13/0732/MIN

10.10.2013

Mine approximately 6 million tonnes of coal from the Nant Llesg Surface Mine using surface mining methods; to remediate land within and adjacent to the surface mine, to carry out road improvement works at the junction of Fochriw Road and Bogey Road and access points to Cwmbargoed Disposal Point; to form a new vehicular access to the mine off Fochriw Road; to carry out works on Rhaslas Pond; to provide all necessary buildings, plant and facilities ancillary to the surface mine; to erect a new building at Cwmbargoed Disposal Point and install within it a new coal washing plant; to provide a new water recycling facility at Cwmbargoed Disposal Point; to use facilities at Cwmbargoed Disposal Point to prepare, process and dispatch coal to market for the duration of mining operations at the Nant Llesg Surface Mine; to provide new water treatment facilities for the period 31st December 2024 until the cessation of mining operations at the Nant Llesg Surface Mine; to investigate, treat, remove and/or cap waste materials at an existing licensed inert landfill site within the scheme; and to progressively restore the land in accordance with the proposed restoration strategy followed by a minimum five-year period of aftercare of the land at Approximately 478.1 Ha Of Land West And South-West Of Rhymney, North And West Of Pontlottyn And Fochriw And Wholly Within The County Borough Of Caerphilly

APPLICATION TYPE: Minerals Application

1. Site and location

1.1 This application is for a surface mine and associated works on a site that covers some 478.1 ha to the west and south-west of Rhymney, with the village of Fochriw to the south. It is an area that has seen smaller surface mines and other workings in the past, but has now regenerated. The majority of the site is open upland, much of it used for grazing and urban common. The land falls to the north, down to the Cwm Carno valley, where hedgerow enclosed pasture is more evident. The western slopes of the Rhymney Valley run along the eastern side of the site, whilst to the south adjacent to Fochriw is an area of former tips. The existing Cwmbargoed Disposal point is also part of the application site.

1.2 The proposed surface mine would occupy that part of the site north of South Tunnel Road, within which all excavations for coal working, overburden storage, together with coal washing and stocking, would take place. Its area would be 222.80 ha, some 47% of the entire site.

1.3 North of South Tunnel Road, and to the west, and east of the operational area is additional land where the early remediation of shafts, adits and other old mining disturbance would take place, along with environmental controls such as water treatment areas, soil screening mounds, acoustic and visual screening, and the diversion of services. This has an area of some 153.6 ha.

1.4 Further remediation would take place on land south of South Tunnel Road to improve the surface drainage of colliery spoil tips north of Fochriw. Road improvement works would take place on land north and east of Cwmbargoed Disposal Point (CDP), including works to the northern access points to the disposal point and the southern approach to the junction of Bogey Road and Fochriw Road.

1.5 New coal washing plant is proposed at Cwmbargoed Disposal Point, which would include additional land for the development of a new water recycling facility, together with a new layout for the water treatment facilities.

2. Proposed development

This application was first submitted in October 2013 with supplementary information submitted in October 2014. The following description of the development refers to the scheme as amended.

2.1 The surface mine

2.1.1 It is proposed to recover approximately 6 million tonnes of coal by surface mining methods, which would include the provision of soil storage and overburden mounds, and ancillary buildings, plant, and other structures. Mining would last for a period of approximately 10 years.

2.1.2 The site operations can be broken down into the following stages, starting in 2016:

- Stage 1: the development of what is known as a box cut where a void is created prior to any backfilling in years 1 to 4
- Stage 2: the development of maximum void from years 4 to 6
- Stage 3: the development of the maximum void to the start of backfilling with material from the overburden during years 6 to 9.5
- Stage 4: the conclusion of coaling at year 11, and
- Stage 5: backfilling and restoration works to achieve the finished landform which will take place in years 11 to 14.

2.1.3 The first activity at the site would be the removal of protected species, and birds would be deterred from nesting. Protected wildlife species would be captured and removed to suitable receptor sites. Any features of archaeological interest such as the Dowlais Free Drainage System would be recorded, removed or preserved. An archaeological assessment has been carried out and there would be an archaeological watching brief during the early stages of the work. Any areas of archaeological interest that can't be protected and are to be removed would be recorded prior to removal. Fencing would be used to protect any features that are to remain within the site.

2.1.4 The southern embankment of Rhaslas Pond has been identified as being worthy of protecting as a scheduled ancient monument. Cadw are currently considering that matter. The northern embankment of the pond would be recorded prior to its removal, and the materials stored for reuse in the restoration of the site.

2.1.5 The operational site perimeter would be fenced for security with wooden post and wire stock proof fencing of 1.8m in height. Temporary fencing would be erected around the early land remediation areas only for the duration of those works, which would be completed within 24 months of the commencement of coaling. The water treatment areas would be fenced with chain link security fencing.

2.1.6 Any services belonging to National Grid, Wales & West Utilities, Welsh Water and other utilities would be diverted.

2.1.7 Water treatment areas would be constructed before any soil stripping or excavation works and once the site fencing is completed. Four areas would be constructed in locations around the mine and overburden storage. Each facility would consist of an attenuation lagoon, which would store the majority of the incoming water, feeding two

smaller polishing lagoons where water would be finally filtered before being discharged to a watercourse. 1.8m high chain-link fencing with a further 0.3m of barbed wire would be erected around each area. The facilities would be maintained for the duration of site operations and enhanced for ecological purposes as a part of the restoration of the site.

2.1.8 Site offices, staff accommodation, vehicle parking, workshops and on-site coal washing and preparation facilities would be located on the south-western side of the main operational area adjacent to Fochriw Road. Bunded fuel, oil and chemical storage facilities would be sited in this location as well. The drainage systems for those facilities would be trapped to remove silt, and designed to contain any accidental spillages of oil and other pollutants for appropriate removal and disposal. No trap, lagoon or sump would be located near an archaeological site.

2.1.9 The office and staff welfare block would be single-storey, finished in spar dash with concrete roof tiles, and would be 53m long, 16m deep and 5m high. It would be next to a parking area with 206 spaces, four spaces for disabled drivers, and a cycle stand. There would be three workshops, all of which would have an industrial appearance. The first would be 20m long, 10m deep and 10m high to the ridge; the second 20m long, 10m deep and 7.5m high to the ridge; and the third and largest would be 34m wide, 24m deep and 15m high to the ridge. The on-site coal washing plant would consist of a mixture of plant and conveyors, including a barrel wash, with a total length of approximately 72m, and height of approximately 9m.

2.1.10 A new access onto Fochriw Road through which all mine related traffic would pass would be created approximately 130m north of the existing Bogey Road junction. All vehicles would be cleaned at vehicle washing facilities before gaining access to the public highway. A small security gatehouse measuring 5m square, and 4m high, finished in spar dash and concrete tiles would be erected at the entrance.

2.1.11 All peat, topsoil and subsoil that would be stripped, would be stored for reuse. In general the soil storage mounds would be no more than 5m high, with slopes no steeper than 1 in 2. Organic and mineral soils and sub soils, and any soil of ecological or other environmental interest would be stripped and stored separately to a maximum height of 5m above ground level. Peat would be stored in separate excavated cells 3m deep, the above ground containment bunds of which would be a maximum height of 3m and seeded with grass. It exists at varying thicknesses across the site, generally ranging between 5cm and 30cm above the clay. Soil forming materials would be conserved to supplement the available topsoil and subsoil during restoration. Once formed, all soil storage mounds would be seeded to grass at the earliest opportunity.

2.1.12 The main area of the Nant Llesg Mine includes an existing inert landfill site known as the MIS Waste Facility. It is not operational at present, and occupies land that would be covered by the overburden mound. The materials within the waste landfill area are yet to be fully identified but any that are of concern will be disposed of appropriately.

2.1.13 Opening the initial void or box cut, will produce surplus material or overburden that would be placed into the visual and acoustic screening bund and thereafter into the overburden mound. The box cut would provide the working space to allow excavations to their full depth which would continue in an easterly direction with some of the excavated material being put into the overburden mound and some being used to

backfill the western side of the void. This process would continue until the void is at its maximum size. Thereafter, excavations and backfilling operations would take place within the void with all excavated material going to backfill the western side of the void, which would effectively move from west to east until all available coal had been removed.

2.1.14 The coal working excavation area would cover 96 ha, and would be 165m deep at its maximum. The acoustic screening bund would be L-shaped in plan, the legs measuring approximately 1200m and 700m respectively, and would wrap around the north-eastern corner of the site facing the northern end of Rhymney. On its eastern side it would be approximately 20m high, but as the land rises it would be 10m high on its western side facing the cut. It would take four months to construct in year 1 of the operations, and would be grass hydro-seeded. It would remain in place until year 14 and would be the last source of material for filling the void. The overburden would cover an area of approximately 86ha and would be approximately 55m high when viewed from Fochriw, although the land would be rising beneath the mound, and its actual height would be closer to 42m. A minimum distance of 515m would separate the mound from the nearest property in Fochriw. An additional small acoustic screening bund would be located at the north-west corner of the site, for the benefit of a property called Halfway House. That bund would be approximately 110m long, no more than 3m high, and would operate in association with a 2m high acoustic fence adjacent to that house. In total, 70 million m3 of overburden would be excavated, with some 29.65 million m3 stored in the overburden mound, some 2.85 million m3 in the visual and acoustic screening mound, and remainder placed in the worked out void. All haulage to and from the mounds would take place within the site.

2.1.15 To minimise the impact of dust and noise, the overburden mound would be built in four layers of 4 to 5m in height, with each layer built in two phases. The first phase would be the front face of the layer facing east and south, which would be built to its maximum height and would then act as a screen for the second phase which would be the filling in of the remainder of the layer behind. That mound would take some 122 weeks to complete up to the first phase of the fourth layer, with the filling in behind taking a further 26 weeks if the space for the material is not available within the pit itself. It would also be grass hydro-seeded in phases. The mound would remain in place until year 9.5, after which it would be removed in layers to backfill the void.

2.1.16 Lighting in the operational areas would consist of the following:

- On storage mounds, within the cut at each working face and each coaling area: mobile units approximately 9m high with four 1000w bulbs, faced away from residential areas; a maximum of three on the tip at any one time. In the winter these would be illuminated at 4.00 - 4.30 p.m. at the earliest, and turned off at 7.00 p.m. They would not be used in the summer.
- Within the working void and to light major junctions on the haul roads: semi-permanent lighting sets, 13m high with eight 400w bulbs directed downwards. They would be operated during the same hours as set out above.
- Around the workshop, truck park and barrel wash area: a maximum of three of the aforementioned 13m high units. These would be illuminated during the night for security purposes.
- Apart from major junctions within the working void, the haul roads would not be lit, and vehicles would rely on headlights.

2.1.17 At the end of the coaling period, the material stored in the overburden mound would be returned to backfill the final void, followed by the material from the visual and acoustic screening bund. Overburden replacement and the spreading of soils or soil-forming materials to achieve the final restoration contours would take place within 3 years of the completion of coaling. Aftercare of each stage of the progressively restored land would continue for a minimum of 5 years after the completion of final restoration on that stage, and in the case of the more environmentally sensitive areas, up to 25 years.

2.1.18 Stone and clay found during the excavations would be used for haul road construction and lining ditches within the site. It is not expected that surplus stone would become available in commercial quantities, and the processing and off-site marketing of stone does not form part of the development proposal.

2.1.19 Up to 750,000 tonnes of coal a year would be mined at the site, taken to the CDP for processing and onward dispatch to market. Historically, the CDP has had a capacity to process up to 1.5m tonnes a year, but with the installation of new high capacity washing and screening plant, that would increase to approximately 1.75m. The plant would wash up to 400 tonnes of coal an hour, and would be contained within a building to allow the control of dust and noise. An ancillary water recycling facility would also be provided to ensure sufficient surface water is collected and stored to maintain operation of the plant during periods of dry weather.

2.1.20 Planning permission has already been granted for improvements at the CDP to accommodate the Ffos-y-Fran operation should permission be refused for the current proposals. Nant Llesg coaling operations would overlap with those at Ffos-y-Fran with a maximum of 50,000 tonnes of coal a year being dispatched from the CDP by road. All other coal would be dispatched by rail. It is estimated that there is a possibility that up to 1,750,000 tonnes of coal could be dispatched each year.

2.1.21 Hours of operation of the surface mine would be:

Weekdays	0700 - 1900 hours
Saturday	0700 - 1400 hours
Sunday	No working
Public & Bank Holidays	No working

The CDP would operate during the following hours:

Weekdays	0600 - 2200 hours
Saturday	0700 - 1800 hours
Sunday	No working
Public & Bank Holidays	No working
Train loading & dispatch	24 hours

Blasting would be limited to the following hours:

Weekdays	1000 - 1300 and 1400-1600 hours
Saturday	1000 - 1300 hours
Sunday & Bank or Public holidays	No blasting

2.1.22 It is proposed to set up a site liaison committee consisting of representatives of the Council, local residents and the applicants, which would be a forum to discuss site matters and any impact of site operations beyond the site boundary. It would provide an opportunity for queries to be brought forward and for information about activities on the site to be exchanged. An Environmental Liaison Officer would be provided by the applicants who would be responsible for dealing with complaints and reporting matters to the committee along with information about environmental monitoring and relevant other activities on site.

2.2 Remediation of Old Shafts, Adits and Mining Dereliction

2.2.1 There are many shafts and adits associated with former iron ore and coal mining along the western side of the Rhymney valley which it is intended to remediate within the first two years of the operations. That work would include improvements to the quality of mine water discharge into the River Rhymney. There are 138 known shafts and adits, but there may be other unrecorded abandoned mine entries. Once located and investigated, it would be established whether or not they pose an identifiable risk. Proposals for any necessary remedial works would be drawn up in liaison with The Coal Authority. This land, some 111ha in area, will be made available for public access once these remediation works are completed.

2.2.2 It is considered by the applicants that the removal of the existing network of underground workings within the proposed coal working area of the Nant Llesg mine would remove a significant part of the source of the polluting mine water that currently enters the River Rhymney. The direction of groundwater flow beneath the planning application site is understood from site investigations to be generally eastward, to the river via the Dowlais Free Drainage System, the Big Coal and Rhas Las Drains, and the Bute Watercourse. During the mining operations the existing drainage system will be interrupted and the water will be run through water treatment areas, to improve water quality.

2.3 Land Remediation to address silting of Darran Valley Country Park Lake

2.3.1 Drainage works are proposed on the site of a former colliery tip and tip washing scheme to help address the scouring of tip material into the adjoining watercourse and reduce the build-up of silt at the lake at Darran Valley Country Park.

2.4 Road Improvement Works

2.4.1 Visibility at the junction of Fochriw Road and Bogey Road would be improved by taking out a rise in Fochriw Road to the south of the junction. Better signage and additional road markings would be introduced at the junction. A temporary diversion route across adjacent land would be required to avoid closure of the road.

2.4.2 The main site access point would be on the eastern side of the Fochriw Road approximately 130m to the north of the junction between that road and South Tunnel Road. The access point would be equipped with signage and road markings to current highways standards. All vehicles entering the operational site, including plant delivery and removal, would enter and leave through this access point. Within the site, a metalled road would be constructed from Fochriw Road to the workshops.

2.4.3 The proposed exit from CDP would be re-designed to allow right turn exit movements only out of CDP. Transportation of the coal from mine to CPD would be with haulage vehicles of 20 tonne capacity, amounting to 781 loads a week, or 142 a day, with the corresponding number of return journeys, i.e. some 24 movements per hour based on a 12-hour working day.

2.5 Additional coal washing plant and ancillary water recycling facility

2.5.1 New coal washing and water recycling facilities would be located at the CDP along with the existing facilities for coal stocking, washing, preparation, processing and dispatch. These, together with the existing vehicle maintenance workshop, offices, staff welfare, vehicle parking, laboratory and other existing ancillary facilities would be retained and used for the duration of and in connection with coal mining activities at both the Ffos-y-Fran and Nant Llesg sites.

2.5.2 A separate permission for the erection and operation of an additional coal washing plant at the CDP was approved in August 2013 (this council's reference 13/0218). The current application includes that development which would be contained within a building approximately 43m wide, 48m long and 20m high, together with associated covered conveying systems. Some 1.1m tonnes of coal would be processed each year, which would be approximately 60% of the planned total output of the CDP. The remainder would be processed by the existing dry crushing and screening plant.

2.5.3 Coal from the mine would be stocked at the CDP according to individual seam quality and blended, i.e. mixed by front end loading shovels, depending on their after use. The coal would then be fed into a hopper housed within a building measuring 9m by 8m by 9.5m high, from which it would be fed into a number of crushers to reduce it to an appropriate size. Water sprays, the building and the enclosure of conveyor belts would assist to reduce dust. The roof cladding would be corrugated to match existing materials, and coloured green and brown. After crushing, the coal would be washed. The facility is designed as a closed circuit to recycle and recover the water and any materials used in the washing process.

2.5.4 An additional water recycling facility would be required to accommodate the coal produced by the Ffos y Fran and the proposed mines, which would provide the anticipated capacity of water needed during dry weather. Surface water run-off would be used and water recycled wherever possible. There are a number of lagoons and settlement ponds at the site already, and the new facility located to the south-west of the CPD would hold approximately 8,000 m3 of water. The mound around this new lagoon would be sufficiently high to accommodate periods of high rainfall.

2.6 Footpaths, bridleways and the urban common

2.6.1 Public rights of way currently crossing the site would be stopped up prior to the commencement of site operations. A formal, dedicated bridleway would be provided linking Fochriw Road to an existing bridleway that further links to the highways to the east of the site. Within the first 12 to 24 months of coaling, additional routes through the areas subject to early remediation would be made available as permissive paths until remediation works are complete and it is possible to create permanent rights of way. As mining operations develop, the land would be progressively restored and further permissive routes would be provided until the whole of the proposed replacement rights

of way network is in place, which would include an extension of the Rhymney Valley Ridgeway footpath.

2.6.2 In order to carry out works on the urban common, an application will be made under the Commons Act 2006 for consent to carry out the Nant Llesg scheme on the Gelligaer and Merthyr Common. To mitigate the impact on the common the application for consent will provide for additional off-site areas of land to be made available for temporary permissive public access or temporary 'common' grazing, and permissive public access for the duration of surface mining operations, restoration and aftercare. The requirement to permit access for the duration of the scheme will be included in a section 106 agreement.

2.7 Rhaslas Pond

2.7.1 The pond is a man-made reservoir that provided water to the Dowlais Iron Works on the north-eastern side of Merthyr Tydfil and is one of the larger reservoirs in the system. Its banks are formed of compacted earth, with a clay core and dressed dry-stone masonry armouring. The applicants currently maintain and use the pond as an operational reservoir. The southern dam is well preserved, but the northern dam has suffered greater disturbance and repair over the years. Cadw has indicated an intention to schedule the southern embankment under the Ancient Monuments and Archaeological Areas Act 1979 and would be preserved in its current position throughout surface mining operations, and current water levels retained.

2.7.2 Following archaeological investigation, the northern embankment would be removed and the materials stored on-site for use in the restoration design for this part of the site. A barrier would be constructed across the centre the pond in an east–west direction to separate its northern and southern areas. The northern part would then be drained and in-filled to form a plateau in preparation for the construction of the workshops, barrel washing plant and a coal stocking area. Suitable outfalls would be provided to a water treatment area.

2.7.3 Once the mining is complete the southern embankment would be part of the restoration scheme and the pond would reduce in depth towards the north where it would become a wetland area. The northern embankment would not be reinstated as a feature of the reservoir, but would be commemorated in the landscaped area to the north of the wetland with materials from the original stone armouring being used to depict its original outline. A low earth bank would be formed on the alignment of the northern embankment with a footpath across it. It would be faced or otherwise marked with the recovered stones from the stone armouring. The northern outfall would also be reinstated as a leat with a culvert through the restored bank, to be stone lined in similar style to other Dowlais Free Drainage System features. Leats entering the reservoir, and the best preserved leats to the west are to be retained.

2.8 Restoration and Aftercare of the Land

2.8.1 The restoration strategy has the following aims:

- To provide a range of landscape character reflecting the landscape patterns of the area and to reintegrate the site into its surroundings and upgrade its contribution to the setting of Rhymney;

- To improve accessibility to the public and connection with nearby communities, and increase the amenity value of the site to the community;
- To provide a range of habitats offsetting the habitat loss due to the operations and enhancing other habitats within the site; and
- To reflect the history and archaeology of the area in landscape features, and provide access to the public and information about the cultural heritage in the site.

2.8.2 The remediation of the southern area, and Rhaslas Pond, has been mentioned above. Mention has also been made of the remediation works proposed along the western side of the Rhymney Valley. That would be restored to fields of pasture. Woodland would be established adjacent to existing streams, and extended along part of the lower slopes near the industrial estate. A pattern of small fields divided by hedgerow would be established along the mid-slopes with larger fields divided by stone walls on the upper slopes. At the heads of these valleys, small basins of more gentle slopes would be formed, and peat laid over clay to encourage the development of wet heathland. Small ponds suitable for great crested newt would be established at intervals to extend the habitat for this species around the site. The Bent Iron would be reinstated along with the stone-faced terrace feature in which it would be placed.

2.8.3 It is proposed to restore the open urban common land with upland grassland over most of the area. Between Rhaslas Pond and South Tunnel Road, peat saved from the initial soil stripping would be laid over recovered clays to provide landform and drainage conditions suitable for the development of wet heathland. The western edges of the operational site would be largely undisturbed throughout the operations and the restoration landform and vegetation would be merged with the existing. Small ponds would be established along the western edge suitable for great crested newts, extending the habitat along the western boundary. The open upland landform would be gently undulating with surface water run-off collected and directed to watercourses that would reconnect with those outside the site. A water treatment area required for mining operations in the south-east would be restored to a marshy or wetland area.

2.8.4 The northern edge of the site would be restored to enclosed fields of pasture, similar to the layout of the present adjacent landscape, with improved hedgerow and woodland planting. On the lower slopes, the restored fields would be smaller and divided by hedgerows. New woodland belts would be established along the field boundaries on the mid-slopes. The upper fields would be larger and would extend up to the edge of the common. The water treatment area in the north-east would be removed and the land restored to pasture. In the Northwest of the area, a stream course would be reinstated, and an area of flatter land along its course formed to encourage the development of marshy grassland. More small ponds would be established along the mid-slopes, again at intervals suitable to extend the great crested newt habitat around the site. A farm access track would be provided, running along the mid-slopes. Public rights of way would be reinstated, although the alignments may be modified, and the Rhymney Valley Ridgeway Walk would be restored.

2.8.5 Ecological restoration would be based on the following:

- retention of existing features where possible and their protection during the operation of the site;
- restoration of features which would have been removed during the site

operations; and
- creation of new wildlife habitats.

Existing features that would be retained and protected would include the area in the south of the site used by nesting lapwing; and the western edges of the site, which includes a number of marshy areas and ponds. Other ponds and reptile habitat would be created in the east of the site at the start of the scheme to provide habitat into which amphibians and reptiles would be transferred from the operational areas of the site before the start of the mining operation. Habitats that would be restored at the end of operations would include areas of wet heath and marshy grassland to the south of Rhaslas Pond. The topography, hydrology and soil conditions in those areas would be reinstated to encourage the development of the vegetation using appropriate seed mixes following which the land would be managed during an aftercare period. Areas of marsh would be reinstated on clay soils at the heads of watercourses which would be created to drain the site to form similar habitat to that which currently occurs in similar situations within the site. New habitats that would be created on completion of the scheme would be a network of hedgerows and small woodlands in the north of the site. Some of the water treatment areas would be reinstated to form wetland areas and a number of ponds would be created in suitable areas around the edges of the site.

3. The application

3.1 The application is accompanied by a number of documents, the main contents and conclusions of which are summarised in turn below.

3.2.1 THE ENVIRONMENTAL STATEMENT (ES)

An ES was submitted with the application which considered the following matters: site selection and alternatives, a social impact assessment, recreation and tourism, traffic and transport, ecology and nature conservation, agricultural land use and soils, and hydrogeology, hydrology and drainage, air quality and dust, noise, blasting and vibration, cultural heritage, landscape and visual impact, waste, health and welfare, and sustainability and climate change. A brief summary of each heading is set out below.

3.2.2 Site selection and alternatives The background of the development of the scheme as described above is given along with an assessment of four alternatives: recover larger or smaller tonnage of coal; work the Nant Llesg reserve after Ffos y Fran; to not remediate any land; and to do nothing. Mining 9 million tonnes of coal was initially considered, but the decision to have a buffer of 500m to the settlement boundary defined in the local development plan reduced the size of the mine and allowed space for an acoustic bund. It is considered that 6 million tonnes, the size of the current proposal is at the limit of commercial viability. In view of the current demand for coal, it is considered that an overlapping period between the working of the two mines is necessary. Dropping the land remediation would lose an opportunity to make a number of historic workings safe, and to improve drainage into the lake at Darran Valley Country Park. Finally, to do nothing would mean that a valuable resource of Welsh Dry Steam coal would not be mined, and the benefits associated with the remediation and restoration of the site would not take place.

3.2.3 Social impact assessment This section considers the current social and economic position of the locality and sets out the benefits that would arise from the proposal. The area under study is said to be amongst the most deprived in Wales, with employment deprivation a major problem, and education disadvantages a moderate problem. The scheme will create between 144 and 239 jobs, depending of the shift pattern, with a further 118 jobs generated indirectly, and 25 jobs through employee spending. The applicants would work with schools, colleges and partner agencies to raise the awareness of job opportunities. These are considered to be beneficial impacts.

3.2.4 Recreation and tourism The impact of the mine on local tourism and recreational facilities including the public footpaths is considered. Broadly speaking the conclusions are that the effects of the mine during its operation will be not be significant, and there would be some benefits following the completion of the restoration particularly to the provision of public footpaths common land.

3.2.5 Traffic and transport On the basis of the adoption of a site environmental management plan to manage the impacts of HGVs on the local network, and improvements to the Bogey Road/Fochriw Road junction, it is concluded that the traffic and transport impacts of the development will be no worse than minor adverse temporary (long term) with respect to highway operation, highway safety and non-motorised users. The impact on non-motorised transport is judged to be no worse than minor adverse

temporary (long term) because the number of pedestrians and cyclists is low. Minor benefits may be delivered through the creation of new pedestrian and cycle routes. That assessment takes into account existing traffic flows on the surrounding road network, accident statistics, pedestrian and cycle access, and public transport.

3.2.6 Ecology and nature conservation This section of the ES looks at the impact of the development on statutory and non-statutory nature conservation sites, vegetation and habitats, amphibians, reptiles and bats, breeding and wintering birds, otters and water voles, badgers, aquatic and terrestrial invertebrates, dragonflies, and fish. It concludes that as a result of the land take of the scheme the greatest impact would be on breeding birds, with a lesser impact on non-statutory designated sites such as Cefn Gelligaer SINC (although that would be restored on completion of the scheme), habitat loss (particularly wet heath, unimproved acid grassland and marshy grassland), wintering/passage birds (especially those associated with Rhaslas Pond), terrestrial invertebrates (including grayling and small heath butterflies and broom moth), and dragonflies and damselflies (including the rare blue-tailed damselfly). Suitable habitat for species which currently occur on the site would be reinstated on restoration.

3.2.7 During the operation of the development there would potentially be beneficial effects on amphibians and bats as a result of habitat creation (and for amphibians, through provision of road crossings), and to otter and fish as a result of improvements to downstream water quality. Comparing the restored site with the baseline, the majority of effects would be of negligible or minor significance. There would be potential moderate adverse effects on non-statutory sites and habitats, breeding and wintering/passage birds (taking account of the long timescales required for full recovery of the restored areas). There are likely to be beneficial effects on amphibians, reptiles, bats and otter as a result of habitat creation (and for amphibians, provision of road crossings), and on fish as a result of improvements to downstream water quality.

3.2.8 The restoration and aftercare proposals seek to re-establish topographical, soil and drainage conditions and management practices which would support these habitats and species, particularly those included in the Caerphilly Biodiversity Action Plan (BAP). New ponds would be created by modifying the water treatment areas used for the development, and elsewhere, and watercourses would be established as part of the drainage of the restored site. A network of hedgerows would be established within the farmland area in the north of site, with new woodland areas here and in the east of the site, providing habitat for species such as great crested newt and other amphibians, common lizard, bats, otter, lapwing and a range of other breeding and wintering birds.

3.2.9 The land at the north of the Nant Llesg site which would be restored to enclosed agricultural grazing land would, at the end of the aftercare period, return to the current landowner who would continue to farm the land.

3.2.10 In view of the nature of the proposed development it is not possible to fully mitigate the ecological within the application site. Ecological enhancements and management are therefore proposed on land at Bryn Caerau. No potential significant cumulative effects of the Nant Llesg scheme with other developments in the locality on ecology and nature conservation have been identified.

3.2.11 Following completion of the Nant Llesg project, the site itself would have been restored and the Bryn Caerau offsetting area would have had some 20 years of habitat

improvement and management. Taking into account the likelihood of the wet heath recovering, the existing and continued threats from overgrazing, and the habitat improvement and management of Bryn Caerau, then it is concluded that the overall balance of biodiversity of the area would be maintained.

3.2.12 Agricultural land use and soils Some 41% of the land to be affected by the current proposal has been previously disturbed by iron and coal working. The quality of the land is limited to grades 4 or 5 due to severe climatic limitation or severe soil wetness respectively. It is concluded that there will be a long-term temporary negligible effect on agricultural land quality. The impact on non-peaty soils and clayey soils with a peaty surface is considered and the impact is not considered to be majorly adverse. Two farm holdings outside the site would be affected by the development one of which would unworkable for the duration of the operations, but any adverse impacts would be temporary.

3.2.13 Some 201ha of the development is part of Gelligaer and Merthyr Urban Common, which is approximately 6.5% of the total area of the common. Alternative areas of land at Bryn Caerau, Pentrebach and Penddeugae totalling 81ha would be provided for the commoners during the lifetime of the operations, although they would be some distance from the existing grazing areas. The implementation of the restoration scheme would allow the agricultural land to be reintegrated into the common, but it is recognised that there may be some loss of sensitive soils such as peat, and habitats such as the wet heath may take a long time to recover.

3.2.14 Hydrogeology Drainage at the site is generally eastwards towards the River Rhymney and is influenced by the Dowlais Free Drainage System which was developed in the 18th and early 19th centuries. The quality of groundwater in the area is poor with elevated levels of iron, manganese and zinc. The proposed mine would have to be de-watered, and the treatment of that water before its return to the river would be beneficial. There would however be a lowering of groundwater levels by between 7 and 30m over a radius of up to 3km, which would have the potential to reduce flows to the river. The development has the potential to improve the quality of the water in the longer term provided the filling of the void with overburden is done in an appropriate manner. Following the backfilling the groundwater levels would return to their approximate pre-excavation levels. A Water Framework Directive assessment has been carried out following advice from Natural Resources Wales, and concludes that the development would contribute to the improvement of the water environment.

3.2.15 Hydrology and drainage Drainage from the site represents a small proportion of the upper River Rhymney's catchment area. Water quality is generally good, but the mining and industrial heritage results in elevated levels of iron and other metals. There are also erosion problems on former colliery spoil resulting in fine material being transported downstream to ponds at Parc Cwm Darran. The treatment of water during the operational stage of the mine will have beneficial effects on its quality, and the stabilisation of colliery spoil will reduce the silting of the ponds. Part of Rhaslas Pond would be incorporated into the operational area.

3.2.16 Air quality and dust Air quality in the area is considered to be good, and it is predicted that air quality objectives would be achieved during all phases of the project. The most significant impact is predicted to be dust deposition, particularly during the removal of the Ffos-y-Fran overburden mound. The main method of dust suppression would be

water bowsers, and four cannons that would spray a fine mist of water over potential sources of dust. On the basis of the temporary nature of the operations the overall impact is stated to be of minor adverse significance. Decommissioning the CDP may also result in dust deposition. The modelling associated with those conclusions took account of properties in Cwm Nant, Bute Town, Llechryd, Rhymney, Pontlottyn, Fochriw, the Heads of the Valleys Industrial Estate, and neighbouring sites of importance for nature conservation defined in the LDP. Air quality would be monitored during the development.

3.2.17 Noise The main sources of noise will be vehicles, plant and machinery associated with the mine, the early land remediation works, associated road traffic, and the dispatch of coal by rail. The number of coal trains could increase by 70%, but only using the train paths already available. Therefore the maximum day- and night-time use would be no greater than the existing occasions when all of the available paths are used. Network Rail permits up to six train movements in 24 hours: three during the day (six one-way movements, i.e. there and back), and three at night (a further six one-way movements, although due to the practicalities of loading this is usually five). Due to the limitation in the amount of coal dispatched by road, and the remoteness of the site, the impact of traffic (including employee vehicles) would be small. Mitigation measures include the limited hours of operation, the 500m buffer to the settlement boundary, and the use of plant and machinery that would be appropriately designed but with added noise attenuation installed by the applicants.

3.2.18 Blasting and vibration Test blasting has been carried out and data from blasting at Ffos y Fran analysed. The magnitude of the vibration predictions generated for the nearest residential and industrial buildings to the site were very low, close to the human perception threshold of 0.50 millimetres per second but well below the maximum vibration limit guide of 6 millimetres per second. Air overpressure levels are also predicted to be very low. The locations that are the closest to the site are mainly industrial units, infrastructure, two unoccupied outbuildings and five individual isolated residential buildings. There is a gas pipeline within 74m of the blasting location and so the impact on that was considered as well. Measures would be introduced to minimise the risk of flying debris.

3.2.19 Cultural heritage Glamorgan Gwent Archaeological Trust has surveyed the site. This council, Cadw, and NRW have been consulted as part of this analysis. The 'Assessing the Significance of the Impact of Development on Historic Landscape Areas' (ASIDOHL) method of assessing the cultural heritage historic landscapes has been undertaken. A mitigation strategy has been developed that would offset the adverse effects the scheme would have on significant cultural heritage assets. That would consist of a programme of small-scale archaeological excavations and watching briefs. Positive effects would result from a range of cultural heritage activities related to the proposals for landscape restoration, including community based cultural heritage projects; education programmes for schools; archaeological scientific research; and preservation, restoration, reconstruction of archaeological features in the restored historic landscape. The southern half of Rhaslas Pond would be retained, protected and conserved following the completion of the scheme. The northern half of the reservoir would be investigated and documented prior to its removal. The form and character of the northern embankment and water body would be reflected in the restoration design for the historic landscape.

3.2.20 Landscape and visual This has been carried out in accordance with the *Guidelines for Landscape and Visual Impact Assessment* and the study area takes into account the context up to 5km of the site. The landscape within that area has been assessed, along with the visual impact of the scheme, and the cumulative impact in association with other developments. Darkness and lighting have also been considered. Zones of theoretical visibility (ZVTs) have been calculated and impact of the development from various resulting viewpoints assessed. The adverse impact of the scheme would be experienced during the operational period of the mine, but the subsequent remediation and restoration would aim to achieve benefits to the landscape character and amenity for the local communities through the early treatment of the eastern slopes of the site, and re-establishing the open upland and its habitats on completion of the mining.

3.2.21 Waste This will arise in a number of ways:

- the removal of the MIS landfill,
- the removal of former agricultural and mining apparatus as the site is opened up and remediated,
- from plant maintenance,
- from process water treatment effluent (such as at the barrel wash) which will be managed in accordance with a surface water management plan,
- the removal of offices, workshops and hard surfaces on conclusion of the operations, and
- the removal of the CDP.

The bulk of exported waste will go to Trecatti, with any hazardous waste from the existing landfill (which includes asbestos) going to a specialised site in Swindon. The NRW will be consulted about the removal of the existing landfill. Account has been taken of the impact of waste on workers at the site, controlled waters, residents and businesses along haulage routes, and the landfill and treatment sites. The volumes of waste associated with the development are relatively small compared to the proposed volumes of coal. For instance, there may some 560 tonnes of hazardous waste and 3,920 tonnes of non-hazardous waste arising from the MIS landfill. It is considered that the potential of nuisance being caused to local residents is negligible in comparison to the overall scale of the scheme.

3.2.22 Health and wellbeing The applicants commissioned a Health Impact Assessment (HIA) which revealed that the community profile for the wards of Twyn Carno, Darran Valley, Pontlottyn, and Moriah indicates an ageing population, with slow growth and a net outward migration of the 20-24 year old age bracket. Health is improving in the area but there are pockets of health deprivation that strongly correlate with high levels of socio-economic deprivation and low educational attainment. The HIA considered the impact of dust, traffic safety, annoyance as a result of noise and vibration, access and accessibility; the benefits of increased training, education and employment; the removal of hazards; the benefits of the environmental improvements along with the increased access, enhanced areas of open space, and links to the Brecon Beacons. It concluded that the environmental; concentration of pollutants such as PM10, PM2.5, and NO2 would remain within air quality standards, and there would be no adverse health outcomes. There is a potential for annoyance as a result of dust, but an operational management plan is proposed to mitigate the matter. Works such as making existing shafts safe, remediating coal tips, and reducing minewater pollution would benefit the area. Education, training, employment and procurement schemes are

proposed alongside community support initiatives and a community benefit fund.

3.2.23 Sustainability and climate change A sustainability framework was produced taking account of the following themes: economy and skills, social wellbeing, climate change, natural and cultural heritage, pollution, and resources and waste. The scheme was then considered against those themes, and the following conclusions reached. Positive outcomes would arise from the provision of employment and training opportunities. Strong environmental management procedures would be imposed to minimise the impact on the health and wellbeing of the local community. The recreational opportunities arising from the scheme would also be of benefit. The scheme has been designed and will be operated in a manner that minimises carbon emissions and take account of climate change. Measures have been introduced to minimise the impact on natural and cultural heritage. Pollution risks would be controlled through the adoption of a similar environmental management scheme as currently operated at Ffos-y-Fran. The use of resources would be minimised.

3.2.24 It is proposed to carry out 30 hectares of tree planting over the life of the site for neutralising methane emissions from the extraction process. The proposed restoration strategy includes 16.1 hectares of tree planting within the site, and an additional 14 hectares of tree planting as part of the ecological enhancement at Bryn Caerau.

3.3 THE PLANNING STATEMENT

The Planning Statement describes the site, its geology, the proposed development, the restoration and aftercare, the remediation works including those to address the silting of the Darran Valley Country Park Lake, road works, works affecting Rhaslas Pond, coal washing and use of the Cwmbargoed Disposal Point, public rights of way, common land, the Bryn Caerau biodiversity compensation area, the need for coal, employment and economic benefits, planning policy, sustainability and climate change, public consultation, and health impacts. Many of those areas have already been considered in this report, and the following is a brief summary of the remaining matters.

3.3.1 Common land Some 338 ha (including the CDP) (71%) of the site area of 478.1 ha is part of the Gelligaer and Merthyr Urban Common. The full extent of the common is 3,090 ha and the application site is 10.9% of that. Approximately 315 ha would be affected by the surface mine, 114 ha of which only for a period of 12 to 24 months from the start of coaling while short term remediation works are being carried out. That land would be gradually released for grazing, public access, and ecological and cultural enhancements. The remainder, 201 ha would be occupied for the life of the mine and the aftercare period - a minimum of 19 years. Whereas the main site will be wholly fenced off, it is intended that in the peripheral remediation areas only those areas where works are taking place, or where utilities are being diverted will be fenced off, thereby allowing more public access.

3.3.2 Such works require consent from Welsh Ministers under section 38 of the Commons Act 2006. Although there is no statutory requirement to do so, the applicants intend to provide five compensatory areas, two of which would be suitable for public access, with the other three suitable for grazing as well. A further area (the location of the landfill) would be available for incorporation into the common on completion of the mining and aftercare. The total area of this compensatory land is 153 ha, 81 ha of which will be available for grazing.

3.3.3 Bryn Caerau biodiversity compensation area The applicants own farmland to the south-west of the application site where it is intended to implement ecological enhancements to compensate for the effects of the proposed mine. The work includes the following:

- Woodland: grazing control, tree thinning, retaining dead wood, and additional planting to increase connectivity between woodland and provide new areas of woodland.
- Grassland: enhance and extend areas of unimproved and semi-improved acid grassland or semi-improved neutral grassland which show greater species diversity, cease fertilizer application and other agricultural improvements, control grazing, and bracken clearance.
- Marshy grassland: one of the habitats of most value in the area: maintain a variety of sward heights for greater diversity of habitats for invertebrates, no new drainage operations or clearance of existing ditches, no applications of fertiliser or other agricultural improvements, control grazing, cutting of rushes and removal of scrub.
- Swamp: no new ditches or clearance of existing ditches to maintain high water levels, control grazing, removal of scrub and rotational cutting of reed beds.
- Ponds: enlarge and deepen an existing pond and re-excavate silted up ponds, creation of new ponds, removal of aquatic vegetation if ponds become choked, control grazing and access by animals, and removal of scrub.
- Hedgerows: gap up tree lines with new hedgerow planting, plant new hedgerows on field boundaries (fenced to protect from grazing livestock), maintain new hedgerows to ensure establishment.
- Dry stone walls: those in a poor state of repair would benefit from being rebuilt and maintained in a favourable condition.
- Derelict buildings: provide opportunities for use as bat roosts or installing bat boxes.

There are also four sites of regional cultural heritage within the area that would be managed.

3.3.4 The need for coal Site investigations have identified a reserve of some 6 million tonnes of low volatile Welsh Dry Steam Coal at Nant Llesg. Similar coal exists at Ffos y Fran (FLRS), and at current rates of extraction coaling from that mine will be complete in less than 9 years. The permission for FLRS requires coaling to be completed by 2022, but demand from customers is sustained and increasing. If permission were granted for the Nant Llesg mine (NLSM), the two would for a period be worked together to satisfy that demand. The maximum tonnage each year would be 1,750,000 with 750,000 tonnes from NLSM. All but 50,000 tonnes would be transported by rail.

3.3.5 FLRS was the subject of an inquiry in 2004 and was granted permission by the National Assembly for Wales in 2005. The applicants mention the inspector's comments where he draws attention to the need for the coal at Aberthaw Power Station, its importance as an energy generator, and the significant benefit the winning and working of coal would be to the general economy of South Wales. He was also of the view that renewable sources of energy would not replace the use of coal in the foreseeable future. At 2012, the commitment was that 70% of the coal mined at FLRS would go to Aberthaw, 5% to Tata steelworks in Port Talbot, 6% to Lafarge cement works in Aberthaw, 3% to other domestic and industrial processes in Wales, with the

remaining 16% for other operations such as Drax Power Station. The demand from Tata Steel is growing, particularly for washed coal.

3.3.6 The applicants provide the following statistics concerning the supply and demand for coal in the UK.

- coal imports have exceeded UK coal production since 2003, and in 2012 represented around 70% of supply – imports rose as a proportion of overall supply by 37% in 2012, and a further 12% higher in the third quarter of 2013 compared to the equivalent quarter in 2102.
- UK production has steadily declined and fell, for instance, by 9.9% between 2011 and 2012, despite a rising demand. Provisional figures indicate that it continued to fall in 2013 due to the closure of a number of mines.
- since 2005, nearly half of the UK's coal imports (mainly steam coal) have come particularly from Russia, with Australia, Colombia, the USA and the Republic of South Africa being the other main suppliers;
- demand for coal has remained steady at circa 50 to 60 million tonnes each year, rising to 64.2 million tonnes is 2012
- the electricity generation market remains reliant on coal. Since 1998, coal has been responsible for an average of 33% of electricity generated in the UK. This contribution shows no sign of declining and the proportion rose in 2012 to 39%;
- during the ten years 2001-2011, over 80% of demand for coal has been from major power producers for electricity generation with around a further 10% used in the steel making process, although the demand from steel producers has been growing.

Electricity generation accounted for 94% of the demand for steam coal in 2011, but the demand from the iron and steel industry is increasing. In the same year, imports supplied approximately 69% of UK demand, and some 81% of that was steam coal. The applicants estimate that as of March 2013 taking account of the remaining coal at operational mines, those mines with planning permission or subject to planning applications, the UK's reserves amount to some 80.2 million tonnes - some 16 months supply based on past consumption. Seven mines currently produce coal in Wales with an estimated consented reserve of 14.9 million tonnes. All existing coaling at those mines will be complete by September 2021.

3.3.7 RWE npower have written in support of the application for a number of reasons including the risk to their business and increased costs involved with importing coal. Their decision to carry out environmental improvements at Aberthaw depends on there being an adequate supply of locally available coal, and their research shows that the Nant Llesg site is the only one capable of becoming available and meeting its requirements. Tata Steel has also written in support of the proposal. It is estimated that these two employers support some 2,200 and 4,900 jobs respectively. There is also an increasing export market to steel producers in the EU, with an interest from one contractor for 250-300,000 tonnes per annum in the short term with the potential of that increasing to a minimum of 500,000 tonnes per annum.

3.3.8 The applicants summarise the economic benefits of the scheme in the following manner.

- Direct employment: Between 144 and 239 jobs (dependent upon shift pattern);
- Indirect employment: 118 jobs;
- Induced employment (through employee spending): 25 jobs;
- Average annual supplier expenditure on goods and services: £32.7m;
- Estimated total project expenditure on goods and services: £457.8m;
- Estimated total project expenditure on goods and services within 5 mile radius of Nant Llesg: £120.9m;
- Average weekly wages at Nant Llesg: £96,000;
- Average annual wages at Nant Llesg: c £5m;
- Total project wage bill: £70m;
- Estimated total employee spending per annum: £2.38M;
- Total project employee spend: £33.3;

In addition it is proposed to set up a community benefit fund of between £3m and £6m. A training and business strategy would be developed with local partners, targeting the unemployed, young people, the current workforce at FLRS and skilled workers already within the sector.

3.3.9 Public consultation statement A public consultation process was carried out by the applicants prior to the submission of the application, in two phases between August 2011 and February 2012. The first phase included sending out an information leaflet and a series of themed stakeholder workshops on community, health and environment. The second phase included another information leaflet and five public exhibitions. Of the 201 people who attended the public exhibitions over the five days, 33 returned comments about visual impact, health concerns from air quality, the positioning of the overburden dumps and environmental impacts on the local wildlife and ecology. The potential benefits of the scheme of most interest to respondents were jobs, training, a community benefits fund, and potential aid for local groups and schemes. Information leaflets were sent to more than 4,700 local residents living or working in proximity to the site; advertisements were placed in the local newspaper; and press releases were issued to the local and regional media. A dedicated consultation website was launched in August 2011. The Nant Llesg Community Forum was also set up, as a liaison committee. Over the course of the consultation programme, the applicants also held meetings with Caerphilly County Borough Council, Fochriw Community Council, Rhymney Residents Association, Richards & Appleby, Convatec, Sirius Skills, Darran Valley Community Council, Rhymney Community Council, and the local MP and AM.

3.3.10 Consultation has also taken place with various bodies in relation to the Common Land Application consisting of Commoners and the Commoners' Association, tenant farmers and land owners, officers of Caerphilly and Merthyr Tydfil County Borough Councils, Caerphilly Local Access Forum, Open Spaces Society, Countryside Council for Wales (now Natural Resources Wales), Glamorgan Gwent Archaeological Trust, Cadw, and Bedlinog, Rhymney and Darren Valley Community Councils.

3.3.11 In response to the consultation process the applicants moved the site boundary to 689m from the nearest residential receptor at Rhymney and redesigned the overburden mounds to be consolidated as one mound set a minimum of 500m from the settlement boundary. A visual and acoustic screening bund was introduced, which will be landscaped to hide the excavation area from a greater area of Upper Rhymney. Specialist fog cannons and other dust suppression equipment will be used to control

dust, but the site will be shut down at times when unacceptable dust conditions arise that cannot be mitigated. The applicants will take all possible measures to minimise noise and vibration impacts locally to conform to Welsh Government guidelines including the installation of the visual and acoustic screening bund, acoustic kits attached to machinery, and low noise mining methods. Road traffic will be subject to the same control measures as the site and this has been assessed as part of the proposal. Working hours have been restricted although the CDP will continue to operate its current hours.

3.3.12 Impact on the environment has been taken into account. Key areas identified as important for local wildlife such as the lapwing habitat area on land adjacent to the Bogey Road, have been taken into account and, where possible, accommodated to reduce impacts. The applicants moved roads, offices and buildings to preserve that area. The southern half of Rhaslas Pond will be preserved during site operations, whilst the northern part of the pond will be restored on completion of the project to form a wetland area. Some respondents to the consultation highlighted concerns about drainage from the land south of the mine causing problems with silting at Parc Cwm Darran Lake and so the remediation was introduced into the scheme. The applicants state that they will continue to engage with the local communities and commoners and take their views into consideration.

3.4 DESIGN AND ACCESS STATEMENT

The application also included a design and access statement as required by legislation. Much of its content has already been discussed above, and included:

- Site location and site description
- Project need and policy background
- Project information
- Character (project scale, scheme layout, landscaping, appearance, sustainability, community safety), and
- Access: movement to, from and within the development (vehicular site access, internal movements, personnel access).

3.4.1 The applicants advise that the following accessibility principles are taken into account in the detailed design of the project buildings and their surroundings:

- provide for safe access to and from the site using car and motorcycle and the use of more sustainable means of transport by cycle or on foot;
- have regard to the principles of inclusive design;
- doorways to and within the buildings would have no raised thresholds and would be a minimum of 1.10m wide to permit ease of access by wheelchair users.
- design layout of buildings to correspond with vehicular and pedestrian movement to and from the buildings whilst harnessing inclusive access design principles.
- disabled parking would be provided along with that for motorbikes and cycles
- create safe and secure environment for visitors and employees through the use of adequate lighting, security fencing and vandal proof materials;
- use good quality and durable hard surfacing materials that are fit for purpose

and aesthetically pleasing;
- provide appropriate signage and external furniture to again facilitate inclusive access design principles.

3.5 TOWN AND COUNTRY PLANNING ACT: SECTION 106 AGREEMENT

During the determination of this application, a draft section 106 agreement other between the Council, the applicants and other landowners has been submitted that provides for the following matters:

- footpaths and bridleways
- early remediation works
- ecological mitigation works at Bryn Caerau
- ecological mitigation works at Pumlumon or at an alternative local scheme
- enhancements to ponds to encourage their use by birds particularly the Little Ringed Plover and the Ringed Plover
- the management of Great Crested Newt receptor sites for a period of 25 years
- the provision of temporary grazing land for commoners
- the granting of rights of common on restored land
- the aftercare of restored land, up to 25 years in the case of wet heath
- the reinstatement of public access to common land within a maximum of 5 years of restoration
- the reinstatement of grazing on common land
- commitment by applicants not to exercise their rights of common
- the provision of a restoration fund
- the provision of employment and training opportunities.

3.6 THE LOCAL GOVERNMENT ACT 2000: SECTION 2 AGREEMENT

A draft Section 2 agreement has also been submitted during the consideration of the application containing the applicant's commitment to providing a community fund the payments into which would be based on the price per tonne of coal, the minimum total payment being £3m, the maximum being £6m. A sum of £500,000 would be paid prior to the commencement of coaling, and the remainder would be paid once the tonnage that would have delivered that total has been exceeded.

4. **Policy**

4.1 Planning Policy Wales (July 2014)

Planning Policy Wales (PPW) sets out the land use planning policies of the Welsh Government, and is supplemented the Technical Advice Notes (TANs). It states that:

"The planning system manages the development and use of land in the public interest, contributing to the achievement of sustainable development. It should reconcile the needs of development and conservation, securing economy, efficiency and amenity in the use of land, and protecting natural resources and the historic environment. A well functioning planning system is fundamental for sustainable development. (para 1.2.1).The planning system must provide for an adequate and continuous supply of land, available and suitable for development to meet society's needs." (para 1.2.2).

4.2 It affirms that the planning system will play an important role in tackling climate change and reducing greenhouse gas emissions thereby making a contribution to national and international targets, and the obligations of the Climate Change Act 2008 to reduce net UK greenhouse gas emissions by 80 per cent by 2050, and CO2 emissions by at least 34 per cent by 2020. It also states that:

"The planning system is intended to help protect the amenity and environment of towns, cities and the countryside in the public interest while encouraging and promoting high quality, sustainable development." (para 3.1.1).

Applications for planning permission, or for the renewal of planning permission, should be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise.

4.3 PPW defines sustainable development as "enhancing the economic, social and environmental wellbeing of people and communities, achieving a better quality of life for our generations in ways which:

- promote social justice and equality of opportunity, and
- enhance the natural and cultural environment and respect its limits – using only our fair share of the earth's resources and sustaining our cultural legacy." (para 4.1.4)

To that end it is considered that planning proposals and decisions should amongst other things:

- Locate developments so as to minimise the demand for travel, especially by private car.
- Support the need to tackle the causes of climate change by moving towards a low carbon economy.
- Minimise the risks posed by, or to, development on or adjacent to unstable or contaminated land.
- Play an appropriate role in securing the provision of infrastructure to form the physical basis for sustainable communities (including energy supplies and distribution networks), while ensuring proper assessment of their sustainability impacts.

- Contribute to the protection and improvement of the environment.
- Help to ensure the conservation of the historic environment and cultural heritage.
- Where it is judged necessary to use non-renewable resources they should be used as efficiently as possible.
- Promote access to employment.
- Foster social inclusion by ensuring that full advantage is taken of the opportunities to secure a more accessible environment for everyone that the development of land and buildings provides.
- Promote a low carbon economy.
- Contribute to the protection and, where possible, the improvement of people's health and well-being.

4.4 Welsh Government's objectives for the conservation and improvement of the natural heritage are set out in Chapter 5 of PPW and include:

- promote the conservation of landscape and biodiversity, in particular the conservation of native wildlife and habitats;
- ensure that action in Wales contributes to meeting international responsibilities and obligations for the natural environment;
- safeguard protected species, and
- promote the functions and benefits of soils, and in particular their function as a carbon store.

With regard to common land it emphasises that it is a finite resource and should not be developed unnecessarily. Access to it should not be prevented or impeded unnecessarily, and its proper management should be encouraged (para 5.2.11).

4.5 Chapter 6 of PPW considers the historic environment, advising that, "Local planning authorities have an important role in securing the conservation of the historic environment while ensuring that it accommodates and remains responsive to present day needs." (para 6.1.2) That includes archaeological remains. With regard to economic development, Chapter 7 states that, "The planning system should support economic and employment growth alongside social and environmental considerations within the context of sustainable development." (para 7.1.3) Local planning authorities are encouraged to support the shift towards a low carbon economy (para 7.4.1). Key factors to be considered in the determination of planning applications include:

- the numbers and types of jobs expected to be created or retained on the site;
- whether and how far the development will help redress economic disadvantage or support regeneration priorities, for example by enhancing employment opportunities or upgrading the environment;
- a consideration of the contribution to wider spatial strategies, for example for the growth or regeneration of certain areas.

4.6 Chapter 8 considers transport. Chapter 11 addresses tourism, sport and recreation. Chapter 12 on infrastructure and services provides support for renewable and low carbon energy but also emphasises that Welsh Government's aim is to secure an appropriate mix of energy provision for Wales which maximises benefits to our

economy and communities, whilst minimising potential environmental and social impacts (para 12.8.6). Finally, Chapter 13 on minimising and managing environmental risks and pollution requires LPAs to consider contamination and pollution when making planning decisions. That includes noise and light.

4.7 Technical advice notes

TANs provide more detailed advice on the considerations set out in PPW. The following are of relevance in determining this application. TAN5, Nature Conservation and Planning (2009) provides advice on:

- the key principles of positive planning for nature conservation
- nature conservation in development management procedures
- development affecting protected internationally and nationally designated sites and habitats.

The development management process is regarded as a critical stage in the delivery of the protection and enhancement of nature conservation by securing necessary measures to protect, enhance, mitigate and compensate through planning conditions and obligations (para 4.1.1).

4.8 TAN11: Noise (1997) provides advice on taking account of the noise impacts of developments. The following are also of some relevance: TAN12: Design (2014), TAN15: Development and Flood Risk (2004) (which includes advice on surface water run-off), TAN16: Sport, Recreation and Open Space (2009) (which amongst other things considers the importance of public rights of way), TAN18 Transport (2007), and TAN21 Waste (2014). Finally, TAN23 Economic Development (2014) draws attention to the broad PPW definition of economic development which includes any form of scheme that generates wealth, jobs, and income, and emphasises that, "The economic benefits associated with development may be geographically spread out far beyond the area where the development is located." (para 1.2.1).

4.9 Minerals Planning Policy Wales (December 2000)

Minerals Planning Policy Wales (MPPW) sets out the land use planning policy of the Welsh Government in relation to minerals extraction, including coal. It opens by making the following points:

1. extraction can only take place where the mineral is found to occur;
2. it is transitional and cannot be regarded as a permanent land use even though operations may occur over a long period of time;
3. wherever possible any mineral working should avoid any adverse environmental or amenity impact; where this is not possible working needs to be carefully controlled and monitored so that any adverse effects on local communities and the environment are mitigated to acceptable limits; and
4. when operations cease land needs to be reclaimed to a high standard and to a beneficial and sustainable after use so as to avoid dereliction, and to bring discernible benefit to communities and/or wildlife. (para 5).

A proper balance must be struck between the need to ensure a prudent use of finite resources, and the protection of existing amenity and the environment. Effects on local

communities and the environment must be minimised, but where there is demonstrable harm that cannot be overcome by conditions, planning permission should not be granted (para 10).

4.10 MPPW sets out the following key principles:

- provide mineral resources to meet society's needs and to safeguard resources from sterilisation
- protect areas of importance to natural or built heritage
- limit the environmental impact of mineral extraction
- achieve high standard restoration and beneficial after-use paragraphs
- encourage efficient and appropriate use of minerals and the re-use and recycling of suitable materials.

It goes on to advise of the need to take account of the impact of mineral developments on areas of nature conservation value, habitats and species, surface and groundwater resources, historic landscape and other cultural interests, and environmental impacts such as noise and dust.

4.11 Paragraph 40 considers buffer zones:

> "There is often conflict between mineral workings and other land uses as a result of the environmental impact of noise and dust from mineral extraction and processing, and vibration from blasting operations. Buffer zones have been used by mineral planning authorities for some time to provide areas of protection around permitted and proposed mineral workings where new development which would be sensitive to adverse impact, including residential areas, hospitals, schools, should be resisted. Within the buffer zone, there should be no new mineral extraction or new sensitive development, except where the site of the new development in relation to the mineral operation would be located within or on the far side of an existing built up area which already encroaches into the buffer zone. Other development, including industry, offices and some ancillary development related to the mineral working, which are less sensitive to impact from mineral operations, may be acceptable within the buffer zone. The maximum extent of the buffer zone would depend on a number of factors: the size, type and location of workings; the topography of the surrounding area; existing and anticipated levels of noise and dust; current and predicted vibration from blasting operations and availability of mitigation measures. Buffer zones will of necessity vary in size depending on the mineral being extracted and the nature of the operation, but must be clearly defined and indicated in Unitary Development Plans. This will ensure that there is unequivocal guidance on the proximity of mineral operations to sensitive land uses, and that the potential impact of existing and future mineral workings is recognised and planned for in the area around the mineral operations. Further guidance on the factors that should be taken into account when defining buffer zones for particular minerals will be provided in Technical Advice Notes."

4.12 Of particular relevance to the current application is the comment at para 42 that, "The Government wishes to see freight carried by rail or waterway rather than by road wherever this is economically feasible." Environmental management is encouraged, and satisfactory and suitable restoration must be part of any proposal. Financial

guarantees are required, maybe through section 106 agreements, to ensure that restoration will be fully achieved.

4.13 Specific advice is given about coal:

> "61. The objective of the Government's central energy policy is to ensure a secure, diverse and sustainable supply of energy at competitive prices. This objective takes in the Government's concern for the environment, health and safety and a fair deal for all consumers, as well as its commitment to all aspects of sustainable development. While UK coal is available and the generators continue to choose it, UK coal contributes to energy diversity and supply. Opencast coal is generally more flexible and cheaper to produce than deep-mined coal, but there are important environmental and amenity issues involved, and these require very careful consideration. …
>
> "62. Proposals for opencast or deep-mine development or colliery spoil disposal will be expected to meet the following requirements otherwise they should not be approved:
>
> - The proposal should be environmentally acceptable or can be made so by planning conditions or obligations, and there must be no lasting environmental damage;
> - If this cannot be achieved, it should provide local or community benefits which clearly outweigh the disbenefits of likely impacts to justify the grant of planning permission; …
> - Land will be restored to a high standard and to a beneficial and suitable after-use."

In addition, paragraph 63 (as replaced by Ministerial Interim Minerals Planning Policy Statement 01/2009) requires a Health Impact Assessment to accompany any application for opencast coal working.

4.14 <u>Minerals Technical Advice Note 2: Coal (2009)</u>

This MTAN sets out how impacts should be assessed and what mitigation measures should be adopted, and seeks to identify the environmental and social costs of coal operations so that they are properly met by the operator. It points out that the potential benefits include job opportunities, the value to the economy, land stabilisation, and the scope for landscape and amenity improvements. Paragraph 10 states:

> "The future use of coal in Wales will be governed by the requirement to reduce carbon emissions. Carbon dioxide is produced in the combustion of coal for energy generation and in coal transport, and methane is released by its excavation. Wales aims to achieve emission reductions of 3% per year by 2011 in areas of devolved competence, and in the longer term the UK is committed to a cut in greenhouse gas emissions of 80% below 1990 levels by 2050. Applications for coal working should demonstrate that actions to reduce carbon emissions from the extraction and transport of coal are included in the proposals."

The UK 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. It is likely that coal will be a strategic source of energy for the foreseeable future, and that the generating industry and the steel industry will require a steady supply at today's levels until 2020 (paragraph 13).

4.15 Councils should set out their strategy for the sustainable management of the coal resource in their LDP, directing coal working away from sensitive locations and ensuring that any environmental or community impacts can be mitigated. The MTAN contains information about the availability of surface coal resources, but also advises that coal working will generally not be acceptable within 500m of settlements, within international and national designations of environmental and cultural importance, additional areas of constraint for the LDP such as air quality action zones; areas where demonstrable cumulative and in-combination effects mean that an area cannot absorb further environmental impacts; and where clear evidence can be provided that coal development would have an adverse effect on proposals to attract or retain investment in an area.

4.16 The MTAN emphasises that coal can only be worked where it is found, but whilst it should be safeguarded as a resource through the LDP, that would not indicate an acceptance of working, and may be overlapped by the areas where coal working will not be acceptable during the plan period. Examples of potential community benefits (see para 4.13 above) are given:

- The removal of hazards arising from previous underground working,
- The restoration of land to public amenity and open space,
- The creation of areas for nature conservation,
- The remediation of damaged land,
- Demonstrable employment or economic benefits, or
- The preparation of land suitable for future built development.

However, where advice is given about the use of planning obligations and agreements it is stated that they should never be a means purely for securing for the local community a share in the profits of the development.

4.17 Further advice is given about financial guarantees including the following:

> "In all cases, operators should ensure that sufficient finance is available to enable them to meet fully restoration and aftercare conditions. This is important to avoid future dereliction and the possibility that the costs of reclamation of mineral sites might have to be borne by other public or private sources. The MPA should satisfy itself that the estimates are not unreasonable, and are index-linked, and to that end may wish to make use of an external specialist valuer. Annualised restoration costs will take into account the life of the operation."

4.18 The impacts of surface mining are potentially extensive, and so the LPA must consider how it would affect the settings of National Parks, and have regard to the purposes for which they were designated. In such cases a rigorous examination should be undertaken to determine whether the impacts on the purposes are acceptable or not and whether they can be avoided or adequately controlled through conditions. Other designations that should be considered are country parks, common land, or where working would degrade mature landscape, ancient woodlands, important hedgerows which are features of landscape of major importance for wild flora and fauna, or

important trees. The historic environment must also be considered, along with better quality agricultural land, and public rights of way.

4.19 Extensive advice is provided about reducing the impact of coal extraction, by the industry adopting the best available techniques, environmental management systems, and monitoring appropriately including by the LPA. Best practice guidance is provided on dust control, blasting, noise, visual impact, illumination, stability, transport, water, mine gas, colliery spoil and achieving a high standard of restoration, aftercare and afteruse.

4.20 Detailed advice in relation to dust is given in paragraphs 132 - 156, and noise in paragraphs 167 - 177. Paragraph 137 provides advice on health risks: "Particulate air pollution is emitted from many different sources and may damage human health and the environment. Emissions should be avoided, prevented or reduced. Epidemiology has consistently demonstrated an association between adverse health effects and particulate matter; there is no known safe level of exposure to particulate matter and exposure can lead to impacts ranging from minor effects on the respiratory system to premature mortality. There is a general consensus that some health effects are dominant in susceptible subgroups, for example elderly people, children, those with pre-existing lung or heart disease or diabetics. The balance of evidence is suggests that it is combustion derived components of PM10, rather than particles from natural sources that are primarily responsible for harmful effects. (Department of Health 1999)".

4.21 Paragraph 138 says that the National Air Quality Strategy, "sets health-based objectives to maintain and improve the quality of ambient air" and that, "The Air Quality (Wales) Regulations 2000 set the objectives for particulate matter." Paragraph 139 goes on to say, "When assessing proposals for coal operations, the predicted emissions of particulate matter must not cause a breach in overall air quality standards". In addition, paragraph 142 says; "The potential health impacts of particulate matter from opencast sites are often raised as a health concern by local communities. Endorsed by the Committee of Medical Effects on Air Pollutants, the University of Newcastle-upon-Tyne's report "Do particulates from opencast mining impair children's respiratory health?" (DoH 1999) concluded that it is relevant to consider the contribution of opencast sites to PM10 levels in communities up to 1000m from a site. Health issues will be considered in the HIA, supported by specific dust and particulate matter assessment. Larger particles can give rise to dust nuisance, and paragraph 155 advises that a maximum of 80 mg/m2/day as a weekly average should be specified by condition.

4.22 The appendices to the MTAN consist of a number of best practice notes covering a variety of matters including dust, blasting, noise and reclamation.

4.23 <u>Caerphilly County Borough Local Development Plan up to 2021 (adopted November 2010)</u>

The LDP's vision statement is as follows:

"The Development Strategy for the Local Development Plan will capitalise on the strategic location of Caerphilly County Borough at the centre of the Capital Network Region. It will ensure that the needs of all the County Borough's residents and visitors

are met and the regeneration of our towns, villages and employment centres and the surrounding countryside is delivered in a well-balanced and sustainable manner that reflects the specific role and function of individual settlements."

4.24 A number of aims are specified including the following:

- To protect the environment as a whole whilst balancing the need for development with the need to conserve valuable resources.
- To ensure that new development minimises emissions of greenhouse gases as far as is practically possible in order to mitigate the effects of climate change.
- To make Caerphilly County Borough a clean, green, safe and pleasant place to live and work with decent public services.
- To enhance the vibrancy and diversity of local communities, in order to ensure good health and social cohesion.
- To increase the economic prosperity of the people and communities of the County Borough through the provision of land for employment opportunities, supported by appropriate housing and ancillary facilities and services (including community and health facilities, recreation, leisure etc.).
- To contribute to improving public health, by promoting land use developments that contribute to healthy lifestyles and well-being.
- To use resources efficiently making the best use of our assets.
- To promote Caerphilly County Borough as an area in its own right.

4.25 Twenty-four key objectives are specified including the following:

1. Ensure that the County Borough is well served by accessible public open space and accessible natural green space.
2. Ensure the effective and efficient use of natural and built resources while preventing the unnecessary sterilisation of finite resources through inappropriate development.
3. Ensure that the environmental impact of all new development is minimised.
4. Improve energy, waste and water efficiency while promoting environmentally acceptable renewable energy to maintain a cleaner environment and help reduce our impact on climate change.
5. Encourage waste management based on a hierarchy of reduce, reuse, recovery (including material recycling, energy recovery and composting) and safe disposal.
6. Encourage the re-use and / or reclamation of appropriate brownfield and contaminated land and prevent the incidence of further contamination and dereliction.
7. Identify, protect and, where appropriate enhance, valuable landscapes and landscape features and protect them from unacceptable development.
8. Identify, protect and enhance sites of nature conservation and earth science interest and ensure the biodiversity of the County Borough is enhanced.
9. Create appropriate new landscape and ecological features and habitats as an integral part of new development wherever appropriate.
10. Manage, protect and enhance the quality and quantity of the water environment and reduce water consumption.
11. Capitalise on Caerphilly's strategic position further developing its role as a commercial and employment centre in the heart of the Valleys City Region

with strong links to the Heads of the Valleys area and as the smart alternative for locating development to Cardiff and Newport.

12. Provide and protect a diverse portfolio of employment land for a variety of employment uses, focusing in particular on higher value employment opportunities and sites to meet local need, including waste management facilities.
13. Encourage the development of high quality, all season tourist attractions and tourist accommodation that complements the natural and built environment of the County Borough.
14. Protect and enhance the overall quality of the historic natural and built environment of the County Borough.

4.26 The development strategy set out in the LDP locates the application site within the Heads of the Valleys Regeneration Area (HOVRA) which is characterised by the highest levels of unemployment, social deprivation and population loss in the County Borough and has difficulty in attracting private sector employment. That said, The HOVRA's potential contribution to the Valleys Regional Park is immense and the Development Strategy will ensure the positive protection and development of the surrounding countryside. A large part of the area has been shown to be highly valued and sensitive environmentally and as a consequence 67% of the surrounding countryside is subject to environmental protection.

4.27 Eight component parts form the Development Strategy and underpin the policies in the LDP. They are to:

1. Target development to reflect the roles and functions of individual settlements
2. Allow for development opportunities in the Heads of the Valleys Regeneration Area
3. Promote a balanced approach to managing future growth
4. Exploit brownfield opportunities where appropriate
5. Promote resource efficient settlement patterns
6. Ensure development contributes towards necessary infrastructure improvements
7. Ensure development provides necessary community facilities
8. Reduce the impact of development upon the countryside.

The discussion about those components includes the following comments about coal:

> "Coal underlies the majority of the County Borough. The seams outcrop in the north and south of the County Borough, whilst in the middle they are overlain by sandstone. Coal has been worked extensively in the past by both opencast methods and deep mines. Minerals Planning Policy Wales aims to provide positively for the working of mineral resources to meet society's needs. It therefore advocates that mineral resources should be safeguarded from permanent development that would prevent their future workings. The strategy balances the need for the safeguarding of nationally important mineral resources, (e.g. coal, sand, gravel) against the potential impact of such development on the landscape and on sites of ecological interest. The Plan seeks to fully take into account the impact of proposals for the extraction of minerals on the amenity of residents, and its implications for the safeguarding or enhancement of the natural environment to facilitate the future tourism development potential of the area."

4.28 The following policies are of relevance to the determination of this planning application.

SP1 Proposals in the Heads of the Valley Regeneration Area will be required to:

A Promote the north of the County Borough as a tourist, employment and residential area at the heart of the valleys city region and

B Provide appropriate forms of growth in response to the role and function of settlements and

C Serve to address existing problems of deprivation in order to sustain and develop communities in a manner that is consistent with the underlying principles of sustainable development.

SP5 The Plan defines settlement boundaries in order to:

A Define the area within which development would normally be allowed, taking into account material planning considerations

B Promote the full and effective use of urban land and thus concentrate development within settlements

C Prevent the coalescence of settlements, ribbon development and fragmented development

D Prevent inappropriate development in the countryside.

SP6 Development proposals should contribute to creating sustainable places by having full regard to the context of the local, natural, historic and built environment and its special features through:

A An appropriate mix of uses that reflect the role and function of settlements

B A high standard of design that reinforces attractive qualities of local distinctiveness

C Design in accordance with best practice in terms of designing out crime

D A location and layout that reflects sustainable transport and accessibility principles and provides full, easy and safe access for all

E The incorporation of resource efficiency and passive solar gain through layout, materials, construction techniques, water conservation, and where appropriate the use of sustainable drainage systems

F The efficient use of land, including higher densities where development is close to key transport nodes

G The incorporation and enhancement of existing natural heritage features

H The incorporation of mitigation measures that improve and maintain air quality.

SP7 The Council will seek to secure Planning Obligations (S106 Agreements) where they are necessary to remove obstacles to planned development, meet local needs and make development more sustainable …

SP8 The Council will contribute to the regional demand for a continuous supply of minerals by:

A Safeguarding known resources of coal, sand and gravel and hard rock

B Maintaining a minimum 10-year land bank of permitted aggregate reserves in line with national guidance.

SP10 The Council will protect, conserve, enhance and manage the natural heritage of the County Borough in the consideration of all development proposals within both the rural and built environment.

SP11 Access to opportunities for enjoyment of the County Borough will be promoted and encouraged where the proposals are sustainable in terms of its impact on the natural heritage, the local community and the rural environment within which they are located.

SP18 The Council will protect important networks of public open space, natural green space and recreational facilities from inappropriate development.

CW1 Development proposals that are likely to generate a significant number of trips will only be permitted provided:

A Walking and cycling are modes of travel which have been actively encouraged for short trips to and within the development and to nearby services and facilities, including public transport nodes, through the provision of appropriate infrastructure

B Provision has been made for ease of cycling, including secure bike storage and cyclist facilities

C It has been demonstrated that where a significant number of freight trips will be generated, the least environmentally damaging route will be utilised

D The use of Green Travel Plans has been encouraged, where appropriate.

CW2 Development proposals must have regard for all relevant material planning considerations in order to satisfy the following requirements:

A There is no unacceptable impact on the amenity of adjacent properties or land

B The proposal would not result in over-development of the site and / or its surroundings

C The proposed use is compatible with surrounding land-uses and would not constrain the development of neighbouring sites for their identified land-use

D Where applicable, the viability of existing neighbouring land uses would not be compromised by virtue of their potential impact upon the amenity of proposed new residential development.

CW3 Development proposals must satisfy the following highways requirements:

A The proposal has regard for the safe, effective, and efficient use of the transportation network

B The proposal ensures that new access roads within development proposals are designed to a standard that:

1 Promotes the interests of pedestrians, cyclists and public transport before that of the private car, and

2 Safely and effectively accommodates the scale and nature of traffic, which those roads are intended to serve

C Parking, appropriate servicing and operational space have been provided in accordance with the CSS Wales Parking Standards 2008

D Where access onto a highway is required the proposal takes account of the restrictions relevant to the class of road as designated in the road hierarchy ensuring movements and speeds are controlled through appropriate design, in order to ensure highway safety and amenity.

CW4 Development proposals that affect locally designated natural heritage features, will only be permitted:

A Where they conserve and where appropriate enhance the distinctive or characteristic features of the Special Landscape Area (SLA) or Visually Important Local Landscape (VILL).

B Within, or in close proximity to sites designated as Sites of Importance for Nature Conservation (SINC), Local Nature Reserves (LNR), Regionally Important Geological Sites (RIGS), Green Corridors, or Local Priority Habitats and Species, where proposals either:

1 Conserve and where appropriate enhance the ecological or geological importance of the designation, or

2. Are such that the need for the development outweighs the ecological importance of the site, and where harm is minimised by mitigation measures and offset as far as practicable by compensation measures designed to ensure that there is no reduction in the overall value of the area or feature.

CW5 Development proposals will only be permitted where:

A They do not have an unacceptable adverse impact upon the water environment, and

B Where they would not pose an unacceptable risk to the quality of controlled waters (including groundwater and surface water).

CW6 Development proposals on sites containing trees, woodlands and hedgerows, or which are bordered by one of more such trees or hedgerows, will only be permitted provided that:

A Where arboricultural surveys are required, they are submitted and approved, including any mitigation, compensation or management requirements, as part of the planning application.

B Root systems will be retained and adequately protected for the duration of all development activity on site.

C Development proposals have made all reasonable efforts to retain, protect and integrate trees, woodlands or hedgerows within the development site.

D Where trees, woodlands or hedgerows are removed, suitable replacements are provided where appropriate.

CW15 Development proposals will be considered against the following criteria, where they apply:

A Development proposals will not be permitted if they prejudice the implementation of wider comprehensive redevelopment or constrain the development of any adjacent site for its allocated land-use

B Within settlement boundaries proposals for all types of development accord with the role and function of the settlement within which they are located, and

C Outside settlement boundaries proposals will not be permitted unless the proposed development is either:

i Associated with either agriculture, forestry or the winning and working of minerals or

ii For the conversion, rehabilitation or replacement of rural buildings and dwellings, or

iii For recreation, leisure and tourism proposals that are suitable in a countryside location or

iv Associated with the provision of public utilities, infrastructure and waste management facilities that cannot reasonably be located elsewhere or

v Associated with the reclamation / treatment of derelict or contaminated land.

CW22 Development proposals which may impact on minerals safeguarding areas will be considered against the following requirements, as applicable:

A Proposals for permanent development uses within identified mineral safeguarding areas will not be approved unless:

i The applicant can demonstrate that the mineral is no longer of any value or potential value, or

ii The mineral can be extracted satisfactorily prior to the development taking place, or

iii There is an overriding need for the development, or

iv The development comprises infill development within a built up area or householder development or an extension to an existing building

B Proposals for development uses of a temporary nature within identified mineral safeguarding areas will not be approved unless they can be completed and the site restored to a condition that does not inhibit mineral extraction within the timescale that the mineral is likely to be needed.

CW23 Development proposals for sensitive or minerals development will not be permitted within the mineral site buffer zones identified on the proposals map.

SI1 Green Wedges are identified and will be protected at the following locations:

SI1.2 Fochriw and Pontlottyn.

NH1 Special Landscape Areas are identified and will be protected at the following locations:

NH1.1 Upper Rhymney Valley
NH1.2 Gelligaer Common.

NH2 Visually Important Local Landscapes are identified and will be protected at the following locations:

NH2.1 Northern Rhymney Valley.

NH3 Sites of Importance for Nature Conservation are identified and will be protected at the following locations:

NH3.1 River Rhymney
NH3.4 Nant Bargoed Rhymni, Darran Valley
NH3.5 Tair Carreg Moor, North West of Fochriw
NH3.17 Cefn Gelligaer, West of Deri.

MW1 A railhead site is identified as suitable for minerals handling and despatch and rail transport related waste management facilities, as follows:

MW1.1 Cwmbargoed Disposal Point, north west of Fochriw.

MN1 A 500m Buffer zone is identified in relation to the following site:
MN1.1 Ffos Y Fran Open Cast Coal Site.

MN2 Minerals safeguarding areas are identified at:

MN2.1 West of Rhymney – Coal.

EM1 The following site is allocated for development within Use Classes B1, B2 and B8:

EM1.1 Land at Heads of the Valleys - Primary site.

EM2 The following sites are protected for employment uses, in line with their status in the employment site hierarchy:

EM2.2 Heads of the Valleys, Rhymney Secondary site
EM2.3 Capital Valley, Rhymney Secondary site.

LE3 Country Parks that contribute to the Valleys Regional Park are protected at the following locations:

LE3.1 Parc Bryn Bach, Rhymney / Tredegar
LE3.2 Parc Cwm Darran, Deri.

TM1 Sites are allocated for tourism related activities at:

TM1.1 Parc Bryn Bach, Rhymney / Tredegar.

TR1 Land will be safeguarded to facilitate the following improvements to the cycle route network:

TR1.6 Link from Fochriw to NCN 46 via Rhaslas Pond.

4.29 UK Government's Overarching National Policy Statement for Energy (EN-1) (2011) comments that, "The UK economy is reliant on fossil fuels, and they are likely to play a

significant role for some time to come. Most of our power stations are fuelled by coal and gas." (para. 2.2.5). Whilst the document makes it clear that there must be a transition to low carbon energy generation, it states that fossil fuel power stations will continue to play an important part in the country's energy mix (para. 3.6.1), but it is necessary to reduce carbon emissions, particularly from coal-fired stations. Welsh Government Policy on energy generation can be found in *A Low Carbon Revolution The Welsh Assembly Government Energy Policy Statement* (March 2010), which states an intention to move towards a low carbon economy, with energy increasingly being produced from renewable sources.

4.30 The Caerphilly County Borough Biodiversity Action Plan reviews the current activities, priorities and targets in respect of the promotion of biodiversity in the borough. It also provides a framework for reviewing and monitoring progress. With regard to planning and development (section 3.2) it draws attention to the impact on biodiversity, the important pieces of legislation including the Wildlife and Countryside Act 1981 and amendments 1985, the Conservation Regulations 1994 (consolidated by the 2010 regulations), the Countryside and Rights of Way Act (CROW Act) 2000, and the advice in Planning Policy Wales that the planning system has an important part in countering the decline in biodiversity, and supporting sustainability. It also contains a number of habitat statements, and species action plans.

5. **Consultation**

5.1 Caerphilly Local Access Forum - Comments that the process for stopping up, creating permissive paths and creating new paths are both feasible and reasonable. It welcomes the provision access as a result of the early land remediation. However, clarification is sought about the location of fencing, and the costs of signing and so forth to be borne by the developer through a section 106.

5.2 Darran Valley Community Council - Raises objection to the planning application on the following grounds:

- Potential for detrimental health related impacts. Little is known about these impacts on local residents
- Potential for air pollution
- Potential for noise pollution and
- Potential for dust nuisance. The council is aware that coal dust dispersed on prevailing winds from the Ffos y Fran scheme continues to cause problems throughout the community council area. It considers the impact of this scheme on land nearer the community council area would only further aggravate these issues.
- Economic factors. Whilst the application references a number of jobs being created, the council does not believe the necessary skill sets are available locally and therefore without significant investment in candidate preparation and licence attainment, many of these jobs will be taken by people from outside of the local area and therefore will bring little jobs and/or economic benefits to the area.

5.3 Rhymney Valley Community Council - Raises objection to the planning application on the following grounds:

- Potential displacement of jobs. Whilst the council acknowledge the likely creation of jobs from the scheme, it is concerned the development will have a detrimental impact on local businesses neighbouring the proposal;
- Potential health related impacts. The council is concerned that not enough is known about the possible health related impacts of the scheme on local residents;
- Potential impact on local waterways; and
- Potential for nuisance dust and noise from the scheme. The council is aware that coal dust dispersed on prevailing winds from the Ffos y Fran scheme continues to cause problems throughout the Community Council area. They consider the impact of this scheme on land nearer to the Community Council area would only further aggravate these issues.
- The council is also concerned that recent changes to the economic value of coal, could lead to a shortfall / lack of commitment to any future 'making good' of mined land, an issue made more complicated when the landowner changes during the agreed period. The council discussed the current issues being experienced in the Neath-Port Talbot CBC area.

5.4 Nelson Community Council - Supports the local protest group in objecting to the scale of the development on the grounds of its environmental impact, its impact on the visual amenity and to also object on its potential impact on Nelson residents along the rail

link from the site to Ystrad Mynach, due to the increased frequency and larger capacity of trains to be used to transport materials from the site.

5.5 Gelligaer Community Council - No objection.

5.6 Llanbradach & Pwllypant Community Council - Council is unhappy at the increased amount of noise from the movement of coal by rail through Llanbradach that will affect residents and is concerned that the railway bridges might not be strong enough to take the anticipated amount of traffic.

5.7 Wales & West Utilities - Information has been provided about their gas pipes in the area together with list of general conditions for applicant's guidance.

5.8 Police Architectural Liaison Officer - No objections to this application and a request is made that the developers be encouraged to develop the site to the principles found within Secured By Design.

5.9 Cadw - Sarn Howell Pond and Watercourses scheduled ancient monument (SAM) are nearby and the historic landscape at Merthyr Tydfil is near the site boundary, but no designated historic assets are directly affected. As there are no significant impacts there are no comments. The South Dam at Rhaslas Pond meets the criteria to be designated as a SAM but there are no concerns about the impact of the development upon it. It is for the local planning authority to consider the impact of the scheme on listed buildings.

5.10 Chief Fire Officer - The developer should consider the need for:

- adequate water supplies on the site for firefighting purposes; and
- access for emergency firefighting appliances.

5.11 Ministry Of Defence - The site is outside the MoD safeguarding area and so it has no objections.

5.12 Aneurin Bevan and Cwm Taf Health Boards - Comments are submitted following consultation with Public Health Wales. Based on the information provided by the applicants and the proposed mitigation, there is limited potential for risk to public health. Risks to health appear to be limited to potential for nuisance. Recommendations for conditions are provided concerning dust prevention, noise, an environmental management system, and the health impact assessment. There is a need for long term air quality monitoring. Consideration should also be given to the need for robust long term nuisance dust monitoring if consent is granted. A coherent and robust environmental management system is required and this is currently missing from the documentation. There is considerable anxiety in the community about the potential impact of the proposed development on health and wellbeing, environmental impact and a lack of confidence in the outcome of remediation. A local liaison group should be established to ensure continuing communication.

5.13 Comments were also passed to the LPA from the Wales Health Impact Assessment Support Unit about the HIA produced by the applicants, stating that the quality of the health and wellbeing elements is sound and that the HIA has been well executed. Further advice was provided where the HIA could be improved, but subsequent

comments from the Unit confirmed that those comments were the consultants and the developer to highlight how their practice may be further improved if required to undertake one again in Wales.

5.14 Blaenau Gwent County Borough Council - Consideration is given to air quality, noise, blasting and vibration, rights of way, landscaped and visual impact, and highways matters. The only concern is in respect of the potential adverse impacts on sensitive receptors in Blaenau Gwent such as Parc Bryn Bach and a Special Landscape Area, but it is recognised that the negative impacts are for a limited period, and may be addressed by condition. Account must be taken of the positive economic and environmental benefits that arise, but it vital that the site is restored satisfactorily.

5.15 Brecon Beacons National Park - The National Park Authority has considered the proposals in relation to the national park purposes, statutory duty and the provisions of the Brecon Beacons National Park Authority Local Development Plan and objects to the proposals due to the potential adverse effect of the proposed development in terms of its visual impact. The site is 2.7km from the national park boundary and is separated by the Heads of the Valleys Road. The national park is at a higher elevation than the site. The void and overburden mound will be visible from the Park throughout the scheme and the method of working maximises the visual impact from the Park with excavations working from north to south and the overburden mound being constructed from south to north. The photomontages do not show the full extent of the visual impact. The NPA wish to see further evidence that the visual effects from the Park would be only minor as the ES concludes, especially during the times of greatest disturbance. Any lighting should be designed so that there is no adverse effect on the Dark Sky Reserve within the national park.

5.16 Transportation Engineering Manager - Has no objections subject to conditions concerning the provision of satisfactory access and parking, road improvements, the control of material on the highway, and road damage.

5.17 Head Of Public Protection - Following discussions with the applicant and the submission of the addendum to the ES, the proposed dust and noise control measures, and the impact of the development on air quality have been considered and no objections are raised to the scheme subject to conditions concerning the provision of an environmental management plan, the control of dust, air quality monitoring, noise control, hours of operation, blasting, weather monitoring, contamination, reclamation, lighting, waste, the setting up of a liaison committee, and the employment of an environmental liaison officer.

5.18 Caerphilly County Borough Council Countryside And Landscape Services

5.18.1 Landscape: - It is accepted that the Landscape and Visual Impact Assessment has been undertaken in accordance with what is currently regarded as best practice at the time the Environmental Statement was prepared.

The effects of the proposed development upon the Landscape Character within 1km of the site is significant, and not significant beyond 2 km. The degree of effect of the proposed lighting upon landscape character and visual amenity has been assessed as not significant. Residents within 2km of the site, including those at Fochriw, Butetown, Princetown and parts of Rhymney, with direct open views of the proposed

development would experience ‘major adverse’ and therefore significant effects, especially when the overburden mounds were being constructed or removed. The size of the overburden mound, its distance from residential areas and the difficulty of growing and maintaining a visually effective grass sward on the mound, will mean that it will cause a significant long-term effect upon local residents from inception to removal.

Impacts on the nearest promoted cycle route - the Rhymney Valley Ridgeway Footpath - will be significant. Most promoted cycle routes near the site follow the valley floor, from which potential views of the site would be fleeting and the effect is not significant. For users of the public rights of way network in the vicinity of the site the potential effects arising from the development proposals during the period when the overburden mound is being erected or removed is assessed as ‘major adverse’ medium term, reducing to ‘moderate adverse’ once the mound has been established, which will be significant. The degree of effect is upon local amenity spaces and golf courses not significant.

Given that views of the mound are likely to be restricted at Rhymney Conservation Area and Rhymney Town Centre and that remediation works to the Northern-eastern Valleys and tips and the Northern slopes should occur early in the life of the scheme, the degree of effect is not significant. Users of the local highway network were considered to be likely to experience only glimpsed views of the site apart from on Fochriw Road which would include the build facility and coal processing plant located between the void and overburden mound. That would be significant.

The potential beneficial effect upon views from Rhymney Conservation Area are considered to be significant if the landscape strategy can be realised and sustained within this area.

The greatest potential for cumulative impact is as a result of the proximity of Nant Llesg, Ffos-y-Fran, Trecatti, and Cwm Bargoed sites. These are temporary but long-term developments the characteristics of which will change throughout the life of each project. The local effect and the effect upon some more distance visual receptors will be significant.

The following conclusions are drawn with regard to the restoration strategy as it relates to the various areas.

- Area 1 - Open Upland - the degree of beneficial effect arising from the proposed restoration of this area is not significant.
- Area 2 - Northern Slopes Bryn y Pyllog - the effect of the restoration strategy could be significant in this area.
- Area 3 - Northern Enclosed Fields - the degree of beneficial effect arising from the proposed restoration of this area is not significant.
- Area 4 - South Eastern Slopes - where small-scale remediation works and improvements to public access are proposed but such effects are not significant.
- Area 5 - North-eastern Valleys and Tips - the restoration strategy is achievable within this area and the effects would be significant.
- Area 6 - Southern Valley Side - where small-scale remediation and access improvements are proposed but the effects would not be significant.

- Area 7 - Southern Tips - where the stabilisation and grassing of the eroding tip surfaces and ecological enhancements are welcomed. The area is open common subject to fly-tipping and illegal grazing and vehicle access. The proposed after management period, is only 5 years and it is doubtful whether all of the proposed long-term benefits can be realised within that period, but the effect of the restoration strategy could be significant in this area.
- Area 8 - Cwm Bargoed Disposal Point - the effects are not significant.

To conclude, the proposed development would have significant adverse effects upon landscape character within one to two kilometres of the site and upon visual receptors over a slightly greater distance. It also demonstrates that the adverse effects of the development are not balanced or outweighed by the potential beneficial effects of the restoration proposals. While this may not be sufficient to warrant refusal it is significant and should be considered within the wider assessment of the application.

5.18.2 Ecology - Statutory Designated Sites

The Environmental Statement has identified 28 sites with 36 statutory nature conservation designations within 10km of the site.

Two sites of European Importance occur within 10km of the site including, Aberbargoed Grassland Special Area of Conservation (SAC) 7.9km for the site within CCBC, and Usk Bat Sites SAC in Monmouthshire and Powys 8km from the site, while Cwm Cadlan SAC, and Blaen Cynon SAC in Brecon Beacons National Park are 12.5km and 14km from the application site. In view of the size and nature of the development a Habitats Regulations Assessment (HRA) is required to assess the potential for any significant effect on European Sites, in accordance with the Conservation of Habitat and Species Regulations 2010. The key issue for consideration is the potential for impacts from changes in air quality during the operational phase of the scheme. The HRA also considered the effect of the development on the Severn Estuary Special Protection Area (SPA) and Ramsar Site 31km south of the site due to the potential link between birds from the Estuary and those at Rhaslas pond and adjacent wet heath within the application site. In combination effects with other developments were also considered. Nitrogen oxides (NOx) nitrogen and acid deposition were modelled for the four SACs and dust was also considered based on dust modelling within and adjacent to the site application site. With regards to the potential effect on the Severn Estuary SPA and Ramsar Site, the assessment considered the effect of displacement of birds from Rhaslas pond to other sites during the operational phase of the development when moving north from or returning south to the Severn estuary. The peak count of birds recorded at the application site equated to less than 1% of the SPA populations with the exception of whimbrel (4%) and lesser black-backed gull (10%). Whimbrel arriving at Rhaslas pond were thought to possibly derived from sites further afield than the Severn Estuary, while lesser black-backed gull who travel from the estuary to the area to feed at Trecatti Tip and use Rhaslas as one of several water bodies in the area for loafing and roosting and was therefore not considered to be critical habitat for these species. The assessment concluded that there would be no likely significant effect on the integrity of any of the 4 SACs as a result of air quality, or on the integrity of the Severn Estuary SPA and Ramsar Site, and Natural Resources for Wales has agreed with the findings of the assessment.

Nineteen Sites of National Importance (Sites of Scientific Interest (SSSI)) were located within 10 km of the site with the closest being Lower House Stream Section (1.2km) (a geological SSSI) and the closest biological SSSI being Cefn y Brithdir SSSI, 2.7km from the site. The only potential effect on these sites was considered to be air quality on biological SSSIs, but as all biological sites were over 2km from the site, no adverse impacts are considered likely.

Other Statutory Designated sites are of Local importance, and include Bryn Bach Country Park 0.5km (in Blaenau Gwent) and Cwmllwydrew meadows Local Nature Reserve in CCBC, 1.2km south of the site.

5.18.3 Non-Statutory Sites

20 Sites of Importance for Nature Conservation (SINC) lie within 1km of the site, which are of local conservation value. They include Cefn Gelligaer SINC which lies within the application site, and several SINCs lying adjacent to the site, including Tair Carreg Moor SINC 10m to the west, Nant Bargod Rhymney SINC 10m to the south, Cwm Golau SINC (Merthyr) immediately adjacent to the Disposal Site and the River Rhymney SINC east of the site. Most of the Cefn Gelligaer SINC will be lost or disturbed as a result of the proposals primarily through over-tipping with overburden. Details of the habitats and species affected are dealt with below. The remaining parts of Cefn Gelligaer SINC and Tair Carreg Moor SINC that lies 10m west of the application site, have the potential to be affected by air quality from exhaust emissions from coal trucks, from land remediation and from the operation of the mine and Cwmbargoed Disposal point. Air quality and dust emissions modelling showed that NOx, nitrogen deposition and dust critical loads were predicted to be exceeded at both ecological receptors at Tair Carreg Moor SINC particularly at the receptor closest to Cwmbargoed Disposal Point, where baseline dust was predicted to increase by 21%. Effects of dust is likely to result in reduced rates of photosynthesis and rates of gaseous exchange, but due to the high levels of rainfall and windy conditions experienced, the impact on the vegetation is unlikely to be significant. NOx and nitrogen levels are also predicted to exceed the critical load and may result in changes in vegetation composition particularly on bryophytes and lichens, and allowing taller grass species to out compete low growing species. Vegetation monitoring on Tair Carreg in connection with Ffos-y-Fran Land Reclamation scheme has established a baseline on which to monitor further vegetation changes, and this will need to be continued for the duration of the coaling operation and early restoration phases in the event of planning approval being given.

5.18.4 Habitats

The environmental statement has provided details of surveys undertaken on habitats within the application site including a Phase 1 habitat mapping of the site and additional areas, a national vegetation classification (NVC) survey, an aquatic plants survey and a grassland fungi survey. An updated NVC survey was also undertaken in July 2014 together with a habitat condition survey.

The majority of the habitats present on site have been identified to be of County Borough importance, identified as UK Bap Priority habitats and of Principal Importance in Wales (Section 42 Natural Environment and Rural Communities Act (NERC) 2006). These include, acid dry dwarf shrub heath, wet dwarf shrub heath, wet

heath/acid grassland mosaic, acid flush, basic flush, ponds, lakes and reservoirs, unimproved acid grassland and marshy grassland. Wet Heath and mire communities in the central part of the site will be lost beneath the overburden, and have been identified as being the most sensitive and valuable habitats on site, and most difficult to recreate. Natural Resources Wales in their final response to the application has also confirmed that this habitat within the site is the largest area of wet heath within the county borough, and the development will result in between 35 and 47 ha being lost. The impact on habitats has been assessed as being of moderate significance due to its county value.

The applicant proposes to recreate a range of habitats on the site upon completion of coaling. There will however, be a loss of habitats for the duration of the coaling operation (14 years) and for some years after the commencement of restoration, while new habitats mature and develop their associated fauna and flora. This is a significant loss of habitats, and the applicant has acknowledged that it will not be possible to provide short/medium term, like-for-like mitigation for several of the habitats lost, including the valuable wet heath habitat within the application site or on sites nearby. The applicant has instead, offered to provide a habitat enhancement scheme at Bryn Caerau at the head of the Bedlinog valley in Merthyr Tydfil County Borough, on enclosed farm land in their ownership, as compensation for the loss of the unenclosed upland habitats on the application site, at the commencement of and during the operational phase of the scheme. This will provide positive benefits for a different range of habitats outside the Caerphilly County Borough area, resulting in a net loss of habitats from the county borough, but positive benefits to biodiversity in Merthyr Tydfil.

The major area of concern with this approach has been the inability of the scheme to address the loss of wet heath. As a result, the applicant has also offered to provide a financial contribution via a Section 106 agreement towards a peatland/wet heath restoration scheme in Powys at Pumlumon with an option for these funds to be used on a habitat restoration/enhancement scheme more locally within the Caerphilly County Borough. Habitat enhancements for sites in the local area would be preferable to schemes further afield, but discussions with the applicant to date, have failed to identify a suitable local project or site, so it is proposed to word the agreement to allow funding to be passed to a local project if the local planning authority can identify a suitable scheme. The current funding offered is based on the 14 year period of the coaling operation, but as newly created wet heath habitats will take many years to become established this funding needs to be increased to cover at least an additional 10 years of management. Similarly the habitat enhancements and subsequent management at Bryn Caerau will also need to continue for an additional 10 years beyond the 14-year coaling period.

The applicants have put forward a restoration strategy that reflects the existing habitats and uses of the site and includes the retention of peaty soils and non-peaty soils for the duration of the coaling operation. A peat handling methodology has been submitted which gives some confidence that the peat can be stored in a condition that will prevent drying out or deterioration over the 14 years of coaling. The subsequent landscaping and spreading of peat and soils across the site will provide the framework to create areas suitable for the development of acid dry dwarf heath, wet dwarf shrub heath, acid/neutral flush, lakes and reservoirs, swamp, unimproved acid grassland, semi-improved acid grassland, poor semi-improved grassland, improved

grassland, marshy grassland, semi-natural broad leaved woodland and conifer plantation, and linear features such as rivers and streams, hedgerows, inland rock outcrop, ditches and stone walls. Rhaslas Pond will be restored as a smaller body of water with a shallow wetland margin along the northern edge of the pond and wet heath habitat will be restored on the peaty soils.

Throughout the planning consultation process the council's ecologist and Natural Resources Wales, have been and remain concerned over the ability of the scheme to deliver a wet heath habitat to a quality that would equate at least to the current condition of the existing wet heath and are of a view that there is the potential for a permanent loss of wet heath habitat.

Whilst it is accepted that many of the new habitats proposed can be restored over time and with the right management regime, the initial proposal to release those new habitats to common use after 5 years, was considered by the local authority ecologist and Natural Resources Wales to be too short. A 10 year restoration period has subsequently been proposed, for the more complex wet heath habitat, accounting for 50-62ha but in the light of experience at other sites, such as at Plenmeller in Northumberland this is also considered to potentially to be too short, particularly as it is acknowledged in Appendix 3 of the submitted Biodiversity Offsetting report dated August 2014 that heathlands take between 50 to 100+ years to achieve full restoration. Whilst it would be unreasonable to require the land to stay in controlled management for 50+ years, an option is required, to allow management to continue over a longer period of time of up to 25 years with reviews at 5-year intervals. This would need to be supported with a financial guarantee from the applicant, to secure funds over the operational life of the site, so that in the event of the worst case scenario of failure to create the desired habitat, a fund equivalent to the cost of creating and managing a wet heath habitat is passed on to the local authority to undertake further biodiversity works on or off site. This would need to be controlled through a Section 106 agreement.

The habitat restoration strategy for the whole site has been revised with the submission of a final restoration plan. This final plan has omitted to include watercourses within the areas of the site occupied by newly created habitats, and will need to be resubmitted with the amended details. In addition although broad principals of restoration have been provided, scattered at various locations throughout the application documents, a single clear document on the restoration process would be helpful to clearly identify the restoration process timescales and mechanisms for creating managing and monitoring each new habitat. This should include the early remediation and restoration of the areas outside the main operational area. A Biodiversity Management plan for the habitats within the application area but outside the main operational areas will need to be provided at an early stage.

5.18.5 Species

The ecological assessment of the site included surveys for Amphibians (including Great Crested Newts), Reptiles, Bats, Breeding Birds, Wintering birds, Otter, Watervole, Badger, aquatic and terrestrial invertebrates, including dragonflies, and fish.

European Protected Species

The following European Protected Species were found to be present on site: Great Crested Newts, Bats (common and soprano pipistrelle bats, Myotis bats and noctule), and otters.

Great Crested Newt surveys undertaken in 2011 and 2014 found them to be breeding in two ponds with a maximum of 6 recorded in one pond, and two in another. Great Crested Newts have also been recorded around Fochriw Feeder pond in 2011 and more recently around Rhaslas pond in 2015. The population of Great Crested Newts appears to be a low dispersed population. The proposed scheme will result in the loss of 6 ponds that have the potential to support Great Crested Newts, although the ponds where the newts have been confirmed will be retained (Rhaslas Pond will be retained, but any newt population will need to be removed as it will be within the operational area of the site). A significant area of terrestrial habitat including marshy grassland and wet heath used by great crested newts for foraging and hibernating will however be lost. A derogation licence will be required and the local authority must therefore apply the three EU tests when considering the planning application.

1. it is in the interests of public health and public safety or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.

2. that there is no satisfactory alternative

3. it will not be detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range

In order to satisfy test no. 1, the application will remediate historic mining and dereliction associated with the treatment of mining shafts and adits and improve safety of public using the site. In order to satisfy test no. 2, there is no satisfactory alternative within the application boundary, although the applicant hasn't considered the alternative of placing the overburden elsewhere. In addition retention of ponds within the site is impractical due to the requirement of land for overburden, and two ponds where great crested newts have been confirmed will be retained.

With regard to test no. 3, the proposals will result in the loss of terrestrial habitat for great crested newt together with 6 ponds considered suitable to support great crested newts during the 14 years of operation of the development. Those ponds with confirmed great crested newts will be retained. It is proposed to create three receptor site cells which will be fenced to prevent newt access to the operational area and will include the two existing ponds (but not Rhaslas pond) together with the creation of 14 new ponds and terrestrial features that would benefit great crested newts prior to commencement of operations. Any Great Crested Newts associated with Rhaslas pond would need to be relocated, details of which would need to be included in a second revised method statement, but is unlikely to affect the overall conclusions of the conservation status of the population. Terrestrial Habitat within the operational area would be lost and a capture programme from the operational area is proposed to relocate captured newts to the receptor site cells. Restoration of the site, upon completion of the coaling operation after 14 years, to include wet heath and marshy grassland and additional ponds will, if successful, replace the habitats that have been

lost, and provide additional breeding ponds for great crested newts over the longer term. In view of these proposals there will be a short-term impact on the conservation status of the great crested newt, but over the longer term, conservation status of the species is unlikely to be affected.

Bat surveys undertaken on the site concluded that there were no bat roosts within the application site including sites that could potentially be used for hibernation. However activity surveys identified that parts of the site particularly Rhaslas Pond and rough grassland in the centre of the application site were important foraging sites for common pipistrelle, soprano pipistrelle and myotis bats, with noctule bats being recorded once. Foraging sites are particularly important when they are close to breeding roost sites. However, as foraging sites are likely to be at a significant distance from breeding roosts, (potentially in Rhymney, Pontlottyn and Fochriw) the importance of foraging areas in relation to breeding roosts is unlikely to be significant. In view of this the impact of loss of foraging sites during the operational phase is of minor significance, and restoration will provide additional foraging habitats including woodland over the longer term. As a derogation licence for bats is unlikely to be required it is not necessary to apply the three European tests with respect to bats.

Otter surveys undertaken in connection with the application have confirmed that otters make occasional use of waterbodies and streams. There were no suitable sites for breeding, and otters are known to travel over large distances to feed. The loss of access to Rhaslas pond and other minor watercourses at the top of a water catchment is unlikely to have a significant effect on otters if measures are undertaken to minimise impact on otters during site clearance and operation of the site. A derogation licence for otters is unlikely to be required, so it is not necessary to apply the three European Tests with respect to otters.

5.18.6 Other Protected Species

Amphibians

20 ponds within the application site were found to support palmate newt, and the tadpoles of common frog and common toad. The reptile survey also recorded palmate newts, common frogs and common toads in terrestrial habitat. Smooth newt are also likely to be present. Together these species were considered to be of county importance with all species having partial protection under Section 5 of the Wildlife and Countryside Act, while common toad is listed as a species of principal importance in Wales under Section 42 of the Natural Environment and Rural Communities Act 2006. Impacts on these species will be similar to those of great crested newts, and measures for their capture, and removal to contained areas and subsequent protection during the operation of the site will be the same as for great crested newts. In addition, it is proposed to install amphibian tunnels as part of the road junction improvements to facilitate amphibian access to ponds and reduce amphibian road casualties.

Reptiles

The applicant undertook a limited reptile survey concentrating on those areas most

likely to yield reptiles, and confirmed a population of common lizard on site. Surveys were confined to relatively small areas within the site so although other parts of the site were considered to be less suitable, no surveys were undertaken in these areas to indicate the potential size of the population over the whole site. The common lizard population was assessed as being of community value, but this needs to be confirmed through further surveys to confirm the size of the population over the whole site, and inform the size and suitability of potential receptor sites. These surveys together with details of Receptor sites, and habitat enhancements will need to be provided as a condition of any planning approval.

Birds - Breeding

The applicants' ecologist undertook several bird surveys including breeding bird surveys in 2011 for the whole site, and breeding wader surveys in 2013 and 2014 which also included other birds of conservation concern. Little ringed plover and lapwing were present and bred in numbers of national significance, although little ringed plover failed to breed in 2014, but they were present (according to local bird observers) in the early part of the breeding season. The updated assessment in the addendum to the planning statement indicated that the ES had overvalued the importance of the site for little ringed plover based on the 2014 data, but as sites are normally valued over a number of years to take account of annual fluctuations the value should in my opinion remain until further years of data confirm the status of the site over a longer period of time.

Breeding birds of county importance included Ringed plover which bred in 2011 but not in 2013 or 2014, and snipe whose breeding numbers have remained relatively consistent. Other breeding birds of note included skylark, dunnock, song thrush, starling, house sparrow, linnet, bullfinch, reed bunting and willow warbler.

The impact of the loss of breeding sites for little ringed plover is of high magnitude on a population of national importance. Not all of Rhaslas Pond where they have bred will be lost, but as it will be within the operational area of the site, it is anticipated that the level of disturbance will deter them from breeding around Rhaslas during the operational phase, and is of major significance. To mitigate the loss of breeding sites, the applicant has proposed to improve the suitability of other pond margins nearby to encourage breeding little ringed and ringed plover, which may partially mitigate loss during land take, and upon completion of coaling habitats will be restored at Rhaslas, but the smaller pond and less complex habitats may result in breeding taking a long time to be established, and is therefore considered to be of moderate adverse significance. Details of these habitat enhancements will need to be provided.

The impact of the land take on lapwings will result in one of the 10 breeding sites being lost, breeding adjacent to Rhaslas pond in 2011 with other breeding sites being unaffected, and has been identified as being of medium magnitude and of moderate significance.

The impact of loss of other breeding birds of conservation concern including snipe, where one of two breeding sites will be lost, considered to be of moderate significance, and loss of breeding sites for skylark, wheatear, linnet and reed bunting, considered to be of minor significance.

Restoration of the landscape after completion of coaling will provide habitats for these and other bird species in time; however there will be many years during coaling and while restored habitats are maturing, when the impact of loss of breeding sites will continue, and it has not been possible to mitigate for this loss. The applicant has offered compensation for loss of sites during coaling at Bryn Caerau, in Merthyr Tydfil County Borough, but this will not provide breeding sites for the key species lost from the application site.

Birds – Wintering

Winter bird surveys were undertaken in 2008-9, 2011-12 and a further data search of records up to the end of 2012 was undertaken to supplement the information gathered during the applicant's surveys. A total of 72 bird species were recorded during the surveys of which 42 were of conservation importance. The data search identified 88 species of conservation interest from within 2 km of the site, although most records related to Rhaslas Pond or to the land to the south of the pond. These included a wide range of waterfowl and waders associated with the pond and wet heath habitats, nationally important numbers of herring gull and lesser black-backed gull, raptors including red kite and hen harrier, that hunt over the site, and short-eared owl that regularly winters in the wet heath south of the pond. The importance of the site for wintering and passage birds has been identified as being of County importance and the assemblage of waterbirds using Rhaslas pond has also been assessed as being of county importance.

As with breeding birds the impact of the proposal on wintering and passage birds will be loss of wintering terrestrial habitat, partial loss of Rhaslas Pond, and potential disturbance during operations, requiring the birds to move on to other less suitable areas. No mitigation has been offered for this loss. Instead the applicant has offered compensation during coaling, at Bryn Caerau, in Merthyr Tydfil County Borough, but this will not provide equivalent wintering sites for the key species at the application site. The final restoration scheme will include a restored Rhaslas Pond but this will be a smaller waterbody that may be less attractive to passage and wintering birds.

5.18.7 Other Species

Surveys were undertaken for other species including terrestrial invertebrates, a separate dragonfly and damselfly survey, water vole, badger, aquatic invertebrates and fish. Of these species only dragonflies and damselflies were found to be of county importance with 14 species recorded. This narrowly misses (by 1 species) the qualification criteria for being a nationally important site. The loss of habitat has been identified as being of high magnitude and impact on the assemblage of dragonflies has been identified as a moderately adverse effect. The creation of additional ponds to accommodate great crested newts will however provide some alternative habitat during the operational phase and restoration will provide additional streams and water bodies suitable for dragonfly and damselflies, and as such the considered to be a minor adverse on these species. A scheme to facilitate the colonisation of new ponds from ponds lost to the development will need to be included.

5.18.8 Conclusions

The application will result in the loss of Cefn Gelligaer Site of Importance for Nature

Conservation that has been designated for its extensive area and range of upland habitats breeding lapwing and dragonfly and damselfly populations. Of particular concern is the loss of wet heath, loss of breeding sites for little ringed plover and displacement of the diversity of passage waders and waterfowl using the site. Restoration proposals may result in the return of habitats and species to the site over time, but there are reservations as to the ability of the wet heath habitats to be successfully restored, and the restored Rhaslas Pond will be smaller than the original water body and possibly less attractive to passage and breeding birds. The short and medium term loss of habitats during the coaling and early restoration works is acknowledged in the application, and to off-set this, compensation habitat enhancements have been offered in the neighbouring Merthyr Tydfil County Borough and further afield in Pumlumon, Powys. This however will still result in a significant loss of biodiversity from the northern part of Caerphilly County Borough. The key interests however are of county value, and this will need to be weighed against the national need for energy. In the event that the planning application is approved, short and medium term compensation measures at Bryn Caerau, Pumlumon or preferably more locally within CCBC will be necessary via a Section 106 agreement and a long term restoration and management programme secured by financial guarantee should the restoration of wet heath be unsuccessful. This will also need to be secured via a Section 106 agreement.

5.19 Caerphilly County Borough Council Senior Engineer (Land Drainage) - No objections are raised but a condition should be imposed seeking details of surface water and land drainage particularly in respect of coal washing, temporary or permanent haul roads, vehicle washing, and the welfare and office facilities.

5.20 Caerphilly County Borough Council Rights Of Way Officer - No objections are raised but further information is ought about the location of fencing, and the costs of signing and so forth to be borne by the applicant and secured through a section 106 agreement.

5.21 Caerphilly County Borough Council Economic Development - Planning Policy Wales takes into account economic land uses, including the energy sector to which Nant Llesg clearly relates. The development will lead to job creation both directly and indirectly, will assist in redressing some of the economic disadvantages in the upper Rhymney Valley and will contribute to the wider spatial aims of regeneration in the Heads of the Valley corridor. This advice is supported by a report produced by Hardisty Jones Associates, an economic development, regeneration and sustainability consultancy, entitled Independent Economic Impact Assessment of Proposed Open Cast Mining at Nant Llesg, Rhymney. In summary the broad conclusions of that report are:

- The likely potential job creation resulting from the proposal is between 201-221 jobs in the 10-mile impact zone. More than 80% of those jobs are expected to go to residents of the impact zone.
- The limited capacity within the surface mining workforce means that it is likely that new operatives will be recruited and trained to fill positions at Nant Llesg. The applicants are already actively pursuing this strategy.
- The jobs are well paid and come with substantial training. This will also provide accreditation for large plant operation that will be transferable to other mines and into the construction sector.

- The business at most serious risk of disinvestment is Richards & Appleby (R&A). There are a range of commercial factors at play in the decision making process of that company. The applicants have expressed a willingness to mitigate any negative consequences of its proposal and therefore any disinvestment decision by R&A would not be attributable to the mine but it is not certain whether they would seek to remain or relocate away from the Rhymney area.
- The Heads of the Valleys Industrial Estate is already in a relatively weak competitive position within the wider Heads of the Valleys sub-regional area. Economic forecasts also suggest continued employment decline in manufacturing in the area. Whilst there are no final assessments of dust, noise and visual impacts it is not possible to say whether there will be further detrimental effects. If negative impacts are found to arise this may further weaken the competitive position of the Rhymney area. However, if the position was to weaken, the scale of potential future investment which may be blighted is uncertain.
- Evidence in respect of Ffos-y-Fran and Shotton, Northumberland shows that in both cases there were substantial fears of blight as a result of proposed surface mines. However, in both cases those fears did not become reality and sensitive industrial occupiers have continued to operate and invest in close proximity to surface mining operations.

5.22 The Coal Authority - As the owner of the coal, The Authority encourages and supports this application which it considers will be worked in an environmentally and socially acceptable manner to meet market requirements. It considers that the proposal will contribute to the Government's policy framework for a diverse and secure energy supply and incorporates the principles of sustainable development. A licence under the Coal Industry Act 1994 will also be required.

The Authority provides background information on the privatised coal industry in the UK. It emphasises that surface mining is critical to the continued supply of good quality coal for the market in the UK, and provides the basis for up to half the electricity generated in the UK. Coal from the UK offers security against the volatility of international coal prices, freight rates, exchange rates, and port capacity. Importing coal from abroad has environmental footprint implications. It is essential that new environmentally acceptable sites are brought forward to replace those that are nearing completion. The benefits of remediation, reduced hazard from potential mine gases, and improved minewater are also mentioned.

5.23 Dwr Cymru - No objections are raised. A public sewer and water mains cross the site. The developer should consult Dwr Cymru before any works take place on site. There are no comments regarding hydrology. Its telecom assets are not affected by the development.

5.24 Friends Of The Earth Cymru - Object to the scheme on the grounds that:

- It is contrary to the development strategy set out in the Council's LDP
- It will result in unacceptably adverse impacts on natural heritage features, and
- It is likely to adversely impact on the health, amenity and safety of local residents.

Their representation contains a detailed analysis of national and local planning policies; nature conservation and biodiversity off-setting; health, well-being and amenity; landscape, visual amenity and the National Park; minerals safeguarding and buffer zones; and emissions and climate impacts.

Further comments were received following the submissions of the addendum to the ES. In particular the application contravenes energy policy which is focused on a low carbon future, provides insufficient compensation for loss of public accessible recreation land, fails to provide information on air pollution values, will cause major landscape and visual impacts for a duration of more than ten years, is contrary to Planning Policy Wales and uses incorrect interpretation of WHO noise guidelines.

5.25 Gelligaer And Merthyr Commoners Association - The Association initially wrote expressing concerns about the loss of grazing land, the significant interference with the rights of the common, the disturbance caused by infrastructure and traffic, danger to livestock, pollution, impact on water supply, the advertisement of the application, and the restoration scheme. It has now withdrawn those objections.

5.26 Glamorgan/Gwent Archaeological Trust - Archaeological mitigation will be required. There is a long history of human activity in the project area and its vicinity from the Mesolithic period. Subsequent periods are represented by numerous sites that include Bronze Age monuments, Roman military installations, Medieval settlements and post Medieval agricultural and industrial landscape features. There is a high potential for sites of archaeological interest to be present within the site in addition to the 298 assets already identified. Any consent granted should include a condition to ensure the full implementation of a programme of archaeological works such as that proposed by the applicant, which would provide sufficient mitigation for the negative impacts on the archaeological resource. The condition should follow the model in Welsh Office circular 60/96 and the work should be undertaken in accordance with the standard guidance of the Institute for Archaeologists, preferably by a registered organisation or IfA member.

5.27 Merthyr Tydfil County Borough Council - Having reviewed the additional information, this authority has no further comments to make.

5.28 Welsh Government Natural Environment & Agriculture Team - None of the land contained within the application site is best and most versatile agricultural quality. A significant portion of the site has no natural soil resources and requires a substantial amount of soil forming material to achieve restoration objectives. However, the developer has provided sufficient information to demonstrate that the land can be restored to agriculture to a satisfactory standard. A reasonable standard of agricultural use would be met where the restored land, after a period of aftercare, would be capable of providing low to moderate productivity livestock grazing within the common grazing area and moderately productive improved grassland in the northern farm holding part of the site. Agricultural restoration and aftercare conditions are proposed. Attention is drawn to the need to fence the proposed peat storage mounds for health and safety reasons because they will not be as solid as they appear, and unauthorised access should therefore be restricted.

5.29 National Air Traffic Services - The proposed development has been examined from a technical safeguarding aspect and does not conflict with their safeguarding criteria.

Accordingly NATS has no safeguarding objection to the proposal.

5.30 National Grid - Has no objection to the proposal which is in close proximity to a high voltage transmission overhead line. The contractor should contact National Grid before any works are carried out.

5.31 Natural Resources Wales - Initially an objection was raised because the scheme would have adverse impacts on the species associated with large areas of semi-natural habitats, inadequate mitigation and compensation was proposed, and there was insufficient information on existing biodiversity, site restoration and aftercare. Furthermore the potential impacts of the proposal had not been adequately considered in the context of the Water Framework Directive.

Amendments were submitted and having reviewed all the information submitted by the applicant a number of their original concerns have been satisfactorily addressed or are capable of being addressed through conditions. Their remaining concern is the potential loss of wet heath habitat. The applicant has advised that it is not feasible to amend the overburden storage location. The prevention of long-term losses of biodiversity will be heavily reliant on achieving successful restoration of the habitats following coal extraction. Wet Heath is recognised as being important in a local, national and international context and the site approaches the limit of its biogeographical representation in Wales.

The restoration of the habitats of peaty soils is inherently high risk and their experience indicates that although it is possible to encourage the re-establishment of the species typical of heathland habitats, those species are often low in abundance leading to a partial replication of the typical form of the habitat. There have been few attempts to recreate wet heath and those that have had some success have been by turf translocation rather than the removal, long term storage and replacement that are proposed in this case. An aftercare period of 20+ years is advised due to the difficulty in restoring wet heath habitats. The applicants have proposed a fall back option which provides for further compensation, in the form of a financial guarantee, if the wet heath is not re-established satisfactorily.

In terms of the off-site mitigation and compensation proposals at Bryn Caerau, the creation of 26.6ha of unimproved acid grassland, 0.39ha ponds and 0.3ha of swamp, together with the enhancement of 28.9ha of marshy grassland is welcomed, but although overall there is a small net gain in biodiversity value, there will be losses of wet heath.

The proposals for works at Pumlumon are of value but are distant from the application site. If the allocated funds were used for projects near the site, there is concern that they may not be sufficient to achieve a level of benefit that outweighed the impact of the mine.

If the Council is minded to grant planning permission the following should be taken into account:

1. The applicants should enter into s106 agreement, in particular in respect of the restoration provisions, the additional financial guarantee, and the provisions for management of Great Crested Newt (GCN) habitat and enhancement works for

bird populations

2. Conditions are recommended in respect of restoration, aftercare, biodiversity (reptiles), invasive species, water resources, and contamination, and
3. Any loss of biodiversity receptors, even if only temporary, should be recorded by the relevant authority on the Biodiversity Action Reporting System.

5.32 OFCOM - No comments. Its policy is not to advise or get involved with planning applications.

5.33 Royal Society For The Protection Of Birds - RSPB objects to the scheme because of the adverse impacts on birds from land take, the loss of a valuable local amenity, and insufficient mitigation and compensation. The site supports nationally important numbers for Wales of lapwing, and it is also notable that five species of wader breed here which is exceptional for an inland site in Wales. Rhaslas Pond attracts migrating waders during the autumn and spring, and nationally important numbers of wintering herring gull and lesser black-backed gull. Attention is also drawn to the impacts on the SINC and the loss of the northern part of Rhaslas Pond. Whilst the proposed Bryn Caerau biodiversity compensation is welcomed, there is not a like for like wetland creation especially in terms of a large water body to replicate Rhaslas Pond.

It maintains its objections following the submission of amendments particularly in view of the displacement of dog walkers into area of breeding lapwing, the need for ongoing lapwing mitigation, lack of certainty in terms of the deliverability of the management plan, and mitigation measures for impacts upon other bird interests in the application is not forthcoming.

5.34 Welsh Government - Planning Division - The Welsh Government Planning Division are unable to comment on planning applications that are before local planning authorities as the applications may at some time come before the Welsh Ministers if they are called-in, or on appeal.

5.35 Welsh Government (Transport) - The operational transport implications of the proposal on the surrounding trunk road network would be insignificant against existing background traffic levels. Therefore, as highway authority for the motorway and trunk roads network there are no objection or further comments to make.

6 ADVERTISEMENT

6.1 Extent of advertisement: The application and subsequent additional information has been advertised by means of press notices and site notices in Rhymney, Deri, Abertysswg and Fochriw in accordance with the requirements of the Town and Country Planning Act 1990 and the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 as amended. In addition, exhibitions were held in Pontlottyn, Fochriw and Rhymney in November 2013. Copies of the documents and the amendments were also placed in the libraries in Rhymney, Deri, Nelson and Ystrad Mynach and also on the Council's website.

6.2 Response: More than 350 representations have been received from local residents and businesses in the Heads of the Valleys area, in the form of individual letters and photocopied ones. Two petitions objecting to the scheme have been received: the largest has 4976 signatures, the other which objects to the loss of Rhaslas Pond contain 24 signatures. The comments are summarised below.

6.3 Summary of observations:

6.3.1 In Support (approx 217 letters)

The letters of support comment on:

- Well paid local employment opportunities offered by the development
- Local economic benefits
- Skills and training opportunities
- Benefits to the supply chain
- Supports local employers Tata steel and Aberthaw Power Station
- Good standard of restoration
- Railhead allows sustainable transport of coal to customer
- Support for community benefits, including minibus scheme.

6.3.2 Objections

The grounds for objection can be summarised as follows:

6.3.3 Proforma letter A

- Visual impact
- Air pollution
- Light pollution
- Noise
- Increased road traffic
- Increased rail traffic
- Loss of jobs at existing businesses
- Loss of inward investment.

Proforma letter B

- Not sustainable, no viable long term customer for coal
- Not financially viable – price of coal is falling. Future of steel production uncertain.
- Unacceptable impact on local community in terms of noise, dust light pollution and this will affect quality of life and health
- Visual intrusion for 15 years
- Few jobs will be provided for local people and jobs will be lost at existing local businesses
- The mine will deter inward investment
- It will destroy natural resources and habitats, including damage to a bird migration sanctuary
- Damage to archaeological feature – Rhaslas reservoir
- Increased risk of accidents and congestion on roads due to additional HGVs
- Additional use of rail line will affect those living near it through night traffic.
- The need for the early remediation work is questionable.

Proforma letter C

- Devastating effect on jobs in the area
- Need for coal is reducing, fossil fuel is old technology
- Loss of moorland and common land in addition to Ffos Y Fran and Trecatti is unacceptable
- The site has been subject to previous working. Residents should not have to suffer the impacts again.

Proforma letter D and D (i)

- Economic, social, health and transport implications would be disastrous for the community
- The reclaimed and beautiful green landscape should not be dug up again. It has been a coal mine previously. Enough is enough.
- Keep the hillsides green.

Proforma letter E

- Pollution of drinking water and springs
- Dust pollution due to traffic
- Loss of jobs
- Loss of grazing rights
- Loss of Rhaslas pond – supports rare birds
- Loss of marsh and moorland habitat
- Loss of land for informal leisure – walking, horse riding, birdwatching
- Eyesore for local residents – there is a chance the site will not be restored
- Area should be promoted as a tourist attraction with footpaths, cyclepaths and bird watching hides.
- Health problems
- Money is the prime motivator for the development
- Habitat cannot be replaced.

Proforma letter F

- Noise and vibration from trains, especially disturbing at night
- Previous coal mining has caused subsidence.

6.3.4 Merlin Biosurveys have submitted 175 proforma, one with a petition of 94 signatures attached to it. Glamorgan Bird Club has also commented along similar lines: their objection is based on reduction in size of Rhas Las pond and the impact on breeding wader habitat. They draw attention to the birds recorded in the applicants' surveys:

- Breeding Little Ringed Plover, Lapwing, Ringed Plover, Common Snipe, Common Sandpiper Mallard, Reed Bunting, Skylark, and 15 other species
- winter observed species such as Hen Harrier, Merlin, Widgeon, Pochard, Tufted Duck, Goldeneye, Teal, Goosander, Coot, Moorhen, Black-necked Grebe, Jack Snipe, Short-eared Owl, and at least 14 other species
- The pond supports large flocks of Swallows, Swift, House Martins, and Sand Martins searching for insects in the day, with bats doing so at night
- Wader flocks including Dunlin, Curlew, Sandpiper, Sanderling and some 13 other species, and wildfowl such as Pintail and Shelduck
- Gulls in internationally important numbers.

Similar concerns have been expressed by the Welsh Ornithological Society.

6.3.5 United Valleys Action Group (UVAG) have submitted a 69-page report raising objections on the following grounds:

- Environmental impact
  - noise pollution
  - dust and dirt pollution
  - diesel particulate pollution
  - water pollution
  - light pollution
  - adverse visual impact
  - detrimental health impacts (physical and psychological)
  - waste clearance and processing.

- Ecological impact
  - detrimental impact on biodiversity
  - loss of habitats
  - loss of amenity for wildlife.

- Socio-economic impact
  - loss of good quality jobs
  - new jobs – many won't go to locals
  - job opportunities are over-exaggerated
  - loss of initiatives, e.g. greening of the valleys
  - perception of the area
  - loss of inward investment
  - lower house prices
  - potential down-banding of housing stock
  - less Council Tax for Council

- community benefits/compensation – no community control
- loss of amenity.

- Attainability
  - climate change
  - sustainability of customers such as Aberthaw power station and Tata steel
  - falling price of coal
  - future of coal
  - falling price of steel
  - future of steel in South Wales and beyond.

- Planning process
  - pre-application public consultation failure/inadequacies
  - legality of tendering for the remediation works
  - lack of bilingual documentation
  - legality of the planning process
  - will the applicants be self-regulating, and who will police them?
  - will any section 106 agreements be tightly constrained, and who will police them?
  - the Newcastle Study which considered the impact of mine dust on nearby settlements is inappropriate and out of date.

- Transport
  - increased heavy road traffic – hold ups and road safety issues
  - increased rail traffic – noise and vibration nuisance
  - extended night time rails slot usage and resulting sleep disturbance
  - increased traffic to new customers
  - existing road traffic capacity constraints now worthless?

- Community Benefit
  - £6m over 15 years is not a lot of money
  - it's community compensation not community benefit
  - the operator can withhold the benefit to pay for legal expenses
  - it will be administered by the operator and the Council
  - the Council can use the money to pay for legal expenses
  - the remediation scheme solutions are over-specified for the task
  - the remediation scheme will cause water issues
  - the remediation scheme will become an extension of the coal mine.

6.3.6 UVAG make the following comments about the availability of Aberthaw Power Station and Tata steel as markets for the coal from the proposed mine, and concerns about climate change:

- Utility Week online newspaper indicates that RWE npower has opted out of the Industrial Emissions Directive for Aberthaw which means they can only run for 17500 hours from 1 January 2016 until the end of 2023 without upgrades to cut SO2, NOx and particulate emissions. That would give the power station a life of some 2 to 4 years.
- The steel market is volatile and profit margins slim. Tata has cut costs by shedding jobs, they are importing coking coal from Mozambique and Canada, and they are considering opening their own mine in Kenfig.

- Carbon Capture and Storage will not be available in the short to medium term, and so further limitations on the use of coal are likely to be imposed.

6.3.7 UVAG has drawn attention to the following nature conservation issues:

1. biodiversity at Rhaslas Pond has increased
2. biodepletion has occurred elsewhere at the site already due to previous opencast (these comments are supported by extensive analysis of some 157 species including, birds, reptiles, insects and fish)
3. loss of SINC land
4. loss of undisturbed semi-natural habitat
5. loss of wet heath
6. land is naturally brown – it has not been improved
7. loss of small ponds
8. loss of Rhaslas Pond
9. climate change.

6.3.8 Following the submission of the addendum to the ES UVAG submitted a further 31-page report stating that the concerns raised have not been addressed in the additional information. The main points of the objection are:

- Aberthaw power station is not a sustainable customer as its future is uncertain in the light of the need for investment to bring it in line with the European pollution control limits. It could close by the end of 2018.
- Coal from Nant Llesg is not required to "keep the lights on" as the applicant claims. Aberthaw is currently supplied with cheap, imported coal which is readily available from various sources. Wales is a net exporter of electricity and the national grid ensures that power is distributed around the UK from all power generating sources.
- Jobs provided at the site would be balanced against the loss of jobs elsewhere, for example at Richards and Appleby.
- The UK government's and the Welsh Government's energy policy is strongly based on securing a low carbon future. Carbon capture and storage is unlikely to be financially viable.
- The quantity of water from Rhaslas Pond will be inadequate to serve the development with possible implications for dust emissions. Low water levels threaten flora and fauna.
- Residents report significant dust deposition when wind blows from the east from Ffos-Y-Fran. This seems to indicate that the dust cannot be reduced by a factor of 95% as the company claims. Dust from overburden is equally unacceptable as coal dust. The addendum implies that there will be a major or moderate impact at several residential receptors.
- The proposed new site exit junction could become a road hazard. It would not be traffic light controlled and the area can often be foggy and inclement. UVAG still considers that bunching of coal lorries travelling to the CDP is inevitable.
- Partial remediation of old mine workings will not resolve the water discharge issues.
- The local community will suffer light pollution.
- The early remediation work will take place within 500 metres of residential areas

and will have similar effects to the coal excavation area, which is outside the 500m buffer.
- The noise suppression measures proposed are inadequate.
- The surface mine will have an unacceptable landscape and visual impact.
- There are alternative sources of Welsh steam coal.
- There is a risk that the site will not be restored if the operation becomes uneconomic. UVAG points to the experience at Margam mine, where the restoration fund is inadequate, in support of this view.

6.3.9 UVAG have also drawn attention to the Council's views regarding the Covanta energy from waste proposal at Brig y Cwm adjacent to the Cwmbargoed Disposal Point that was submitted to the Infrastructure Planning Commission (IPC) in 2010. The Council had to prepare a Local Impact Report (LIR) and appear at an inquiry arranged by the IPC, but the developers withdrew the application early on in the determination process. UVAG quote extensively from the LIR, which raises the following concerns:

- Potential adverse effect on the possible use of the railway line for passenger trains.
- Dust, odour, noise and vibration, and light nuisance in this isolated rural location.
- Deterioration in the existing baseline air quality as a result of increased road traffic.
- Increase in certain pollutant levels in the area surrounding the facility resulting in deterioration of the existing air quality base line.
- Perception of risk to health generated by the visible plume.
- Noise and vibration generated by the movement of freight trains resulting in a significant detrimental effect on residential amenity and people's sleep in properties close to the railway line. Failure to properly consider World Health Organisation guidelines.
- Direct loss of habitat within the site of the Facility.
- Changes in local habitat as a result of changes in hydrology.
- Adverse effect from acid and nitrogen deposition on the habitats and species within three Sites of Importance for Nature Conservation within the Borough.
- Visual impact of the mass of the building and height of the stack in this open upland setting.
- Visual impact of light pollution from the Facility and delivery lorries.
- Potential detrimental impact on the attractiveness of the area as the principal gateway to the northern part of the borough, and for further investment and tourism.

UVAG seek assurance those matters will be considered in respect of the current scheme.

6.3.10 Finally UVAG have made comments about the need for a remediation fund to address any failure by the applicants to restore the site in an appropriate manner. Attention is drawn to a site in Margam where the restoration fund is £5.5m but the actual restoration costs are being estimated at around £100m. The applicant at Nant Llesg, has a guaranteed sum of £15m negotiated for Ffos-y-Fran, the largest opencast mine in the country, but using the stated cost of restoration of Margam as a guideline, the actual cost would be in excess of £100m. Attention is also drawn to the issue of falling coal prices and rising production costs. During discussion with the public, the experience of unrestored surface mines in Scotland has also been drawn to the local planning authority's attention.

6.3.11 Green Valleys Alliance (an alliance of local businesses and residents) and Richards and Appleby have submitted grounds of objection that in summary are as follows and are supplemented by comments from consultants that are referred to below:

- dust and its impact on their products and business; it would cost £1m to introduce the necessary filtration on their premises; fugitive dust emissions are inevitable, and evidence provided by Environmental Management Pollution Ltd is provided of incidences of incidences of severe dust nuisance from Ffos-y-Fran at neighbouring housing; dust control will be inadequate
- noise arising from the construction of the screening bund which would be within the 500m buffer and take over 12 weeks whereas MTAN2 recommends that such activities should only take place for 8 weeks
- noise has not been adequately assessed and the mitigation is inadequate, with no account taken of reversing alarms
- noise from the railway has not been adequately assessed
- health: the diesel operated plant will generate PM10 and PM2.5 particles that are harmful to health, and temperature inversions in the valley will aggravate the effect; inadequate attention has been paid to the impact on the health of residents and workers in the area
- health: research by a doctor in Glynneath indicated that opencast mining aggravated peptic ulceration, diarrhoea and vomiting, arthritis, and acute and chronic bronchial complaints
- jobs: existing employment will be jeopardised, and further inward investment curtailed
- the number of jobs predicted by the applicants will be at the lower end of their estimates and will not compensate for the jobs lost
- water demand for dust suppression and coal preparation will exceed supply
- land remediation is outweighed by the threat to local businesses and the wellbeing of residents
- the removal of the landfill in the railway cutting is unnecessary: it could present a hazard to the environment if it contains hazardous material
- the need for the coal and the market is too volatile to guarantee a market for the life of the mine, and the potential market at Tata is exaggerated.
- loss of biodiversity
- inadequate assessment of the effects on underground and surface water and claims that the improvements to water quality will be effective
- the overburden mounds and remediation could aggravate the condition of the lakes at Darran Country Park
- the increase in traffic will be unacceptable

- detrimental impact on leisure and tourism
- loss of visual amenity
- loss of industrial heritage with the works to Rhaslas Pond.

6.3.12 Those comments are supplemented by a report produced by Cardiff University Welsh Economy Research Unit, the conclusions of which are

- the key need for the Heads of the Valleys economy is well-paid full-time employment
- there are persistent socio-economic problems in the area, which throws into relief the importance of the remaining inward investors in the area, and their loss would severely hamper the recovery in the economy locally
- some 400 posts are supported by the cosmetics and medical supplies businesses in the area
- The indication that 160 to 270 jobs could be created by the proposal could be contested
- Significant open cast mining could affect future inward investment in the area.

6.3.13 A report by TerraConsult on behalf of the Green Valleys Alliance advises that given the chemical composition of the landfill it is best kept in place and capped. If the material were removed it is likely to be classified as hazardous unless extensive on-site testing is carried out due to the presence of asbestos lead and zinc.

6.3.14 Groundwater Solutions has reviewed the hydrogeological aspects of the Environmental Statement on behalf of the Green Valleys Alliance, and advises that further consideration needs to be given to the levels of groundwater, the control of sediment, general surface water management; the alleged improvement to water quality needs substantiation; what would be the impact of mine collapse? Backfilling the mine is likely to cause a rise in acid mine drainage; drainable storage and permeability of the backfilling is likely to be less than the existing strata; the impacts of dewatering need to be considered including in relation to surface drainage; sulphate concentrations in the backfill requires further consideration; the impact of the temporary overburden storage on groundwater levels and surface water is not considered.

6.3.15 Detailed comments from Kevan Walton Associates have also been submitted by Richards and Appleby:

- Dust suppression measures will be inadequate because there will be insufficient capacity in the bowsers and the cannons, the range of the water cannons at 80m will be inadequate, windblow will be difficult to control on such a large site, water supplies from ponds and other sources will inadequate.
- Noise: Ffos-y-Fran was operating whilst background noise levels were calculated; the effectiveness of additional noise attenuation added to plant, machinery and vehicles is questioned, particularly on older or hired items; on the basis of the applicants' figures elevated noise levels will be experienced at North Fochriw, Fochriw Road, and West Fochriw; without effective noise suppression 70% of noise sensitive properties will have noise levels over 5dB above background, with 18% over the MTAN2 recommendation of 10dB.
- Noise: the noise modelling is inadequate, particularly for plant operating at the edge of the overburden mounds; the impact of topography and other barriers is not supported, and the Fochriw area will experience significantly elevated noise

levels for 10.5 to 11 years.

- Railway noise: higher measurements from noise meters not used and reported, and the applicants have failed to assess the night time impact of train movements on residents using recognised and their own procedures.
- Fuel consumption: details of fuel calculations are provided and are reckoned to be some 210,000 to 247,000 litres a week, at a cost of £145,000 to £170,000 a week.
- Mineshaft remediation: the dust generated by such work would outweigh the benefits of remediation; the cost of the work have not been properly calculated, could be millions of pounds, and the so the applicants cannot make a firm commitment in that respect.

6.3.16 Simply Ecology has submitted comments on behalf of Green Valleys Alliance that:

- draw attention to a public authority's duties under the Natural Environment and Rural Communities Act (2006) that is must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity; and conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat.
- draw attention to the National Planning Policy Framework
- advise that 9 habitats listed in the UK Biodiversity Action Plan, and 14 listed in the Caerphilly Biodiversity Action Plan are present at the Nant Llesg site
- the ES submitted by the applicants does not contain a vegetation condition assessment on which an empirical measure of biodiversity can be accurately calculated.
- there is no restoration project plan or overarching biodiversity management plan
- concern is expressed about the restoration of the wet heath - where it has been successful it has been on the basis of whole turfs being stored rather than the storage and reseeding of peaty soil
- there is no qualitative assessment of habitats at Nant Llesg on which biodiversity offsetting can be based
- offsetting at Bryn Caerau is based on a set of loose proposals, and there is no measure of the current biodiversity value of that site on which the scale of any compensation can be based and evaluated
- compensation in kind is not proposed making the assessment of requirements and outcomes difficult, and highlights the necessity to apply a metric to calculate biodiversity offsetting
- the DEFRA Biodiversity Offsetting Mechanism should be applied
- for BAP priority habitats and species the definitive restoration aim should be reinstatement of existing quality, extent and population levels
- 5-year duration aftercare proposal is grossly inadequate - a minimum of 15 years is suggested to ensure that wet heath and mire recreation is successful.

6.3.17 Rhymney Area Residents Group

A – 26 October 2013

- Air pollution exacerbated by prevailing westerly winds
- Local companies rely on clean air – Convatech, Richards and Appleby
- Mine would exacerbate poor health of local residents
- Number of jobs is overestimated. Skilled workers will move from Ffos Y Fran. Jobs may be lost at existing cosmetics and medical supplies firms who employ a higher proportion of women.
- Water pollution
- Vibration
- Noise would be carried downwind across the valley
- Impact on mental health and wellbeing
- Loss of amenity and loss of opportunities for walking and cycling
- Rhaslas pond should be preserved in its entirety as an example of the Dowlais Free Drainage System.
- Wet heathland habitat should be protected. It took many years to establish.
- Reduction in value of houses
- Impact on tourism.

B - 26 November 2013

- dust
- the adverse impact on existing employers - a local cosmetics firm has stated that it may be forced to move resulting in the loss of 130 jobs, and the area may lose some 300 jobs in total
- health - the area has a poor health record, and it has an accumulation of pollution from Ffos y Fran, Trecatti and the Heads of the Valleys Road. Research has shown that people living downwind of surface mining operation and associated development facilities have an increased risk of developing kidney disease, chronic lung disease, hypertension, cardiopulmonary disease, and chronic obstructive pulmonary disease.
- air pollution arising from small particles and the use of diesel fuelled vehicles
- water pollution
- vibration causing structural damage, with the listed houses in Butetown particularly vulnerable
- noise
- mental health and well being
- loss of amenity
- loss of ponds and the historic drainage system
- drainage problems resulting in pollution in the River Rhymney, streams and Cwm Darren Park
- detrimental to wildlife, particularly birds
- adverse impact on housing value with a consequent impact on anxiety and stress
- adverse impact on tourism
- adverse impact on climate change.

6.3.18 Pentwyn and Fochriw Residents Association

- Development is contrary to Local Development Plan
- Loss of heritage asset – Rhaslas Pond, Dowlais Free Drainage System
- Leisure impacts - loss of land for leisure activities
- Health – effect of pollution caused by mine on health and perceived health risk. Increase in respiratory illness
- Traffic - coal lorries using common road from site to Cwmbargoed DP will cause traffic flow and safety issues
- Light pollution
- Noise – particularly intrusive in rural area
- Dust
- Wildlife, including red kites, buzzards and kestrels, great crested newts, fish, invertebrates, water vole, otter and bats.
- Adverse effect on jobs and future investment
- Visual impact of mine and 50m high overburden mound.
- Overburden mounds at Ffos-y-Fran are still being constructed and concern is expressed a similar situation could arise at Nant Llesg if the amount of overburden, including topsoil and other material, has been underestimated.

6.3.19 Bedlinog and Trelewis Environment Group (BTEG)

- Public access proposals for Penddeugae enclosures would drive away curlews
- Bryn Caerau enclosures and biodiversity offset land are inaccessible from Bedlinog
- Principal concerns of local residents include coal train disturbance, traffic congestion, wildlife and landscape destruction, dust and silting in Trelewis Millennium Park
- BTEG have also submitted 65 copies of a proforma letter, with a total of 129 signatures drawing attention to:

- 15 years of dust, dirt, noise and road congestion
- increased vibration and noise for rail-side residents
- loss of jobs
- depression, worry and poorer health
- removal of ancient common and peat-land
- destruction of Rhaslas Pond which is crucial for migrating birds.

6.3.20 Additional points raised in individual letters:

- Effect on global warming
- Contrary to aims of "Caerphilly Delivers- a single integrated plan"
- Stress and anxiety caused by Covanta proposal and now opencast proposal
- Independent health impact report needed
- Danger to livestock, removal of streams and ponds for drinking water, interference with statutory commoners rights
- Blasting at the surface mine could cause subsidence in areas where underground levels lie beneath houses
- Contrary to adopted LDP, which states that there will be a great emphasis on sustainable forms of development.

- previous open cast schemes have caused dust problems
- environmental pollution and air quality
- impact on health
- house values will decline
- why did the Council refuse permission for the three turbines at Pen Bryn Oer? They would not have had the adverse impact on tourism that the mine would have
- dependency on fossil fuels must be reduced
- a doctor has written expressing concern about the effect of the mine on the health of the populace
- a local historian has drawn attention to the extensive industrial and associated cultural heritage at the site and in the locality
- no mention is made of a former coal mine at Pidwellt some 150m south of Nant Llesg.

7. ANALYSIS

7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that in this case the planning application must be determined in accordance with the development plan unless material considerations indicate otherwise. Material considerations could include current circumstances, policies in an emerging development plan and planning policies of Welsh Government and the UK government.

7.2 There has been substantial local opposition to the proposal. While the substance of local views must be considered, the Council has a duty to decide the application on its planning merits. Public opposition is not, on its own, a reasonable ground for refusing permission. The proposals have also given rise to public concern. The courts have held that the perceived fears of the public are a material planning consideration that should be taken into account in determining whether a proposed development would affect the amenity of an area and could amount to a reason for refusal. However, the LPA has to decide, based on the facts of the case, whether the perceived fears are of such limited weight that a refusal of planning permission on those grounds would be unreasonable.

7.3 Need for coal

7.3.1 The objective of the UK and Wales governments' energy policy is to ensure a secure, diverse and sustainable supply of energy at competitive prices. While it is available, and while the generators choose to use it, UK coal contributes to energy diversity and supply (MPPW). The Welsh Government (WG) has given a strong commitment to tackling climate change and moving towards a low carbon economy. However, it is also clear that it sees coal as a strategic source of energy during the transition period while renewable energy technologies and infrastructure become established. There is no forecast of need or requirement for a landbank of permitted reserves of coal as there is with aggregates, but MTAN 2 accepts that coal will be required for the electricity generating industry and the steel industry until 2020 at least (paragraph 13).

7.3.2 Energy policy is not devolved. 'Overarching National Policy Statement for Energy (EN-1) Planning for new energy infrastructure 2011' is a material planning consideration in determining planning applications. It states that electricity demand will increase in the period until 2050 and that while the UK must reduce reliance on fossil fuels there will be a need for some fossil fuel generating capacity, preferably with carbon capture and storage technology (CCS) to back up intermittent renewable generating capacity and to ensure security and diversity of supply.

7.3.3 The percentage of electricity generated in Wales from renewable sources rose to 10% in 2013, mainly due to an increase in wind generation. This is lower than the UK average of 15%. (source: *Energy generation and consumption:* Welsh Government statistics 2015). In 2013 renewable energy accounted for 2,664 GWh of electricity generated in Wales out of a total of 26,351GWh. It is clear, therefore, that renewable energy, although increasing in importance, still forms a relatively small part of the energy mix. The main contributor of renewable power generation is wind power at 1,702 GWh. Solar PV contributed 115 GWh, and other forms of renewable generation, including hydro, landfill and sewage gas, a combined total of 847 GWh, The main contributors of renewable energy can only generate on an intermittent basis and the power that is produced cannot be stored.

7.3.4 New technologies may come on stream in the future; for example, the proposed Swansea Tidal Lagoon project could provide 14 hours of energy generation each day and other tidal lagoons are proposed elsewhere. However, the earliest connection to the grid and first generation is estimated to take place in 2019, assuming a start date in late 2015. It is estimated that the Swansea lagoon could produce 11% of annual Welsh domestic use, which even when other renewables are taken into account, would still leave a shortfall in meeting demand.

7.3.5 The other main sources of fuel for power generation are coal and nuclear, along with oil and gas which are also becoming increasingly sourced from imports as North Sea oil and gas resources decline. There has been recent interest nationally in unconventional gas and oil, and reserves of shale gas are potentially large but have yet to be proven. Concerns about the environmental effects of their exploitation need to be addressed before any large scale extraction takes place. Nuclear will remain part of the energy mix; it currently supplies around 20% of the UK's electricity, but the recently announced 16GW new build programme will replace existing reactors that will go offline in the 2020s rather than increase capacity significantly.

7.3.6 Since 2012, coal (much of it imported) has replaced gas as the main fuel used to generate electricity in Wales. In the UK as a whole, 83% of the demand for coal was for power generation and a further 9% for coke manufacture in steel production. In the period from 1998 to 2012 coal demand remained at between 50,000 – 60,000 tonnes per annum while between 2011 and 2013 UK coal production fell by 25% due to the closure of a number of mines and companies. Coal imports have exceeded UK coal production since 2003, the main suppliers being Russia, the United States of America and Colombia. Coal is a relatively cheap fuel source for power generation and contributes to the government's aim of providing affordable electricity. The use of indigenous coal also helps to reduce reliance on imports and has sustainability benefits, particularly where it can be transported by rail. It also provides a degree of energy security by reducing reliance on imports.

7.4 <u>Markets</u>

7.4.1 Miller Argent has identified two primary markets for the coal that would be extracted from Nant Llesg: energy generation at Aberthaw or other power stations, and as metallurgical coal in steel manufacture at Tata, Port Talbot. Other potential markets include steam railways and domestic coal.

7.4.2 Power generation

Aberthaw power station was specifically designed to use semi anthracitic low volatile coal, such as that found at Nant Llesg, and RWE npower has supported the application, stating in a letter dated 1 July 2014 that the coal is of a quality that makes it a suitable fuel source for Aberthaw and that the plant was expected to be a customer for Nant Llesg coal until the mid 2020s and beyond. The power station currently consumes approximately two million tonnes of Welsh coal, mainly from Ffos-Y-Fran. As other sources of Welsh coal have reduced, significant levels of imported coal have been used. Of the existing coal mines in south Wales only Ffos-Y-Fran has reserves to continue beyond 2020, therefore alternative supplies of coal from Wales are limited.

7.4.3 From 2016 the Industrial Emissions Directive (IED) will apply and will define updated

emissions limits for sulphur dioxide, carbon monoxide, nitrogen oxides and dust emissions. Limited Life Derogation is currently selected for Aberthaw where it may be exempted from the emission limit values in article 30(2) to retain an option to run the plant until 2023. The LLD restricts the plant to no more than 17,500 hours operation between January 2016 and December 2023. However, the company could decide by the end of 2015 to comply with the directive or to enter the plant into the government's Transitional National Plan, which would allow emissions in line with the current permit.

7.4.4 New flue gas desulphurisation (FGD) technology has been introduced to reduce sulphur emissions. A pilot CCS plant has also been constructed, which will test technology to capture the carbon dioxide from flue gases and will form part of a research and development programme to understand how the technology could be used to reduce emissions at coal fired power stations. Investment has also enabled the co-firing of biomass to replace some of the coal.

7.4.5 Recently the European Commission has commenced infraction proceedings against the UK government as the power station has failed to meet IED emissions limits. The station was granted an exemption on the basis that it supported local industry and used indigenous coal, which was hard to ignite and, therefore, the design of the boilers resulted in higher No_x emissions. However, as the use of imported coal has increased, the EC claims that the plant is no longer burning as much low volatile coal and that the exemption should no longer apply. Nevertheless, the government supports the continuation of the exemption and the outcome of the proceedings will not be known for some time. RWE npower has identified the Nant Llesg reserve as being suitable to meet the needs of the power station which has in recent years burned approximately two million tonnes a year of Welsh coal. A continuing supply of Welsh coal for Aberthaw, would help to justify further investment to meet the requirements of the IED and would support the jobs and contribution to the local economy that it provides.

7.4.6 The need for coal was considered in the context of the application for Ffos-Y-Fran in 2004 when the planning inspector concluded that, "The coal on the site is a strategic reserve and of prime importance to the UK energy balance." The inspector also commented that the coal was of ideal quality for Aberthaw power station and that there remained a place for coal fired generation for the foreseeable future providing emissions standards could be met. Those conclusions are still relevant today.

7.4.7 Steel industry

The Nant Llesg coal has also been proved to be suitable for use in the steel industry. The new coal washing plant enables coal from Ffos-Y-Fran and Nant Llesg to meet the requirements of the steel making process. The Port Talbot plant uses significant quantities of coking coal in the ovens and granulated coal for injection (CGI) into the blast furnaces. The steel making process uses coal as a mineral, not just as a fuel source.

7.4.8 Tata Steel at Port Talbot has written a letter of support for the application. The company states that it has a strong continuing demand for the coal and that the ability to source coal locally would make a major contribution to the company's objective of a strong, economic and sustainable future for the steelworks. The company says that it is committed to supporting local communities and encouraging the use of local suppliers is in keeping with that ethos.

7.4.9 Tata Steel and RWE npower are both major employers in south Wales with a continuing requirement for significant supplies of coal to support their businesses. Miller Argent has also investigated the potential of marketing of coal to the European steel industry and has discovered that there is interest in low volatile pulverised coal injection (PCI) coal. The assessment notes that there is very little indigenous PCI production in the EU and it is dominated by seaborne imports from Russia, Australia, the US and Canada.

7.5 Sustainability and climate change

7.5.1 The National Assembly for Wales has a legal duty to promote the principles of sustainability in all it does. In Wales sustainable development means enhancing the economic, social and environmental wellbeing of people and communities, achieving a better quality of life for our own and future generations:

- In ways which promote social justice and equality of opportunity; and
- In ways which enhance the natural an cultural environment and respect its limits using only our fair share of the earth's resources and sustaining our cultural legacy (One Wales: One Planet 2009).

7.5.2 In the Well being of Future Generations Act 2015, which received royal assent on 29 April 2015, "sustainable development" has been defined as:

"The process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the well being goals".

Well being goals are a prosperous, resilient, healthier, and more equal Wales, with cohesive communities, a vibrant culture, and a thriving Welsh language. Wales must also be globally responsible.

7.5.3 The four pillars of wellbeing are social, economic, environmental and cultural outcomes and each is equally important. The Act places a duty on public bodies to work to improve the economic, social, environmental and cultural well-being of Wales by setting objectives and measuring progress towards meeting them. Public bodies must also act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (the sustainable development principle), taking into account the need to balance short term and long term needs, the need for an integrated approach, the need to involve other people, and to act in collaboration with other people and organisations and the need to deploy resources to prevent problems. Sustainability is, therefore, a central organising principle of Welsh Government and this has been translated into national planning guidance in MPPW and MTAN 2. MPPW states that, in determining applications, LPAs should take account of the costs and benefits associated with mineral working in accordance with the principles of the sustainable development. In terms of mineral planning, the main aims are:

- Social progress which recognises the needs of everyone – to provide for the benefits of increased prosperity through an adequate supply of minerals that society needs while protecting amenity

- Effective protection of the environment – to protect wildlife landscapes and historic features and to protect human health and safety, ensuring environmental impacts are within acceptable limits and to secure restoration and aftercare
- Prudent use of natural resources – the efficient use of non renewable resources and minimisation of waste and avoiding pollution
- Maintain high and stable levels of economic growth – to ensure an adequate supply of minerals that are needed at reasonable prices and to safeguard mineral resources for future generations.

7.5.4 Miller Argent has addressed sustainability and climate change taking account of the sustainability principles of MPPW and has proposed a sustainability framework to assess the proposal taking into account the definition of sustainable development and local objectives. The project would contribute to promoting a resilient and stable economy through the creation of jobs and though indirect stimulation of the local economy. Employment opportunities would be focused on local people and training opportunities are promised.

7.5.5 In providing coal for electricity generation and manufacturing, the project would promote social wellbeing. It would also meet the MPPW requirement of providing mineral resources to meet society's needs and the proposals seek to minimise the impact on health and wellbeing. A health impact assessment has been provided and the restoration provides for long term recreation land, footpaths and public access. The applicants state that the efficient use of resources and the minimisation of waste would be encouraged. The measures proposed to protect the environment are considered elsewhere in this report but these are also aimed at minimising the environmental impact of the operations. The proposal aims to protect the natural and cultural heritage of the area, by retaining cultural heritage assets, and enhance the local environment through the early remediation works and long term restoration strategy.

7.5.6 In terms of climate change, the company has implemented an environmental management system accredited to ISO14001 to manage all its environmental impacts at Ffos-y-Fran. The company states that it prioritises maximising fuel efficiency and this reduces carbon emissions. Planting of trees is proposed to offset the release of greenhouse gases during coal extraction, and the carbon emissions associated with transportation are reduced because rail is the main form of transport. The scheme has been designed to be resilient to climate change.

7.6 <u>Restoration</u>

7.6.1 MPPW highlights the need to ensure that land must be restored to a sustainable and beneficial afteruse and MTAN 2 states: "If there is any significant doubt about whether satisfactory reclamation can be achieved at a site, planning permission should be refused." The restoration strategy submitted with the application proposes that the land would be returned to upland grassland, improved grassland and marshy grassland. It is proposed to re-establish wet heath areas and to retain Rhaslas pond with a shallow wetland area to the north. New ponds would be created by modifying the water treatment areas and watercourses would be re-established. A network of hedgerows would be established in the improved grassland to the north of the site and new woodland areas would be planted mainly in the north and north east of the site. The site would be restored phase by phase, following coaling, minimising the visual impact.

7.6.2 The restoration strategy supports the Caerphilly CBC BAP and is considered to be broadly acceptable. There are uncertainties about the restoration of the wet heath but NRW has withdrawn its objection subject to additional provisions and compensation measures. However, the acceptability of the scheme depends on the company fulfilling the obligations of the restoration strategy. Objectors have referred to experience in Scotland where two companies, Scottish Coal and ATH went into liquidation in 2013, leaving some mines with a substantial shortfall in the financial provision for restoration in accordance with the planning permissions.

7.6.3 MTAN 2 gives advice on financial guarantees to ensure that a site can be restored in the event that it is not completed satisfactorily by the operator or landowner for any reason. On 22 April following a debate in Senedd the Minister for Natural Resources announced a focused review of MTAN2. It is expected that the review will look primarily at the 500 metre buffer zone and the exceptional circumstances that may justify coal extraction within the buffer (paragraph 49). This application does not propose coal extraction within 500 metres of the settlement boundary.

7.6.4 In addition, the advice in MTAN 2 on finance for restoration (paragraph 60) may be revised. This follows a research document 'Research into the failure to Restore Opencast Coal Sites in South Wales' (ERM 2014). The report looked at ten active sites in south Wales to identify where the bond or surety held by the LPA fell short of the amount that might be required to restore a site in accordance with the planning permission. Four of the sites did not pose a risk but the report identified five sites where the surety may be insufficient and one small site, which had effectively been abandoned without being restored. The report made various recommendations to WG, including a proposal for specialist skills and knowledge sharing for the calculation and administration of bonds together with a review of MTAN 2 to identify where policy guidance could be modified to ensure future robust restoration bonds on a consistent basis and to ensure that mechanisms, for example an annual review, are put in place to ensure the bonds remain accurate throughout a project life.

7.6.5 Until such time as MTAN 2 may be revised, the existing MTAN is Welsh Government policy and must be taken into account in the decision on the application. However, based on research by the Welsh Government and the lessons learned from Scotland, the key factors in ensuring effective restoration are:

- Independent review of the figures proposed by the applicant for inclusion in bonds to ensure the sum is adequate
- Regular review of the adequacy of the guarantee to take account of fluctuations in income and costs
- Effective monitoring of progress on coal sites to ensure that coal extraction does not take precedence over the obligations of the planning conditions and legal agreements
- Effective communication with stakeholders through technical working groups and community liaison groups
- Appropriate knowledge sets being available on methods of working and restoration and in assessing the financial viability of proposals.

7.6.6 In order to be effective the restoration guarantee needs to be sufficient to allow another company or the council to restore the site in the case of the financial failure of the operator. It needs to ensure that during the course of an operation there is not a liability

greater than the value of the bond at any given time, including the point where the maximum amount of overburden is above ground. Many of the sites where bonds have been found to be inadequate date back to the privatisation of the coal industry in the early 1990s. Prior to privatisation, sites were worked under contract to British Coal (BC) and one element of the contract price was the Restoration Lump Sum, which was paid to the operator at the end of coaling to cover the cost of restoration. BC, as a government body, held long and secure supply contracts which, together with the Restoration Lump Sum, assured restoration. As a last resort BC could restore an abandoned site at public cost. However, the Coal Industry Act 1994 provided that where the mining interests of the BC were acquired by successor companies, those companies were exempt from any requirement to provide a bond or other surety for a period of ten years following the coming into force of the Act. This has meant that even if restoration guarantees were provided at those sites for later extensions, they were inadequate to restore the whole site.

7.6.7 Section 106 agreement

Miller Argent proposes a section 106 legal agreement to provide a financial guarantee for the scheme. The agreement would provide for payments into a joint Escrow account at an agreed rate per tonne as indicated by weighbridge records. The payments would be based on the cost of restoration and the tonnage to be removed and would build up to provide adequate cover at the maximum void in year 6. Then, from the commencement of the return of overburden the company would be entitled to draw on the fund to carry out the restoration proposals. The total value of the fund would be in the region of £40 million at maximum void.

7.6.8 The council engaged the Coal Authority to provide independent advice on the adequacy of the financial guarantee proposals. In a report by a qualified mining engineer dated April 2015, the Authority concluded that:

"Miller Argent's working method and proposals for the operation, restoration and rehabilitation of the site have been examined and found to present an excellent basis on which to develop a detailed operational mine plan".

The report considered the key costs of the project, including the excavation volumes, capacity of overburden mounds, plant fleet, excavation ratio, and the rates for rehabilitation tasks and confirms that Miller Argent's calculations are realistic. The key cost drivers for income are identified as coal tonnages, the coal market price of coal and the markets that coal is sold into, whether the industrial market at a premium, the power station fuel market or an existing contract for pulverised coal injection. The report recommends that the drivers for cost and income are monitored throughout the life of the site. The Coal Authority calculated the costs according to the proposed method of working and any variation may result in an increase in the costs. Therefore the report recommends that the site is monitored throughout its life to ensure that the scheme progresses as planned.

7.6.9 Following the Coal Authority's advice the company agreed to include in the section 106 agreement provision for, in addition to the regular escrow payments, a day one, up-front bond payment of £3,947,000, which includes a sum of £766,000 for care and maintenance and retendering should Miller Argent leave the site. The payment would cover the costs of restoring the site in the pre-excavation site establishment phase before the escrow payments begin. This is in line with the recommendations of the

ERM report for Welsh Government.

7.6.10 Monitoring and review

Managing risk through effective monitoring of compliance is key to achieving successful restoration outcomes. Surface coal mining is a dynamic operation that requires a degree of flexibility to reflect conditions found at the site and changes to working methods are not uncommon. However the changes can have implications for the cost of restoration. It is, therefore, desirable to monitor both the activities on site and the performance of the financial guarantee. Provision is made in the s106 agreement for the submission annually by the operator of a Mine Progress Plan and for adjustments to the payment per tonne to be paid into the escrow account as a result of its analysis. The LPA may take independent advice on the Mine Progress Plan. Monitoring of compliance with planning conditions would also take place on a regular basis.

7.7 Economy and regeneration

7.7.1 Concern has been expressed that the mine will have an adverse impact on existing employers in the locality and so the number of jobs created will be undermined by those that would be lost due to businesses having to close down as a result of e.g. dust problems, and the poor image of the area. A report supporting those concerns prepared by Cardiff University Welsh Economy Research Unit has been submitted, and so the Council's Economic Development Officer commissioned his own consultants to consider the matter. They concluded amongst other things that if negative impacts are found to arise this may further weaken the competitive position of the Rhymney area. However, if the position were to weaken, the scale of potential future investment which may be blighted is uncertain. Furthermore, evidence in respect of other open cast sites indicates that fears of blight as a result of proposed surface mines were unfounded. It also appears that the applicants have offered to mitigate the potential problems which are causing concern to one of the existing businesses.

7.7.2 Bearing in mind the job creation potential of the scheme - some 80% of which would go to residents within 10 miles of the site - the training associated with those posts, and the impact of the wages on the local economy, it would be difficult to sustain an objection to the mine on the basis of unsubstantiated unfavourable economic consequences. It is the applicants' intention to develop a training and business strategy with local partners, targeting the unemployed, young people, the current workforce at Ffos y Fran and skilled workers already within the sector.

7.8 Ecology

7.8.1 The development will result in the loss of areas of upland habitat and agricultural land for the duration of the coaling operation. Extensive information has been submitted by the applicants and objectors in respect of the impact of the development on ecological matters. Consideration has been given to the purpose of conserving biodiversity; and to restoring or enhancing a population or habitat. The local planning authority has its own ecologist whose comments are reported extensively above, but has also consulted the NRW. There are remaining concerns about the potential loss of the 35ha of wet heath at the site, which for the duration of the development would be underneath the overburden mound. Wet heath is listed as an Annex 1 European habitat (Northern

Atlantic wet heath with Erica tetralix) under the EU Habitats Directive. It is identified as a UK Priority Habitat within the UK BAP, and the areas within this borough are shown in Caerphilly County Borough Council's BAP, which states the following main objectives for its conservation will:

- Prevent further loss of existing habitats, through statutory protection and local designations
- Manage existing stands through appropriate management
- Re-establish heathland where opportunities arise, particularly in areas where this will reduce habitat isolation and increase size of existing areas.

7.8.2 According to the NRW there is approximately 7500ha of wet heath in Wales, 110ha of which is within this borough, with the greatest concentration at the application site, where it is designated as a SINC in the LDP. The NRW comments that the restoration of habitats of peaty soils is high risk, and where there has been some success, it has been based on turf translocation rather than soil storage as currently proposed. In view of those concerns the NRW advise an aftercare period of 20+ years rather than the 10 years proposed by the applicants.

7.8.3 The applicants consider that it will be possible to recreate the wet heath once the overburden is removed, resulting in a final total of 62.6ha (including 12.5ha of existing wet heath that would not be disturbed). They are also proposing, through the section 106 agreement to provide other compensatory measures. There is an existing wet heathland restoration project at Pumlumon in West Wales to which they are willing to contribute £149,000. In view of the remoteness of that project from the application site, the alternative option in the agreement would be that the Council could spend that money on projects within the borough. None is identified at present, but officers are aware of potential sites north of the A465 where projects for the enhancement of peat based environments could be set up. In addition, whilst the section 106 agreement would include provisions for the review of the restoration of the wet heath at the end of the 10-year period with a view to extending it up to a maximum of 25 years, should that not succeed, compensation of £264,000 would be paid to the Council for continued restoration of the site, or for biodiversity restoration projects elsewhere within the county borough.

7.8.4 Habitat creation and enhancement covering some 143ha will also take place at Bryn Caerau. A comparison has been submitted by the applicants of the biodiversity value of the Nant Llesg site and the Bryn Caerau offsetting area as they currently exist and following the restoration of the former and the enhancement of the latter, using the DEFRA biodiversity offsetting mechanism. The conclusion is that the increase in value would not be significant, although there would be a substantial gain when measured in linear metres. On the basis of the restoration proposals, and the various compensation measures, it would appear that the significant doubt that satisfactory reclamation cannot be carried out that would be necessary to justify a refusal of planning permission does not exist.

7.8.5 The habitat at the site is covered by a SINC designation where development will only be permitted where it conserves and where appropriate enhances the ecological or geological importance of the designation, or is such that the need for the development outweighs the ecological importance of the site, and where harm is minimised by mitigation measures and offset as far as practicable by compensation measures

designed to ensure that there is no reduction in the overall value of the area or feature. The proposed mine would fall into the second of those categories.

7.8.6 The northern part of Rhaslas Pond will be filled in during the operation of the site, but would be restored as a wetland at the end of the development. The pond is of county importance in respect of migrating birds, including waders such as the Little Ringed Plover and the Ringed Plover. The applicants are in discussion with the Council about the improvement of Jepson's Pond to the north of the Nant Llesg site to provide further opportunities for breeding birds.

7.8.7 Lapwing breed on land owned by this Council to the south of South Tunnel Road, and the applicants' intention is to manage that area of land to ensure that it remains suitable for those birds. A condition on a planning permission could secure that commitment.

7.8.8 A Habitats Regulations Assessment report has been produced to assess the impact of changes in air quality and dust associated with the development on the Aberbargoed Grasslands special area of conservation (SAC), Usk Bat sites SAC, Cwm Cadlan SAC, and Blaen Cynon SAC, and the effects on the bird populations of the Severn Estuary special project area and Ramsar site. It concluded that the development would neither alone nor in combination with other plans and projects have a likely significant effect on those sites. Therefore a further appropriate assessment is not required. NRW agrees with those conclusions.

7.8.9 Great Crested Newts are present on the site, and a licence would be needed from Welsh Government to disturb them. A number of measures are proposed to maintain their favourable conservation status in the area (which would also be suitable for Odonata such as dragonflies), including the creation of three self-contained receptor site cells including restoration and improvement of three existing ponds, and the creation of fourteen new ponds; capture and relocation of newts within the proposed works area; and the prevention of the re-entry of newts in the works area. Similar measures would be implemented for reptiles at the site.

7.8.10 Surveys have also been carried out for bats but no evidence has been found of roosts on rock faces or former mineworkings. Otters are also associated with Rhaslas Pond and watercourses to the south, but only for foraging activities on an occasional basis. In view of the presence of European protected species at the site the tests set out in the Council's ecologist's comments reported above have been carried out. One additional point in relation to the first test is that the economic benefits both locally and further afield, in terms of job creation and training opportunities should be taken into account.

7.9 <u>Environmental impacts</u>

7.9.1 Noise emanating from the development will be controlled in a number of ways. The hours of operation of the pit itself are limited to the daytime when ambient noise levels are generally higher. A bund is proposed along the side of the valley facing Rhymney, with an additional bund and a noise screen in the north-west corner of the site. Vehicles and equipment manufactured to limit noise would be enhanced by the applicants with their own modifications to further limit noise emissions. Conditions could be imposed on a planning permission to limit and monitor noise levels at

sensitive locations.

7.9.2 The movement of coal by rail will cause some disturbance to those living next to the line. Network Rail allows the applicants six 'slots' during which they can move the coal by rail: with a maximum of three at night (2300 to 7000 hours). Each 'slot' accommodates two train movements, i.e. one each way. The movements do not occur on the same time each day - that depends on what is allocated by Network Rail based on the activity on the wider rail network. Not all slots are used. Analysis in the ES from 2011 indicates that there were no movements at all on 92 days (including Sundays) and 165 nights. Excluding Sundays, the average daytime number of movements was 3, and the average at night was 1.4. Those figures will increase because if permission is granted Nant Llesg and Ffos-y-Fran would operate together, increasing train movements by 70%, i.e. 5 during the day and 2.4 at night. That change would be temporary and tail off once Ffos-y-Fran was complete. The ES concludes that taking account of World Health Organisation recommendations on noise levels, the changes in noise due to the additional movements are considered either negligible or of low significance. The sustainability of transporting the majority of the coal by train must also count in favour of this proposal, and off-set the temporary although long-term increases in noise.

7.9.3 Measures are proposed to control and monitor visible dust and these can be secured by planning condition. With regard to PM10 and PM2.5 concerns, the Health Board has advised that based on the information supplied by the applicants, which included a Health Impact Assessment, there is limited potential risk for public health. That view is supported by the Council's Head of Public Protection. Air monitoring can also be subject to conditions. It should be borne in mind that the edge of the coal working excavation area is 500m from the edge of the Heads of the Valleys Industrial Estate, so any residential development is well beyond the edge of that buffer zone. Concerns about the availability of water to control dust have been addressed by the applicants: water use would be managed on a daily basis to ensure that a sufficient quantity was always available.

7.9.4 Vibration can be controlled and monitored by condition. Lighting on a 24-hour basis will only occur at the workshop and barrel wash area. This will be largely screened from Fochriw and Rhymney by the overburden and screening mounds. There will be a cumulative effect with the lighting at the CDP but that would be not of such significance as to justify an objection from a planning point of view.

7.9.5 Extensive investigation into the hydrology of the site has been carried out including a Water Framework Directive assessment. The quality of discharge into the River Rhymney will be controlled by the NRW under other legislation, but conditions concerning restoration of the site would also address drainage above and below ground.

7.9.6 Health impacts have been considered by the Council's Head of Public Protection and the local health boards, and there are no physical or psychological health grounds on which to raise planning objections to this scheme. An environmental management plan can be secured by condition.

7.10 Landscape and visual impacts

7.10.1 Guidance advises that coal extraction can only take place where it occurs, but wherever possible workings should avoid adverse environmental or amenity impact. Excluding the CDP, that part of the site south of South Tunnel Road is within a visually important local landscape (VILL). Special landscape areas (SLAs) exist to the south, north and on the opposite side of the Rhymney Valley. The National Park boundary is approximately 2.5km to the north of the site, whilst to the south and west are the registered historic landscape associated with Gelligaer Common and Merthyr Tydfil respectively. The effect on SLAs will be limited due to the intervening distance - the impact will be one associated with views into the site. The VILL will be directly affected by the adjacent overburden mound and the short-term works associated with addressing the silting problems at Darren Valley Country Park, but the temporary nature of the work, and the associated restoration works that are proposed would mitigate that impact. The effect on the National Park would also be limited, similar to the SLAs, due to distance, and again the main concern would be views of the operations from the park. Similar considerations would apply to the historic landscapes. The objectives of the green wedge that separates Fochriw and Pontlottyn would not be prejudiced by the scheme.

7.10.2 Residents within two kilometres of the of the site with direct open views would experience major adverse effects due to changes in the landscape, during years 1 to 6 and 9.5 to 14 when the overburden and screening mounds were being formed and removed respectively. In between times although those features would be grassed, they would dominate views from Rhymney and Fochriw. Although there would be some 450 to 500m between the bunds and the nearest houses, their elevation would aggravate their impact. The advice in Minerals Planning Policy Wales is where it is not possible to avoid adverse amenity impact the work needs to be carefully controlled and monitored so that any adverse effects on local communities are mitigated to acceptable limits. It is intended to form the bunds in layers as previously described, and grass the face of each layer before progressing to the next. Dust control measures would limit the environmental impact of their construction. Also, in the first two years of the scheme land on the side of the valley below the mounds would be remediated and public access created.

7.10.3 The adverse landscape effects of the development are not balanced or outweighed by the potential beneficial effects of the restoration proposals, but those impacts need to be balanced against other beneficial impacts including the creation of job and training opportunities, and the supply of coal to the energy and steel industries.

7.10.4 For the period of the works the site would change from one of intrinsically dark character to one of low and distinct brightness. A condition is recommended to allow the control of lighting in the interests of residential amenity and highway safety, but would also allow consideration to be given to minimising the impact on the National Park.

7.10.5 Those using public footpaths or accessing common land near the site would experience major effects during the construction and removal of the overburden and other mounds, reducing to moderate once the mounds were established, and minor during restoration aftercare. Other routes, and public open spaces such as Bryn Bach Park, would not be affected significantly due to their location, elevation relative to the

site, or distance from the operations.

7.10.6 There are already mineral and waste activities in this landscape at Trecatti, the CDP, Ffos-y-Fran, and they would be extended by Nant Llesg. There would be views and routes where a number of those operations would be visible all at once or in sequence. However, they would be temporary, with Ffos-y-Fran due for restoration during the operation of Nant Llesg.

7.10.7 Approximately 315ha of common land will be affected by the proposals, 114 ha in the short term whilst the early remediation works are carried out, the remainder for some 19 years including restoration and aftercare. Compensatory land totalling some 153ha is to be provided, and the applicants by way of the section 106 agreement intend to forgo their rights to use the common land for agriculture for the duration of the project thereby reducing the potential pressure on the rest of the common. There is a separate procedure for protecting the common under The Commons Act 2006, but MTAN2 advises that it should not be developed, or access to it should not be prevented or impeded, unnecessarily. In view of the need for the coal discussed above, and the intention to restore the land in an appropriate manner, there would be no planning objections in this respect.

7.11 Heritage and tourism

7.11.1 Cadw and GGAT have raised no objections to the scheme. The most significant heritage asset within the site - the southern dam at Rhaslas Pond - is to be kept, and is under consideration for scheduled ancient monument protection. Further afield, there are listed buildings and conservation areas at Rhymney and Butetown; the LPA must have special regard to the desirability of preserving the buildings or their settings or any features of special architectural or historic interest which they possess, and pay special attention to the desirability of preserving or enhancing the character or appearance of those areas. The ES has not identified any significant impacts on those buildings and areas, and the distance between those features and the development site is an important factor in that respect. The distance to the nearest listed building and conservation areas within this borough is some 400m. The overburden and screening mounds will be clearly visible in the locality, and will have some impact on the setting of the listed buildings and the character of the conservation areas. However, that impact will be temporary, limited in its extent because of the intervening distance, and therefore should not militate against the proposal. The early remediation works will be closer to the listed buildings and conservation areas, but will be far smaller in scale, carried out within the first two years of the scheme, and would not justify an objection to the proposals.

7.11.2 The impact on tourism is difficult to assess, but it will be temporary, and the effect on existing attractions such as Bryn Bach Park, Parc Cwm Darran, and Butetown will not be significant. Ffos-y-Fran will be restored, followed by Nant Llesg which will also include the provision of grater public access, and so in the longer term, the appearance of the area, and accessibility will be enhanced.

7.12 Transport

7.12.1 No objections have been raised by statutory consultees about the impact of the scheme on the local road network. The most significant change, albeit temporary, will

be on Fochriw Road, between the site entrance, the junction with Bogey Road, and the CPD entrance, along which the coal will be transported by lorry. There is sufficient capacity within the road, and furthermore it is intended to improve the vertical alignment of the road t the south of that junction to improve visibility. The wider network will not experience significant change because of the most of the coal will be transported to market by train. In that respect the site and the proposal are sustainable.

7.13 Section 106 planning obligations

7.13.1 A planning obligation must be:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

The proposed section 106 will address the matters set out in paragraph 3.5 above, all of which are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind. It will secure the community benefits that align with those set out in the MTAN (see para 4.16 above), ensure that the appropriate restoration and aftercare takes place, particularity of habitats, and secure a remediation fund that will allow the site to be restored if the developer cannot do so.

7.13.2 Further benefits are offered via an agreement under the Local Government Act, but they should not be regarded as a material consideration in this case.

7.14 Conclusion

7.14.1 This development will have a significant visual impact on the locality, but only for a temporary period of some 14 years. The applicants propose to introduce measures to control dust, air quality and noise, and propose land remediation and compensatory works to off-set the adverse impacts of the development, including the removal of an existing landfill. Impacts on habitats and wildlife will be balanced by works at Bryn Caerau, and elsewhere in the locality, if not at Pumlumon. Restrictions on the use of the common will be relieved by the provision of other land for the associated activities. The restoration of the site will largely seek to replicate the existing conditions; where there is some concern - the restoration of the wet heath - an extended aftercare period will be secured through a section 106 agreement. In the long-term there will be enhanced access to the countryside through the introduction of additional footpaths and bridleways. The scheme itself will provide employment and training opportunities, and support the local and regional economy.

7.14.2 UK and Welsh energy policy is still based on a diverse mix of sources, including coal. Whilst the intention is to increase the share supplied by renewable sources, that provision is not sufficiently advanced to abandon the use of coal, much of which at present is imported from abroad. Coal mined at Nant Llesg would generate employment locally, and help to maintain the power generation and steel industries in south Wales. Coal can only be mined where it can be found but in this case there is a railway point nearby allowing the vast majority of the of the coal to be transported by train.

7.14.3 There has been significant and detailed objection to the scheme from the local

community. The applicants have sought to overcome those concerns through measures set out in the application and the ES, and no objections have been raised to the final scheme by Council officers from health, highways, landscape and ecological points of view, nor from the local health board or the NRW. The appropriate mitigation measures and controls can be secured by planning condition and a section 106 agreement. That agreement will also include a requirement to set up a fund that will ensure that the site is properly restored.

7.14.4 Comparisons have been drawn between this scheme and the one proposed by Covanta for an energy from waste development some years ago. Each case must be considered on its merits, and there are some obvious differences between the two schemes. The power station was a permanent development that introduced a tall stack into the landscape, and caused an enduring loss of habitat. An existing urban environment would have been a more suitable location for that facility. Planning policy support at a local level was limited. The concerns raised with regard to that proposal have been considered in respect of the proposed surface mine.

7.14.5 The proposed development complies with national and local planning policy. It would be sustainable in that it strikes the correct balance between social progress, the effective protection of the environment, the prudent use of natural resources, and the maintenance of high and stable levels of economic growth. The recommendation is that permission should be granted subject to the completion of a section 106 agreement as set out in the report.

RECOMMENDATION: That the application is (A) deferred to allow the applicants to enter into a Section 106 Agreement. On completion of the Agreement (B) that planning permission is granted subject to the conditions set out below.

CONDITIONS

COMMENCEMENT OF WORKS

1. The development to which this permission relates shall commence not later than the expiration of 5 years beginning with the date of this permission.
REASON: *To comply with Section 91 of the Town and Country Planning Act 1990 and prevent any protracted delay in the start of works.*

2. Written notification of the date of commencement of the development hereby approved shall be submitted to the Local Planning Authority no less than 90 days before the commencement of that development.
REASON: *To allow the Local Planning Authority sufficient notification to ensure that information required in relation to conditions has been submitted.*

DURATION OF WORKS

3. All coal extraction at the site subject of this consent shall cease within 11 years from the commencement of the development hereby approved.
REASON: In the interests of visual and residential amenity.

4. Final restoration of the site subject of this consent shall be completed within 14

years from commencement of the development hereby approved.
REASON: In the interests of visual and residential amenity.

5. The land remediation and drainage works shown in appendix MA/NL/PA/003 to the Planning Statement shall be completed within two years of the commencement of coaling, in accordance with a detailed method statement to be submitted to the Council and approved prior to the commencement of development.
REASON: In the interests of visual and residential amenity.

RESTORATION AND AFTERCARE

6. A Restoration Strategy for the phased restoration of the site shall be submitted to and agreed in writing with the Local Planning Authority within 3 years of the commencement of development. The phased restoration shall commence 4 years after the commencement of the development and proceed in accordance with the agreed Restoration Strategy. The Restoration Strategy shall detail the sequence and phasing of backfilling and restoration showing clearly their relationship to the winning and working of coal, and shall include an outline of the phasing of restoration, landscape mitigation and restoration taking into account the historic landscape character, features of ecological interest, and the intended after-use of the land.
REASON: In the interests of visual and residential amenity and to protect and conserve the heritage of the site.

7. Prior to the commencement of each phase of restoration a scheme for detailed restoration of that phase, including the proposed back filling methodologies to be employed, shall be submitted to and agreed in writing with the Local Planning Authority and shall include but not be limited to detailed proposals for soil and overburden reinstatement, ground profile, drainage and an approved timetable for implementation. The restoration for each phase shall thereafter be carried out in accordance with the agreed scheme.
REASON: In the interests of visual and residential amenity and to protect and conserve the heritage of the site.

8. The Restoration Strategy submitted and approved in accordance with condition 5 shall include the measures for restoration and aftercare in the event of a cessation of winning and working of coal prior to the achievement of the completion of the approved Restoration Strategy, which in the opinion of the Local Planning Authority constitutes a permanent cessation within the terms of paragraph 3 of Schedule 9 of the Town and Country Planning Act 1990. The approved measures shall be fully implemented within 4 years of the cessation of the winning and working of coal (excluding any aftercare) unless otherwise approved in writing by the Local Planning Authority.
REASON: In the interests of visual and residential amenity and to protect and conserve the heritage and biodiversity value of the site.

9. Within three months of the completion of each phase of the restoration, any building, plant, machinery, hardstanding or other works associated with the coal extraction shall be removed from the area of the site to which that phase relates and the affected areas shall be reinstated in accordance with a scheme that

shall have been submitted to and approved in writing by the Local Planning Authority.
REASON: In the interests of visual and residential amenity and to protect and conserve the heritage and biodiversity value of the site.

10. An aftercare scheme for each phase of the restoration, requiring such steps as may be necessary to bring each phase of the land reclaimed to the required standard for use for agriculture, amenity or nature conservation as appropriate, shall be submitted for the written approval of the Local Planning Authority not later than 12 months prior to the completion of each phase of the restoration including soil spreading.
REASON: *In the interests of visual and residential amenity, and agriculture, and to protect and conserve the heritage and biodiversity value of the site.*

11. Within 3 years of the commencement of the development a scheme shall be submitted to and approved by the Local Planning Authority for the setting up of a Technical Working Group to review and ensure that best practice is introduced in the restoration works for the site, and aftercare phases of the development ensuring full compliance with the restoration, aftercare and monitoring conditions attached to this consent.
REASON: To assist in the control of and assessment of monitoring of the environmental effect of the development.

APPROVED PLANS/DOCUMENTS

12. The development hereby permitted shall be carried out in accordance with the details shown on the drawings and as described in the supporting text forming part of planning application 13/0732/FULL received on 10 October 2013 and the accompanying Planning Statement and Environment Statement, as amended by the addenda to those statements received by the local planning authority on 16 October 2014.
REASON: *For the avoidance of doubt as to the extent and nature of the development hereby approved.*

INSPECTION OF APPROVED PLANS/DOCUMENTS

13. From the commencement of the development hereby approved to its completion, a copy of this planning permission, including all documents hereby approved and any other documents subsequently agreed in accordance with this permission, shall be permanently maintained and available for inspection on appointment at the applicants' offices at the Cwmbargoed Disposal Point.
REASON: *To ensure the operators of the site and any other appropriate officers have ready access to the relevant documents on site as required, to avoid ambiguity as to the nature and extent of this permission.*

METHOD OF WORKING

14. No development shall commence until a Method of Working Statement has been submitted to and approved in writing by the Planning Authority. Any works undertaken shall be fully in accordance with the approved scheme, which shall include the siting, design and external appearance of all surface structures, and fencing; the working method and treatment of overburden, soil, peat and

soil-forming material storage areas; and water treatment areas.
REASON: *In the interests of visual and residential amenity and to protect and conserve the heritage and biodiversity value of the site.*

AREAS OF EXCAVATION FOR COAL EXTRACTION AND DEPTH OF WORKING

15. The surface area of coal extraction shall not extend beyond the 'coal working excavation area' as delineated by an orange broken line on drawing number MA/NL/PA/003. No coal extraction shall take place below 248 AOD.
REASON: *To define and limit the surface area and depth of the consented development in the interests of visual and residential amenity and to protect and conserve the heritage and biodiversity value of the site.*

HEIGHT AND LIMIT OF OVERBURDEN MOUNDS

16. The southern overburden mound shall not extend beyond the limits of the 'overburden storage area' coloured dark brown on drawing number MA/NL/PA/003 and shall not exceed 435m AOD in height. The north-eastern overburden mound shall not extend beyond the limits of the 'visual and acoustic screening bund' coloured light brown shown on drawing number MA/NL/PA/003 and shall not exceed 385m AOD in height. The 'visual and acoustic screening bund' shall be completed before the commencement of overburden tipping operations on the 'overburden storage area'. The operator shall submit detailed survey plans of the site, including levels to Ordnance Datum, annually from and including the date of the commencement of the development hereby approved until completion of the restoration of the site.
REASON: To ensure that the visual impact of the overburden mounds is not greater than assessed, in the interests of visual amenity.

HOURS OF OPERATION

17. Except in emergencies (i.e. circumstances in which the operator has reasonable cause for preventing injury to persons or serious damage to property and/or the environment), in order to maintain the safe operation of the site (notification of which shall be given to the Local Planning Authority as soon as is practically possible) the hours of operations (i.e. any physical works including the starting/warming/revving of any internal combustion engine, motor vehicle or other plant and machinery) for the site, other than dust or air quality mitigation, water pumping or servicing to water pumps or environmental monitoring, shall be carried out at the site in the following manner:

    Hours of operation of the surface mine (including any coal haulage, and land restoration) shall be:

Weekdays	0700 - 1900 hours
Saturday	0700 - 1400 hours
Sunday	No working
Public & Bank Holidays	No working

    with the exception of the following works:

    ` 1. Works within 300m radius of any dwelling:

Monday – Friday	0800 – 1800 hrs
Saturday	0800 – 1300 hrs
Sunday	No working
Public & Bank Holidays	No working

2. The Cwmbargoed Disposal Point, which hours of operation shall be:

Weekdays	0600 - 2200 hours
Saturday	0700 - 1800 hours
Sunday	No working
Public & Bank Holidays	No working

3. Train Loading and Dispatch which shall be allowed 24 hours a day.

REASON: *In the interests of residential amenity.*

DUST

18. The Dust Control Scheme set out in the details shown on the drawings and as described in the supporting text forming part of planning application 13/0732/FULL received on 10 October 2013 and the accompanying Planning Statement and chapter 12 of the Environment Statement, as amended by the addenda to those statements received by the Local Planning Authority on 16 October 2014, shall be implemented from the commencement of the development and shall be complied with at all times until the completion of the works to which the scheme applies. *REASON: In the interests of visual and residential amenity and to protect and conserve the heritage and biodiversity value of the site.*

AIR QUALITY

19. Prior to the commencement of any soil stripping an air quality monitoring scheme shall be implemented in accordance with details that shall have been submitted to and agreed in writing with the Local Planning Authority. The agreed scheme shall include but not be limited to:
    - air quality monitoring to include visible dust particulate matter PM_{10} and $PM_{2.5}$ to be carried out at with the exact monitoring locations shown on a map, the details of the monitoring techniques to be employed at each location, and the details of the provision of access to the Local Planning Authority to the data and reporting. Off site locations shall represent residential receptors in the communities of Fochriw and Rhymney.
    - air quality data to be downloaded continuously and direct to the Welsh Air Quality Forum website.
    - A weather station shall be set up and operated for the duration of the operations hereby approved at the Cwmbargoed Disposal Point and Upper Rhymney Primary School to measure (a) rainfall; (b) wind speed; (c) wind direction and (d) temperature. The resulting information shall be made available to the Local Planning Authority within 3 days on request.

    REASON: In the interests of visual and residential amenity and to protect and

conserve the heritage and biodiversity value of the site.

NOISE

20. Prior to the commencement of the development hereby approved, a noise monitoring scheme shall be submitted to and agreed in writing with the Local Planning Authority. The monitoring scheme shall include but not be limited to a map with the exact monitoring locations, the details of the monitoring techniques to be employed at each location, two of which must provide continuous monitoring capable of providing background noise level LA_{90} (T), Specific noise level LA_{eq} (T) and ambient noise level LA_{eq} (T), maximum noise level LA_{max} and the detail of provision of access to the data and reporting. Off site locations shall represent residential receptors in the communities of Fochriw and Rhymney.
REASON: In the interests of residential amenity.

21 All mobile plant shall be fitted with broadband/white noise reversing alarms not reversing beepers/ sirens.
REASON: In the interests of residential amenity.

22. Prior to the commencement of soil stripping activities the acoustic fence at Halfway House shown on plan MA/NL/PA/058 shall be erected. Within one month of the commencement of soil stripping at the site the acoustic bund shown on plan MA/NL/PA/057 shall be erected.
REASON: In the interests of residential amenity.

23. The level of noise emitted from plant, machinery or operations from the mine shall not exceed background plus 10dB Laeq 1hr or 55dB LAeq 1hr (free field) whichever is the lesser as measured at noise sensitive premises.
REASON: In the interests of residential amenity.

24. During the carrying out of soil stripping, the spreading of soil or soil forming material, the ‘early land remediation works’, the construction and removal of the 'overburden storage mound' and the 'visual and acoustic screening bund' noise levels may not exceed a daytime noise level of 67 dB(A) LAeq (free field)1hr between 1000 hours and 1600 hours on Monday to Friday (excluding public holidays) and over periods not exceeding eight weeks in one year.
REASON: In the interests of residential amenity.

25. Prior to the use of any vehicles, plant or machinery at the site subject of this consent in association with the development hereby approved details of silencing equipment and measures that shall be fitted to and used by those vehicles, plant or machinery shall be submitted to an agreed in writing with the Local Planning Authority. Thereafter the agreed equipment shall be implemented at all times.
REASON: In the interests of residential amenity.

26. Equipment operating on a 24-hour basis such as pumps shall be placed in acoustic enclosures and positioned away from noise sensitive locations where

practicable, details of which shall have been submitted to and agreed in writing with the Local Planning Authority. The rating level of noise emitted from such pump enclosures shall not exceed the existing background noise level by more than 5 dBLAeq, 1hr at the nearest noise monitoring locations referred to in condition 18.
REASON: In the interests of residential amenity.

BLASTING

27. At all times, blasting shall be designed so that the ground vibration measured as peak particle velocity (PPV) shall not exceed 8mm per second at any residential or similar sensitive property, and shall not exceed 75mm per second at the gas main to the west of the site. The design limit shall ensure that the ground vibration for at least 95% of all blasts in any 20 week period shall not exceed a PPV of 6mm per second.
REASON: In the interests of residential amenity.

28. Blasting shall be limited to no more than four blasts a day, between the hours of 1000 to 1300 and 1400 to 1600 hours on Mondays to Fridays and 1000 to 1300 on Saturdays (with a maximum of two blasts for each am and pm time window). Blasting shall not be carried out on Sundays, Bank or Public Holidays, nor during the hours of darkness.
REASON: In the interests of residential amenity.

29. Prior to the carrying out of any blasting, vibration monitoring stations shall be placed at locations to be approved in writing by the Local Planning Authority. All monitoring data gathered at those stations shall be made available to the Local Planning Authority on request.
REASON: To allow the monitoring of blast vibration in the interests of residential amenity.

HIGHWAYS

30. The haulage of coal by vehicles from the coal working excavation area to the Cwmbargoed Disposal Point shall be solely through the access at point A as shown on drawing number MA/NL/PA/003. The return of those vehicles to the coal excavation area shall be via that same point. No other vehicular access shall be created to a public highway for those purposes.
REASON: In the interests of highway safety.

31. Prior to the haulage of any coal from the coal excavation area subject of this consent along the public highway, 'the road improvement works' shown on drawing MA/NL/PA/003 shall be completed in accordance with details that shall have been submitted to and agreed in writing with the Local Planning Authority.
REASON: In the interests of highway safety.

32. Prior to the occupation of the site offices hereby approved, access point A as shown on drawing number MA/NL/PA/003 shall be provided in accordance with details that shall have been submitted to an agreed in writing with the Local

Planning Authority.
REASON: In the interests of highway safety.

33. Prior to the occupation of the site offices hereby approved, the parking facilities as shown on drawing number MA/NL/PA/012 shall be provided in accordance with details that shall have been submitted to and agreed in writing with the Local Planning Authority.

REASON: In the interests of highway safety.

34. Prior to the commencement of any work on site that would result in the transfer of mud and other debris onto the highway a scheme of wheel and vehicle cleansing shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the facilities shall be provided in accordance with the agreed scheme and all vehicles shall enter the highway from the site in a clean condition.

REASON: In the interests of highway safety.

35. Prior to the haulage of coal from the coal excavation area hereby approved to Cwmbargoed Disposal Point the access improvements at points B and C as indicated on drawing number MA/NL/PA/027 shall be carried out in accordance with details that shall have been submitted to and agreed in writing with the Local Planning Authority.

REASON: In the interests of highway safety.

36. Prior to the commencement of the development hereby approved details of the management of traffic associated with all of the operations hereby approved shall be submitted to and agreed in writing with the Local Planning Authority.

REASON: In the interests of highway safety.

37. Prior to the haulage of any coal from the excavation area, a highway condition strategy shall be submitted to and agreed in writing with the Local Planning Authority. The strategy shall include for condition surveys to be undertaken along Fochriw Road and shall include a scheme and timetable for the repair of any damage caused by loads associated with this development. The survey shall be carried out in conjunction with the Highway Authority and the development shall thereafter be carried out in accordance with those agreed details.
REASON: In the interests of highway safety.

TRANSPORTATION OF COAL

38. Except as permitted by condition 34 all coal from the development hereby permitted shall be taken to the Cwmbargoed Disposal Point for onward transmission by rail.

REASON: In the interests of highway safety.

39. No more than 50,000 tonnes a year of coal shall be transported from the Cwmbargoed Disposal Point by road.
REASON: In the interests of highway safety and in the interests of the achievement of sustainable transport.

40. All vehicles used to transport coal to the Cwmbargoed Disposal Point shall enter the coal disposal point at point B as shown on drawing number MA/NL/PA/003. All vehicles used to transport coal returning to the Nant Llesg mine from the Cwmbargoed Disposal Point shall exit the coal disposal point at point C as shown on drawing number MA/NL/PA/003. No more than 20 vehicles transporting coal from the Cwmbargoed Disposal Point shall leave it each day and no more than 5 such lorries shall leave it in any one hour.
REASON: In the interests of highway safety.

41. All vehicles transporting coal from the Cwmbargoed Disposal Point shall have their loads covered in accordance with details to be first agreed in writing by the Local Planning Authority.
REASON: In the interests of highway safety and to prevent dust nuisance.

42. All vehicles transporting coal from the Cwmbargoed Disposal Point shall have their wheels and undersides cleaned before leaving the site in accordance with details to be first approved in writing by the Local Planning Authority.
REASON: In the interests of highway safety and to prevent dust nuisance.

CONTROL OF POLLUTION AND IMPORTATION OR MOVEMENT OF MATERIALS

43. Prior to any works being undertaken on the MIS landfill site, a scheme shall be submitted to and approved in writing by the Local Planning Authority to deal with the potential contamination of that land. That scheme shall include a ground investigation and risk assessment to identify the extent of any contamination and the measures to be taken to avoid risk to the aquatic environment and future site users, once the restoration works are complete. The works to the MIS landfill site shall be carried out in accordance with the approved scheme.
REASON: To ensure the satisfactory treatment of contaminated land.

44. Before any soils or hardcore for construction purposes are brought onto site a scheme for its importation and testing for contamination, shall be submitted to and agreed in writing with the Local Planning Authority. The approved scheme shall thereafter be implemented.
REASON: To prevent pollution.

45. No materials, including minerals excavated from the site, shall be stocked on site other than within the designated areas on the approved plans.
REASON: To control dust.

46. If, during development contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted and obtained written agreement from the Local Planning Authority for a remediation strategy detailing how this unexpected contamination shall be dealt with. The remediation strategy shall be implemented as agreed.
REASON: To ensure that contamination is appropriately remediated.

47. Prior to the commencement of the development hereby approved a detailed Method Statement describing the works to be undertaken and details of any necessary pollution prevention measures, has been submitted to and agreed in

writing by the Local Planning Authority. The Method Statement shall identify:

- all fuels, oils and chemical storage facilities.
- details of surface water drainage arrangements to be installed to intercept and treat contaminated surface water run-off.
- details of measures to ensure there is no polluting discharge from haul roads and disturbed areas; and
- details of the nature, type and quantity of materials to be imported on-site.

Thereafter the development shall be carried out in accordance with the agreed details.
REASON: To prevent pollution of the aquatic environment.

ENVIRONMENTAL MANAGEMENT PLAN

48. Prior to the commencement of each phase of the development hereby approved, an Environmental Management Plan (EMP) shall be submitted for the written approval of the Local Planning Authority for each phase of the development. The EMP shall be implemented in accordance with the approved scheme, save as otherwise specified in specific conditions.
REASON: To protect the environment.

WASTE

49. Prior to the commencement of the use hereby approved arrangements for the storage, collection and disposal of waste shall be implemented in accordance with a scheme to be agreed in writing with the Local Planning Authority.
REASON: To control waste at the site and prevent pollution.

GROUNDWATER

50. Details of a groundwater monitoring scheme shall be submitted to and agreed in writing by the Local Planning Authority prior to the development hereby approved commencing. This shall include the location, number and depth of monitoring wells and the frequency of monitoring of groundwater levels and quality, together with determinands for analysis, to cover the periods prior to, during and after excavation and restoration. The monitoring shall thereafter be carried out at all times in accordance with the scheme.
REASON: To protect groundwater resources.

BIODIVERSITY

51. Prior to the commencement of development, details of Vegetation Monitoring at Tair Carreg SINC, together with details of any necessary remedial measures, shall be submitted to the Local Planning Authority, for approval, and undertaken in accordance with the agreed details for the duration of the coaling operation.
REASON: To protect and conserve the biodiversity interests of the adjacent SINC.

52. Prior to the commencement of site clearance, a detailed work programme for the management and monitoring of habitats identified in the Cwm Golau Habitat Enhancement Plan set out in Appendix MA/NL/A08/015, together with detail of a mechanism for its delivery, shall be submitted to the Local Planning Authority for

approval. The works shall be carried out in accordance with the agreed details.
REASON: To protect and conserve and enhance the biodiversity interests of Cwm Golau.

53. Enhancement Management works at Cwm Golau shall continue for a period of at least 10 years after the completion of coaling unless otherwise agreed in writing with the Local Planning Authority.
REASON: To protect and conserve and enhance the biodiversity interests of Cwm Golau.

54. Prior to the commencement of the development hereby approved a scheme of reptile survey and translocation shall be submitted to an agreed in writing with the Local Planning Authority. Thereafter the development shall be carried out in accordance with the agreed scheme.
REASON: To secure the protection afforded to reptiles under the Wildlife and Countryside Act 1981 as amended.

55. Prior to commencement of development a Method Statement for the construction of receptor sites and the trapping, translocation of Great Crested Newts, together with a Management Plan for the subsequent management of the receptor sites shall be submitted and approved by the Local Planning Authority. The approved Method Statement and Management Plan shall be implemented prior to any works that have the potential to disturb Great Crested Newts.
REASON: To secure the protection afforded to great crested newts under European legislation

56. Prior to the commencement of the development hereby approved, a detailed method statement for the removal or long-term management of invasive weed species on the site shall be submitted to and approved by the Local Planning Authority. The method statement shall include proposed measures to prevent the spread of Japanese Knotweed and New Zealand Pigmyweed and other invasive weed species during any operations such as soil movement. It shall also contain measures to ensure that any soils brought to the site are free of the seeds, roots or stems of Japanese Knotweed.
REASON: To control the spread of invasive weed species.

57. Where any species listed under Schedules 2 or 4 of the Conservation (Natural Habitats, etc.) Regulations 1994 is present on the site in respect of which this permission is hereby granted, no works of site clearance, demolition or construction shall take place in pursuance of this permission unless a licence to disturb any such species has been granted in accordance with the aforementioned Regulations and a copy thereof has been produced to the Local Planning Authority.
REASON: To safeguard the protected species within and around the application site.

58. A scheme for the management of Lapwings in the areas identified for early remediation and drainage works shown in appendix MA/NL/PA/A005 to the Planning Statement shall be submitted to and approved by the Local Planning Authority, and the approved scheme shall be implemented as part of the early

remediation and drainage works.
REASON: To secure the protection of Lapwings.

59. Prior to commencement of development, details of the enhancement works on habitat suitable for breeding little ringed plover on land under the control of the applicant or the Council, shall be submitted for approval by the Local Planning Authority. The approved details shall be implemented prior to the commencement of development works associated with Rhaslas Pond.
REASON: To provide alternative breeding habitat of little ringed plover.

60. Prior to the removal of any ponds and streams within the application site a scheme shall be submitted to the local planning authority for approval, detailing measures to facilitate colonisation of new ponds and streams with dragonflies and damselflies. The approved scheme shall be implemented prior to the destruction of any ponds and streams.
REASON: To facilitate colonisation of new ponds and streams with dragonfly and damselflies.

61 A scheme for the monitoring of retained habitats and species within the application site together with details of any necessary remedial measures, shall be submitted to the local planning authority for approval, and undertaken in accordance with the agreed details for the duration of the coaling operation.
REASON: To secure the protection of retained habitats and species.

ARCHAEOLOGY

62. No development shall take place until the applicant or their agents or successors in title has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.
REASON: to identify and record any features of archaeological interest discovered during the works in order to mitigate the impact of the works on the archaeological resource.

FOUL AND SURFACE WATER DRAINAGE

63. Development shall not commence until a scheme for disposal of foul sewage has been submitted to and approved in writing by the Planning Authority. The scheme shall be implemented as approved.
REASON: To prevent pollution of the water environment.

64. No development approved by this permission shall commence until detailed plans for a comprehensive drainage and lagoon system to intercept and treat surface water run-off from the area have been submitted to and agreed in writing by the Local Planning Authority. The system shall be installed in accordance with the agreed scheme.
REASON: To prevent pollution of the water environment.

ILLUMINATION

65. Before development commences a scheme shall be submitted to and

approved in writing by the Local Planning Authority indicating the position, design, type and hours of operation of all illumination facilities to be employed at the site and the measures to be incorporated to minimise glare and nuisance. The lighting scheme as approved shall be implemented for the duration of the development and removed upon completion of the development.
REASON: To minimise undue glare and distraction in the interests of residential and visual amenity and highway safety.

LIAISON COMMITTEE

66. Before development commences, the developer shall establish a Liaison Committee, the composition of which shall be approved in writing by the Local Planning Authority. The purpose of the Liaison Committee shall be to ensure that the local community has an understanding of the work being carried out and that the developer and contractor are aware of local community concerns. The developer shall convene meetings at intervals of three months, shall keep a record of the proceedings and make it available to interested parties on request.
REASON: To ensure all stakeholders are properly represented, to protect residential amenity.

ENVIRONMENTAL LIAISON OFFICER

67. Prior to commencement of works on site, an Environmental Liaison Officer shall be appointed. Their role, functions, experience and professional requirements of the Environmental Liaison Officer shall be approved in writing by the Local Planning Authority beforehand.
REASON: To ensure that the site is reclaimed in an acceptable manner to a condition capable of beneficial afteruse, in the interests of visual amenity, the public benefit and residential amenity.

Caerphilly County Borough Council
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