

# How do companies apply for permission to start a coal mine in the UK?



This is a step-by-step guide as to how a company gets the legal stuff they need in place before they can start a new coal mine, or extend an existing one. The information herein is a very simplified outline of the main steps to, a much deeper reading is recommended as understanding this process will highlight what the opportunities are for avoiding any future coal mining applications slipping through or reaching the stage of a resource-demanding public inquiry, like the West Cumbria coal mine application recently has.

To operate a coal mine, a company (called a 'coal operator') needs various licences and permissions. The main three of these are: a licence from the Coal Authority, planning permission, and to notify the Health and Safety Executive. In general terms:



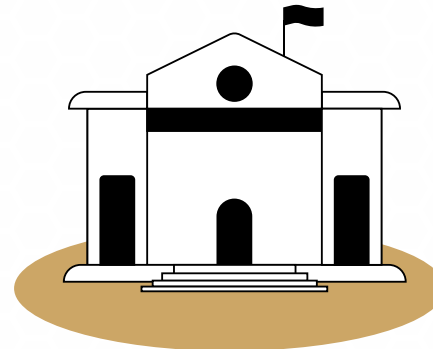
A coal mining licence considers practicalities – can the mine operate in a way that is effective and financially underpinned to ensure that any land or property impacted can be compensated and the mine eventually closed in a safe and appropriate way.

Planning permission covers legal and local social, economic, and environmental aspects – i.e. is this the right place for this activity and does it comply with relevant planning regulations.

The Health and Safety Executive must be notified and considers whether the operations can be undertaken safely.



The Coal Authority



# Step 1: Conditional coal mining licence

COAL  
ACTION  
NETWORK

Issued by The Coal Authority – the regulatory authority on coal licencing and physical legacy issues. Sits within the Department for Business, Energy & Industrial Strategy.

Under current legislation, a company needs to pass the following tests to get a conditional coal mining licence from the Coal Authority:

Whether the applicant can finance coal mining operations and related liabilities e.g. restoration.

The nature of the land or property that may be impacted by subsidence and that damage can be properly compensated by the operator.

That the operation will be carried out by properly experienced people

The conditions of the licence can vary but include getting planning permission.

If the proposed coal mining is in Wales, the Welsh Ministers must first accept The Coal Authority's conditional licence before it becomes valid. The Welsh government gained this power under the Wales Act 2017 and have since used it to stop the proposed Nant Helen coal mine extension.



# The Coal Authority

## Step 2: Planning permission

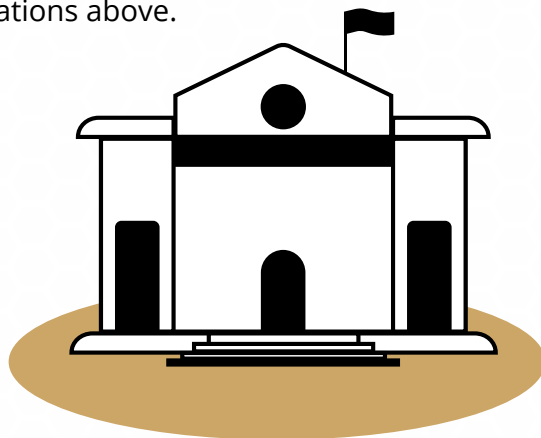


Issued by Local Planning Authorities (LPAs) – which exist throughout the UK. Councillors are locally elected representatives, some of which choose to join their local planning committees that decide whether to grant planning permission on a case by case basis to larger or more controversial planning applications. *Councillors often rely heavily on a planning officer's report of the considerations, and are guided by their recommendation to grant or reject the application. A planning officer is an unelected member of staff in the Local Authority who decides the fate of smaller planning applications, using delegated decision-making powers.*

When deciding on an application for a new coal mine, an LPA checks for compatibility with:

- the Government's [National Planning Policy Framework](#) (NPPF), a set of national planning policies.
- the series of National Policy Statements issued by Government Ministers that contribute to national policy.
- their Local Plan (vision and framework for the future development of the area).

The LPA may grant the application based on certain conditions it adds to it, called section 106 obligations. These are added to make it acceptable in terms of the considerations above.



### Appealing the LPA's planning permission decision

The coal company, as the applicant, can appeal an LPA's refusal of permission for its application. This appeal would be considered by an independent inspector who is appointed by the Secretary of State to consider each appeal, and they will make their decision in line with the plan for the area unless there are material considerations that justify taking a different view.

### Taking the LPA to court

Either the coal company or opposition to a coal mine can apply for a judicial review of a LPA's decision if the LPA acted unlawfully, such as accepting an invalid environmental impact assessment. The legal and expert fees to fight a judicial review—particularly if you lose—means, in practice, companies are more likely to do this than local community campaigns (but look up the *Aarhus Convention* which can limit costs in event of a loss). This may make some councillors hesitate in rejecting a coal mine application from a large company, as the potential costs involved could exceed the LPA's annual budget.

### When the Secretary of State wants the final say

The Secretary of State has the power to take over a planning application out of the hands of a local planning authority (or planning inspector if it is an appeal) to decide. This is known as a 'call-in', such as happened with the Druridge Bay and West Cumbria coal mine applications. A planning inspector is appointed to carry out a public inquiry into the application, examining evidence from all sides, and make a recommendation to the Secretary of State, who will make a decision on the application.

## Step 3: Notify the Health and Safety Executive

The coal mining company must notify the Health and Safety Executive of the planned construction via an F10 notification form (Regulation 6 Notification, Construction Design and Management Regulations, 2015).



## Step 4: Deconditional coal mining licence

When all the conditions have been met, the company needs to apply to the Coal Authority to 'deconditionalise' the licence.

The Coal Authority will check that all the conditions have been met, and the original checks performed to award the conditional licence and reapplied to ensure nothing has changed over a period of what can be years.

