending.

- 4.2 After an initial 3 months to establish the site, 340,000 tonnes of coal would be removed per annum in a phased manner over a 32 month period. The site would work normal daylight hours (0700-1900) during weekdays and 0700 -1300 hours on Saturdays. No operations would take place on Sundays or Bank Holidays.
- 4.3 Area A (southern area) would be worked first in a south west to north east direction followed by Area B (northern area) in a south to north direction. However, the phased working and backfilling of mining voids once extraction has been completed means that only a portion of the site would be exposed to mining operations at any one time. The two areas would be linked by a haul road within the Scheduled Ancient Monument and woodland at New Works Wood. The preferred route for the internal haul road would involve the felling of 180 trees (c1ha and 7.5% of New Works Wood).
- 4.4 Area A would contain the coal washing plant and processing area, plant bay, office area, main overburden storage area, two water treatment areas, soil storage areas on its flanks, 24 mining strips and the site access on its southern boundary with Huntington Lane. Area B would contain soil storage areas mainly on its flanks, 1 water treatment area, a subordinate overburden storage mound and 35 mining strips. It was originally proposed that the power lines would be diverted. However, since the application was submitted sections of power lines and associated pylons in New Works Wood and the main part of Area B have already been removed.
- 4.5 The coal would be transported by road from the site via Huntington Lane, Dog in the Lane, Coalmoor Road onto the A5223 at Horsehay to a number of potential destinations, possibly including existing coal fired stations at Ironbridge and Rugeley. The site would be restored over a 6 months period to a mixture of pasture and species rich grassland, arable land, new hedgerows laid in a historic setting, reinstated public rights of way, a proposed new public right of way and a new wetland habitat. There would be a five year aftercare scheme with long term management undertaken to ensure lasting natural effects beyond the aftercare period. The fireclays would supply a number of brickworks located within the West Midlands and the North West areas. The proposals would provide employment for 40 people directly and an additional 52 people indirectly.
- 4.6 The proposals also include provision for a Community Trust Fund of £500,000. In total site operations would last 41 months. Finally, UK Coal Ltd would enter into a legal agreement not to work any other coal

and fireclay resources within the South Western Telford area identified in the Joint Shropshire and Telford & Wrekin Minerals Local Plan, 1996-2006 (The Joint Minerals Local Plan) (See Plan No. ?)

5. PLANNING HISTORY

1988 MW88/0697/WR Shortwood Refused.

1993 MW92/0486/WR Shortwood (revised) Refused.

1997 MW94/0738/WR Dawley Road Refused 1998.

1997 MW97/0862/WR Dawley Road 2 Called in by Secretary of State (SOS). SOS refused permission against Inspector's recommendation in March 2001, but this decision was quashed in the High Court in October 2001. UK Coal Ltd later withdrew the application.

6. PLANNING POLICY

All the relevant regional and saved development plan policies are contained in the Appendix to this report. Regard is also to be had for relevant national planning guidance.

7. CONSULTATION RESPONSES

7.1 Mr Mark Pritchard MP

Objects to the application. He states in a letter dated 15th February 2008 that the proposals contravenes and conflicts with several structure plan policies, and is contrary to the Joint Minerals Local Plan policy.

Policy M5B: Nationally Important Sites and Species

The site would have a serious and detrimental impact on an Area of Outstanding Natural Beauty (AONB), and the New Works Ancient Monument, as well as having an adverse impact on Lydebrook Dingle SSSI. There would also be the disruption and dislocation of several badger clans, as well as other wildlife. Furthermore, the proximity of the proposed site to The Wrekin and The Ercall is also significant.

The applicant suggests that only a small part of the AONB would be affected, but I hope that objections will be made to the application based on principle, precedent and the incremental and cumulative impact on the AONB.

There is also concern expressed amongst my constituents that there could be contamination of water courses feeding into and out of Lydebrook, which would have it's own impact on my constituents, and also put at risk the Lydebrook Dingle SSSI.

Policy M2: Need

My fundamental objection to this application, notwithstanding the above points and further points below, is that the applicant has not been able to demonstrate the need 'for the mineral', either a regional or national need.

This is because UK Coal, along with other mineral companies chooses to import coal from other sources.

UK Coal has sought to use the environmental argument to suggest that mining coal in the United Kingdom is more sustainable in environmental terms than importing cheaper coal from places like Poland, but I am sure your office is aware that this argument is not a planning argument and should be discounted in the planning consideration.

Further, the sulphur content of UK Coal is far higher than that of imported coal, and therefore there are strong environmental arguments against the burning of UK mined coal until sequestration and clean coal technology has been either introduced to new coal fired power stations, or retrofitted into existing ones, such as those in Rugeley and Ironbridge. However, the utility companies that he has spoken to have confirmed that the cost of retrofitting such power stations is so high that existing power stations will continue to run without clean coal technology. As you are aware, E-ON has already openly declared that Ironbridge Power Station will be closing within the next eight years, and it is unlikely that any coal mined locally would be going to Ironbridge. If it did, then it would only be for a short period of time. Therefore the number of HGV lorries and movements in the area would be significant, not only in the locality, but also in throughout the County as coal is taken to Rugeley (Policy M11: Transport of Minerals).

Policy M21: Coal and Fireclay Working

He believes the proposed development conflicts with policy M21. There is no doubt that the prevailing winds from the site would mean that dust and noise would have an impact on the local primary school. In addition, the movement on and off the site would cause noise, visual and vibration disturbance. This would have an adverse impact on residents in New Works in particular, a hamlet which has seen new development since the last coal mining application.

Community Fund

UK Coal has announced that it will be increasing the community fund to £100,000. Again, this should not be taken as a planning consideration, but rather as a way of mitigating the detrimental impact on the community at large.

Disused coal mines and shafts.

It has been argued by some that the site should be developed because of health and safety reasons, given the possible threat to life of both livestock and people wandering onto the site. Again, this is not a material planning consideration. This should not be considered in any planning deliberations. If any landowners or third parties believe that there is a health and safety risk on the existing site, then they should liaise with the appropriate authorities, landowners and users over making safe those areas of the site that they feel might currently pose a risk. Health and safety should not be used as a means to this planning application being granted.

Conclusion.

As you are aware, the Government is very keen on consultation, and the most recent Planning Act, the Compulsory Purchase Act, highlighted the need for more public consultation on development sites.

At present, my community petition has attracted over 300 names and is growing weekly. As the local Member of Parliament, I have also been contacted by numerous constituents expressing their concern about UK Coal's planning application, and to date not one has supported it.

I also recently chaired a public meeting to which local parishioners were invited, along with representatives of UK Coal. The meeting was well attended, and the overwhelming view of the public meeting was that this application was not appropriate for New Works in 2008.

This is not my constituents' being NIMBYS, but rather their saying that coal mining in this location is completely inappropriate because of its proximity to The Wrekin, because of the impact on an Area of Outstanding Natural Beauty, and also on the quality of life of local residents who have grown in some number since the last mining application in this area.

Therefore, I would like to object to the application in the strongest possible terms, and I hope that the planning panel will consider details of this application, not least the lack of need for the site to be developed, when it comes to deliberate.

7.2 Mr David Wright MP

Objects to the application. In a letter dated 10th January 2008 he states that this application mirrors a proposal for extraction made some years ago. The changing nature of the area around the site means that this proposal is not acceptable – it is beyond its time.

He opposes the application on a number of grounds including the following:

- Environmental impact of the scheme on open countryside and the loss of wildlife habitats.
- Impact on visual amenity locally.
- Noise and dust generation from the process and its impact on neighbouring communities.
- Significant increase of heavy goods vehicles moving through the Lawley residential area from the site to the M54. This is at a time when the location is a key site for residential expansion as part of the regional growth strategy.
- Disturbance to possible archaeological sites in the area.

He would like the Council to know that he conducted a survey of residents in his constituency last March. Material was sent to those who might be affected by increased vehicular movements through the Telford constituency. He received over 400 survey forms objecting to the scheme.

7.3 Little Wenlock Parish Council

In a letter dated 16th January 2008 the Parish Council unanimously objected to the application.

The results of a survey carried out by the Parish Council is as follows. That of 200 surveys sent out 135 had been returned. Of the 135 responses 92% were against and 7.4% in favour. Of those who opposed the application 8.8% did include suggestions which might alter their current position.

The main areas of concern expressed by residents were:

1. The hours of work not being adhered to.
2. Noise and dust pollution and the impact within homes.
3. The environmental impact on an area of outstanding beauty.
4. That the decimation of the area would be catastrophic.
5. That property prices would be devalued.
6. It would have a negative impact on local business.
7. The work was within close proximity to homes and that there is a large elderly population.
8. That the area would not be returned to green belt.
9. That the site would be used as a landfill site afterwards.
10. That it was proposed that the brown field site would be used for house building.
11. That the natural water supply to homes at Willowmoor would be affected.
12. That the road down to the A5223 was already in a poor state.
13. That lorry speeds would be excessive.
14. That the additional increase in vehicle movements would be hazardous to horse riders in the area.

The following views/suggestions were expressed by those in favour of the application:

1. Strict controls on the environmental impact.
2. Current issues of the safety of the area could be resolved.
3. There was no reasonable doubt regarding the area being returned to green belt. T&W to provide assurances re building project afterwards.
4. That it should be completed within the next 5 years and assurances that local labour and companies will be used.
5. That there are guarantees of no landfill afterwards.

There were substantial proposals which would improve support for the application. These included working practices; transport; the environment including dust, noise and water; increase in community fund; return some of the land to community used; establishing a community liaison committee and complaints procedure.

In a full consultation response dated 18th February 2008, the Parish Council stated the following:

Irresponsible Resource Use.

MLP Policy M1 “A more sustainable Approach to Mineral Development.”

i) “to conserve minerals as far as possible, whilst ensuring an adequate supply to meet needs.”

The coal needs of Ironbridge and Rugeley power stations are already being met. As coal is a valuable raw material in its own right in a variety of industries to use it as fuel is irresponsible and does not conserve this valuable resource.

ii) “to ensure that environmental impacts caused by mineral operations and the transport of minerals are kept ... to an acceptable minimum.”

These impacts would be at an intolerable level.

iv) “to encourage sensitive working, restoration and aftercare practices so as to preserve or enhance the overall quality of the environment.”

v) “to protect areas of designated landscape or nature conservation value from development, other than in exceptional circumstances and where it has been demonstrated that development is in the public interest.”

This development would violate the Shropshire Hills Area of Outstanding Natural beauty and seriously affect the Lydebrook Dingle SSSI, a local nature reserve, a wildlife site and an area of semi-natural ancient woodland of the Shortwoods. The public [92%] does not regard this development to be in its interest. Exceptional circumstances do not exist.

vi) “to prevent the unnecessary sterilisation of mineral resources.”

This is no argument for open cast mining here as there is no threat of sterilisation of Huntington’s mineral resources.

JSP Policy P58 “A sustainable approach to Minerals Development.”

The proposed development conflicts with bullet points:-

1. “the need to conserve minerals” since it would irreversibly destroy them;
2. “adverse environmental impacts and effects caused on people caused by mineral operations and the transport of minerals are kept to a minimum” as these would be exacerbated.

Need

MLP Policy M2

“the applicant will be required to demonstrate that there is a need for the mineral.”

The proposed development conflicts with policy M2 by failing to demonstrate a significant regional or national need for the mineral other than to suggest that there would be a market for it at Ironbridge or Rugeley. Both these power stations are well served with coal, much of which is imported. At the same price delivered – which the coal would have to be compete – the overall environmental cost to the UK is substantially greater from the proposed development [overburden removal, extraction, processing and road transport] than from importation [merely involving unloading and rail transport].

Ironbridge power station is using 34,000 tonnes of coal a week. If all the coal extracted went there is would only keep the power station going for 26 weeks. On a weekly basis 80% of Ironbridge’s coal would still have to be imported.

Rugeley power station uses 70,000 tonnes a week. If all the coal extracted went there it would last 12.8 weeks. On a weekly basis 90% of its coal would still have to be imported.

Thus there is not a major need. The coal these power stations demand is already being met from other sources far less damaging to the national let alone the local environment.

National and local policy is seeking to maximise electricity generation from renewable sources rather than fossil fuels, which have a major impact on carbon dioxide emissions and climate change, so this application is not timely.

The Inspector at the 1998 Public Inquiry identified the coal from this site as being ‘no more than general purpose opencast coal of no notable high or rare quality that makes it particularly sought after.

There is no significant need for fireclay that cannot be served from permitted resources available from Broseley in particular.

Transport MLP 1ii; M3I; M3iv; M4i; M4iv; M11 and M21 A)i.

MLP1ii “to ensure that the environmental impacts caused by ... the transport of minerals are kept to an acceptable minimum.”

MLP3i “regard will be paid to any unacceptably adverse effects of the proposal upon towns, villages and nearby houses and occupied property ... close to the proposed haul routes.”

MLP4i “regard will be paid to ... traffic impacts.”

MLP4 iv “site access and traffic movements.”

The transport of coal would deposit black coal dust on the roads, verges, hedges and adjacent land. Residents can remember such pollution caused by the Swan Farm Coal Washery. Not only was it unsightly but it made the edge of the road very difficult to see in dark, foggy conditions. This is a road safety issue and we do not wish to experience it again.

MLP3iv “the transport network and local roads.”

MLP11 “consideration will be given to the impact of heavy lorry traffic on the transport network.”

The proposed development fails to comply with Policy M11 by placing an excessive burden of additional heavy lorry traffic [132 UK Coal Lorries per day] on a stretch of road insufficiently well engineered to take it. Of particular concern is the Dog in the Lane, to A5223 stretch already used by the Candles site. A local resident has counted 50 such lorries a day causing a liberal amount of debris on the road, potholes, mud, muddy spray, rocks and stones. Road repairs take months and as soon as repaired the road starts to break up again.

It would add significantly to the danger of the A5223 junction where the poor road surface has led to a number of near accidents in the past. At peak times it is already difficult to turn onto the A5223 en route from Little Wenlock. Extra traffic engendered by the proposed site could well result in tail-backs affecting commuting residents and vital emergency and essential services [ambulance, police, fire, refuse collection, medical and nursing services].

Were the coal to be destined for Rugeley power station the extra traffic would have a serious effect on the major developments taking place at Lawley and scheduled to cause disruption to the local highway network for some considerable time to come.

Nationally and Locally Important Sites and Species

LMPM5Bii, iii, iv; LMPBM5Cviii, ix; LMPBM1ii, iv, v; LMPBM3ii.

The whole of Little Wenlock Parish is included in The AONB’s Advisory Plan recognising the importance the setting plays in preserving the AONB itself. The parish contains part of the Shropshire Hills Area of Outstanding Natural Beauty, 3 SSSIs, 3 Nature Reserves, 4 Wildlife Sites, ancient semi-natural woodland of high conservation status, the New Works Ancient Monument and grade 11 listed buildings.

Nationally Important Sites and Species

LMPM5(B) “Permission will only be granted where it has been demonstrated that there are material considerations which over-ride the national importance of the site.”

AONB

LMP M5[B] iii and JSP P43 “development and management proposals shall give priority to the conservation of the natural beauty of the landscape” and page 7 2.13 “Care for the nationally important Shropshire Hills Area of Natural Beauty will be given priority.”

Part of the proposed site lies within the AONB and would have a direct negative effect on it. The proposed development would indirectly affect a substantially greater part of the AONB. The applicant seeks to minimise the impact on the AONB by suggesting that the area threatened is only very small and of very little value. This undermines the whole principle of safeguarding the AONB and sets a dangerous precedent. The applicant fails to recognise that the site’s position on the thin northern arm of the AONB in close proximity to the major conurbation of Telford make sit more vulnerable than most of the rest of the AONB and so worthy of particular protection.

SSSI

LMP M5[B]ii; JSP P46. “Where such development may have an adverse effect, directly or indirectly, on an SSSI it will not be permitted unless the planning authority is satisfied that there is no alternative means of meeting the development.”

Drainage of water from the proposed development into the Lydebrook would put at risk the Lydebrook Dingle SSSI. The latter has been recovering significantly over the past 10 years from the ill effects of previous opencast mining and coal processing at Swan Farm and Coalmoor. Both Ironbridge and Rugeley power stations have a most adequate source of coal supply already.

Ancient Monument

LMPM5[B]; JSP P25 paragraph 1 and P24 paragraph 1.

The proposed development cuts across a scheduled Ancient Monument, designed to preserve some of the last remnants of early coal mining in the locality from precisely the sort of opencast mining envisaged. The applicant seeks to justify this by claiming that the development could improve access to the Ancient Monument which is neither necessary nor desirable. Indeed the monument is designated to protect the remains rather than encourage unrestricted access to them, which could easily have seriously negative effects.

Listed Buildings

MLPM5[B]iv; JSP P24 “Particular attention shall be paid to conserving listed buildings.”

The development would have an unacceptably negative effect on the setting of two Grade II listed buildings.

Badgers

a protected species. LMPM5[B]viii; JSP P49 “planning permission will not be granted for developments or land use changes which would have an adverse effect on badgers.”

The development would directly affect badger setts and the foraging territory of further badger clans. The applicant admits that these animals would be significantly affected. Their comment that such effects would not be significant in the long term is misleading. The location of badgers at a new sett would lead to constant fighting with the badgers already there and insufficient food for all of them.

Regionally or Locally Important Sites

LMP M5(C) “... permission will only be granted where it has been demonstrated that these are material considerations which over-ride the regional or local importance of the site.”

JSP P44; JSP P47.

The proposed development conflicts with Policy LMP M5 C though its likely negative effects on the Limekiln Wood local nature reserve and wildlife site and the substantial area of semi-natural ancient woodland of the Shortwoods without significant benefits to outweigh these impacts.

Deep excavations, vibrations, extended disturbance, significant dust generation and the possibility of blasting would clearly damage the tranquillity of the area and affect both flora and fauna within these sensitive sites.

Dust pollution

LMP M4i; LMP M21 A)i

“The project should protect people and the environment from unacceptably adverse effects including visual, noise, dust or traffic impacts.”

M21 A) I JSP P16 Air Quality “development proposals shall take into account their effect on air quality.”

As the proposed area has been well mined before there could be twice the amount of overburden to be shifted compared with usual opencast operations which could generate a large amount of fine dust [PM10].

This dust has a statistically significant effect on respiratory symptoms, skin and eye conditions in children living close [within 750m] to opencast sites. [Dept: health COMEAP statement 1999]. The location of a large primary school, a major residential area and a massive residential development immediately downwind of the site raises serious worries.

Local experience with repeated opencast mining over the years reinforces the inadequacy of dust mitigation measures in practice and the almost total

inability of residents to gain action over dust problems once sites are up and running.

Noise

LMP M4i; LMP M21A)i

“The project should protect people and the environment from unacceptably adverse effects including visual, noise, dust or traffic impacts” M21 A)i.

The reversing beepers of trucks does not blend in with background traffic noise. It seems to travel further and have a greater annoyance level.

The lack of effective mitigation over reversing beepers together with the potential for blasting and the extended 42 months timescale will cause serious problems for residents within 250m of the site at New Works, Huntington and Arleston, not to mention residents at Lawley and parts of Wellington.

Groundwaters

LMP M3v; LMP M4i; LMP M21A)i “The project should protect people and the environment from any unacceptably adverse effects ... on surface waters or ground waters...”

JSP P53 “Water Resources lines 1, 2, 3, 4, 5, 8, 9, 11.”

At the northern end of the site backfill would be below the level of the water table. As yet there appears to be no strategy devised and agreed with the Environment Agency to neutralise the acidic water created by the sulphur content of the backfill.

Ground water pumping would be increasingly used as mining moves northwards. This would lower the water table beyond the site boundary progressively depriving plant roots of water. The applicant does not expect these effects to be significant. It could be disastrous for some plants and reduce ground water recharge.

The applicant states that “the existing private water supply at Willowmoor would be unaffected.” Why then will the applicant not agree to guarantee that should this water supply be diminished/cease the applicant will pay for a mains supply to be installed?

Stability of site and adjoining land. LMP M3ix; M3i.

“regard will be paid to ... the stability of the site and adjoining land.”

Residents of houses near the proposed site are worried about the effects on the structure of their homes caused by liquefaction brought about by vibrations caused by excavations on clay based geological formations.

Site Reclamation and After Use

LMP 27; M1iv; JSP P58 last bullet point; JSP P69 line 5 "... including appropriate provision for after-care and management."

"to encourage sensitive working, restoration and aftercare practices so as to preserve or enhance the overall quality of the environment." LMP 27 M1. See p93 M27.

The development fails to satisfy Policy M27 in incorporating a scheme unlikely to reclaim the site for a suitably beneficial after-use within a reasonable timescale. There appear to be no details of after-care management.

Quite the contrary to the applicant's assertion that the site will be reclaimed within five years, experience with successive opencast sites reclaimed to agricultural use in the immediate area in recent years has conclusively demonstrated that the lack of reasonable amounts of soil and the soil handling practices employed are unlikely to result in land in an acceptable condition for at least ten years. For the land to regain its present status it would take more than a generation.

Cumulative Effects

LMP M3vii; LMP M21B

"Consideration will be given to the possible cumulative impact of the proposals and permitted future working on the general area."

Contrary to the applicant's extremely flawed analysis of cumulative impact, the proposed development would significantly add to the disruption and disturbance of the local community from more than fifty years of extensive opencasting and directly related activity in the immediate vicinity.

MPG3 clearly defines cumulative impact as arising from "successive opencast developments over a number of years" whereas the applicant assesses cumulative impact almost entirely on the basis of the current sites.

In addition to opencast coal mining at Keltey Brook, Arleston, Candles, Symons, Coalmoor, Swan Farm and many other sites since the 1950s, the local area continues to be blighted by the effects of poorly controlled landfilling following mining at Smalley Hill and the continued operation of the Candles landfill which continues to be a source of so much local complaint as a result of traffic, litter, odour and vermin.

Large numbers of local residents have been affected by the cumulative impact of these and other developments in their lifetime. Many are now retired and spend most of their time in the parish. This accentuates the impact of opencast mining so close to them.

Effects on the Local Economy

The proposed development fails to satisfy Policy M7 by providing only very marginal, temporary benefits to offset the likely longer term, huge scale damage and disturbance involved.

The applicant argues that the site would create 40 temporary jobs and guesses that 52 more jobs may result indirectly.

No account is taken of the jobs that could be lost in the growing tourist industry as the pollution of open casting would deter visitors and inward investment to the area.

A £500,000 Community Trust is proposed as a benefit for use by the local community. This equates to 55p/tonne of coal extracted which pales into insignificance against the current value of the coal and the profits likely to be generated for the applicant. The fact that the local community itself does not seek this benefit further demonstrates its lack of real value to those most affected.

Visual Pollution MLP M4i

The open cast scar on the landscape will deter visitors to the area and inward investment. Coal dust along transport routes is unsightly.

Environmental/Countryside Considerations conflicts with JSP P59.

Conflicts with JSP 59 “Mineral extraction ... will only be permitted where it can be demonstrated that there will be no unacceptably adverse effects on ... people and local communities, landscape character, the historic environment, wildlife and water resources.”

Conflict with JSP 59. “Mineral extraction ... will only be permitted where it can be demonstrated that there will be no unacceptably adverse effects on ... people and local communities, landscape character, the historic environment, wildlife and water resources.”

People and local communities. 92% of Little Wenlock Parish Questionnaire respondents object to this proposal on the grounds of its unacceptable adverse effects.

Landscape character historic environment and wildlife. These adverse effects would be huge.

Countryside Character

JSP P42 line 15 onwards “The countryside around towns has a particular importance and will be subject to management initiatives that will secure its visual enhancement and its use for access, wildlife, open space ...”

This policy highlights how important the proposed site is being so close to the Telford built up area. The proposed development would seriously impair the above qualities.

Proposed development's conflicts with MLP 21.

A (i) "The project should protect people and the environment from unacceptably adverse effects including visual, noise, dust, or traffic impacts; effects on surface or ground waters ..."

Traffic M1ii; M3i; M3iv; M4i; M4iv; M11.

Dust M4i

Noise M4i

Groundwater M3; M4i

Visual M4i.

A (ii) "The project should preserve or enhance any sites of wildlife, landscape, historical, archaeological, architectural or geological importance."

M1 ii, iv, v; M3 ii; M5B ii, iii, iv; M5C most.

The proposed development removes part of the AONB, cuts across an Ancient Monument, affects the setting of two Grade 11 listed buildings and puts at significant risk two local nature reserves, two wildlife sites and substantial areas of ancient woodland and an SSSI. In no way does it either protect or enhance these vital local assets.

B) "Consideration will be given to the possible cumulative impact of the proposals and permitted future working on the general area." M3vii.

D) "Applications for coal or fireclay working in the South Western Telford Area will only be granted planning permission if one or more of the following exceptional circumstances apply:

- (i) Where the need for the mineral outweighs the material planning objections;
- (ii) Where working would prevent the sterilisation of the resource; or
- (iii) Where significant benefits would be obtained as a result of the exchange or surrender of existing permissions."

The proposed development clearly does not meet exceptional circumstance (i) since there is no demonstrable need for the mineral – other than a possible market for it – and there are many highly material planning objections.

It also fails to meet circumstance (ii) because the mineral is in no danger of sterilisation – defined by MPG3 as "new permanent development above the coal reserves." This was confirmed by the Inspector's clear ruling at the 1998 Public Inquiry.

It cannot meet circumstance (iii) because there are no existing permissions in the area to surrender. The fact that this policy was tested at the 1998 Public Inquiry and accepted by the then applicant as well as by the Inspector at the original Local Plan examination in public underlines its continued relevance.

Public Rights of Way

JSP P39 “The network of public rights of way will be protected and maintained and where necessary improved to contribute to tourism and recreation.”

The applicant incorrectly refers to pathways 37 and 51 as footpaths (17.6.3). They are restricted byways open to walkers, horse riders, and drivers of non-mechanically propelled vehicles. Wrongly the applicant states that byway 51 is little used when in fact it is well used especially by horse riders. The applicants’ proposed alternative is a footpath not a restricted byway and it would be exceedingly dangerous for walkers and riders. Path 37 has an outstanding modification order on it to reinstate it as a bridleway. UK Coal proposes a footpath to replace it and the alternative route would be dangerous and totally unacceptable as it goes over the access road between the north and south mining areas.

Other Considerations

The land in question forms one of the last remaining examples of post industrial regeneration from previously mined land – all other remains within the area having been destroyed by extensive open casting over the years.

It is vitally important that these areas are preserved intact is at all possible, their relatively low agricultural fertility being a major asset given the extent to which low fertility sites are valuable in conservation terms as they encourage biodiversity. JSP P48 “... The biodiversity of Shropshire ... will be encouraged through protection, conservation, enhancement and restoration of the natural ranges of species and the quality and extent of habitats and ecosystems of wild fauna and flora.”

Nor should its continued inclusion in the register of derelict land be a serious consideration, given the extent of natural regeneration the site has undergone clearly underlies its ecological value.

As a vital piece of open space forming a prominent foreground to the distinctive landscape of the Ercall and Wrekin for the bulk of Telford, the site is also far more important than would otherwise be the case both visually and for local recreation. JSP P20 indicates the high value of this open space to Telford and Wrekin inhabitants.

To disrupt such a vital local asset unless at a time of extreme national need would be nothing short of environmental vandalism at this stage in its successful regeneration.

By leaving the mineral reserves intact they would be safeguarded for a time of extreme national need rather than allowing them to be exploited now when economic imported sources of fuel are readily available at far less UK environmental and community impact.

In a later communication the Clerk to Little Wenlock Parish Council confirmed that he has gone through the electoral register with a long term resident. He reports that there are 88 persons on the electoral register, some of those (sons and daughters) do not actually live there as they are students or work away. Of the total he has calculated that 45 are retired, just over 50%; this is a conservative total.

For the whole parish the 2001 Census profile is as follows:

45 – 64 = 40.4%

65 – 84 = 7.00%

As that was 7 years ago a good percentage of the 45-64 age group will have moved to the 65-84, or at least be over 60. There are also quite a few people who work from home and would be affected.

7.4 Wellington Town Council

Object to the proposals due to: the prospect of flooding being caused by the proposal and, in particular, the coal washing plant; environmental factors (dust, noise, vibration, destruction of ecology, flora and fauna); destruction and interference with the important heritage sites in surrounding woodland and the environs of the Ercall and the Wrekin; and the effects on the health of local residents, as advocated by Dr Van Steenis.

Earlier the Town Council had also made interim objections which they now endorse. These are:

- Interference with and apparent lack of or insufficiency of provision for water drainage.
- Dust and interference with the enjoyment of amenity.
- Traffic nuisance, in particular caused by the prospect of HGVs making use of minor roads.
- Unacceptable environmental impact on Short Wood.

7.5 Lawley & Overdale Parish Council

The Parish Council have concerns that, if the land is presently a Greenfield site, then any workings will result in the land becoming a different classification. If the land is re-classified as brownfield then it will leave the area open to heavy development. What is the present classification of the land?

7.6 The West Midlands Regional Assembly

The WMRA report that the proposals are in general conformity with the RSS.

There are no policies in the current RSS which deal with the acceptability or otherwise of the working of coal by opencast coal methods in the region. Policy M4 in the RSS recognises that energy minerals are of regional importance and that exploitation and utilisation of energy minerals can make a contribution to meeting future energy needs. The MPA in balancing the benefits of the proposals against the material planning objections will need to take this into account.

The proposed development includes the removal of 900,000 tonnes of coal that will be used to generate electricity in the West Midlands at either the Ironbridge or Rugeley coal fired power stations.

The removal of the coal will also allow the release of 250,000 tonnes of fireclays which is regionally significant and within an area where there is to be significant future growth. Should the application be approved, the MPA should seek the recovery of the maximum quantity of fireclay possible in order to avoid future sterilisation of a nationally and regionally scarce resource. Where practical and possible with the boundaries of the MPAs area of working with other authorities, secure the stockpiling of this valuable resource for long term future use by the West Midlands brick and tile industry.

The policies in the Quality of Environment chapter (RSS) seek to protect, conserve and enhance regionally important environmental tasks. The proposed development site does not contain any statutory designated or non-statutory designated biodiversity sites. It does lie within an Area for Concentrated Bio-diversity Enhancement. The haul road, however, passes through a Scheduled Monument designated because of its historic coal mining interest. Whether the proposed works to construct and maintain the haul road, proposed use of the road and environmental impacts will have a detrimental impact on the scheduled monument will be a matter for the MPA to decide. The general area around the site is environmentally sensitive with biodiversity sites, cultural and built heritage sites/area in close/general proximity including The Wrekin.

A very small part of the site lies within the Shropshire Hills Area of Outstanding Natural Beauty, and the AONB lies to the north and west of the northern part of Area A. Whether the proposals themselves protect, conserve or enhance the AONB is dependant upon the details of the scheme of working and restoration. With only 0.005% of the AONB affected it is unlikely to be a matter of regional importance. The excavations in the 2 areas could remove land instability problems and therefore restore a partly degraded landscape.

Overall whilst there are a number of local environmental issues to be resolved by the MPA including – noise, visual impact, blasting, transportation and the specific impacts on the Scheduled Monument and the local landscape they

are not regionally significant and therefore not likely to lead to an issue of non-conformity.

The MPA will need to ensure that the proposals protect and seek improvements to biodiversity during the operational life of workings if planning permission is granted.

Policy M4 also requires the MPA to consider the proposal in the light of existing national guidance in relation to coal mining. The relevant guidance is set out in MPG3 (1999), in particular, para. 8 which lists two initial tests on environmental acceptability and local or community benefit grounds and paras. 28 and 29 in relation to the impact on the AONB. This is a matter for the MPA to consider on the facts of the case.

7.7 The Environment Agency (EA)

The EA has no objections in principle to the proposed development but recommends that if planning permission is granted the following planning conditions are imposed:

Drainage/flood risk CONDITION

No development approved by this permission shall be commenced until a scheme for the provision and implementation of a surface water run-off limitation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved programme and details.

REASON

To prevent the increased risk of flooding.

There must be no interruption to the surface water drainage system of the surrounding land as a result of the operations on the site. Provisions must be made to ensure that all existing drainage systems continue to operate effectively and that riparian owners upstream and downstream of the site are not adversely affected.

The developer has provided some detail regarding flood risk indicating a willingness to balance surface water run-off from the site. However, the assessment makes reference to the 100 year whereas the current standard is to include storage for climate change. No volumes have been indicated as yet. Given that there appears to be adequate area to expand the pool area, this should not be an issue to the developer.

Biodiversity

CONDITION

Lagoon designs for settlement before final discharge should be sympathetically designed with shallow sloping sides or stepped sides (beneficial for H&S) to provide an element of marginal habitat, and potentially reedbed, during their active life.

REASON

To maintain/improve biodiversity.

The following information should be taken into account in conjunction with information from Natural England and appropriate conditions included where necessary.

New Works Wood and St Johns Wood are described as still having open shafts. Such shafts are often very important as hibernacular sites for bats (all species of which are protected by law). If these features are to be made safe, access for bats must still be maintained.

The report indicates that there will be a significant number of mature trees lost, both free standing and within woodland units. Whilst 5 to 10 boxes may seem adequate compensation, these relatively small boxes cannot accommodate large roosting populations in the same way as a large hollow tree. Therefore a larger number of boxes with some grouped should be considered, or a few larger purpose-designed boxes should be used in addition to those proposed (note: the close proximity of the mine shafts as potential hibernacular make the site strategically important for bats Both now and in the future).

“restoration to large areas of agricultural land and improved grassland” is alluded to as enhancement/mitigation. Clearly from an ecological/biodiversity perspective this is not the case.

A conclusion of “no adverse impact” is reached concerning excavation in close proximity to the woods present. The excavations in the north of the site seem particularly close to the established woodland edge, Mature and significant trees can often have root systems reaching 20 metres and more beyond the woodland edge. To avoid damage to such trees/woodland a buffer or stand-off zone of at least 20 metres free of excavation, haul roads and stock piling should be established.

Reference is made to the occasional use of grassland by nesting Lapwings and this has been termed negligible in sensitivity terms. This does not reflect the critical status of this breeding bird (county BAP species) in Shropshire which may become extinct as a breeding bird over the next 5 years if the current decline continues. Preservation or creation of habitat for lapwings is therefore considered of importance.

Every attempt should be made to translocate vegetation and fauna (including amphibians) of value from water bodies and wetland features to be lost to the new compensatory wetland features.

Groundwater/pollution prevention

The following specific comments regard issues that we consider to be paramount in terms of protection of controlled waters:

The surface water management to be adopted at the site. These provisions must be strictly implemented and followed to prevent pollution/deterioration of controlled waters. Discharge of any water abstracted during the dewatering operations will require discharge consent from the EA.

Areas to be used for vehicle washing facilities, refuelling point and plant maintenance should all be hard surfaced with oil interceptors incorporated in the drainage system before discharge.

The groundwater operation management at the site. The EA agree that an extensive groundwater monitoring network must be put in place to enable monitoring of groundwater levels and quality around the site before, during and after the mining activities.

The location of these boreholes, detailed drilling and installation records, proposed monitoring, maintenance and reporting regime for the operational and restoration phases of the mine should be submitted to the EA.

Hydrogeology

The EIA lists potential hydrogeological receptors in the vicinity of the proposed mine.

During dewatering of the mine, it will be a requirement that these receptors are monitored to ensure that any derogation of both quality and quantity of groundwater to these sources is detected at an early stage. Appropriate mitigation measures must be agreed prior to the commencement of operations to manage this eventuality. A formal consent from the EA will be required under the Water Resources Act to dewater this site.

A planning condition should be imposed requiring groundwater level monitoring from the network of boreholes and piezometers on a monthly basis and for the results to be submitted to the EA every six months.

Despite the reporting of monitoring data to the EA it remains however the responsibility of the applicant to demonstrate that any dewatering activity will not derogate existing groundwater users.

Proposed construction and installation of additional boreholes and piezometers. The EA note the proposal to augment the existing groundwater monitoring network.

Proposed mitigation of impact on groundwater resources.

- The EA note the groundwater management proposed and summarised the EIA, mitigation measures, and recommend that these should be implemented.
- The phased development of the mine is stated to be a requirement to minimise the impact of dewatering at the site on groundwater receptors. It is therefore required that this be made a condition of any planning permission granted.
- Detailed assessment of the risk to controlled waters post restoration of the site following the emplacement of overburden should be undertaken as indicated in the above report. A planning condition requiring this to be undertaken should be attached to any planning permission granted.

Other Issues

The EA note that it is proposed to dispose of foul water/sewage by means of septic tank on site. Further details of this must be submitted. It should be noted that the EA does not favour the use of septic tank for disposal of foul drainage. Disposal of foul sewage to mains is the preferred option, however. In the absence of access to mains foul sewer, a package treatment plant with a discharge to soakaway is the EAs preferred option for foul drainage disposal. Any provision which does not meet our preferred option must be fully justified.

A discharge consent from the EA will be required to discharge foul effluent to ground/controlled waters.

The EA have asked for a number of conditions and informatives be imposed to prevent pollution of the water environment in the event of the application being started.

In addition the EA has confirmed that in the event of the application being granted that planning conditions should be imposed to ensure

- monitoring of the hydro-geological and hydrological regime
- to protect the water environment
- to prevent any impacts on the hydro-geological and hydrological regime
- to secure a detailed scheme for surface water (including water quantity and quality) which would also include appropriate water management and treatment measures
- to prevent the increased risk of flooding and provide water quality benefits by ensuring the provision of a satisfactory means of surface water disposal
- to secure detail of any lagoon design.

7.8 Natural England (NE)

NE object to the proposal, but these may be overcome by modifications and conditions. The proposal may indirectly affect Lydebrook SSSI. The water treatment areas (WTA) and any discharges should be conditioned to ensure that the discharge of water does not adversely affect the nature conservation interests of the Lydebrook and Lydebrook Dingle SSSI. The Lyde Brook streams runs through the site and forms part of the overall functioning of the habitat which is known to be important for insects and has a nationally important crane fly.

NE draws attention to the following agricultural comments:

1. The proposals affect 93.5ha of land, including 3ha of Grade 2 and 12ha of Subgrade 3a agricultural land, the best and most versatile agricultural land. The EIA generally take account of making the most sustainable use of the soil resources on site, although the detail of the proposed restored soil profiles and their final location is unclear. The aim should be to restore the best soils (Soil Resource Receptor 1) in one block within the site.
2. The height of topsoil and subsoil bunds at up to 5m and 12m respectively is excessive and will increase the likelihood of the degradation of soils, even though the period of time that they will be in store may be relatively short.
3. All storage bunds intended to remain in situ for more than 6 months or over the winter period should be grassed over and weed control and other necessary maintenance carried out. The seed mixture and the application rates should be agreed with the MPA in writing at least one month before it is expected to complete the formation of the storage bunds.
4. There is little information on the machinery to be used for handling soils and the method of its use.
5. It is stated that soils will only be handled when drier than "Field Capacity" and preferably drier than the "Plastic Limit". If soils are handled when wetter than their "Plastic Limit" they will be damaged by compaction and smearing, particularly if handling is with box scrapers, when soils should only be handled in accordance with the ADAS Soils Report (1981) which is included in Appendix 8A of the EIA. If soils are handled with near to "Field Capacity" they are likely to suffer severe structural damage.
6. There is no detailed information on the effect of the proposals on the agricultural holdings affected. The loss of land may be particularly important for any holding where the land to be

developed is held on a full agricultural tenancy, if viability is put at risk and the development results in the inefficient use of capital equipment.

7. The proposals include reference to installing under-drainage after settlement has occurred. In order to maximise the benefit of under-drainage in the aftercare period drains should be installed no later than the second year of aftercare.

NE does not object to the agricultural and soil issues because if the Council raises these issues with the company and receive appropriate amendment in the proposals, the restoration and aftercare proposals should enable the land to be satisfactory restored.

The proposed additional footpaths are welcomed and advise that the proposed mitigation and restoration proposals are conditioned.

The summary given in the EIA is that the landscape impact on the designated landscapes (AONB) is significant for the direct impacts on the small part of the AONB to be mined but not significant for the AONB as a whole. NE is concerned about this approach and suggests that for the purpose of this assessment the impacts on the AONB are considered to be significant. The other issues relating to existing condition, screening, restoration and length of time that the area is affected are considered as relevant. However, some of these issues include mitigation and compensations for the effects the proposals may have and as such should for part of the conditions.

NE notes that the visual impact of the proposals from a number of view points and other visual receptor sites are rated as significant. The summary shows that there are a number of significant visual impacts over the life of the proposed development. In mitigation of these effects proposals are put forward for screening and attention is drawn to the fact that the effects will be for a short period. If permission is granted these issues should be addressed and conditions imposed.

The overall restoration is not laid out in full in one place and NE is concerned that this may lead to problems when restoration is proposed.

Fig 11.8 of the EIA suggests that much of the southern end of the application site will be restored to species rich grassland. However, the soils chapter indicates that there may not be sufficient top soil for grasslands in the south of the application site and woodland may be considered. NE suggest that if permission is granted a condition is imposed at the latest that full restoration is agreed to the Council's satisfaction prior to excavation works commencing. NE wish to be involved in negotiations over conditions. There is also potential for biodiversity gain.

In response to further consultants reports from Entec, Natural England have made the following additional comments in relation to the rare cranefly (*Lipsorthrix nobilis*) and possible impacts on the Lydebrook Dingle SSSI.

Lydebrook Site of Special Scientific Interest

It is Natural England's view that appropriate conditions should be attached to any planning permission which would ensure there are no adverse impacts on the rare cranefly in the Lydebrook. Natural England have copied their response to the Environment Agency alerting them to the presence of the species and that appropriate protection should be considered in the granting of any discharge consent if the planning application is granted and a discharge consent is applied for. The new information also summarises a number of mitigation measures to ensure that the quality and quantity of water leaving the site would not adversely affect the cranefly (balancing ponds, oil interceptors bunded fuel storage precautions etc), it is these plans and operations that Natural England consider need conditioning should you be minded to grant permission.

7.9 English Heritage (EH)

English Heritage (EH) has, in principle, no objections. In summary the application sets out proposals for coal mining development that includes a haul road to be constructed through a scheduled ancient monument. The application case is that longer term landscape restoration and enhanced access will outweigh short-term adverse effects on the monument's fabric and setting. In law, scheduled ancient monument consent is required for works within the scheduled area. In the event of an application for scheduled monument consent being made by the applicant, detailed further discussion would be required to enable EH to formulate its advice to the Secretary of State.

The works will also affect the setting of the monument. The monument is national number 31753 and includes remains of multi-period coal mining.

The EIA does not in itself provide sufficient detail to enable EH to formulate advice to the Secretary of State in response to a future application for scheduled ancient monument consent. They do, however, provide a useful framework for further detailed discussion that will be required to enable such advice to be made. In particular detailed agreement would be required regarding the following elements:

1. Engineering design of haul road – to ensure minimal impact and reversibility at completion.
2. Archaeological mitigation strategy – detailed strategy needed in the form of a Written Scheme of Investigation. EH proposes that such be devised in liaison with the Shropshire County Council Historic Environment Officer for the whole of the application area, including the scheduled and non-scheduled elements.
3. Restoration strategy – including landscape restoration and guarantee of enhanced access and interpretation.

English Heritage does not object to the application in principle. This in-principle position is taken at this stage because if the scheme offered a thorough response to the issues raised regarding scheduled monument consent, then, in their view, a shorter term disruption and limited impact on the scheduled remains might be balanced against the longer term benefits offered by removal of development pressure in the SAM area, and improved access and interpretation in the long term.

In January 2009, EH confirmed that major issues, remain to be agreed in detail, namely:

1. Design of the haul road.
2. Inclusion in the WSI of a full record provision of all ground disturbances in the SAM.
3. Agreement on the scheme for restoration and aftercare, including access to the SAM for the benefits of education and leisure.
4. The legal securing of 3.

EH accepts that the current proposal cannot remove development pressures in the longer term outside the SAM as approaches within the core strategy post 2016 cannot be predicted now.

7.10 The Highways Agency (HA)

HA comment that there will be a marginal effect on the M54 at Junction 6, the nearest access point to the HA network; this is about 1km away from the site.

7.11 The Coal Authority (CA)

The CA makes the following comments.

1. The CA has no objection to the proposals and will process any associated application for an operating licence under part 11 of the Coal Industry Act 1994 in accordance with statutory duties.
2. As owner of the coal the CA encourages and supports the working of coal in environmentally and socially acceptable ways to meet the market requirements. This forms part of the Government's policy framework for a diverse and secure energy supply and incorporates the principles of sustainable development. This framework was incorporated into MPG3 which sets challenging standards for surface coal mining in England. The CA believes that the coal industry can successfully operate within these principles and would wish to see flexibility maintained by Telford & Wrekin Council in order that operators have such options as exist to allow them to work the nation's coal assets.
3. It is essential that the planning process takes account of the occurrence of minerals which can only be worked where they occur.

The role of surface mining is critical to the continued supply of good quality coal for the market in the UK and it should be recognised that coal currently provides the basis for up to half of the electricity generated in the UK.

4. The CA believes that the coal supply in the UK should contain a significant proportion of indigenous production. The electricity generators have made similar statements in their submissions to the recent Energy Review. Coal supplies from the UK offers security against the volatility of international coal prices, freight rates, exchange rates and a reliance on port capacity. The 2006 Energy Review recognised the importance of indigenous energy resources as shown below:-

“... The Government believes that it is right to make the best use of UK energy resources, including coal reserves, where it is economically viable and environmentally acceptable to do so...”

In addition MPS1 (2006) states that there should be the:-

“...aim to source mineral supplies indigenously, to avoid exporting potential environmental damage, whilst recognising the primary role that market conditions play...”

It should be recognised that the importation of coal from many thousands of miles away has its own environmental footprint by way of increased transport related carbon and sulphur emissions.

5. Surface mining frequently assists in the removal of surface dereliction but the CA believes that the local benefits of mining go well beyond the removal of this dereliction. Whilst the advantages of removing dereliction on the surface may be obvious, the benefits of treatment of surface and sub surface contamination and instability may not be so well recognised or understood. The removal of shallow old workings and shafts and subsequent restoration often provides a stable platform for further surface developments. Rather than divert investment away from an area opencast mining has often created inward investment particularly with improved transport infrastructure. Other local benefits include reduced hazard from mine gases and spontaneous combustion, improved water quality from treating mine water discharges and the recovery of minerals other than coal which helps to support the fire and brick clay industries.
6. The ability of the industry to continue its significant contribution to the energy supply in the UK is dependant equally on success in an extremely competitive energy market place and success through a rigorous planning regime. With site life varying typically between one and five years it is essential to bring environmentally acceptable new sites on stream to replace exhausted sites on a regular basis. There is no shortage of coal in the ground, the ground rules have been laid out

in MPG3 and the CA believe that the industry can find sites that meet the strict criteria provided that the planning system is conducted fairly and professionally.

7. MPG3 also recognises that it is essential that any unnecessary sterilisation of coal reserves through permanent development should be avoided and in principle it is desirable to secure extraction prior to permanent development above coal reserves. The active recognition of this by Telford & Wrekin Council will allow the sustainable development of an important national resource in accordance with Government policy. The working of coal prior to such developments should be encouraged.

The Coal Authority has made further comments concerning the fencing off of unstable areas. This was at the request of Officers after the issue had been raised by objectors. The Coal Authority is the public body that deals with surface hazards arising from past coal mining activities such as shaft collapses, collapses of shallow mine workings, gas and water emissions from former coal mines and the spontaneous combustion of coal in the ground. The Coal Authority deals with about 600 such incidents nationally every year on a re-active basis.

The Coal Authority's emergency call out service deals with these incidents on a 24 hour basis every day of the year and on receiving a report of a suspected coal mining hazard, arranges for the situation to be made, without consideration of responsibility.

This service is funded by the public purse and with old workings from centuries of past coal mining in the UK and some 170,000 recorded mine entries it would be impractical for the service to be other than re-active in the vast majority of instances.

The Coal Authority also at Officers request gave a list of abandoned surface coal and fireclay mines within the Borough that is in their records. This assists in understanding how the western part of Telford has been subject to surface coal and fireclay mining in the 20th Century.

7.12 The Council for the Protection of Rural England (CPRE)

CPRE object to the proposals. In summary this is based on:

1. Incursion into an AONB, however small, which would set an undesirable precedent.
2. Some aspects of the ways in which data is dealt with in the Environmental Statement. They contend that the treatment of the data underestimates the weight that at least some of it should be accorded when the Council makes its development control decision. If the

Council has the necessary in-house skills to review the data handling methods themselves, then they ask that they should do so; otherwise they ask that they should consider getting some independent professional advice.

3. Excessive adverse effects on the environment and on nearby residents. There is the matter mentioned in paragraph 2 above, and one or two missing data items, most notably the background noise at noise working times as compared with noise from all night pumps and generators and noise from essential equipment maintenance outside working hours.

7.13 Shropshire Hills AONB Partnership

Objects to the proposal. The proposal involves working some 6.6ha of the Shropshire Hills AONB. This will have a significant adverse and direct impact on this nationally protected landscape. The proposed site boundary is also immediately adjacent to the AONB boundary in the northern part of Area A and the AONB extends westwards from Area B. The extraction of coal and fireclay by opencast methods will have a significant and adverse indirect effect on the AONB in these areas.

In summary, MPS1, MPG3, Policy 59 of the Joint Structure Plan and Policy M1 of the Joint Minerals Local Plan all clearly state that exceptional circumstances should be demonstrated for any proposals to extract minerals from an AONB. These need to take into account of existing national guidance in relation to coal mining is emphasised in Policy M4 of the RSS.

The Partnership feels that the exceptional circumstances listed in paragraph 14 of MPS1 and repeated in paragraph 29 of MPG3 (in particular the need for the development) have not been demonstrated by this proposal and therefore permission should not be granted.

Policy QE1 and paragraph 8.76 of the RSS, Policy M21 of the Joint Minerals Local Plan, Policy CS12 of the Core Strategy and Policy OL2 of the Wrekin Local Plan all deal with the need to conserve and enhance AONBs and to avoid damage or unacceptable impacts. This proposal will cause unacceptable direct damage to the 6.6ha of the Shropshire AONB from which minerals will be won and will have an unacceptable indirect impact on those parts of the designated area which are either adjacent to the site or in its vicinity.

7.14 Wellington LA 21 Group (LA21)

Objects to the proposals. LA21 considers that the transient benefits of the scheme (40 temporary jobs and coal supply for Ironbridge Power Station), are outweighed by the damaging long term impact it will have in environmental, ecological and landscape terms; degrading the Wrekin Hills AONB and providing a potential water pollution threat to the Lydebrook Dingle SSSI.

While restoration is proposed, local evidence from past mining activity suggests this is hard in practice to achieve and may take several generations to provide benefits. This also reopens the possibility of future urban development.

LA21 also believes the proposals pose a threat to tourism. The scale of the development, in terms of its visual impact on the landscape and the additional HGV traffic, dust and noise pollution it will generate, can only deter walkers and cyclists from exploring the Wrekin Hills AONB. The proposals have negative implications to health and represent a major investment in the area. Since the Council is encouraging tourists from the 2012 Olympics to stay in the locality during the games, the appearance on the landscape of opencast works would be unwelcome.

7.15 The Shropshire Wildlife Trust (SWT)

SWT, in a letter dated 13th March 2008 objects to the proposal for the following reasons: the impact on the wildlife, especially the Limekiln Woods Local Nature Reserve; the impact on the landscape; the lack of clarity in the proposed restoration scheme; and the potential for future housing development on the northern part of the site.

Wildlife

SWT object to the loss of part of the Limekiln Woods County Wildlife Site (In a e-mail dated 7th January 2009 SWT confirmed that the original reference to the partial loss of Limekiln Woods Local Nature Reserve is an error). This area of semi-improved marshy grassland is a buffer to the woodland habitat, and the restoration proposals do not adequately compensate for its removal.

The Environmental Impact Assessment has not demonstrated that there will be no adverse impacts on the Shortwood Wildlife Site; the excavation boundary in places is less than 20 metres from woodland edge and this is likely to have localised effects on the trees and ground flora, including severance of tree roots and desiccation of the soils. The likelihood of accidental damage by heavy plant during soil stripping is also high.

The proposed haul route cuts right through New Works, a Scheduled Monument, significant for its early mining remains which lie within the wood. This area of woodland is of sufficient ecological value to be considered an extension to both the Limekiln Wood Wildlife Site and the Shortwood Wildlife Site because of its unique character of small shady pools, diverse topography and general open feel of wood pasture.

The re-routeing of the pylon line is also likely to exacerbate damage to the Wildlife Site as it may entail additional woodland clearance, disturbance by heavy machinery during pylon installation, and clearing back of vegetation during routine line maintenance in future years.

Work carried out by a research student funded by British Coal in the 1990s demonstrated that the restored soils had very poor invertebrate populations post-restoration and were of little value to badgers for foraging for earthworms. This proposal not only seeks permission to close down badger setts, but will also result in food shortages for those social groups which remain. Although inoculation of soils with earthworms are mentioned in the Environmental Statement, it is not clear whether the proposed worm inoculation of stored soils (page 206) conflicts in any way with the need for poor sub-soils required for the creation of species rich grassland, or where these soils will be placed in the restoration scheme. There is no cross referencing to this operation in Section 3.6 Soils: Handling, Storage and Replacement in the Supporting Statement.

Landscape

The short, medium and long term adverse impacts on the landscape on this area during and after the open cast mining activities. The Western Fringes of Telford is a highly sensitive landscape and acts as a buffer to the Shropshire Hills Area of Outstanding Natural Beauty. It is inappropriate to have an active opencast mine in this area.

SWT feel strongly that the land to the west of Dawley Road should be retained as an area of open space to provide both an area for recreation for the existing and for the rapidly expanding population, and to act as a 'rural' backdrop for the growth point of Telford. New Works Woodland itself is of historical significance as well.

Strategically, it is essential that this area of woodland and farmland with its inter-connecting hedgerows and streams is regarded as a cohesive, large scale landscape unit which will provide capacity to absorb the effects of climate change, sufficient space for adaptation by that wildlife which can adapt, and recreational opportunities for local people. The current opencast proposal does not consider the wider picture and how the site integrates with the rest of the town of Telford and the countryside beyond.

Restoration Proposals

There is insufficient detail within the restoration proposals to demonstrate that the overall biodiversity of the area will be enhanced. The viability of creating species rich grassland must be in doubt without further detailed information on suitability of the available substrate materials and methodology for creation being supplied.

It is not at all clear from the proposals as to who will own and manage any of the land after the open casting and whether the species rich grassland in particular will persist in the southern area after the 5 year aftercare period. These grasslands are likely to be difficult to create, require the right substrate on which to create them, and a hay-meadow management regime to maintain them. What are the guarantees that they may be retained? In the experience of the SWT they are unlikely to persist.

There is an overall lack of strategic planning in the restoration proposals; there is no real attempt to show how habitats will link across the wider countryside or how the restored site will be used by the new residents from the Lawley development, other than the provision of inappropriate surfaced footpaths for such a rural location. Even within the area of the Scheduled Monument (excluded from open casting) which should remain as woodland is shown on the restoration plan to be species rich grassland, demonstrating a lack of attention to detail.

Future Housing

SWT object to the permanent loss of substantial amount of open space which will follow on from the restoration of the northern section of the site (the area nearest to Wellington). Although housing proposals do not form part of the current application the future after use for part of the site for housing was made explicit by UK Coal at their public meeting on 30th November 2007 and during Radio Shropshire interview on 18th February 2008.

As the northern part of the site will be subject to a future planning application for housing the area of pasture will be lost as open space and the remaining green space and woodland habitats will be under even greater pressure in the future from recreational use.

The application is inextricably linked with the future use of the area for housing and a clear message in planning terms needs to be given by the Council about the strategic importance of this area as part of the Wrekin Forest and not as a future suburb of Wellington.

In summary SWT regards the proposal to be focused solely on removing the coal, whilst preparing part of the site for development, and the end result has very little wider benefit to the wildlife or the residents of Telford.

SWT's Comments on Applicant's submitted planning documents

- Site Operations and Mitigation
- Biodiversity
- Background

Please note that Short Wood is also a County Wildlife Site. This information does not appear in the EIA and relates to an error in the supply of information to Entec by the SWT during the scoping exercise. The implications of this oversight relate to the Environmental Statement overlooking the potential adverse effects of the void being within 15 metres in places to the wildlife site boundary and in the opinion of the SWT this is insufficient buffering to protect the wildlife site.

For clarification, in addition to being a designated County Wildlife Site, the northern part of Limekiln Wood is also designated a Local Nature Reserve and as such does enjoy statutory protection under Section 21 of the national

Parks and Access to the Countryside Act 1949. The local nature reserve does not cover Limekiln Woods to the same extent as the County Wildlife Site, but lies within 700 metres of the application site.

The restoration scheme appears to have overlooked the opportunity provided by the close proximity of the Local Nature Reserve (public open space specifically designated for nature conservation) to link other areas which may be designated for informal recreation and to significantly extend the area covered by the Local Nature Reserve in the future. St John's Wood and Lawley Furnaces Wood which lie to the east of the application site, identified by Penny Anderson Associates in 1991 as being of local importance for wildlife, could also be considered in a more strategic plan for the restoration of this area.

Mitigation Measures

Mitigation incorporated into the Restoration Stage

SWT feel that the restoration plan are poorly thought through and lacking in significant detail to ensure that they are a success in the longer term. There is no information on who will be responsible for writing and implementing the 'detailed and long term habitat management plan for the site' as there is no further reference to this in the Environmental Statement.

There is no detailed information on the proposed management plan for New Works Woodland a site which is of significant local value for wildlife, and of national significance for its archaeological remains as a Scheduled Monument.

Creation of Grasslands

It is unclear how the species rich grassland will be created and whether suitable substrate materials are available. It would appear that this type of habitat has been selected from the Shropshire Biodiversity Action Plan because it is becoming increasingly rare, but without considering whether it is suitable in the context of the Wrekin Forest. The Site Restoration Plan shows that species rich grasslands are to be created under what should be an undisturbed area of woodland and scrub of the northern part of the Scheduled Monument, which SWT assume must be an oversight.

Creation of Wetland Habitat

It is unclear how the wetland area will be managed in the future and does not adequately compensate for the loss of the Limekiln Woods Wildlife Site which is currently a much more extensive area of marshy grassland.

There is no information on where the 6.6ha of prime agricultural land is located within the restoration scheme.

Conclusions of the Assessment

SWT feels that despite specialist survey work on badger territories, the lack of detailed knowledge about the long term effect of the scheme on badger populations means that it is not clear whether the mitigation will be successful.

- Landscape and Visual
- Conclusions and Assessment

Landscape

SWT would not agree that the area of the AONB which will be adversely affected is 'derelict' or in poor condition because of its inclusion on the Inventory of Vacant, Derelict and Underused Land, and that this definition has been overplayed.

It is noted as being mainly Grade 4 agricultural land by ADAS and has elements of its recent past industrial history reflected in its topography. It is also designated as part of the Limekiln Woods County Wildlife Site, and is of ecological interest for its wet grassland arising from impending drainage from the former opencast operations. SWT would argue that the AONB boundary should extend over a wider area at its north eastern extremity, to cover the wooded Western Fringes of Telford and adjacent fields and provisions made to buffer to this highly sensitive area designated for its nationally important landscape qualities.

Cultural Heritage Background

New Works Wood Scheduled Monument enjoys statutory protection under the Ancient Monuments and Archaeological Areas Act 1979. The cutting of a haul road through this monument is contrary to Planning Policy Guidance Note 16 Archaeology and Planning (1990) and will lead to the destruction of part of the Monument.

It will lead to the permanent loss and degradation of terrestrial features of earlier mining activity which are acknowledged as important by its statutory protection as a Scheduled Ancient Monument. The permanent loss of historic trackways is unacceptable in an area with an industrial heritage which is still under active investigation, and is under recorded.

Mitigation incorporated into the Restoration Stage

There is no indication given as to who will actually implement any of the management works on the New Works Wood Scheduled Monument, and who will own and manage the site in the long term – simply the 'opportunity' for this to happen. The Restoration Plan shows the area as being as 'area subject to woodland management plan', but there are no further details about this plan within the documentation.

SWT's Comments on Environmental Statement Vol. 1

- Hydrogeology
- Potential Hydrological Receptors

SWT are concerned at the sheer number of sensitive receptors within a 2km radius of the site centre, a total of 59 receptors, including 10 groundwater abstraction wells, 27 springs, 6 sinks, 3 rivers reaches, 13 ponds and lakes; and the site is in a zone of High Groundwater Vulnerability.

- Hydrology
- Proposed Mitigation
- Prevention of Pollution

Limekiln Brook and Lydebrook Dingle SSSI watercourses both originate within the boundaries of the proposed site. Despite the provision of water treatment and interception at the boundaries of the site SWT consider the risk of water contamination to be high. The floods of 2007 have highlighted the inadequacy of many current water control measures and SWT are not convinced that the protections offered by the water treatment areas are adequate to prevent contamination of the surrounding watercourses and ponds by deluge events.

Biodiversity

- Habitats Within or Adjacent to the Site

Shortwood County Wildlife Site is also immediately adjacent to the opencast site and in Area B in places the void comes to within less than 15 metres of the woodland fringe. It is not clear how the woodland edge will be protected from accidental damage, from recreational pressure from the diverted footpath or from the re-routing of the pylon lines (and subsequent line clearance operations).

- Reptiles (All Species)

Though SWT note that no reptiles were found during the surveys conducted, SWT raise their concerns that the surveys were conducted between 18th September and 18th October which is rather late in the season. SWT would have liked to see a wider spread of survey visits, certainly to indicate an early visit in March to find post winter emergent adults.

Non Statutory Sites

SWT would not agree with the statement that the Limekiln Wood County Wildlife Site has a low intrinsic nature conservation value. Marshy grassland is a relatively uncommon habitat in Shropshire and Telford & Wrekin. Although the restored water treatment area aims to replace a small area of this habitat, most will be replaced by the re-profiled ponds. SWT are

suggesting that additional wet grassland is created as part of the restoration scheme to replace that which is lost through opencast.

Conclusions

SWT would not agree with the statement that the loss of semi improved neutral grassland of the County Wildlife Site is not significant and that there is adequate compensation from the restoration proposals. This is because there is uncertainty in the wildlife value of the restored WTA2 and adjacent species rich grassland, especially in how they will be created and managed in the long term.

- Assessment of Effects: Habitats and Flora
- Data Collection and Interpretation Methodology

SWT would point out that survey work along the route of the haul road was undertaken in October 2006 which they consider to be too late in the year to be looking at woodland ground flora and 'other nature conservation features'.

SWT would point out that the haul route is proposed to go through an area which could be considered as being wood pasture which is a UK Biodiversity Action Plan Priority Habitat.

The importance of the grassland areas in the context as a buffer area to the woodland is acknowledged in this report and the SWT would argue that as such this area should be given greater protection from both the open casting and from future development.

Improved Grassland and Arable

SWT would not agree that the sensitivity of this grassland is 'negligible' and would suggest that further survey work is undertaken in the bird breeding season to ascertain whether this is used for BAP species such as lapwing and skylark.

Woodland

SWT considers that this woodland is a candidate site for County Wildlife Site status it forms a continuous link with Limekiln Wood Wildlife Site; it contains a mosaic of habitats including open glades of wood pasture, pools and scrub and has significant cultural value with public access, and as such would have a higher ecological sensitivity than low to medium as suggested by this report.

Waterbodies

SWT would not agree that the sensitivity of the ephemeral ponds is low, especially as it has been shown that they contain evidence of breeding palmate newt and significantly add to the diversity of the habitats present.

Predicted Effects and their Significance

Direct Effects – Habitat Loss

Woodland

SWT is concerned at the large number of trees around 180, to be removed from New Works Wood during the construction of the haul route.

Waterbodies

A Pond, which supports breeding smooth newt and palmate newt, appears to be lost from the site altogether as no replacement pond is shown on Site Restoration Plan, and neither is there any detail shown on the re-instatement of certain other ponds

Direct Effects – Loss of ‘Buffer’ Habitats and Connectivity

SWT would argue that although the restoration of the site back to agricultural land in the short term would continue the ‘buffer’ function of this land, the greatest threat comes from future housing development which has been publicly proposed by UK Coal in November 2007 and in February 2008.

There is no provision in the restoration proposals to show how the existing areas are of high value for wildlife such as Limekiln Woods County Wildlife Site, and that part which is designated Local Nature Reserve, Short Woods Wildlife Site and the New Works Wood Scheduled Ancient Monument will be protected and buffered from this future development.

Assessment of Effects: Great Crested Newts

- Data Collection and Interpretation Methodology

SWT are concerned that the reference to Great Crested Newt dispersal range cited in a footnote on page 40 may be misleading. It is not necessarily 250m as stated, or even 500m as inferred by the radius of ponds surveyed on page 180, as in some cases individuals have been found up to 1km away from a breeding pond.

- Predicted Effects and their Significance

SWT would point out that there is no evidence to support the statement that New Works Wood is unlikely to be a critical resource based on limited survey work, since no terrestrial searches were undertaken. The proposed site is over 1km long and although the workings are phased this could pose a significant barrier to species movement, regardless of the rarity of the species, due to the temporary loss of habitat connectivity.

Assessment of Effects: Badgers

- Predicted Effects and Their Significance

SWT is very concerned about the destruction of a main sett, particularly in the light of lack of information as to where a replacement artificial sett will be located, and the short, medium and long term impact there will be on existing badger territories. SWT do not agree with the statement that the adverse effects would be 'not significant' without further detailed research to support this.

It is not clear whether the proposed worm inoculation of stored soils conflicts in any way with the need for poor sub-soils required for the creation of species rich grassland, or where these soils will be placed in the restoration scheme. There is no cross referencing to this operation (Handling, Storage and Replacement) in the supporting statement.

SWT's Comments on Environmental Statement Vol 2

Landscape

Phase 3/4 Site Restoration and Aftercare

Species rich grassland and Pasture

It has not really been made clear why an extensive area of species rich grassland has been proposed in the restoration, and why other habitats including woodland have not been considered for incorporation into the proposals.

Field Margins

It is not clear why grass field margins would be introduced to grazed pasture and difficult to see how these fit into the overall restoration plan

SWT would query the species mix for the north facing hedgerow as it contains several species which are not appropriate for the location (e.g. Agrimony is a calcareous grassland species, Greater Stitchwork is considered an ancient woodland indicator and dark mullein is a relatively rare plant in Shropshire).

Cumulative Effects

No consideration has been given to the cumulative effects of the loss of badger foraging territory through the previous opencast mining operations to the north and south of the proposed site, including Limekiln, Arleston Hill, Ketley Brook, Maddock's Hill, Huntington Heath phases 1-5, Lackey, Dog in the Lane and Smalley Hill sites.

SWT also refer to our earlier comments regarding their concern over the predicted effects on the local badger population. SWT would draw attention to past research funded by British Coal by a student based at the Symon Opencast Coal Site which pointed to poor colonization of invertebrates into restored soils post open casting, leading to a long term loss of foraging for local social groups of badgers in this locality. As all 10 of the 11 social groups

of badgers are affected by the proposals SWT consider that it is unsafe to conclude that the cumulative effects are not significant without further justification.

SWT point out that the Summary of Predicted Significant Effects contains 10 significantly 'adverse' effects as opposed to only 2 'beneficial' effects for this highly sensitive site and would argue that the proposals both inappropriate in the context of the Shropshire Hills Area of Outstanding Natural Beauty and the Wrekin Forest area in general, and offers very little in the way of substantial community and environmental benefit.

Of the two beneficial effects, firstly SWT would argue that the land is not in a truly derelict state as it is currently being used as farmland; nor is it in a particularly poor condition as it is Grade 4 agricultural land; and that the risk of spontaneous combustion is extremely low, the last occurrence being over 30 years ago.

Secondly, there are no detailed proposals as to how the Scheduled Monument of New Works will be interpreted, or how the 'management of the vegetation' would improve the value of site in the long term – or who will own and manage this woodland and the species rich grasslands post open casting.

As a major landowner UK Coal have an opportunity to bring areas of land in and around the proposed site into better ecological and cultural management, and provide a greater degree of public accessibility. Therefore the 'beneficial effects' could be hugely more ambitious in their scope than those currently set out in this proposal.

In a further reply in relation to the additional consultants reports and in particular the further survey work on badger territories received in October 2008, SWT conclude that their original objection to the proposals is sustained. SWT consider that the proposals will harm the biodiversity and landscape integrity of the area included within the operational site and over a considerable area in the proximity of the site.

UK Coal's further submissions do little to allay our fears that groundwater and surface water movements will occur which will place at threat the recovering/fragile SSSI areas close by. The identification of the location for the proposed relocated artificial badger sett does answer their earliest question but SWT consider that the badger mortality will increase alongside unnecessary territorial conflict. SWT do not doubt the accuracy of the survey work but still question the necessity for the whole development.

7.16 The Industrial Heritage Research Group

The Industrial Heritage Research Group objects to the proposals. The group supports objections which have been raised by the local groups and individuals regarding the unacceptable amount of environmental and social damage such a scheme would cause in order to extract an amount of coal which has limited use.

Their chief concern is the impact any such scheme would have on the industrial heritage of the area, particularly in the designated area of historic interest bounded by New Works Farm (Huntington Lane), Birch Coppice, Short Wood and New Works Lane. The aim of the designation was to preserve this area, which has been worked for coal intensively but on a relatively small scale over many centuries, as a representative of the coal industry's development up to the 20th Century.

7.17 Wellington Civic Society

Wellington Civic Society objects to the proposals. The woodlands of Black Hayes, Birch Coppice, Short Wood and Limekiln Wood are important parts of The Wrekin Forest. They are ancient semi-natural woodland and are, or should be a part of the Shropshire Hills AONB.

The area proposed for destruction is beautiful forest land with magnificent bluebell woods, bat colonies, ancient gnarled oaks and wildlife. This area is vital to Telford, to provide the 'lungs' of the New Town, to protect wildlife and to provide people with a place of peace and serenity much needed in the modern world. Archaeology here is important.

To extract any part of the woods would upset the hydrological balance, as has happened in previous sites. Opencasting can have an adverse effect on health, causing asthma and other lung diseases, with noise pollution and traffic congestion.

7.18 Wolverton Woodlands

Wolverton Woodlands object in principle to the proposed mining operations and wish to resist the application very strongly as there will be significant implications and costs to them if the application is granted. Wolverton Woodlands own Short Wood, Birch Coppice, Black Hayes Wood and Limekiln Wood which are directly adjacent to the proposed operations.

Their only vehicular access to these woodlands is directly through the proposed mining operations. This access is a legal right of way conveyed to them on the purchase of the woodlands and lasts in perpetuity. There could be significant risk of damage to valuable growing timber and disturbance to wildlife.

They are also concerned about the possible lopping of overhanging branches. Indiscriminate lopping, which does not adhere to British Standards and proper silvicultural practices, can cause severe damage and decay to the trees concerned. Should any lopping be required this must be carried out under the supervision and by someone approved by a suitably qualified contractor.

The vehicular access to the woods are being agreed with the Forestry Commission to complete extensive works including felling, thinning and replanting programmes in these woodlands.

Should planning permission be granted without adequate arrangements in connection with our programme of works there will be severe cost implications to them. Wolverton Estates say they would suffer significant losses though not being able to access their own woodlands including a devaluation of the 'marooned' woodland rendering it virtually worthless.

7.19 Telford Bridleways Association (TBA)

Telford Bridleways Association (TBA) state that routes in the local area are regularly used by horse riders. TBA concerns are that with the increased traffic on such narrow roads, the dust and the noise, would make it impossible for horse riders on the east side of the proposal to use Short Woods, Limekiln Woods, the Ercall or The Wrekin. There are three livery yards that would be affected, and many more private owners of horses.

Also previous opencast developments do not have a good record of restoring bridleways after mining. They go by the definitive map (which is conclusive to what is on it, but not conclusive to what is not on it). Last time they mined, fences went up over lots of paths that horses had used. Therefore TBA do not want this to happen again. The routes on the map should be dedicated as bridleways before they start – should they be given planning permission.

The applicant does not control the rights of way on the land they lease. Res. Byway 57 has been deliberately blocked to horses, has tied up gates (unfriendly, have to dismount to open them) and bits of iron and barbed wire everywhere. It is an old lane and originally it was fenced or hedged on both sides.

It is hoped that the Council will bear in mind these points in mind and make sure that a proper restoration plan, or diversion plan, shows them and is made available before any planning permission is required.

7.20 Shropshire Badger Group

Shropshire Badger Group are well aware of the badger situation in the area under consideration and it is obvious that such an operation through the feeding area of so many setts and social groups will have a significant effect on those groups although some of that can be mitigated by providing properly constructed and managed feeding areas as the mining is phased throughout the site.

However, our main concern relates to the single main sett (MS1) which is shown as being within the boundary of the site, although not in the actual excavation area, and which Entec suggest will need to be replaced with an artificial sett and then destroyed. The problem, as Entec acknowledge, is not quite a simple as that because any action at that sett will have a 'knock on'

effect around the other setts and social groups in that north eastern area of the site and possibly further afield.

At this stage Entec have not identified an area on which to site an artificial sett and they understand their difficulty because it seems likely that soon after the sett would be destroyed so would almost all the foraging area for that social group which in itself presents those badgers with a 'double whammy' which they believe would be totally unacceptable. Until more details from Entec are provided on how the main sett (MS 1) should be dealt with they object.

7.21 GVA Grimley

GVA Grimley (International Property Advisers) on behalf of the Ironstone Development Group (involved in the construction of the new Lawley urban area) has no objections to the proposals.

7.22 Severn Trent Water

Severn Trent Water have not replied.

7.23 E-On UK plc

E-On UK plc operate the Ironbridge Power Station and make the following comments.

Annual Coal Requirements

Consumption varies and is dependent on station utilisation. The approximate range is between 800,000 to 1.3 million tonnes per annum.

Companies contracted with.

E.ON UK contracts with various UK and international coal producers and suppliers for its UK power stations. E.ON UK's contracts are commercially sensitive and subject to strict confidentiality provisions, however, it is a matter of public knowledge that E.ON UK has a long standing commercial relationship with UK Coal Mining Ltd.

Geographical location of mines.

Ironbridge Power Station is "opted out" of the Large Combustion Plant Directive and as such is limited to burning low sulphur coals that generally do not exceed 1% sulphur content. The majority of Ironbridge's coal is imported, with a large proportion currently sourced from Russia with some low sulphur coals from the UK also being used.

7.24 Primary Care Trust

The PCT advise that, having considered the information made available to it, an HIA (Health Impact Assessment) should be completed in respect of this application.

This advice referred to the following justification:

- Potential impact (positive and negative) on health and well-being of local people
- Scale of development
- Expressions of significant concern
- HIAs have been undertaken in similar circumstances elsewhere

8. Officer responses.

8.1 The Environmental Health Officer (EHO)

The Council's EHO makes the following comments.

The environmental statement prepared by Entec UK Limited (the Appellants' Consultant) for UK Coal (the applicant) in support of the application of an opencast coal site at Huntington Lane, Telford has been examined.

Attention has been concentrated on four distinct areas of environmental impact which give cause for concern. These are;

- 1 Noise
- 2 Vibration and over pressure.
- 3a Respirable Dust (PM10).
- 3b Nuisance Dust.

1. Noise

(Members should note that the comments below are based only on the information submitted by the applicant, further information in the form of background data was requested but has yet to be supplied. Because this information has not been provided, officers have had to commission the services of the external consultant so that they are in a better position to inform members this new information is included as supplemental information at the end of this section.).

The Environmental Statement submitted by the Applicant's Consultant recognises that the proposed development will have an impact because of noise from the site. In addition, the daytime background levels at locations nearest the boundary are low because the housing and businesses adjacent to the site are situated in a semi-rural location.

The Applicant's Consultant also acknowledges that the predicted noise from the site will "exceed the guidance as set down MPS2 (Table 13.25 page 162) two such examples are at receptors N8a Calderwood and N17a Rozel during Phase 1-2E phase. The reason for the exceedence at Rozel is due to a D9 dozer who runs perpendicular to the receptors in that group, and Calderwood exceedence is due to a backactor situated on the perimeter soil mound. The Applicant's Consultant has said that these operations are temporary in nature and are likely to occur for less than eight weeks.

In view of this, the applicant should be requested to provide details of further noise mitigation measures necessary to deal with the exceedences. (*See first paragraph above*)

The applicant has also been asked to supply the noise base data and the location of those measurements in order to fully review the evidence collected within the report. (*See first paragraph above*)

Having now been placed in the position of having to comment on the application without access to the appropriate information Environmental Health have had to assess the application on the basis of the submitted information. Because the submitted information is inadequate, the Council have commissioned an acoustic consultant to help in validating the information. The original Environmental Health request for a holding objection to the determination of the application pending receipt of the information is therefore duly noted, but has been superseded by the need to comment on the merits of the information available (see supplemental comments below).

Noise from road vehicles outside the site is not a matter for control under the planning permission. Noise from road vehicles on the application site can be controlled and is included within the consultants report. On face value the results provided would not indicate a problem with on site noise from road vehicles.

The noise from the operation of an open cast site will be audible within the area, potentially affecting an area around the site including a large area of the area of outstanding natural beauty (AONB).

Supplemental

In order to address some of the concerns raised by Environmental Health in respect of the submitted information, the council engaged an acoustic consultant to validate noise data . Provisional noise data provided by the acoustic consultant from noise readings taken in December 08 and early January 09, indicate that current ambient and background levels of noise are inconsistent with that stated in the applicant's Environmental Impact Assessment (EIA). Data collected for two locations, Lower Huntingdon Farm and Bella Vista, both show lower ambient and background noise levels than are stated within the applicant's report. There is a significant variation in levels for Bella Vista where the difference in background levels is about minus 15dB. There is also a difference in ambient noise levels with the council's data showing a minus 7dB variation from the applicant's data. These

differentials are sufficient to cast considerable doubt on the accuracy of the applicant's submitted data.

It should be noted that the applicant's data was collected in 2007, and whilst some variation in levels might be expected, a 15dB differential is unable to be explained.

Another variance in observed levels for Lower Huntingdon Farm was noted, although the variation is not significant. The noise levels reported by the council's consultant indicate background noise to be 2-3dB lower than that stated by the applicant. This variation may be explained by differences in environmental conditions, however, the fact remains that the Council's data is lower than that stated by the applicant.

The effect of lower background and ambient levels is to worsen the impact of the activities proposed for the site, on the receptors. If we had received the raw data requested from the applicant, then much of the time taken and uncertainty in assessing the impact might have been avoided. However, the data from the Council's consultant has made very clear that, if the predictions from the applicant are correct, activities on site will fail to meet the requirements of MPS2.

There is a further issue in that, having found disparity in the noise levels reported by the applicant at 2 of the locations monitored (and the disparity for one of the locations being significant), this may call into question the data submitted by the applicant in order to assess the impact of noise of the proposed activities on the community. Further robust noise data is required to determine the character of the existing noise climate so as to accurately determine the impact of the proposal.

It should also be noted that BS5228 has been revised, the new document having been issued earlier this month. The impact of the revisions have not yet been assessed but it is likely that this will modify the way in which the noise level predictions have been calculated. This in turn gives more uncertainty to the assessment of the impact of the proposal.

2 Vibration and Overpressure

Vibration from blasting at mineral workings can be caused by two aspects of a detonation. These are via the energy transmitted through the ground causing ground vibration and energy transmitted through the atmosphere as air overpressure.

Measurement of air overpressure during blasting in common practice at minerals sites. The consultants report mentions blasting in passing but provides no specific frequency but does not offer standards consistent with those in MPG 2 Annex A which advocates the setting of limits based on peak particle velocity in the range 6-10mm⁻¹ for 95% of all blasts measured over

any reference period, with individual blast to exceed a maximum level of 12mm^{-1} .

The vibration criteria suggested by the applicant in the report for blasting operations at Huntington Lane is 6mms^{-1} for 95% of the events (14.5.7, Page 187), and that there are only two sections of the site that will need blasting, and for that period only 1-2 blasts a day.

It is not anticipated that blasting carried out as part of the proposed development will give rise to unacceptable levels of vibration or overpressure. Nevertheless should the committee be minded to approve planning consent be granted the following condition should be included. It should be noted that air overpressure can cause loose windows or ornaments, etc. to rattle and can be misinterpreted as ground born vibration.

It is recommended that the applicant provide a plan showing where blasting operations will be necessary.

3a Respirable Dust (PM10)

Dust below 10 microns in diameter is of concern because of the known health effects resulting from the ability of dust at or below this size to penetrate deep into the respiratory system. It is one of the key pollutants recognised in local authority air quality reviews and assessments carried out under the Environment Act 1995 Part IV.

When assessing the impact of opencast coal sites, consideration should be given to compliance with the air quality objectives and if there is an indication that they are likely to be breached the development should not be permitted. Where there is no evidence to suggest future breaches of air quality objectives, monitoring should be carried out throughout the duration of the development.

Consideration has been given to the impact on the community of respiratory dust within the area. This work is based on the Updating and Screening Assessments carried out in 2003, and 2006, and the annual progress reports issued by Telford & Wrekin Council as part of the Local Air Quality Management process. Work carried out by the applicant's consultant within the EIA has indicated that air quality objectives will not be breached as a result of this proposal. There is no evidence to suggest that the current air quality objectives for PM10 will be breached as a result of the operations.

Nevertheless, in the event of permission being granted, monitoring of PM10 in the inhabited area closest to the opencast site should be carried out. That monitoring should confirm to standards to be agreed with the Local Planning Authority and any results should be considered in light of any LAQM report to be produced by Telford & Wrekin Council.

Another source of PM10 and finer fractions will be the vehicles and diesel powered excavators and dumper trucks, as well as fixed plant and machinery.

The applicant has modelled the results using DMRB and determined that emissions from these devices are not to have a material impact on air quality.

There is no evidence currently to suggest that carrying out the activity on site would give rise to emissions of particulate matter likely to cause breaches of the air quality objectives. However, in the event of permission being granted, dust control measures would be required on the site to ensure that this is complied with.

3b Nuisance Dust

Emissions to atmosphere from coal handling operations are controlled via a permit issued under the Environmental Permitting (England and Wales) Regulations 2007. The permit will be issued by Telford & Wrekin Council and will apply to the coal stocking and loading area and the coaling operation. The permit will not apply to the control of dust from other sources on site.

Guidance on the measurements and assessment of nuisance dust has remained the same for many years; evidence from other local authorities suggests that the criterion for assessing the impact of nuisance dust deposition rates does not match the people's expectations, despite compliance with existing guidance.

Nuisance dust is likely to arise from the site as a whole, although certain operations are likely to have a greater impact than others. The activities most likely to give rise to the most cause for concern as identified by the consultants are:

- Coal processing.
- Shallow excavations to create bell mouth.
- Soil stripping and shallow excavation to create access road.
- Replacement of material.
- Overburden and coal extraction.
- Overburden mound construction.
- Main haul road trafficking.

Some of these activities will fall within the permit to control, others fall outside the Environmental Permitting Regulations regulatory framework. However, as it is not likely to be possible to separately measure potential dust by source, control would need to be exercised via a generic dust management plan. The applicant's consultant has made repeated reference to producing a dust management plan for the proposed site. The consultant indicated that the actual details of the plan would be agreed with Telford & Wrekin Council.

Proposed monitoring of dust and criteria for demonstrating compliance have not been submitted by the applicant's. The applicant has suggested that monitoring and appropriate standards could be agreed with Telford & Wrekin. It is the experience of regulators dealing with opencast coal sites that dust is consistently the biggest cause of complaint. Only when standards and the criteria for demonstrating compliance are agreed will it be possible to ensure

an adequate level of control over dust. The proposed control measures offered by the applicant fall in line with industry best practice and are broadly those stipulated within the Secretary of State's Guidance on mineral crushing which would form the basis of any permit. It is the opinion of the EHO that dust will be noticeable within the community surrounding the proposed site.

In the absence of an appropriate Pollution Prevention and Control application, and an agreed dust management plan and monitoring criteria, further work is required. It may be possible through discussion with the applicant and their consultants to devise dust management and measurement criteria that should demonstrate compliance with agreed standards.

In the event of any permission being granted, any dust control conditions related to the site should be worded in such a manner as to ensure consistency with the Pollution Prevention and Control permit required for the proposed mineral crushing activity. In terms of dust monitoring for the site, it should be noted that PM10 levels will also need to be assessed for the duration of the operations on site.

8.2. The Local Authority's Historic Environment Officer

The Local Authority's Historic Environment Officer comments that the proposed development area includes within it and will impact on part of the scheduled monument No. 31753 (coal mining remains north and north west of New Works Village). The proposed development will be subject to scheduled monument consent.

Regarding the non-designated archaeological features that lie within the application area but outside the scheduled area, he concurs with the conclusion of the EIA, that these features are not of sufficient importance as to merit preservation in situ, and that their loss would be adequately mitigated by the programme of archaeological recording.

In view of the above and in the event of any planning permission being granted for the proposed development, it is recommended the following condition be placed on the consent.

"No development hereby permitted shall take place until the applicant's or their successors in title have secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority."

The applicant is advised to contact him on guidance on how to proceed with carrying out such a programme of archaeological work.

The Historic Environment Officer has commented on a supplementary draft archaeological report received from the applicant's consultants. He comments that subject to certain clarification regarding further trial trenching he is satisfied with the draft supplementary report.

8.3. The Arboricultural Officer

Comments that there is minimal tree removal, being concentrated at the narrowest point through the Birch coppice, retaining where possible the bulk of the trees on site. Consideration to visual amenity and impact has been given. There are no objections.

8.4 The Outdoor Recreations Officer

The officer has made a request for part restoration of the site to a formal recreational open space. The open space should be big enough to fit 2 snr. Pitches/1 jnr, changing parking with access. The land at the northern end of the site may be acceptable for this purpose.

8.5 The Environmental Projects Team

This team comment that various planning conditions will be required to ensure that the appropriate mitigation measures outlined in the EIA are incorporated in the development proposal for all biodiversity receptors.

Further review and consultation regarding the restoration proposals and long term management of the site is required and in keeping with PPS9 guidance and the sites location within the Shropshire Hills Biodiversity Enhancement Area. Biodiversity / ecological enhancements should be suggested and incorporated into proposals. The Shropshire Biodiversity Action Plan would provide some ideas for desirable restoration activity. Potential for involvement of the Shropshire Wildlife Trust and designation as a wildlife site after restoration needs to be explored. A planning condition should be formulated to develop an improved compensation strategy that would be approved by both the Council and the Shropshire Wildlife Trust, given their role in developing a landscape scale approach to the Wrekin Forest area.

A condition to ensure that development will not adversely affect the nature conservation interests of the Lydebrook and Lydebrook SSSI. This should include water treatment and discharge measure sin place to ensure no impact on the nationally important crane fly associated with the Lydebrook Dingle.

Further survey and mitigation proposals in relation to the badger sett and its impact on clan territories is necessary.

The creation of a buffer area between the excavation and Shortwood may provide mitigation with regard to badgers, reduce impact of dust and any unforeseen impacts on Shortwood and provide a good basis from which to develop a more robust restoration for the northern end of the site than has so far been suggested.

8.6 The Landscape Architect

This officer comments that it is an improvement to the application that the land to the east of New Works Lane has been omitted as this would have been visible; good that New Works Wood, a Scheduled Ancient Monument, has been omitted from the scheme. However, particular attention will have to be paid to the haulage road going through it; and an improvement that they are not using New Works Lane for access. The Landscape Architect goes on to mention the short turnaround of the project and the proposed progressive restoration and the creation of mounds and other landscape features which are designed to minimize visual impact of the works. The comments go on to say that the views from the Wrekin will include the works but that the area has always been mined and that the proposal would almost be a reflection of the past which led to the creation of the current landscape character.

8.7 The Highways Engineer

This officer reports that the development is acceptable on highway grounds, subject to the following conditions being included in the event of any permission being granted.

1. Prior to the commencement of development, the following Highways works shall be completed:-
 - (a) The re-painting of the give-way lining, centre-lining and ghost markings at the junctions indicated on the attached plan, i.e. A5223/Coalmoor Road, Coalmoor Road/Dog in the Lane and Dog in the Lane/Huntington Lane, unless such works have been previously been completed.
 - (b) The formation of the site access and localised widening, surface and new kerbing along the northern side of Huntington Lane.
 - (c) The re-alignment of the eastern junction radius of Huntington Lane and Dog in the Lane to cater for the proposed development traffic along with all necessary carriageway construction.
 - (d) The provision of site access and temporary warning signs along the "haul-route" (site access to the Candles Landfill entrance).
2. Prior to the commencement of development the following details shall be submitted to, and approved in writing, by the Council:-
 - (a) The layout and form of the access to Huntington Lane, including the position of gates, visibility splays, and the means of ensuring through the geometry of the access that vehicles are required to approach and leave the site from the south (via Dog in the Lane and Coalmoor Road);
 - (b) Full construction details of the proposed access, localised widening and new kerbing along the northern side of Huntington Lane and Dog in the Lane;

- (c) Site access and temporary highway warning signage along the “haul route” (site access to the Candles Landfill entrance) to direct site traffic and warn road users of the traffic associated with the development;
- (d) The proposed method of wheel/chassis washing within the site along with means of cleaning/sweeping the roads forming the “haul route” (site access to the Candles Landfill entrance).

The development shall thereafter be completed in accordance with the details approved under (a) to (d) above before any extraction commences and thereafter retained for the full period of extraction and reinstatement.

In addition to the above conditions, the following Section 106 obligations are considered necessary:-

1. A Contribution of £40,600 to provide for the re-surfacing of Dog in the Lane, from its junction with Coalmoor Road to the Candles Landfill site access, and haunching/strengthening works to Coalmoor Road. This amount is to be paid upon signing of the agreement to enable the works to be completed before extraction commences.
2. A routing agreement for all site traffic, including contractors and staff vehicles, via Huntington Lane, Dog in the Lane and Coalmoor Road to/from the A5223 at Horsehay.
3. Provision of wheel/chassis wash within the site and road sweeping along the “haul route” (Site access to the Candles Landfill entrance) the latter to include frequency of operation per day and variations according to seasons/weather conditions.
4. A maintenance agreement for the re-instatement of any damage caused to the structure of the Highway (carriageway, footways, verges or drainage systems) between the Candles Landfill Site and the access on Huntington Lane, to be determined by a pre-development survey involving representatives of both UK Coal Ltd or successors in title, and the Highway Authority. The results of the pre-development survey are to include photographs of key areas and the situation monitored by inspections thereafter at intervals of 6 months (or period to be agreed) for the full period of extraction and re-instatement. The cost of all damage identified is to be met by the applicant with the provision that any urgent safety related works identified may be undertaken by the Council and the cost re-charged to the applicant.
5. All legal costs incurred by the Council in the temporary closure/diversion of Public Rights of Way (No’s. 33, 36, 37, 51 and 51A).
6. A contribution of £12,000 towards the improvement of the Public Rights of Way in the vicinity of the site following the reinstatement of the extraction land to its previous condition.

7. Submission of details appertaining to the reinstatement of Restricted Byway 51 and Public Footpaths No's 33, 36, 37 and 51A to be submitted to, and approved in writing by, the Council with the Public Rights of Way to be reinstated in accordance with the approved details prior to the completion of the reinstatement scheme.

9. Objections from the general public to the Huntington Lane application.

Over 500 written objections (collectively letters, e-mails and forms with people's names objecting for named reasons) have been received by the Council. In summary, collectively the main issues of objection include:

- Adverse impact on local ecology including wildlife and woodland.
- Adverse effect on the public's enjoyment of the local amenities for recreation and leisure.
- Adverse effect on the landscape and its aesthetic appearance.
- Area an accessible part of the countryside.
- Adverse on the New Works Scheduled Ancient Monument.
- Adverse effect on SSSI sites and Lime local nature reserve.
- Loss of 180 trees in the construction of the internal haul road through New Works Wood.
- Adverse effect on Public Rights of Way for people and horses.
- Adverse effect on archaeological sites within the application site area and in the locality.
- Loss of part of Limekiln Wood County Wildlife Site.
- Concern over the destruction of parts of New Works Woods when the pylons were taken down.
- Fragile well and cave in the Steeraway area.
- Encourage nuclear fusion instead of burning coal.
- Burning coal will lead to carbon dioxide emissions, cause global warning and accelerate the green house effect.
- Adverse effect on ancient woodland.
- The coal is of low quality and would only supply Ironbridge Power Station for a short period.
- Need for the coal outweighed by adverse environmental impacts.
- Leaving the existing resources intact would safeguard them rather than exploit them when imported resources are available.
- Close proximity of storage bunds to Fairhaven and Falcon House, New Works Lane.
- Disruption of lives of local residents.
- Concerns of groundwater abstraction to the private water supply to Willowmoor House, near The Wrekin, effect on old properties and woodland.
- Concerns site operations may acerbate local flooding and discharge of water quality into local streams.

- The residents of Willowmoor Farm near the Wrekin are concerned that site operations will adversely effect their private water supply from a natural spring
- Increase in HGVs would be dangerous, causing accidents, detrimental to local roads, affect residential amenity when travelling past people's houses and lead to mud on roads.
- Telford distancing itself from its coal mining past.
- Adverse effects on existing and proposed new housing developments, and would make selling houses difficult. Property blight.
- Land would be redeveloped for housing.
- More housing now than when Dawley Road 2 was considered in 1998.
- Pollution from dust, noise, odours, blasting, vibration and possible soil erosion.
- No guarantee New Works won't be affected by escaping methane.
- Need for a Health Impact Assessment based on concerns for human health.
- Risk of spontaneous combustion causing underground fires.
- Cumulative impact.
- Concern area would be redeveloped as a landfill site.
- Concern of extracting mineral so close to the former Birlee landfill site.
- Why does this application contain more coal than the Dawley Road 2 application.
- Adverse effect on local businesses and tourism.
- Jobs created would be short term.
- Why was Dawley Road 2 site plant enclosed within a barn type structure and the current proposals are not?
- Where will the fireclay be stockpiles, to what height and what will be the visual impact?
- The proposals include parts of the County Wildlife Sites covering Limekiln Wood/Black Hayes and Short Wood and as such is contrary to: PPS 9, Policy QE7 of RSS 11, Policy M5 of Joint Minerals Local Plan and Policy OL2 of the Wrekin Local Plan.
- The proposals are contrary to Joint Minerals Local Plan policies M2, M5, M5B, M5C, M7, M11, M21 and M27.

10. PLANNING CONSIDERATIONS

There are a number of material planning considerations that are discussed in turn.

10.1 Repeat Applications

Paragraph 20 of MPG3 states that a MPA may decline to determine a surface mine application if it is made within two years of a decision and there is no material change in the circumstances. In addition, there should be a general presumption against approving applications where a similar application has been refused previously unless there has been a material change of circumstances. Although this is the fifth application in the last twenty years to work Area B (see paragraph 5 above), the last application, Dawley Road 2, was withdrawn in December 2002. The 1997 application was called in and refused by the Secretary of State. That decision was later quashed by the High Court in 2001 but UK Coal later withdrew their application.

There are also changes in the current application, e.g. the area between New Works Lane and Dawley Road has now been excluded, Area A has been re-included, there is a new proposed site access (onto Huntington Lane as opposed to Dawley Road in the Dawley Road 2 application) and there is now a Community Trust Fund of £500,000 proposed. It is therefore appropriate to determine this application since the circumstances have changed since the last application, Dawley Road 2.

10.2 Need and Benefits

When considering this application, the Council must undertake a balancing exercise between the applicant's arguments regarding need and benefits and the harm arising out of the development proposal.

Officers consider that, bearing in mind the significant harm arising out of the development in this sensitive location which has been identified in this report, the applicants have not shown sufficient justification of the need for coal and fireclay other than to suggest there would be a market for it. The coal demands of the power stations at Ironbridge and Rugeley referred to by the applicant are already being met from other sources.

There are alternative supplies of surface mine coal and fireclay outside AONBs in the British Coalfield which could be worked in preference providing they are environmentally acceptable sites. While there is a demand for fireclay at brickworks there are alternative supplies available in more substantial quantities e.g. Caughley Site near Broseley, Shropshire.

Officers refer to the information on need and in particular to the Parish Council's comments on need and consider, when balanced against the applicant's arguments that the various forms of harm arising out of the

development are not outweighed by the need and benefits of the proposals. Therefore, the application is not in accordance with Policies MPG 3 and saved policies M2, M7, and M21 of the Joint Minerals Local Plan.

The need issue is raised under the heading General Cumulative Impact section below.

10.3 Noise

The EIA has undertaken assessments in noise, blasting and vibration and air quality using MPS2 criteria.

The EHO has noted that the predicted noise exceeds guidelines set down in MPS2 at two receptors at the properties known as Calderwood and Rozel although this would only be for temporary operations expected to last less than eight weeks.

A noise reading was taken in Autumn 2008 which indicated that some of the readings provided in the appellants' EIA needed verification. The applicant has not provided certain raw information which has been previously requested. Therefore, further readings have been taken by an external consultant. The final outcome of this consultant's work is not available at the time of writing this report but from information provided so far, the Environmental Health Officer has confirmed that there are significant differences between the applicants' noise readings in the EIA and those which have recently been taken by the Council's consultant. In these circumstances there is serious concern that MPS2 and the relevant saved policies of the Joint Minerals Local Plan M1, M3, M4, and M21, may not have been met to a material degree in respect of certain locations.

The applicant has not provided any response to requests for further noise information and has indicated that it does not accept that any more information remains outstanding. Consequently further details on noise are still required.

The later noise readings appear to show, not only that the applicant's noise readings cannot be relied upon in some respects, but also that there is likely to be a serious breach of policy. The Council's consultant's readings give rise to concern that there has been a failure to meet the requirements of MPS2.

Further details are being sought at the time of writing this report. However, it is the view of officers, with reference to the EHO's position as stated above, that the proposals would result in a breach of noise policy and thus constitute a reason for refusal. ,..

The EHO has also said that noise would be audible in the local area and would affect the tranquillity of the area, including the Shropshire Hills AONB but that is a planning and not an environmental health matter. This planning aspect of noise will be taken into account in the officer comments on cumulative impact below.

10.4 Vibration and Air Overpressure

Concerning vibration and air overpressure, it is considered that planning conditions can control operations. It is nevertheless considered appropriate that the applicant provide a plan of where blasting is anticipated as being necessary and in the event the First Secretary of State allows the appeal, regular updating on progress is maintained.

10.5 Respiratory Dust

Surface coal and fireclay mining sites involve significant amounts of earth movements during excavations and subsequent backfilling. The general public have expressed serious concern over the environmental health implications of the proposals. This is particularly so with concerns over site operations potentially causing respiratory related illnesses from dust, i.e. asthma, emphysema and bronchitis.

In terms of respiratory dust, there is no evidence that the proposed site operations would give rise to particulate matter emissions, including PM10, likely to cause breaches in air quality objectives. However, it is appropriate that the monitoring of particulate matter takes place and dust control measures should be incorporated in planning conditions in any appeal permission granted. Nuisance dust is likely to likely to arise from site operations and be noticeable within the community surrounding the proposed site. More details are required concerning a dust management plan. However, it is expected that these can be controlled by appropriate planning conditions.

The Primary Care Trust, has called for a health impact assessment (HIA) to be carried out. This is being commissioned. The results of the HIA are expected in late March 2009. The results of the HIA will help to inform the Public Inquiry later in the year.

10.6 Highways and Rights of Way

The applicant has agreed to the requirements laid down by the Highways Engineer. This means that site traffic would leave the site from the new access at the southern end of Huntington Lane, travel along Dog in Lane past the Candles landfill site, turn left onto Coalmoor Road and proceed onto the A5223. Its intended destination then will probably be Ironbridge Power Station but possibly Rugeley Power Station, Staffordshire, initially via the M54 Motorway.

It is important that site attributable HGV traffic does not depart from these designate routes along smaller roads taking them by residential properties, i.e. through New Works Hamlet or Little Wenlock Village. This can be overcome by a routeing agreement that forms part of the Section 106 Agreement.

With reference to the Highways officers comments above, the resulting increases in HGV movements are not considered to constitute a reason for refusal.

The proposed bridleway/footpath system which will be in place after the works have been completed will provide a new footpath through New Works Wood to link up to other reinstated rights of way. Albeit welcome, it would be of limited benefit as there are alternative north-south routes and links for walkers in the vicinity. During the operation, the effected Public Rights of Way will be temporary out of use for the general public. In addition, the enjoyment of users of the rights of way and lanes in the vicinity of the site will be affected by the operations.

Officers refer to the comments of the Telford Bridleways Association which confirms the impact of the development proposals not only on the rights of way, but also on their use of the lanes in vicinity of the site. In this respect, attention is drawn to the expected impact on highway users on horseback as a consequence of the operation.

To conclude on this point, the proposals in highways terms are compatible with PPG13, Joint Structure Plan saved policy P58, Joint Minerals Local Plan saved policies M3, M4, M8 and M11 and Saved Wrekin Local Plan policy T22. However, the disturbance caused to recreational users of the rights of way and narrow lanes in the vicinity of the site for the duration of the works will be referred to under the heading of cumulative impact below.

10.7 Comprehensive Working

Paragraph 13 of MPG3 and saved MLP Policy M30 (Comprehensive Working of Mineral Resources) seeks to look for opportunity to comprehensively work out all mineral deposits within a locality, subject to environmental constraints.

This application represents an opportunity to comprehensively work the remaining coal and fireclay resources in this area.

10.8 Landscape and Visual impact

The EIA concludes that in terms of landscape, six individual property receptors (Haydock, New Works Farm, Falcon House, The Minstrels Cottage, Calderwood and No.3 Dawley Road), the summit of the Wrekin and footpath no. 187A (runs to the west of Area A) would be significantly visually affected

at some point during site operations. In the case of the assessed property receptors, this would be caused by the construction of temporary perimeter mounds (short term features), although these would be soon grass over. The EIA goes on to state that none of the eight settlements, including New Works Village assessed as a whole, key transport routes (M54 and A5223), two local golf courses and strategic footpaths (Shropshire, Ironbridge, Severn or Silkin Way) would be significantly adversely affected by the development.

Officers refer to the comments of the landscape architect above. It is understood that this was a desktop study and that no site visit was undertaken. With the benefit of a site visit and generally, the author of this report respectfully disagrees with the landscape officers comments in a number of respects which are set out in the following paragraphs under this heading.

The southern Area A of the site can be viewed from The Wrekin, which is itself part of the Shropshire Hills AONB. The proposed site operations would detract from the aesthetic qualities and recreational value of the local area surrounding the site. It is not just the case of the amount of time it takes to work and restore the site, but also the amount of time it takes for the afteruse to mature. This could be some 15 years or more.

Views from the top of the Wrekin still include the top of the Ercall quarries, which was worked until the mid 1980s. In addition, dwellings at Huntington Farm and along New Works Lane will have their views temporarily blocked towards the direction of the application site by screening mounds during operations. Screening mounds would appear as artificial elements in the landscape.

The application site is within the urban fringe and is bounded by Telford to the east and the Shropshire Hills AONB and other open countryside including woodland to the west. It therefore acts as a buffer zone between the urban area and the AONB, with well used rights of way for the general public and horses to pass through and consequently enjoy the benefits of the high quality landscape. The open space provided by the agricultural land contains hummocky land, the product of many decades of underground mine collapse incidents. This is an attractive and sensitive feature of the landscape which is locally distinctive would be permanently lost through the surface mining. It also provides the context of the scheduled ancient monument in New Works Wood, since this is designated with reference to its coal mining remains of several historic periods.

In contrast the proposed restoration and afteruse, whilst having some positive features in the form of hedgerows, would lose this evolved hummocky landscape. The positive features of the restoration scheme, such as new hedgerow plantings to the design shown in the first editions of the Ordnance Survey in late Victorian times, new wetland feature, reinstatement and new

rights of way, can be achieved by local land owners and farmers irrespective of the current proposals.

New Works Wood itself is an attractive setting consisting of a mixture of ponds, gulleys, mining related features, woodland and wildlife. Officers have noted the presence of deer within these woods. The visual impression contributes towards the sense of tranquillity within New Works Wood. 180 trees are proposed to be felled within New Works Wood to construct the internal haul road which will represent a gap in the woodland scene, a severance of the SAM and a significant disturbance to the tranquillity of the area.

To conclude on this point, it is considered that this proposal will give rise to a significant adverse landscape visual impact. The proposals are therefore not compatible with Joint Structure Plan saved policies P59, Joint Minerals Local Plan saved policies M1, M21 and saved Wrekin Local Plan policy OL6.

This point is referred to in the section on General Cumulative Impact below.

10.9 Shropshire Hills Area of Outstanding Natural Beauty (AONB)

Some 6.6ha of the Shropshire Hills AONB is within the planning application area, at the northern end of the southern area (Area A) in grassland. PPG7 (paras 21 and 22) gives guidance for all forms of development in AONBs, which is found too in MPG3. The Government considers that major developments should not take place in these areas, save in exceptional circumstances. All minerals development should be demonstrated to be in the public interest before being allowed to proceed. The most important point is that policy applies to the whole of the AONB with equal force. Also, consideration has to be given to the effect of development outside the AONB on land within the AONB.

Objections have been made to the working of minerals within the AONB. It would also materially affect the value of the adjoining AONB, including the Ercall and Wrekin hills. In this sense the application site forms part of the open countryside, which includes woodland that provides a buffer zone between urban countryside and the AONB and other countryside. This approach is supported by the Shropshire Hills AONB Partnership who object to the application.

In addition to the comments and analysis in the EIA, Members are referred to the objection of the Shropshire Hills AONB Partnership. Officers are in agreement with the points raised by the Shropshire Hills AONB Partnership. This proposal will have a direct impact on part of the AONB and it will have an indirect impact on the remainder of the AONB. This impact will be significant

and detrimental both visually and by way of general disturbance caused by the works.

The comments of a number of objectors, in particular the Shropshire Wildlife Trust, together with the on site evidence, confirm the value of this area as a tranquil buffer between the west side of Telford and the AONB. The Telford Bridleways Association have confirmed that the rights of way are regularly used. This is a sensitive and valuable area lying between one of the most significant features in the region – the Wrekin- and the urban area of Telford. The detrimental “severance” effect of the mining proposal is a relevant and important consideration.

Core Strategy policy CS12 recognises the importance of the Borough’s natural environment.

Paragraph 29 of MPG3 lists of certain tests that mineral applications within an ANOB have to satisfy. These are now briefly discussed in turn.

“(i) the need for the development, in terms of national considerations of mineral supply.” Appellants’ position: The UK government is committed through the national energy policy to providing substantial amount of the UKs energy needs through working indigenous coal deposits. With the importation of coal to the UK there is no question that there is a national need to mine UK coal for energy generation, although need in terms of landbank provision such as for aggregates is not required of the MPA by government guidance.

Officer Comment:, given the availability of other surface coal resources outside the AONB within the British Coalfield and the content of other objections summarised in this report, this need argument is not demonstrated to outweigh the direct and indirect visual and audible disturbance to the AONB .which will be caused by the proposal.

“(ii) the impact of permitting the development, or refusing it, on the local economy.”

Officer Comment: there may be some temporary jobs generated for local people if the appeal application is allowed. (The applicant states that the proposal will generate 42 jobs directly and 52 indirectly). The potential loss of jobs in the local tourism economy due to the adverse effects of the proposals in terms of the resultant and renewed negative image of Telford as a result of the opencast proposals, is difficult to estimate but very real, to be weighed in the balance against positive economic effects of the proposals.

Telford is a growth point for the West Midlands and the proposed new Lawley urban extension and Lightmoor urban village are either within or in close proximity to the South West Telford Opencast Coal and Fireclay Resource area (see map). In addition, existing residential development exists at Horsehay and Dawley within Telford and at New Works and Little Wenlock

Village in the urban fringe nearby. The image of Telford as a growth point in the West Midlands where people will want to come and live will be adversely affected by this proposal.

“(iii) whether alternative supplies can be made available at reasonable cost; and the scope for meeting the need in some other way.”

Officer Comment: It is clearly preferable that alternative supplies of surface coal and fireclay are worked in areas which do not have a direct or indirect impact on any AONB. These should be exhausted prior to land in or adversely affecting AONB being extracted by opencast surface mining.

“(iv) Any detrimental effect of the proposals on the environment and landscape and the extent to which that should be moderated.”

Officer Comment: As discussed elsewhere in the report, there are serious landscape and environmental objections. These are referred to in the specific objections of a number of the objectors and generally in the general cumulative impact summary below.

The proposals are therefore not compatible with MPG3 (paragraphs 28-29), PPG7 (paras 21 and 22), Joint Structure Plan policies P59, Joint Minerals Local Plan saved policies M1, M21, and saved Wrekin Local Plan policies OL2.

This point is referred to in the section below on General Cumulative Impact below.

10.10 Recreation

The impact of the proposals on the area as one of value for recreational purposes has been referred to in the preceding paragraphs. There would be a serious adverse effect on recreation as a result of the proposals.

10.11 Hydrology (Surface Water)

Concern has been expressed that the proposals may exacerbate flooding in the Arleston and College Wards areas, the water levels in the historic pools near to the site, about the water quality of site discharge into water streams and where will the water come from to wash the coal.

The source of water for the coal washing plant will be a connection to the water mains that runs along Huntington Lane. The plant system used to wash the coal is a closed re-circulating system that reuses the water and is not designed to discharge water into the neighbouring watercourse. Suspended solids from the dirty water will be settled forming tailings and pressed into filter cake, mixed with dry overburden and backfilled into the void. A reserve

planning condition can be imposed for the detailed layout for the coal washing plant.

Surface water issues have been addressed in the EIA and a flood risk assessment (FRA) has been carried out in accordance with the requirements of PPS25. The entire site is identified as being in Flood Zone 1, a low probability of flooding. Flood risk from a variety of sources has been considered and with appropriate management of groundwater and surface water runoff, the site is not considered by the FRA to be at an unacceptable risk of flooding or pose an increased risk of areas elsewhere.

In mitigation, surface water runoff from rainfall onto the site will be collected via a series of cut off ditches and directed to one of three water treatment areas, where it will pass through a flow balance and then the settlement lagoons prior to discharge to either Limekiln Brook or Lyde Brook.

The flow balancing ponds will be sized to protect the receiving watercourses from high flows of discharge water, particularly during heavy rainfall, thereby minimising the effects of downstream flooding. In addition, the operating void would provide large storage capacity during extreme weather conditions. Therefore the effects on downstream flooding should be minimal and can be controlled by planning conditions. The Environment Agency do not object to the proposals.

10.12 Hydrogeology (Underground Water)

The owner of Willowmoor House, Wrekin is particularly concerned about the effect the proposals may have on his private water supply from a spring that serves a few houses and livestock. The EIA contains a hydrogeological report that concludes that any drawdown in the groundwater levels from pumping will not extend outside the application site. Consequently on the balance of probabilities there should not be a problem but no guarantees can be given. Since the water obtained from the private water spring is below the threshold that is required for licensing, the Environment Agency make no comment.

Concern has been raised over whether the quality of the surface water would be affected, particularly iron contamination from old workings. This has been extensively analysed in the EIA which addresses these concerns with mitigation measures. This would include the adoption of a backfilling strategy to minimise the generation of contaminated water and the provision of a treatment system (chemical dosing and settlement) to deal with groundwater pumped from the void and discharged into Limekiln Brook.

Concerning the ingress of groundwater potentially polluted by leachate from the former Huntington Farm (Birlee) landfill site by Area A, this will be sampled and analysed prior to abstraction to tanker for off site disposal, followed by the sealing of the side wall during backfilling. This is considered acceptable.

The proposals are therefore compatible with Joint Structure Plan policies P58, P59 and Joint Minerals Local Plan saved policies M1, M3, M4, M21.

10.13 Geotechnics

Abandoned underground mine workings for coal, fireclay and ironstone within the application site area have resulted in the surface land have a hummocky shaped appearance. This is due to collapsed structures from the underground pillar and stalls mine workings reaching the surface which have then had to be treated. There are claims that livestock have been lost down open mine workings. One of the benefits of the proposals put forward by the applicants is that surface mining will remove these abandoned mine workings, thereby preventing a repetition of these incidents.

However, no evidence has been presented that any humans or animals have been killed or injured by falling down crown holes or mine shafts within the application site area. All mine entrances within the application area have been sealed off. Furthermore, no risk assessment has taken place on the likelihood of people or animals falling into open collapse structures and the probability of injury or death. The lack of such evidence therefore undermines the appellants' arguments regarding the benefits of removing old abandoned mine workings through surface mining.

The Coal Authority has responsibility for making old coal workings entrances and collapses safe for the general public. This issue has been a source of concern to some objectors. These objectors argue that the applicant can not say they are proposing to stabilise the land by removing old mine workings through surface mining and thereby making it safe, yet at the same time not placing warning signs telling people who cross the land that there are mine workings beneath them. Members are referred to the Coal Authority's comments in this respect which states that they adopt a reactive response to mining incidents.

Engineering Management had concerns that the exposure of old mine workings to oxygen could cause spontaneous combustion, leading to underground heating that could potentially last for years. In the past, a few discrete locations have been affected in the local area. UK Coal considers that the sealing of the side excavation walls and backfilling operations would not induce an airflow that could cause combustion. In addition, the company are prepared to monitor for spontaneous combustion within an agreed zone beyond the excavation limits using temperature probes during the working of the nearby excavation face and for a period beyond the cessation of backfilling in order to demonstrate that there is no residual risk of spontaneous combustion from site operations.

Nevertheless it is considered appropriate that in the event that the appeal application is allowed, that a financial bond be provided to manage any spontaneous combustion event that is attributable to site operations. Entec have indicated that UK Coal Mining Ltd are prepared in principle to do this. The proposals are therefore compatible with MPG5, MPG12, PPG14, Joint

Structure Plan saved policies P59, Joint Minerals Plan saved policies M3 (ix), M8, M21A(iii), M27, and saved Wrekin Local Plan policies EH14, T22.

10.14 Cultural Heritage

The internal roadway that interconnects Areas A and B crosses through a Scheduled Ancient Monument (SAM) for coal mining remains from various periods. 180 trees will have to be felled in order to construct the new internal haul road. The construction of the haul road will be designed to minimise the effect on the SAM. This would be supplemented by a scheme of archaeological monitoring. Neither English Heritage or the Shropshire Historic Information Officer who advises the Council on archaeology has objected to the proposals. However, it should be noted that the SAM, a nationally important designation, will be directly impacted upon by the proposals and various features permanently destroyed.. Its overall integrity as a SAM will be adversely effected by the construction of the haul road. English Heritage appear to have been influenced by their perception that the proposal would relieve the SAM from the threat of residential development. This is not the case. Attention is drawn to the objection of the Industrial Heritage Research Group.

In order for a haul road to cross the scheduled ancient monument UK Coal Ltd will also have to obtain scheduled monument consent from English Heritage. This is separate to the planning process and will also have to be successfully obtained for the project to be implemented.

There are other archaeological features that are not scheduled within the planning application area. The hummocky ground leads to a locally distinctive appearance in the landscape which would be lost by extractive operations. The other off site archaeological features are not considered to be at risk from the proposals, although objectors have pointed out their presence.

Mitigation measures put forward by the applicant include an opportunity for longer term management of the SAM, including scrub clearance, provision of low key facilities to improve and promote public access and the proposed enhancement of existing public rights of way.

Whilst the construction of the internal haul road through New Works Wood are not incompatible with PPG16, Joint Structure Plan saved policies P59 and Joint Minerals Local Plan saved policies M3, M6, in the opinion of officers the internal haul road does not preserve or enhance the SAM. This policy test was not properly applied by the English Heritage officer. The SAM is adequately preserved already. It does not require the development to take place to preserve it. On this basis, notwithstanding the comments of English Heritage, this is an issue to add to the general cumulative impact comments below.

10.15 Agricultural Land

Natural England does not have any objections to the proposed management of the soils, but have some concerns. Should [permission be granted, these

concerns could be accommodated by imposing a Grampian condition in any permission passed that requires a scheme for the management of soils to be submitted in writing and approved by the Council. Natural England would be consulted on any submitted scheme.

10.16 Community Trust Fund

UK Coal Ltd are proposing to give £500,000 into a community trust fund for projects in the local area. This is acceptable practice as advised in paragraph 55 on planning obligations in MPG3 and saved Joint Minerals Local Plan policy M8. However, albeit a benefit, it does not either on its own or taken together with other benefits and need for the mineral, outweigh the clear and substantial harm and objections.

10.17 Biodiversity and Site Restoration with 5 Year Aftercare A small area of Limekiln Wood County Wildlife Site (CWS) lies within the site. There are no other statutory conservation designated sites or non statutory conservation sites in the application site area. However, there are collectively many CWSs, SSSIs and Local Nature Reserves within 2km. Furthermore, a designated ancient woodland areas lies to the west of the application area.

The applicant's EIA concludes that none of the statutory designations in close locality to the proposed site would be significantly adversely affected by the proposals. It states that, in particular the treatment of site water and dust suppression measures would ensure no adverse effect on water quality of dust deposition would lead to indirect adverse effects on the Limekiln Wood CWS or Lydebrook Dingle SSSI.

Mitigation measures have been incorporated into the applicant's proposals. These include:

- Site operations designed to avoid many key habitats, e.g. most of hedgerow within the site, tree line and flora associated with the tramway;
- Although there is no evidence of roosting bats on site, some trees have the potential to accommodate bat roosts. Measures include:
 - Trees felled at an appropriate time of year using soft felling techniques.
 - Specialist bat worker present to oversee tree felling work and if bats are found, felled trees would be strapped to standing trees in correct orientation for bat escape;
 - 5-10 bat boxes at locations within and around the site boundary installed prior to tree felling to increase roosting opportunities in area.

- For amphibians, replacement ponds and artificial refugia provided in New Works Wood, plus standard exclusion methods employed to prevent access to proposed haul road corridor.
- Construction and adoption of a new artificial main badger sett within clan territory prior to removal of existing mains sett. Also, the phased working and restoration of the site and other mitigation measures (badger gates in boundary fencing to allow access to restored areas and worm inoculation of stored soils), minimises any adverse effect.
- Trees removed outside bird breeding season (March to July). Where this is not possible, ornithological surveys of affected habitat would be first undertaken to ensure no nest was affected.
- Best practice dust suppression employed, including hydroseeding of spoil storage and dampen down.

The applicant asserts that the restoration of the site to large areas of agricultural land and grassland (grazed and ungrazed), as well as lengths of new hedgerow and a new wetland area, provides an opportunity to enhance the biodiversity of the site. The proposals intend to achieve this using the guidelines of the Shropshire Biodiversity Action Plan.

In summary, the benefits to nature conservation are as follows:

- Creation of new species rich hedgerows. A number of new hedgerows (6.3km) would be planted with a range of species. These would replace the 1.4km of hedgerows that would be lost and would also enhance the post and wire fence field boundaries which exist across Area A. The proposed field pattern would replicate that on the OS map of 1889.
- Creation of grasslands. Species rich grasslands associated with lowland hay meadows would be seeded and managed by grazing. Grass field margins would be introduced to the grazed pasture across the site and protected from grazing. These grassland areas would potentially offer habitat to foraging badgers, invertebrates, bats and birds.
- Creation of wetland habitat. The water treatment area in the north west of Area A would be partially infilled, re-profiled and re-shaped to form a new wetland and damp grassland habitat increasing landscape diversity.

Notwithstanding the benefits which the appellant has set out in their EIA, a number of objectors have raised concerns, in particular the Shropshire Wildlife Trust.

SWT refer to the following:-

- They object to the loss of part of Limekiln Woods County Wildlife Site and do not consider that restoration proposals adequately compensate for its removal.

- They are concerned about the impact on the Shortwood Wildlife Site ie the impact on trees and ground flora.
- They are concerned about the impact on New Works SAM “because of its unique character of shady pools, diverse topography and general open feel of wood pasture”
- They are concerned about the value of restored sites for invertebrate populations and linked this with impact on badgers (which forage for invertebrates)
- SWT agree with Little Wenlock Parish Councils and the Shropshire Badger Group’s concerns about impact on badgers. These concerns centre upon the impact on food supply and the conflict between foraging badger territories. SWT also refer to this proposal adding to the cumulative impact of previous open cast mining to the north and south of the site.
- SWT go into detail regarding their concerns about the adequacy of the mitigation measures, the impact on biodiversity, on habitats within or adjacent to the site and they state their concern and/or disagreement with a number of the applicant’s conclusions.
- SWT question the applicant’s description of the current quality/condition of parts of the site.

In respect of badgers, as members may be aware, they are given detailed and specific protection under legislation. SSSIs and County Wildlife Sites are also given specific protection. If members do not consider that they have sufficient information as to how protected species and their habitats will be protected, this could be a reason for refusing this application.

With reference to the concerns raised by SWT it is considered that the development proposal will have a material adverse impact upon biodiversity. This biodiversity concern is appropriately referred to in the section on General Cumulative Impact.

In these circumstances, the proposals are to be considered in terms of biodiversity effects against Joint Structure Plan policies P58, P59, Joint Minerals Plan policies M1, M3, M4, M7, M21 and saved Wrekin Local Plan policies OL12.

10.18 Cumulative Impact – MPS 2

Paragraph 12 of MPS2 and paragraph 18 of MPG3 require Mineral Planning Authorities (MPAs) to take cumulative impact into account when determining planning applications for coal and related development.

In this sense cumulative impact means the impact of the proposed operation when added to other such or similar operations which are also having an impact on the area.

Little Wenlock Parish Council have referred to this cumulative impact in their consultation response. They mention previous open cast mining sites at Ketley Brook, Arleston, Candles, Symons, Coalmoor, Swan Farm and many other since the 1950's. They also mention the effects of poorly controlled landfilling and the continued operation of the Candles landfill site. The Parish Council have also submitted information relating to the number of people who are generally spend most of their time in the Parish and would be affected.

With reference to the Parish Council's concerns in this respect Officers consider that the proposal gives rise to an adverse cumulative impact and officers refer to this matter in the General Cumulative Impact section below.

10.19 General Cumulative Impact

Judicial reasoning (Judgment (11.06.07) of Mr Justice Burton - para 41– The Queen on the application of Leicestershire County Council and the Secretary of State for Communities and Local Government and UK Coal Mining Limited-CO/5542/2006 ([2007] EWHC 1427 (Admin)) as to this form of cumulative impact has been stated to be as follows:

“... (1) even though each individual area of potential impact was not objectionable yet each such feature was so close to objectionability that, although none could be said to be individually objectionable, yet because each was nearly objectionable, the totality was cumulatively objectionable; or (2), one, two, three or four of the particular features were close to being objectionable and that would be an important matter to take into account when looking at the totality; or (3) one particular combination of two or three otherwise objectionable features could cause objectionability in their totality; or (4) as was specifically addressed by the Interested Party and by the Inspector here, and found not to be the case, there could be some unusual feature or some unusual combination of features such as to render that combination objectionable when the individual feature was not...”

Essentially, the position is that a number of areas of potential impact which might not necessarily individually be regarded as reasons for refusal can, when taken together, constitute a reason for refusal.

This principle of cumulative impact can be applied to the current proposals as follows:

- i) Need; Members are referred to the comments made on Need at Para 10.2 above. Officers do not consider that the need case together

with the benefits outweighs the various forms of significant harm arising from the proposal.

- ii) Noise; the position on noise is being clarified by an external consultant. In the event of noise not being a reason for refusal in its own right Members are referred to Para 10.3 above and the Officers conclusions that there would be a significant adverse noise impact arising from the proposal.
- iii) Dust: the areas surrounding the opencast areas, haul roads and stockpiles on the site, as well as during bund formation and removal are likely to be subject to periodic nuisance caused by dust from the development especially in times of dry weather and wind
- iv) Blasting: the blasting required to be carried out by the development would cause disturbance to local residents and others in the area and interfere with their reasonable use and enjoyment of the area
- v) Impact on Highway/Public Rights of Way users; Members are referred to Para 10.6 above and the Officer conclusion that there will be a significant adverse impact on Highway/PROW users' enjoyment of the highway, bridleway and footpath network in the vicinity of the site as a result of the proposal.
- vi) Landscape and Visual Impact; Members are referred to Para 10.8 above and the Officer conclusion that there will be a significant adverse landscape and visual impact as a result of the proposal.
- vii) Shropshire Hills AONB; Members are referred to Para 10.9 above and the Officers conclusion that there will be a significant adverse impact on the AONB, in terms of its landscape, tranquility, recreation and its use and enjoyment, as a result of the proposal.
- viii) Cultural Heritage; Members are referred to Para 10.14 above and the Officer conclusion that there will be an adverse impact on the Scheduled Ancient Monument as a result of the proposal.
- ix) Biodiversity; Members are referred to Para 10.17 above and the Officer conclusion that there will be an adverse impact upon biodiversity as a result of the proposal.
- x) Cumulative Impact (MPS 2); Members are referred to the comments made in Para 10.18 above and the Officer conclusion that there will be an adverse cumulative impact arising out of the proposal.

10.20 National, Regional and Development Plan Policy

The consultation response from the Regional Assembly (RA) is set out earlier in this report. Generally they comment that there are no policies in the current RSS which deal with the acceptability or otherwise of working coal by opencast coal methods in the region.

The RA response acknowledges their input is from a regional perspective and points out a number of matters which are for the Council as Minerals Planning Authority to determine. However, one comment from the RA has given rise to concern and is not accepted as it is a misapplication of national policy. This comment is that because only a small percentage of the AONB is directly affected, the development is unlikely to give rise to any matter of regional importance. As a matter of principle, officers cannot accept that this is a

correct approach. Further, in the circumstances of this application, there is not only the direct impact on the AONB, there is also indirect impact of the mining operation on the remainder of the AONB and surrounding area which is commented on elsewhere in this report. The effect on the AONB, its use and enjoyment, would be significant and adverse. To permit the proposals would be a clear breach of national and Development Plan policy in relation to AONBs.

Government guidance on opencast coal applications is mainly contained in MPS1 (2006) and MPG 3 (1999). Paragraph 8 of MPG3 states that in applying the principles of sustainable development to coal extraction, the Government believes there should normally be a presumption against development unless the proposal meets certain tests. It goes on to say 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. Accordingly, the Government takes the view that, subject always to local plan procedures, normal rights of appeal and the provisions of this guidance, MPAs assessments of the environmental acceptability or otherwise of individual proposals should normally prevail."

PPS7 paras 21-23 are also relevant. This states as follows:

Nationally designated areas

21. Nationally designated areas comprising National Parks, the Broads, the New Forest Heritage Area and Areas of Outstanding Natural Beauty (AONB), have been confirmed by the Government as having the highest status of protection in relation to landscape and scenic beauty. The conservation of the natural beauty of the landscape and countryside should therefore be given great weight in planning policies and development control decisions in these areas. The conservation of wildlife and the cultural heritage are important considerations in all these areas. They are a specific purpose for National Parks, where they should also be given great weight in planning policies and development control decisions. As well as reflecting these priorities, planning policies in LDDs and where appropriate, RSS, should also support suitably located and designed development necessary to facilitate the economic and social well-being of these designated areas and their communities, including the provision of adequate housing to meet identified local needs.

22. Major developments should not take place in these designated areas, except in exceptional circumstances. This policy includes major development proposals that raise issues of national significance. Because of the serious impact that major developments may have on these areas of natural beauty, and taking account of the recreational opportunities that they provide, applications for all such developments should be subject to the most rigorous examination. Major development proposals should be demonstrated to be in the public interest before being allowed to proceed. Consideration of such applications should therefore include an assessment of:

(i) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;

(ii) the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and (iii) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

23. Planning authorities should ensure that any planning permission granted for major areas should be carried out to high environmental standards through the application of appropriate conditions where necessary.

Paragraph 38 of MPG3 state that: “Minerals Local Plans and Part 2 of UDPs should also indicate any areas where coal extraction and the disposal of colliery spoil may be acceptable in principle ... as well as those areas where working or disposal is unlikely to be acceptable in principle ... as well as those areas where working or disposal is unlikely to be acceptable or where coal resources are to be safeguarded for future working ... MPAs may wish to indicate: broad areas of search; or, the extent of the shallow coalfield and the constraints within that area; or, a combination of the two.”

There are no requirements for MPAs to maintain a landbank for energy minerals. However, need for the coal and fireclay can be advanced to overcome planning objections (paragraph 50, MPG3). “The Government believes that it is right to make the best use of UK energy resources, including coal reserves, where it is economically viable and environmentally acceptable to do so” (Paragraph 4.23, ‘Energy Challenge’, 2006). Currently a substantial proportion of the coal that goes into Ironbridge Power Station is imported from countries abroad including Siberia.

There can be no doubt that from the consultation replies that the community of Telford & Wrekin is overwhelmingly opposed to this application. Surface coal and fireclay extraction has been going on in the South Western Telford area since the 1940s to the mid 1990s, and in particular between the 1980s and the mid 1990s (See map in the appendices of the South Western Telford area, which shows some of the previous surface mine site areas).

The current LDF Core Strategy does not contain a minerals policy and there is no adopted Minerals DPD. However, saved Policy M21 of the Joint Minerals Local Plan (Coal and Fireclay Working) includes Inset Map 2 (South Western Telford) and additional requirements for working within this area. This is the not the same as the specific requirements of paragraph 38 of MPG3, but do indicate specific requirements an application must meet to gain planning permission for surface mines in the South Western Telford area.

The general requirements of Policy M21 (A – C) are not satisfied by the proposals:

(A)

(i) insufficient information concerning noise issues and visual amenity;

(ii) affect on the landscape, AONB, biodiversity and SAM;

(B) cumulative impact (discussed at Para 10.18 above);

(C) it is considered that the material planning objections outweigh the proposed benefits of the application.

In addition, planning permission will only be granted if one or more of the exceptional circumstances of Policy M21 (D) apply:

(i) where the need for the mineral outweighs the material planning objectives (not satisfied);

(ii) working would prevent the sterilisation of the resource (not satisfied); and

(iii) significant benefits would be obtained as a result of the exchange or surrender or surrender of existing permissions (not applicable).

The final balance is to weigh all the objections on one side against the benefits and need. In this case the objections to the development clearly outweigh the benefits and need for the development.

The proposals therefore do not satisfy the policies of the development plan including saved policy M21 (Coal and Fireclay Working) of the Joint Minerals Local Plan.

11. Conclusions

This is the third and fifth application to work surface coal and fireclay within Area A and Area B respectively in the last 20 years. The first three applications were refused by Shropshire County Council and the fourth, Dawley Road 2, was withdrawn in late 2002. This demonstrates the complexity of the current proposals and the need for thorough analysis.

It is important that the disbenefits of the proposal are considered and weighed against the benefits and need.

The image of Telford as a growth point in the West Midlands where people will want to come and live will be adversely affected by this proposal.

Further surface mining in this area would impact upon local environmental, recreational, visual and leisure amenity, removing the interesting undulating features of the present topography caused by mining subsidence.

In addition to these disbenefits there is no proven strategic need for the coal and fireclay which preferably other than in exceptional circumstances should

be met from other sources outside any AONB. No exceptional circumstances exist in this case.

Officers are not convinced that there is significant benefit in safety terms in removing old mine workings when no evidence has been produced of the level of risk they present to human life. Concerns have also been raised regarding the benefits of the proposed restoration scheme and the value of the community fund.

On balance, given the substantial disbenefits of the proposal, it is considered the disbenefits clearly outweigh the benefits and need.

Paragraph 8 of MPG3 makes it clear that there is a presumption against development and that the opinion of the Minerals Planning Authority should normally prevail, subject to the rights of appeal. Against this background and given the planning objections raised, the Council should oppose the proposals at the forthcoming Public Inquiry for the following reasons.

12. RECOMMENDATION

It is recommended that at the forthcoming Public Inquiry, the Council should oppose the current application and recommend to the First Secretary of State that the appeal should be dismissed for the following reasons:

1. The proposed development represents major development which would have an unacceptable and significant adverse impact on the Shropshire Hills Area of Outstanding Natural Beauty and adjoining areas of countryside, their use and enjoyment. The proposals therefore fail to meet the tests of paragraph 8 (iii) of MPG3 by virtue of not being environmentally acceptable, the additional tests of paragraph 28 and 29 of MPG3 for an Area of Outstanding Natural Beauty, Policy QE1 of RSS11, saved Policy P59 of the Joint Structure Plan, saved policies M3, M7 and M21 of the Joint Minerals Local Plan, and saved Wrekin Local Plan policy OL2.
2. The general cumulative impact of the proposals set out in paragraph 10.19 of this report would be significant and in conflict with MPG3 and MPS2, and saved policies M2, M3, M4, M7 and M21 of the Joint Minerals Local Plan.
3. The noise impact of the proposals, as described in paragraphs 8.1 (1) and 10.3 of the report would be unacceptable and contrary to MPS2, and the relevant saved policies of the Joint Minerals Local Plan M1, M3, M4, and M21