

New UK Coal Mine ?

Whitehaven, Cumbria



**Planning Consent
granted by
Michael Gove,
Secretary of State
for Levelling Up,
Housing and
Communities**

**8th December
2022**





Maggie Mason

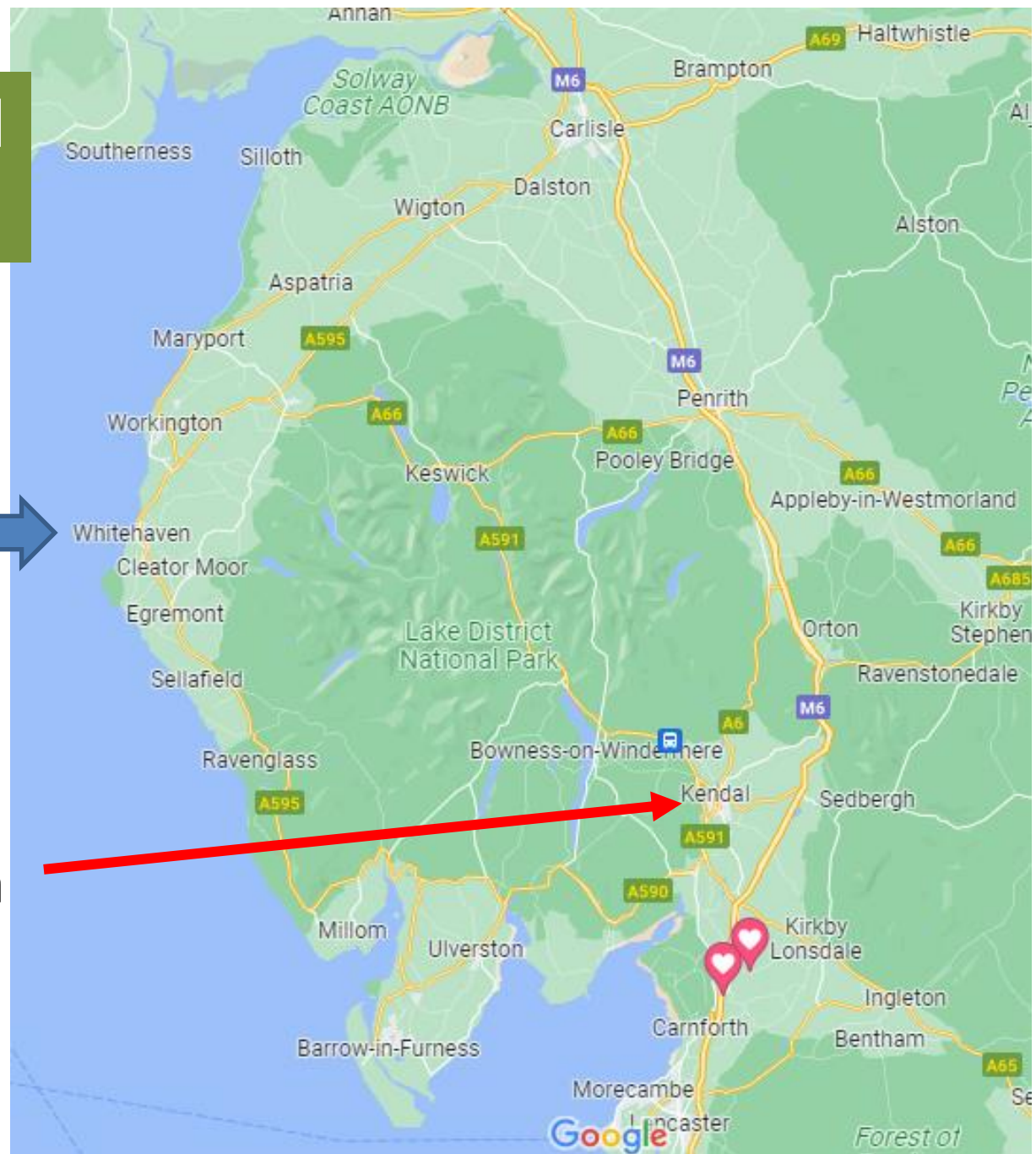
Coordinator of SLACC's coal mine campaign

Ex- minerals and waste planner at Cumbria County Council

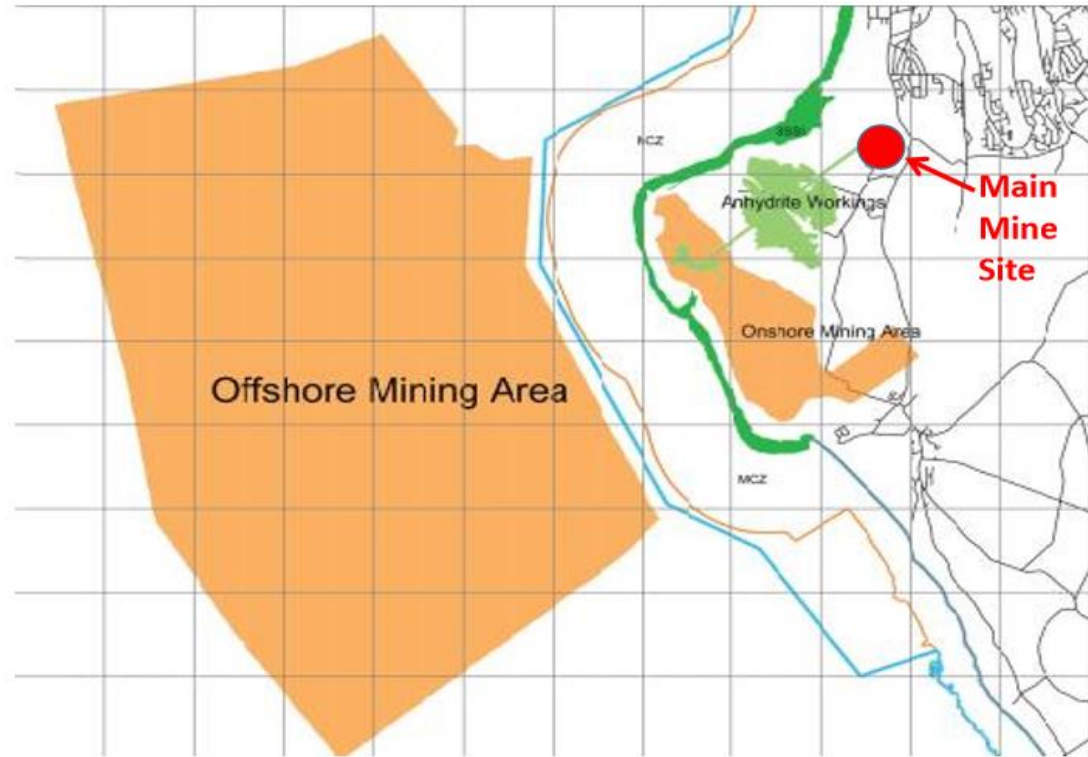
We are not the “local group”

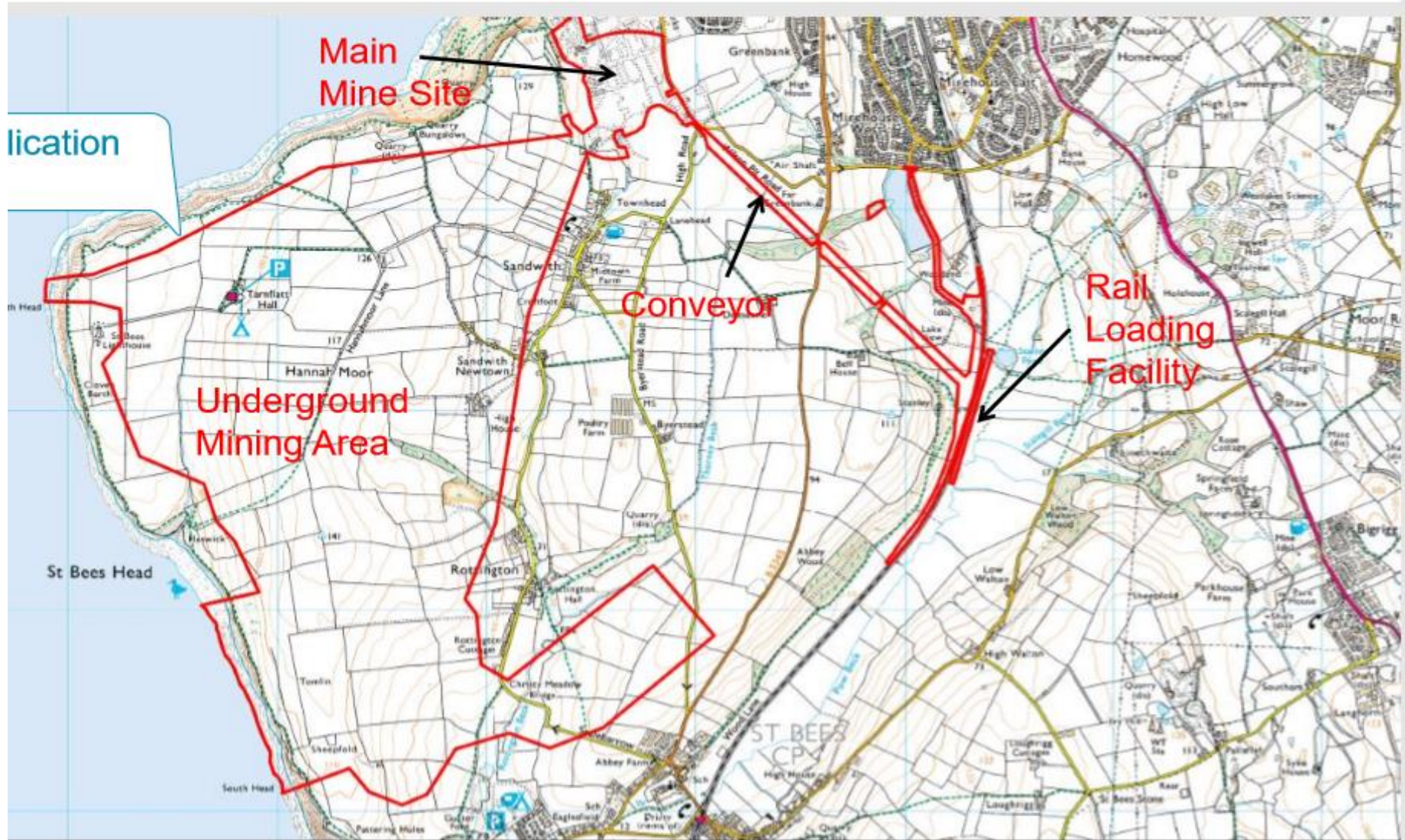
The new coal mine
would be in
Whitehaven

SLACC
is based in Kendal, in
South Lakeland



**Most of the
coal West
Cumbria
Mining
(WCM) want
is offshore
and NOT part
of the
planning
application.**





The planning application boundary

2

**Requests for
Statutory
Review filed at
Manchester
High Court**

**13th January
2023.**

**South Lakes Action
on Climate Change**

**and
Friends of the Earth**



**IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT
PLANNING COURT**

CO/ /2023

IN THE MATTER OF AN APPLICATION FOR STATUTORY REVIEW

BETWEEN:

SOUTH LAKELAND ACTION ON CLIMATE CHANGE - TOWARDS TRANSITION

-and- Claimant

**(1) SECRETARY OF STATE FOR LEVELLING UP, HOUSING AND COMMUNITIES
(2) WEST CUMBRIA MINING LIMITED**

Defendants

STATEMENT OF FACTS AND GROUNDS

[CB/X] means page X of the Claimant's Claim Bundle

Essential Reading (estimated time for reading 5 hours):

- i. Claimant's Closing Submissions [CB/538-615]
- ii. Decision Letter ("DL") [CB/65-122]
- iii. Excerpts from the Inspector's Report ("IR") ss. 21 and 22 [CB/306-353]
- iv. Witness Statement of Alan Lovett [CB/44-48]

SUMMARY

1. By the present claim, the Claimant applies for permission to bring a statutory review, under s.288 of the Town and Country Planning Act 1990 ("TCPA 1990"), of the decision of the Secretary of State for Levelling Up, Housing and Communities ("the First Defendant" or "the Secretary of State") dated 7 December 2022 ("the Decision") to grant planning permission for (a) new underground metallurgical coal mine and associated development at the former Marchon site, Whitehaven ("the Site"); (b) a coal loading facility and railway sidings linked to the Cumbrian Coast Railway Line and associated development on the land off Mirehouse Road, Pow Beck Valley, and (c) an underground coal conveyor to connect the coal processing buildings with the coal loading facility ("the Proposed Development").¹

2. The Claimant is a person aggrieved within the meaning of s.288(1)(a) TCPA 1990 and contends that the Decision should be quashed under s.288(1)(a)(i) as it was legally flawed for the following reasons:
 - a. **Ground 1** – Error of law and/or failure to give intelligible or cogent reasons concerning 'substitution'. The First Defendant failed to grapple with a principal controversial issue between the parties: the extent of the climate impact of the mine depended on whether there would be 'perfect substitution', i.e. whether the coal from the new mine would substitute for coal produced in mines elsewhere on a perfect one-tonne-for-one-tonne basis, leading to an equivalent reduction of coal production elsewhere.
 - b. **Ground 2** – Error of law in discounting the international impact of granting permission; alternatively, failure to give intelligible or cogent reasons concerning this impact. The First Defendant failed to grapple with another principal controversial issue between the parties: the evidence that granting permission for the proposed mine would undermine the UK's reputation as a global leader on climate change, compromising the UK's climate diplomacy and leading to reduced global ambition on climate and increased global greenhouse gas emissions.
 - c. **Ground 3** – Errors of law concerning whether 'downstream emissions' caused by the mine's sole product, metallurgical coal, were indirect significant environmental effects of the proposal, arising from a mistaken understanding of the Court of Appeal's decision in *R(Finch) v Surrey County Council* [2022] EWCA Civ 187 ("*Finch (CA)*").
 - d. **Ground 4** – Unlawful disparity of treatment of the parties and error concerning the approach to the burden of proof. The First Defendant repeatedly imposed a 'certainty' threshold on the Claimant's evidence and arguments, but applied a lower threshold to the Second Defendant's evidence and arguments. Further, the Defendant inappropriately imposed on the Claimant the unlawful burden of disproving the Second Defendant's case.

**SLACC's
challenge
is focused
on the
CLIMATE
IMPACT**

Gove says it is climate neutral” and supports UK’s climate ambitions. How?

Ignores the 220 million tonnes of CO2e from the USE of the coal.(Scope 3 emissions)

Says no global increase in coal production from the new mine (100% substitution)

Fails to address international impacts

Errors in law on scope 3 downstream emissions.

Unlawful disparity of treatment between the parties..

**Consent to
pursue the
Statutory
Review

(or not)

expected by

1 March 2023.**



**Any Court
Hearing could
be delayed until
after**

June 2023.

**when “Finch v
Surrey CC” case
to be heard in
the Supreme
Court**



KEY FACTS.

Permission until 31 December 2049

2,790,000 tonnes per year to be produced from about 2029

Metallurgical coal : max 1.6% sulphur, average 1.4% over a year, limited useability in UK and EU

180,000 tonnes per year for each of the two UK steel-makers, i.e. max 13% of output to be used in UK

So does NOT reduce our coking coal imports much

UK Carbon Budgets require UK steel making to be almost net zero by 2035 .

Recent press reports UK support to replace 3 of the 4 UK blast furnaces with Electric Arc Furnaces.

What is the future for West Cumbria Mining?

Is it really viable to export from UK to the Asian market?

Do they have enough money or expertise to develop the site?

Can they get insurers?

Before coal is extracted they need:

- **Coal Authority License**
- **Marine Management Authority Consent**
- **Could Labour block these?**



www.slacc.org.uk/campaigns/cumbria-coal-mine

@slacctt

<https://greenworld.org.uk/article/cumbria-coal-mine-what-happening-now>