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**Response to the Glamorgan Power planning proposal
to Torfaen County Borough Council -
Varteg land reclamation/coal recovery scheme
Application reference: 14/P/00637**

4 March 2016

Annwyl Madam/Syr,

Friends of the Earth Cymru object to the application to mine, by opencast, 256,000 tonnes of coal from Varteg Hill.

We do not consider the application to conform to local and national planning policy and request that Torfaen County Borough Council **rejects** the application on the following grounds:

- The proposed development would be contrary to the goals of the Well Being of Future Generations (Wales) Act 2015, and the aims of Planning Policy Wales 2015, the requirement for carbon neutral extraction as set out in Coal MTAN and strategic policy S3 of the Torfaen Local Development Plan (to 2021) – Adopted 2013 in respect of the need to tackle the causes of climate change.
- Ecological impact from the proposed development would have an adverse impact on the designated SINC and associated species contrary to policy S7 and BW1(B)(iv) and BG1 of the Torfaen Local Development Plan (to 2021) – Adopted 2013 and their adverse impact when weighed with other adverse impacts is not outweighed by the benefits of the scheme.
- The proposed development would be contrary to BW1(B)(i) of the Torfaen Local Development Plan (to 2021) – Adopted 2013 as it has not been satisfactorily demonstrated that noise impacts would be reduced to acceptable levels and would therefore unnecessarily and unacceptably result in harm to the amenity of neighbouring properties and sensitive locations by way of noise pollution.

Friends of the Earth Cymru are concerned that the application is flawed because it:

- Fails to accurately reflect government energy policy support for coal, given the requirements of the Climate Change Act, the recent Paris Agreement and coal-phase out announcement;
- Fails to recognise the climate change impacts of coal and assessed alternatives without considering the climate change impacts (and therefore the Environmental Statement is flawed);
- Provides no consideration of how the extraction of coal will be rendered carbon neutral, which is a condition of Planning Policy under MTAN 2: Coal
- Places a wholly unacceptable burden of noise on Ysgol Bryn Onnen at levels likely to create severe learning disruption for a period of up to four years, and has failed to measure baseline noise at that sensitive location
- Has not provided a Welsh language impact assessment when there will be a clear impact on one of only three Welsh medium primary schools in the county borough



- Fails to even consider the air pollutant PM2.5 even though it is an EU limit value pollutant, and considers air pollution to be harmless when its own HIA proves the contrary
- Will have a major detrimental impact on landscape and visual amenity
- Is likely to have a devastating, permanent effect on the protected ecological resources of the area, with restoration of habitats and species – if it occurs at all – taking up to 100 years
- Is based on an ecological assessment that is more than a decade out of date
- Provides no details of compensation or mitigation for loss of access land

Yn gywir,

A handwritten signature in blue ink, consisting of a large, stylized 'G' followed by the name 'Gareth Clubb' written in a cursive script.

Gareth Clubb: Cyfarwyddwr – Cyfeillion y Ddaear Cymru

Introduction

1. The applicant presents this application¹ as one that should be treated as remedying only the Welsh Minister's concerns following the refusal by the Minister of the 2014 application. However it does not tackle the serious concerns that Friends of the Earth Cymru and others have raised about the original application and which have never been rebutted by the applicant.
2. The application must properly be considered on its merits, and with regard to all material considerations, including whether the requisite information is in front of the decision-makers.
3. Given the deficiencies evident in the environmental statement, we consider that the statement should be updated with the missing information and should undergo consultation under regulation 22 of the Environmental Impact Assessment Regulations².

Climate change and energy policy

4. In order to justify the extraction of coal, the applicant quotes [5.1.4] government energy policy from Mineral Planning Policy Wales, which itself quotes from UK Government guidance dated 1998 and therefore predates the existence of the National Assembly for Wales and Welsh Government:
"While UK coal is available and the generators continue to choose it, UK coal contributes to energy diversity and supply".
5. The applicant also quotes [5.1.5] from an Energy Review dated 2006 which has been superseded by not just one, but by two Energy White Papers. It has also been superseded by various UK Government energy policy statements, including Annual Energy Statements (the most recent of which dates from 2014)³.
6. The justification for this application – that energy policy supports an expansion of coal use in general and opencast in particular – is wholly without foundation. The policies are out of date and have been supplanted in planning terms by both the Energy Act (2013) and Welsh Government energy and planning policy which clearly state a direction of decarbonisation – an aim in which coal cannot conceivably have the slightest future other than when used in combination with carbon capture and storage.
7. The Committee on Climate Change, responsible for advising the UK Government on the measures required to achieve the carbon budgets for the UK, have set out a target for the power sector in the region of 50-100g CO₂ per kWh in 2030. Coal fired power stations range from the newer models at 786g CO₂ per kWh, while older models are around 990g CO₂ per kWh. It is obvious therefore, in a low carbon economy, that given the carbon demands of other sectors, that the power generation sector has to be virtually carbon neutral to achieve the budget.

¹ <http://www.planapps.torfaen.gov.uk/Varteg/>

² <http://www.legislation.gov.uk/ukxi/1999/293/made> as amended

³

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/371387/43586_Cm_8945_accessible.pdf

8. The applicant then uses reference to policies that are clearly out of date and superseded by more recent policy to claim that coal could make a contribution to *“reducing carbon emissions as part of the Welsh Government’s approach to tackling climate change”* [5.1.6]. It is simply not the case on the basis of science that unabated fossil fuels, *in particular* coal, contribute to the mitigation of greenhouse gas emissions, and therefore to tackling climate change. Members and planning officials alike at Torfaen County Borough Council will be aware of the latest information from the Intergovernmental Panel on Climate Change, which notes that:
*“the coal industry, producing **the most carbon-intensive of products**, faces almost inevitable decline in the long term”⁴.*
9. This forecast of decline is echoed by the OECD and International Energy Agency (IEA) assessment of the prospects of coal in the medium term. The IEA notes that prices for European coal have collapsed from \$120 per tonne in March 2011 to \$70-80 per tonne through 2014:
“In 2014, coal oversupply persists and very low coal prices continued to dominate”⁵
“The forecast for coal [in Europe] is steady decline... the series of factors pushing coal prices down has been astonishing... given the dramatic fall in the cost of solar and wind generation and the stronger climate policies that are anticipated, the question is whether coal prices will ever recover... In the current persistent low coking and thermal price environment, most investment decisions on mining and infrastructure capacity will be delayed or postponed and – if prices do not recover – eventually cancelled, meaning that coal will stay underground”⁶.
10. The demand for coal projected in the application is collapsing as coal plants retire. Even the trade association for the energy industry, Energy UK, concedes:
“Phasing out coal-fired generation is part of the transition to a low carbon power sector”⁷.
11. Indeed, five coal-fired power stations have already announced this year that they will close by 2016⁸. The use of coal in the UK collapsed in 2015, with a 22% reduction on 2014, resulting in a total reduction in use of 41% since 2013⁹.
12. A series of papers entitled *“Policy briefs covering the main measures included in the Energy Act”¹⁰* is instructive. The policy brief on the Emissions Performance Standard¹¹ apprises:
“The EPS will support the planning policy requirement that any new coal-fired power station must have a proportion of its capacity equipped with Carbon Capture and Storage, sending a clear regulatory signal that any new coal-fired power station must be constructed and operated in a way consistent with our decarbonisation objectives”.

⁴ <http://www.ipcc.ch/ipccreports/tar/vol4/index.php?idp=196>

⁵ <http://www.iea.org/Textbase/npsum/MTCMR2014SUM.pdf> p11

⁶ <https://www.iea.org/Textbase/npsum/MTCMR2015SUM.pdf> pp15-16

⁷ <http://www.energy-uk.org.uk/press-releases/22-2015/5516-energy-uk-s-comment-on-coal-power-stations-closure.html>

⁸ <https://sandbag.org.uk/blog/2016/feb/9/uk-coal-closures-will-make-uk-cleaner-greener-plac/>

⁹ <http://www.carbonbrief.org/analysis-uk-emissions-fall-again-after-record-drop-in-coal-use-in-2015>

¹⁰ <https://www.gov.uk/government/publications/energy-bill-policy-briefs>

¹¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/266882/EPS_Policy_Brief_RA.pdf

13. The policy brief on Decarbonisation¹² notes:
“The Government announced in November 2012 a landmark agreement on energy policy that will deliver a durable, long-term signal to investors... to set a decarbonisation target range for 2030”.
14. The 2011 White Paper¹³ which preceded the Energy Act refers to coal as follows:
*“Although coal **may** have an important role to play within the UK’s diverse generation mix, it is **important it does so in a manner which complements the transition to a low-carbon economy”.***
15. Clearly, producing coal for combustion in an unabated manner does not “complement the transition to a low-carbon economy”.
16. Most recently, the UK Government announced a “new direction for UK energy policy”¹⁴. Members and officials will be familiar with its content:
“I am pleased to announce that we will be launching a consultation in the spring on when to close all unabated coal-fired power stations. Our consultation will set out proposals to close coal by 2025 - and restrict its use from 2023. If we take this step, we will be one of the first developed countries to deliver on a commitment to take coal off the system”. Plans to close all unabated coal-fired power stations by 2025 hardly complement the applicant’s assertion that “coal will be a strategic source of energy for the foreseeable future” [5.1.5].
17. Both UK Government energy policy and Welsh Government energy policy have very strong steers towards decarbonisation, and UK Government policy is now for the rapid phase-out of coal-fired power stations.
18. As such, unless and until such time as customers for Glamorgan Power’s coal can confirm that they are using abatement techniques for reducing the greenhouse gas emissions associated with combustion of this coal (such as carbon capture and storage), **the major adverse climate change consequences of extracting coal from this opencast must be a material factor in determining this application.**
19. MTAN 2 Coal states¹⁵ that:
“The release of climate change gases, such as methane, from the extraction of coal, should be considered by the MPA... Applicants should mitigate the carbon produced by the extraction process, making the extraction operation itself carbon neutral... in very broad terms, an opencast producing 100,000 tonnes of coal per year could make this carbon neutral by planting an additional half hectare of trees”.
20. This would suggest that the extraction of 256,000 tonnes of coal would necessitate, for example, the planting of an additional 1.25 hectares of trees in order to achieve carbon neutrality. No indication

¹²

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/266868/Decarbonisation_Policy_Brief_R_A.pdf

¹³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/48129/2176-emr-white-paper.pdf

¹⁴ <https://www.gov.uk/government/news/new-direction-for-uk-energy-policy>

¹⁵ <http://wales.gov.uk/docs/desh/policy/090120coalmtanen.pdf> para 225

has been made of the steps that the applicant will take to make the extraction operation carbon neutral. As such, the application does not comply with MTAN 2 Coal planning policy and should be **rejected**.

21. The applicant correctly notes that opencast coaling “*should not be approved*” [5.1.8] if there is “*lasting environmental damage*”. The calorific value of coal from nearby Ffos-y-Fran is around 30GJ per tonne¹⁶. Indirect greenhouse gas emissions associated with the combustion of this coal are 15.61kg CO₂e/GJ¹⁷. This works out to be 468.3kg per tonne¹⁸. Direct greenhouse gas emissions associated with the combustion of this coal are 2,308kg CO₂e/tonne¹⁹. Total greenhouse gas emissions associated with the combustion of this coal are therefore 2,776.3kg CO₂e/tonne.
22. Combustion of 256,000 tonnes of coal will result in the emission of 711,000 tonnes of CO₂e of greenhouse gases. To put this into perspective, the annual emissions associated with the public sector (principally heating²⁰) in Wales are in the region of 440,000 tonnes of CO₂e²¹.
23. The coal that Glamorgan Power hopes to extract from Varteg will therefore have an equivalent impact on the global atmosphere as more than 18 months’ worth of the heating needs of every public sector building in Wales.
24. There is no doubt that greenhouse gases cause lasting environmental damage. The IPCC provides a synopsis of the latest peer-reviewed analysis of observed impacts of climate change thus far²².
25. Climate change is a material consideration in determining planning applications. Indeed, Planning Policy Wales states the following:

“1.2.2 *The planning system must provide for an adequate and continuous supply of land, available and suitable for development to meet society’s needs. It must do this in a way that pays regard to:*

 - *overall sustainability principles (see 4.3), outcomes (see 4.4) and objectives (see 4.4 and 4.6), **paying particular attention to climate change as a key sustainability concern (see 4.5)***²³
26. Planning Policy Wales goes on to state principles that Welsh Government expects “*all those involved in the planning system to adhere to*”:

“• ***taking a long term perspective to safeguard the interests of future generations, whilst at the same time meeting needs of people today;***

 - ***respect for environmental limits, so that resources are not irrecoverably depleted or the environment irreversibly damaged. This means, for example, mitigating climate change,***

¹⁶ http://www.millerargent.co.uk/client_files/default/21942_miller_argent_dry_steam_leaflet.pdf

¹⁷ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/224437/pb13988-emission-factor-methodology-130719.pdf

¹⁸ 30 x 15.61

¹⁹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/338752/Annex_A.pdf p232

²⁰ http://uk-air.defra.gov.uk/assets/documents/reports/cat07/1406100827_DA_GHGI_1990-2012_Report_Issue1.pdf

defined, for example, on page 25

²¹ http://uk-air.defra.gov.uk/assets/documents/reports/cat07/1406100827_DA_GHGI_1990-2012_Report_Issue1.pdf

pxv

²² http://www.ipcc.ch/pdf/assessment-report/ar5/wg2/ar5_wgll_spm_en.pdf

²³ <http://gov.wales/docs/desh/publications/160104planning-policy-wales-edition-8-en.pdf>

protecting and enhancing biodiversity, minimising harmful emissions, and promoting sustainable use of natural resources;

• tackling climate change by reducing the greenhouse gas emissions that cause climate change and ensuring that places are resilient to the consequences of climate change”

27. Planning Policy Wales also makes clear:

“4.5.1 Tackling climate change is a fundamental part of delivering sustainable development.

Climate change is one of the most important challenges facing the world and the Welsh Government has made a commitment to tackling climate change, resolving that the

Government and people of Wales will play the fullest possible part in reducing its carbon footprint (see 1.4.4).

Our commitment to action on climate change is based on a scientific imperative to act and to act urgently to reduce greenhouse gas emissions and deal with the consequences of climate change... We are also committed to achieving at least a 40% reduction in all greenhouse gas emissions in Wales by 2020 against a 1990 baseline...”

28. Planning Policy Wales continues:

*“4.5.3 Climate change will have potentially profound environmental, economic and social justice implications and **failure to address it will make planning for sustainability impossible...***

“4.5.5 ... A complementary twin-track approach to tackling climate change is needed recognising...

The causes of climate change – by acting, and acting urgently, to cut emissions of greenhouse gas emissions that cause climate change in order to avoid the worst impacts of climate change... 4.5.7... and minimising the emissions of greenhouse gases to the atmosphere”

29. Considering renewable and low carbon energy, Planning Policy Wales states:

“12.8.1 The Welsh Government is committed to playing its part by delivering an energy programme which contributes to reducing carbon emissions as part of our approach to tackling climate change”

30. There can be no doubt that the proposed development runs directly contrary to planning policy, to “acting urgently” to cut emissions of greenhouse gas emissions, minimising the emissions of greenhouse gases and to the Welsh Government’s intentions to achieve at least a 40% reduction in greenhouse gases by 2020. We therefore recommend that the planning authority **reject this application on the basis of climate change impacts as a cause of lasting environmental damage and a major sustainability concern in line with Planning Policy Wales.**

Consideration of alternatives

31. Glamorgan Power are aware that climate change is a material consideration for planning purposes. Yet in their 44-page dossier considering alternatives, they have not once mentioned climate change²⁴.

32. ‘Do nothing’ is the only reasonable alternative that entirely eliminates the greenhouse gas emissions associated with this development. Schedule 4, Part 1 (2) of the EIA Regulations requires the ES to provide:

²⁴ <http://www.planapps.torfaen.gov.uk/Varteg/Documents/Amendments/Chapter%204%20Revision.pdf>

“an outline of the main alternatives studied by the applicant or appellant and an indication of the main reasons for the choice made, taking into account the environmental effects”.

33. In failing to consider climate change the applicant has failed to balance the alternatives fairly, because the climate consequences of combustion and extraction of the coal have been accorded zero weight in their adjudication as to whether or not the ‘do nothing’ option is a viable alternative.
34. Allocating zero weight to a material planning consideration of this nature is manifestly unfair and renders the application flawed. In particular the application should seek to demonstrate how it contributes to tackling climate change:
“one of the most important challenges facing the world and the Welsh Government has made a commitment to tackling climate change, resolving that the Government and people of Wales will play the fullest possible part in reducing its carbon footprint”²⁵.
35. A further consultation under Environmental Impact Regulations should be conducted once the applicant has supplied the requisite information on ‘emissions to air’ including greenhouse gas emissions.

Noise impact

36. Planning Policy Wales states [14.4.1] that:
“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 and schools, should be resisted. Within the buffer zone there should be no new mineral extraction or new sensitive development”. Schools are therefore defined as locations sensitive to adverse noise (and dust and vibration) impact.
37. No baseline noise monitoring was undertaken at the school, which is a noise-sensitive property. Such a baseline survey is required by MTAN 2²⁶ and **this information must be provided and consulted upon as part of EIA regulations requirements for the ES before a decision can be made.**
38. This is because the noise limit is set as the lesser of (a) 55dB or (b) 10dB above background level. If the background noise at the school is less than at the locations chosen by the developer’s noise consultants then it has significant implications for setting of noise limits.
39. The applicant asserts that World Health Organisation (WHO) guidelines form the basis for Welsh planning guidance on noise [8.4.4-8.4.5]. WHO noise guidelines for schools and pre-schools state that:

²⁵ PPW 4.5.1

²⁶ <http://gov.wales/docs/desh/policy/090120coalmtanen.pdf> para 171

“To be able to hear and understand spoken messages in classrooms, the background sound pressure level should not exceed 35 dB LAeq during teaching sessions. For hearing impaired children, an even lower sound pressure level may be needed”²⁷.

40. Hearing loss is apparent in 4.3% of children²⁸. With 239 on the roll at Ysgol Bryn Onnen²⁹, we might assume that in the region of 10 children suffer a hearing impairment. So 30dB should be the absolute maximum background sound for the school – and realistically something in the region 25dB should be more appropriate.

41. The noise maps in the application show the noise level at the façade of Ysgol Bryn Onnen. They are shown in the Table below:

| Phase of coal mine | Scenario a | Scenario b | Scenario c |
|--------------------|---------------------------------|--------------------------------|---------------------------------|
| 1 | 55dB for 5 weeks ³⁰ | 45dB for 7 weeks ³¹ | 45dB for 20 weeks ³² |
| 2 | 45dB for 25 weeks ³³ | | |
| 3 | 40dB for 53 weeks ³⁴ | | |
| 4 | 40dB for 32 weeks ³⁵ | 50dB for 6 weeks ³⁶ | |
| Minimum disruption | 89 weeks | 1 year 8 months | |
| Maximum disruption | 130 weeks | 2 years 5 months | |

42. However, revised noise maps also indicate that if the ground is what is termed ‘hard ground’, rather than ‘soft ground’, **the modelled noise will be up to 55dB for the entire duration of the project**³⁷.

43. This is inconsistent with MTAN paragraph 173 that states:

“At all other times, limits should not exceed 42dBL Aeq, 1hr (free field) at sensitive locations.”

44. In our view the Council should urgently commission its own noise experts to verify and clarify the impact on sensitive locations. There is no justification for the application of exception policies in this instance given the cumulative environmental harms with regard to climate change and ecological impacts.

45. Given the circumstances of teaching, it is impossible to assume that windows will remain closed constantly for the entirety of any period of time, and particularly during the period March-October, nor that the sound prevention qualities of the existing building will be adequate. Education also takes place outside – particularly during the formative Foundation phase. Such education will be extremely disrupted by the expected noise levels.

²⁷ <http://www.who.int/docstore/peh/noise/Comnoise-4.pdf> p61

²⁸ <http://www.patient.co.uk/doctor/deafness-in-children>

²⁹ http://www.ysgolbrynonnen.com/keyinfo_detail.asp?Section=3&Ref=630

³⁰ <http://www.planapps.torfaen.gov.uk/Varteg/Documents/Volume%202/ES%20Chapter%208%20-%20Noise%20Impact%20Assessment.pdf> fig 8.6

³¹ Fig 8.7

³² Fig 8.8

³³ Fig 8.9

³⁴ Fig 8.10

³⁵ Fig 8.11

³⁶ Fig 8.12

³⁷ Figs 8.13-8.19

46. Furthermore, several studies have linked noise exposure at school to children having more headaches, being more tired and having raised stress hormone levels. Several studies have also suggested that schoolchildren exposed to noise from road traffic experience learning and comprehension difficulties³⁸. The results of over 20 studies have shown that environmental noise can affect children's learning and cognitive development. Exposure to road, rail and aircraft noise over long periods can reduce memory, reading ability and test performance; a clear link has been shown between noise exposure and reduced reading comprehension and memory³⁹.
47. As a result we strongly contest the applicant's conclusion [15.3.3] that:
"With regard to noise although noise levels are expected to increase during the coal extraction phase this increase will not be sufficient to exert an influence on health apart from annoyance experienced by those in nearby sensitive receptors".
48. MTAN 2: Coal clarifies:
"Where coal extraction and related operations would occur close to noise sensitive development, particularly residential, and noise impacts cannot therefore be adequately controlled or mitigated to the levels set out below, the second test of MPPW should be considered. Unless the community and local benefits clearly outweigh, amongst other considerations, the loss of amenity resulting from noise, planning permission should be refused"⁴⁰.
49. Torfaen's Local Development Plan is clear that developments should be refused that lead to unacceptable adverse effects in terms of noise. This is supported by MTAN, paragraph 169 which states:
"Unless the community and local benefits clearly outweigh, amongst other considerations, the loss of amenity resulting from noise, planning permission should be refused".
50. The applicant describes "one of the main benefits of the scheme is the restoration of the land which will be of benefit to the community". This is a tautology: that the scheme should be approved despite its unacceptable impacts because it will achieve what it sets out to achieve. The community benefits provided by this development cannot outweigh the considerable harm that will be caused as a result of greenhouse gas emissions, noise pollution and ecological damage.
51. We consider the disruption to Ysgol Bryn Onnen to be totally unacceptable and request that the planning authority **reject** this application in line with its own policy on noise as follows:
The proposed development would be contrary to BW1(B)(i) of the Torfaen Local Development Plan (to 2021) – Adopted 2013 as it has not been satisfactorily demonstrated that noise impacts would be reduced to acceptable levels and would therefore unnecessarily and unacceptably result in harm to the amenity of neighbouring properties and sensitive locations by way of noise pollution.

38

http://ec.europa.eu/environment/integration/research/newsalert/pdf/health_of_vulnerable_people_exposed_to_noise_under_researched_47si4_en.pdf

39

http://ec.europa.eu/environment/integration/research/newsalert/pdf/reviewing_multiple_impacts_of_noise_pollution_47si6_en.pdf

⁴⁰ <http://gov.wales/docs/desh/policy/090120coalmtanen.pdf> para 169

Impact on the Welsh language

52. Sustainability objectives set out in national planning policy is a material consideration and “should be taken into account in the preparation of development plans and in taking decisions on individual planning applications in Wales”⁴¹. The objective entitled “A Wales of vibrant culture and thriving Welsh language” incorporates:
“In contributing to the Well-being of Future Generations Act goals, planning policies, decisions and proposals should:
Contribute positively to the well-being of the Welsh language and ensure any negative impacts on the use of the language are mitigated (4.13)” [4.4.3]
53. The Planning (Wales) Act 2015⁴² (at section 31) amends section 70 of the TCPA 1990 to add:
“any considerations relating to the use of the Welsh language, so far as material to the application”
54. This is codified in Planning Policy Wales, which makes explicit:
“Considerations relating to the use of the Welsh language may be taken into account by decision makers so far as they are material to applications for planning permission” [4.13.5].
55. By its detrimental impact on education at Ysgol Bryn Onnen, this application can only have a negative impact on the Welsh language. Its impact will be twofold:
- Directly impacting the educational outcomes and achievements of pupils in the school (particularly in relation to the noise impact (see above))
 - As a result of parents’ unwillingness to send their children to a school within close vicinity of a major industrial development causing air pollution, noise pollution and significant numbers of lorry movements:
 - Reducing the growth of the school or
 - Causing a reduction in numbers attending the school
56. Given that the development cannot – in its current form – contribute positively to the well-being of the Welsh language, and does not ensure any negative impacts on the use of the language are mitigated, it should be **rejected**.
57. The application should also be **rejected** pending submission of a Welsh language impact assessment (none has been submitted). This is because the the criterion outlined in TAN 20 for not requiring such impact assessments from developers⁴³ is if an LDP has already incorporated a Welsh language impact assessment:
“it is considered that the use of the Welsh Language is not sufficiently intensive in Torfaen to require a specific LDP Policy to address this issue”⁴⁴.

⁴¹ <http://gov.wales/docs/desh/publications/160104planning-policy-wales-edition-8-en.pdf> 4.4.1

⁴² http://www.legislation.gov.uk/anaw/2015/4/pdfs/anaw_20150004_en.pdf

⁴³ <http://gov.wales/docs/desh/publications/131213technical-advice-note-20-planning-and-the-welsh-language-en.pdf>
para 4.1.2

⁴⁴ <http://www.torfaen.gov.uk/en/Related-Documents/Forward-Planning/SD01-DepositTorfaenLDPWrittenStatement2006-2021.pdf> para 1.12

Air quality

58. The applicant has considered two ‘pollutants of concern’: correctly, they assess nitrogen dioxide on the basis of both annual mean concentration and one-hour mean concentration; and PM10 on the basis of annual mean concentration and 24-hour mean concentration. The applicant describes the limits for these pollutants as “EU limit values which are mandatory”. However, the other pollutant that should have been considered and for which an EU limit value exists which is mandatory is PM2.5. This pollutant was assigned a ‘limit value’ on 1 January 2015⁴⁵. It is wholly remiss of the applicant to ignore a limit value.
59. This omission is all the more striking given the Health Impact Assessment’s statement⁴⁶ that:
“Short-term and long-term exposures to ambient concentrations of particulate matter in the urban atmosphere are associated with a number of health outcomes, as described in the literature review. These include respiratory and cardiovascular illness and mortality. The associations are believed to be causal. It is not currently possible to discern a threshold concentration below which there are no health effects on the population. The impact of particulate matter depends on the size of the particles. For particles with diameter of 10 microns and below (PM10), inhalation and penetration into the thoracic region of the respiratory tract are likely to occur. Recent reviews by the World Health Organization and the Committee on the Medical Effects of Air Pollutants (COMEAP) have suggested exposure to a finer fraction of particles (PM2.5) give a stronger association with many of the observed ill-health effects”.
60. These concerns are further enhanced by new research that strongly implicates both PM10 and PM2.5 as causative factors for mortality, particularly among elderly people, people with cardiovascular problems, and during the summer. In summer there was a 7.2% increase in cardiovascular mortality for each 10 µg/m³ increase in particulate air pollution⁴⁷. Not least because of this grave deficiency in the application in relation to PM2.5, we find it impossible to agree with the applicant’s conclusion [15.3.2] that:
“air quality is unlikely to be affected sufficiently to harm human health. [The HIA] states that scientific literature demonstrates that dust from opencast mining does not have a direct affect on health but there may be annoyance associated with increased dust deposition rates at sensitive receptors”.
61. More seriously, this statement is in direct contradiction with the facts as presented by the applicants’ Health Impact Assessment. The HIA categorically states that air pollution – particularly particulate emissions – have a direct effect on health, including “*respiratory and cardiovascular illness and mortality*” (see above).

⁴⁵ <http://ec.europa.eu/environment/air/quality/standards.htm>

⁴⁶ <http://www.planapps.torfaen.gov.uk/Varteg/Documents/Supporting%20Documents/Varteg%20Hill%20HIA%20Final%20Draft.pdf> pp39-40

⁴⁷ http://ec.europa.eu/environment/integration/research/newsalert/pdf/French_study_reveals_deadly_effects_of_particulate_matter_pollution_397na4_en.pdf

62. The health impacts of coal mining are strongly outlined in the discussion paper published in 1999 on 'Health Issues in the Coal Districts'⁴⁸ by Huw Beynon et al. A report published in the BMJ entitled 'Living near opencast coal mining sites and children's respiratory health'⁴⁹ published in 1999 concluded

"children in opencast communities were exposed to a small but significant amount of additional PM10 to which opencast sites were a measurable contributor".

63. Friends of the Earth are concerned that this application will have a disproportionate impact on the most deprived communities in Torfaen – on those who are most vulnerable to the effects of the development. As the ES states at Chapter 15, paragraph 15.2.2:

"The main conclusion of the community profile is that the Borough of Torfaen is relatively deprived by comparison with others in Wales, with the ward of Abersychan in which the site is located being most relatively deprived."

64. As a result of

- The applicant's failure to have due regard to the serious consequences of air pollution on health
- The applicant's failure to conduct an air quality assessment to the minimum acceptable standards (i.e. incorporating consideration of PM2.5)
- The Health Impact Assessment dating from 2009 and now being seven years out of date (despite its token 4-page update in 2014)

we urge the planning authority to **reject** the application.

Landscape and visual impact

65. Planning Policy Wales states that one of the three priorities for rural areas is:

"an attractive, ecologically rich and accessible countryside in which the environment and biodiversity are conserved and enhanced".

66. The applicant acknowledges [11.10.1]that:

"there will be significant impacts on the landscape and on visual receptors whilst [the mine] is in operation".

67. Major adverse impacts are foreseen for six viewpoints [11.9.35], and moderate adverse impacts for eight further viewpoints [11.9.36], for the duration of the operational phase (roughly four years). Major adverse impacts will also blight three viewpoints for between one and five years after the end of operations [11.9.38-11.9.39].

68. Moderate adverse impacts are anticipated for upland grazing areas – defined in section 11.9.9 of the applicant's statement⁵⁰ as *"having a high overall sensitivity"*.

⁴⁸ <http://www.cardiff.ac.uk/socsi/resources/health%20issues%20in%20the%20coal%20districts%20-%207.pdf>

⁴⁹ Dr Tanja Pless-Mulloli, Department of Epidemiology and Public Health, The Medical School, Framlington Place, Newcastle upon Tyne NE2 4HH at <http://oem.bmj.com/content/57/3/145.full>

⁵⁰ <http://www.planapps.torfaen.gov.uk/Varteg/Documents/Volume%202/ES%20Chapter%2011%20-%20Landscape%20and%20Visual%20Impact.pdf>

69. Moderate adverse impacts are also expected for public rights of way and access land [11.9.20] – again, areas defined as having a high overall sensitivity, and:
“much of the access land will remain closed to allow establishment of vegetation”
70. So for a total of up to nine years, major adverse visual impacts will be visited upon landscapes of high sensitivity. There will also be moderate impacts– which should influence decision-making if they lead to an increase in the overall adverse effect – for up to a decade on tourists and locals alike travelling on local roads and enjoying the World Heritage Site and National Park. This is a material consideration for consideration by the planning authority.
71. In light of the very important major adverse landscape and visual impacts, and the cumulative moderate impact on people from a large number of vantage points including the World Heritage Site and National Park, it is difficult to see how our landscape and visual concerns have been addressed by the applicant.
72. Taking the landscape and visual impacts into full consideration, and Planning Policy Wales’ priority for an attractive, accessible countryside in which the environment is conserved and enhanced, the planning authority should **reject** this application.

Ecology

73. We have concerns that the repeated references to the Countryside Council for Wales [12.3.6-12.3.10] – despite that organisation’s demise on 31 March 2013 – suggests that the information in the report is nearly three years out of date. We should like a full reassessment of the sections that are relevant to the views of the Welsh Government’s statutory environmental advisor.
74. We are also very concerned that much of the information is a decade out of date. Much of the work to inform the ecology report dates from 2005, with some update of species records for 2010 and 2014. No detailed habitat assessment has taken place since 2005, nor any survey of lichens, or bryophytes, or birds, or badgers, otters, water voles, odonata (dragonflies) or white clawed crayfish. No date is given for the survey of the Silurian moth in the ecological assessment, and the survey itself is not available online, with the link leading to a site declaring “the request is not supported”.
75. We know that habitat colonisation takes a considerable length of time, and we can fairly surmise that colonisation by some species may have taken place in the intervening decade since the initial ecological report. However this ecological information is absent; a decision taken in the absence of up-to-date information could be unsafe.
76. The report confirms [12.3.33 and 12.3.35] that acidic grassland on the site (a Section 42 and LBAP Priority Habitat) is:
“species rich, containing many of the typical species, and offers habitat opportunities for a range of fauna... The natural character of the habitat and the absence of any untypical species indicates that the vegetation is of high quality.”
77. Within the marshy grassland [12.3.40], which is described as a priority Section 42 habitat:

“marshy vegetation is particularly species rich and contains a good number of characteristic species”

78. Further Section 42 habitats include a mosaic of dry heath/acid grassland; dry heath; and acid flush [12.4.1].
79. Following the 2014 survey, heath vegetation on the site is also included as a BAP Priority Habitat [12.3.54]. A place on this Priority Habitat list indicates that such habitat requires “*special protection*”⁵¹. Under section 40 of the Natural Environment and Rural Communities Act 2006, decision makers must “have regard to” the conservation of biodiversity in all their activities. During the determination of this planning application the conservation of the ecology, including the priority habitats, of this site must therefore be a material consideration.
80. The presence of the following species on the site reinforces the importance of this location for nature conservation:
- Eight species of lichen described as Nationally Scarce [12.3.56]
 - Dartford Warbler, a Schedule 1 species
 - Skylarks, lapwings, cuckoos, grey partridges, song thrushes, linnets, reed buntings and dunnocks – each breeding on site and each of which is a Section 42 species of Principal Biodiversity Importance in Wales [12.3.67]
 - Eleven species of moths protected under Section 42 [12.3.106] (also noted to be 13 species [12.4.1])
 - Scarce blue-tailed damselfly (a Red Data Book species that is nationally scarce) [12.3.109]
81. The applicant acknowledges that colonisation of this site has taken 50-100 years [12.5.4], and therefore the applicant considers that some sort of re-colonisation might be expected to take place over the next century. However, it is extremely unlikely – not least given the impact of climate change that the extracted coal will aid – that the assemblage of habitats, plants and animals present will ever return. This is also not in line with the aims and objectives of the Well-Being of Future Generations Act 2015.
82. The applicant concedes that there will be major negative impacts for habitats and biodiversity [12.5.23, 12.5.60, 12.5.97].
83. Very large portions of the ecological assessment are by now more than a decade out of date. The ecological assessment must be undertaken again in full.
84. On ecological grounds alone, given the statutory requirement for the planning authority to have regard to conservation of Section 42 habitats and species, the application should be **rejected**.

Social and economic impact

85. We can identify no mitigation nor compensation for the loss of access land, nor has it become obvious through our assessment of the application of the extent of access land that will be withdrawn from public access through the proposed development. The applicant should provide a clear

⁵¹ <http://www.biodiversitywales.org.uk/49/en-GB/Section-42-Lists>

statement of mitigation and provision of alternative access land for the benefit of residents and tourists. Please could this be urgently clarified as the public should be consulted on this matter before the application can come before decision-makers.

86. The economic justification of the application is particularly weak. The development proposal itself makes only passing reference to the employment of 24 people⁵².
87. An assessment of the socio-economic impacts is described as being included in the consideration of alternatives. The sum total of that assessment is replicated here:
*“the development would make a substantial contribution towards encouraging regeneration of the local and surrounding area; it would also bring some immediate economic benefit, and encourage wider economic benefits in the future; and provide a small but useful contribution to the supply of coal. All of these additional benefits will not be provided if the scheme does not go ahead”*⁵³.
*“With regard to the Socio-Economic impacts of a “do nothing” approach the substantial contribution towards regeneration of the local and surrounding area will not be forthcoming. The provision of additional jobs will not be forthcoming and there will continue to be a deterrent to the development of the nearby proposed housing site”*⁵⁴.
*“improvement to the character and appearance of the landscape, the removal of health and safety risks improvements to public access and the substantial contribution to encouraging the regeneration of the local and surrounding area”*⁵⁵.
88. This economic justification is risible. No attempt is made to quantify any of the alleged benefits. We have ‘substantial contributions’ towards regeneration, ‘some benefit’, ‘future benefits’, ‘improvement to the landscape’, ‘improvements to public access’ and so on. These qualitative assertions cannot be used as a basis on which to judge whether or not the need over-rides the harm caused by the application.
89. Until the socio-economic analysis is resubmitted this application should be stayed.

⁵² <http://www.planapps.torfaen.gov.uk/Varteg/Documents/Volume%202/ES%20Chapter%203%20-%20The%20Development%20Proposals.pdf> 3.1.7

⁵³ <http://www.planapps.torfaen.gov.uk/Varteg/Documents/Volume%202/ES%20Chapter%204%20-%20Considerations%20of%20Alternatives.pdf> 4.4.1

⁵⁴ <http://www.planapps.torfaen.gov.uk/Varteg/Documents/Volume%202/ES%20Chapter%204%20-%20Considerations%20of%20Alternatives.pdf> 4.4.5

⁵⁵ <http://www.planapps.torfaen.gov.uk/Varteg/Documents/Volume%202/ES%20Chapter%204%20-%20Considerations%20of%20Alternatives.pdf> 4.5.8