



## Adroddiad

Ymchwiliad a agorwyd ar 10/02/04  
Ymweliad â safle a wnaed ar 01 & 02/03/04

## Report

Inquiry opened on 10/02/04  
Site visit made on 01 & 02/03/04

**gan/by Clive Nield** BSc, CEng, MICE, MCIWEM

**Arolygydd penodwyd gan Cynulliad  
Cenedlaethol Cymru**

**an Inspector appointed by the National  
Assembly for Wales**

Dyddiad/Date **05 -05 -2004**

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TOWN AND COUNTRY PLANNING ACT 1990

SECTION 77

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

APPLICATION BY CELTIC ENERGY LTD

East Pit East Revised OCCS, Gwaun Cae Gurwen, nr Ammanford

Cyf ffeil/File ref: APP/Y6930/X/03/514364

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**File Ref: APP/Y6930/X/03/514364**

**Site address: East Pit East Revised OCCS, Gwaun Cae Gurwen, nr Ammanford**

- The application was called in for decision by the National Assembly for Wales by a direction made under section 77 of the 1990 Act on 3 April 2003.
- The application is made by Celtic Energy Ltd to Neath Port Talbot County Borough Council.
- The application (Ref. P/2002/917) is dated 31 July 2002.
- The development proposed is extension of an existing opencast coal site, with an on-site washery, followed by restoration and aftercare management (revision of prev. application ref. No. P2001/0943).
- The reason given for making the direction was that the proposed development raises planning issues of more than local importance, particularly as they may have significant effects beyond the immediate locality.
- On the information available at the time of making the direction the following were the matters on which the National Assembly for Wales particularly wished to be informed for the purpose of its consideration of the application:-
  1. The visual and environmental implications of the proposed development on the site and surrounding areas, i.e. the Brecon Beacons National Park and Carmarthenshire, and ecological and nature conservation interests.
  2. The relevant national policies as set out in Planning Policy Wales (March 2002) and Minerals Planning Policy Wales (December 2000).
  3. Policies in the West Glamorgan Structure Plan (Review No. 2) and the adopted Northern Lliw Valley Local Plan.
- The inquiry sat for 9 days on 10-13 February, 17-20 February and 3 March 2004.

**Summary of Recommendation: The application be approved subject to conditions.**

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**Preamble**

1. This report includes descriptions of the site and surrounding area, the proposed development, the planning history and policies, the gist of representations made, my appraisal and conclusions and my recommendation. Document references are shown in brackets, and in my appraisal and conclusions the numbers in square brackets indicate the relevant paragraphs of the report. Details of the people who appeared at the inquiry and comprehensive lists of the documents, plans and photographs referred to are attached at the end of the report, and possible conditions are attached as an annex.

**Procedural Matters**

2. The application for planning permission contained a location plan and a site area plan (Plans A1 & A2) with a brief supporting statement (Core Document EPER1 of Document 7). It was accompanied by an Environmental Statement (EPER2 in Document 8), which provided a detailed explanation of the background, site, surroundings and proposed development, as well as the anticipated environmental impact. It has been prepared in accordance with the Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999 and in compliance with the Coal Industry Act 1994.
3. The Council's Head of Planning Services presented a report to the development control committee on 17 February 2003 recommending that planning permission be refused (Core Document EPER3 of Document 7). However, the committee considered that the economic benefits outweighed the environmental impact and resolved to approve the application, subject to conditions and a Section 106 Agreement (Core Document EPER4 of Document 7). However, before these were resolved and permission was granted, the application was called-in by the National Assembly.

4. The position of Neath Port Talbot CBC at the public inquiry was one of quiet support for the application. The main opposition was provided by the neighbouring local authorities, Carmarthenshire County Council and the Brecon Beacons National Park Authority, and the 3 local community councils of Gwaun Cae Gurwen, Cwmllynfell and Quarter Bach. Several local residents or their representatives also spoke, most opposing but some supporting the proposal. A number of petitions were also submitted (Documents 5 & 6.1-6.8). Most of the public inquiry was held at the Council's Penllergaer offices some distance away from the site and, in order to give local residents who found it difficult to attend an opportunity to present their views, an evening session was held at Gwaun Cae Gurwen Community Centre on Tuesday 17 February 2004 (see attendance list at Document 1.6). An additional 12 people spoke at that session, some supporting and some opposing the proposal.
5. A Section 106 Agreement between Celtic Energy Ltd and Neath Port Talbot CBC has been submitted (Document 32.2). It covers provisions for reclamation and aftercare work to a small area of land, the donation of an area of recreational land, certain footpath work, and the payment of monies into an Escrow Account towards the cost of the reclamation work. Its provisions are explained in more detail later.
6. I held a pre-Inquiry meeting on 29 October 2003 and subsequently made a visit to the site on 24 November 2003, accompanied by representatives of Celtic Energy Ltd and the Brecon Beacons NPA. That visit comprised a thorough tour of the site itself, including the present void, overburden mounds, soil storage mounds, water treatment areas, stocking area, offices and workshops, as well as the area of land into which extension is proposed (see Fig. 3 in the Environmental Statement, Core Document EPER2, Document 8). The purpose of the visit was to enable me to become familiar with the layout, nature and scale of the opencast site in advance of the public inquiry.
7. During the course of the inquiry I conducted a more extensive site visit over a period of 2 days (1 & 2 March 2004), accompanied by representatives of Celtic Energy, Carmarthenshire CC, the Brecon Beacons NPA, the local community councils, the Opencast Coal Committee of Wales and a local resident. The itinerary of the visit covered a range of local features, views of the site from key points in all the surroundings villages and from hillsides to the north, north-east and south of the site, and visits to 3 other nearby opencast coal sites (or former sites) to inspect restoration works and (at one site) to observe a blasting operation. All locations requested by interested parties were included in the tour (Documents 39.1-39.4).

## Site and Surroundings

8. East Pits lies approximately 5 miles east of Ammanford and is surrounded by a number of smaller settlements: Gwaun Cae Gurwen and Tairgwaith to the south-west; Brynamman to the north-west; Rhosaman to the north; Cefn-bryn-brain and Cors-Helyg to the north-east; and Cwmllynfell and Pencoetgae-bach to the east. It is situated on the edge of the South Wales coalfield immediately to the south of the hills of the southern area of the Brecon Beacons. Mynydd Du (the Black Mountain) rises up to the north of the site and Mynydd Uchaf to the south. (see Fig. 4 of Environmental Statement, EPER2 – Document 8)
9. The immediate landscape is characterised by rounded hills and ridges separated by river valleys. It is dominated by open common grazing with enclosed pastures and limited woodland. The application site covers an area of 400 hectares, of which 25 hectares is undisturbed common land and 23 hectares is enclosed grazing land. The remaining area is operational land within the present East Pit Extension site, including the existing void (a large hole some 150 metres deep – see Photographs 1 & 2 in Environmental Statement) and

extensive areas of grassed overburden mound to the west and south of the void. These are intended for temporary storage of excavated waste material, which would be used to refill the void in due course (see Fig. 4 of Document 8 and Document 10.1).

10. Whilst the site lies entirely within the administrative area of Neath Port Talbot CBC, the boundaries of Carmarthenshire CC and the Brecon Beacons NPA run close to the northern side of the site, and some of the nearby settlements lie within these authority areas. Land to the west and south of the site (and most of the site itself) lies within the Gwaun Cae Gurwen Community Council area; land to the east is within the area of the Cwmllynfell Community Council; and the Quarter Bach Community Council covers the land to the north. These administrative boundaries are shown on the plan in Appendix 1 of Document 24.1.

### **Mining History (Documents 8, 22.1 & 24.1)**

11. The area is steeped in mining history stretching back over 250 years, though the first pits (as such) are recorded as having been sunk in 1836 (see plan of historic coal mining sites in Appendix 2 of Document 24.1). Large-scale mining commenced in 1886 with the sinking of Maerdy Colliery, followed by East Pit in 1910 and Steer Pit in 1924. Maerdy Colliery and Steer Pit were located between Gwaun Cae Gurwen and Tairgwaith (see figure 2 in Environmental Statement, EPER2 – Document 8). These 3 mines were closed in 1948, 1959 and 1962 respectively.
12. Opencast operations started in the area in 1948 with the Penstack, Gwaun Cae Gurwen and (later) Rhyd-wen sites. These were located near the north-western, north-eastern and southern corners of the current site respectively and were small in scale in comparison with later operations. All had been completed by 1955. The Pengosto site, located along the northern and western sides of the current site, was worked between 1967 and 1979 and produced over 2 million tonnes of coal. The East Pit workings were started in 1981 as a replacement for Pengosto and were continued until 2001, following planning permission in 1986 for East Pit Extension. Together, East Pit and East Pit Extension produced over 5 million tonnes of coal. The plans in PK Annex 1 of Document 22.1 and Appendix 11 of Document 24.1 also show that there have been many opencast sites in the wider area, particularly to the east, near Ystradowen and Cwm-twrch. The most recent, Brynhenllys, is currently undergoing restoration work, after the completion of coaling operations in late 2003.

### **Proposed Development (Documents 8 & 10.1)**

13. The proposal is to recover approximately 2.1 million tonnes of anthracite coal over a “coaling” period of some 7 years, preceded by 3-6 months of preliminary works and followed by restoration work over a further period of 2 years (i.e. a total of some 9½ years). Phase I would take up to 6 months and would comprise all preparatory work including fencing and soil stripping, the construction of new water treatment and drainage facilities and a new on-site washery, and the construction of a soil screening mound from new material and that on the existing soil mound in a position further to the east than the present soil mound (see figures 3 & 14 of the Environmental Statement, EPER2, Document 8).
14. Phase II would take place over the next year and would involve the stripping of soil from the new extension area and the beginning of coaling operations. The coal lies in a series of seams ranging in thickness from 0.4 metre to almost 1.5 metre (the, so called, Big Seam at the base of the void) and overlain by overburden material. This would be progressively backfilled onto the western terraces of the void or tipped as an easterly extension of the western overburden mound. (see figures 3 & 15 of Environmental Statement, Document 8)

15. The main phase, Phase III, would comprise the main excavation of the extended void over a period of some 6 years. Overburden material excavated from the eastern extension of the void would be used to progressively backfill the western part of the void, and by the end of the period it would be expected that work would begin to recover the material stored on the western overburden mound and to begin to use it for filling of the void. (see figure 16 of Environmental Statement, Document 8)
16. The final restoration phase would be carried out over a period of some 2 years after the coaling operations have ceased. It would involve the removal of all of the present material stored on the western and southern overburden mounds (see figure 3 of Document 8) and its use to progressively fill the void, followed by the use of soil-forming material and soil from the soil storage mound to provide a covering material. At present about 38 million cubic metres of material is stored on the overburden mounds. The proposed extension would involve the excavation of about 47 million cubic metres of overburden material, of which some 7 million cubic metres would be temporarily added to the western overburden mound. Only about 4% of material excavated would be expected to be useful coal; the remaining 96% would be overburden material. Nevertheless, on restoration it would be expected that the void would be completely filled by the excavated material as it would be backfilled at a density less than its original in situ state. Finally, the site would be contoured, seeded and finished to match the surrounding landscape. In addition, the washery and all site roads, buildings, hardstandings and fixtures would be removed (see figure 18 of Environmental Statement, Document 8 for site layout details).
17. During the 7 years coaling period (phases II & III) the average weekly output of coal would be 6000 tonnes. In parallel with the current application Celtic Energy also submitted an application for planning permission for a new railhead to be constructed on land just to the south of the site; that application is being held in abeyance until the current application is determined. The extent of rail transportation used for the removal of coal from the site would depend on the circumstances of Celtic Energy's customers and could be as much as 50%. However, it could be that all transportation would be by road. The Environmental Impact Assessment has considered both possibilities.
18. The current proposal is a revised application, following the withdrawal of the original East Pit East OCCS proposal submitted in August 2001. That application was withdrawn in May 2002. The current proposal is reduced in scale compared with the 2001 application. It would involve the extraction of less coal (2.1 million tonnes rather than 3 million tonnes), work over a shorter period (9½ years rather than 13 years), the extent of the excavation would be further from the north-east corner of the site, and the soil screening mound would be further away from the north-eastern and eastern boundaries of the site near Cefn-bryn-brain and Cwmllynfell. (EPER3 in Document 7)

## Planning Policy

19. The development plan (for the purposes of Section 54A) comprises the West Glamorgan Structure Plan (Review No. 2) 1991-2006, adopted in 1996 (Document 9.1), and the Northern Lliw Valley Local Plan, dated December 1993 (Document 9.2). The Deposit Draft West Glamorgan County Council Minerals Local Plan, dated February 1995 (Document 9.3), is also a material consideration, although it was not taken through to adoption, as is the Deposit Draft of the emerging Neath Port Talbot County Borough Unitary Development Plan, dated January 2003 (Document 9.4).

20. Extracts of the relevant policies are reproduced in core document EPER11 (Document 7), and I do not include detailed wording of individual policies in this report. The main relevant Structure Plan policies are as follows:

Policy M2 – lists criteria to be considered for mineral development applications.

Policy M3 – mineral development that results in unacceptable cumulative environmental impacts on local communities will not be permitted.

Policy M6 – proposals for minerals developments should include details of operations, access and restoration and measures to reduce environmental and visual impacts.

Policy M10 – financial security required to ensure restoration, except for British Coal.

Policy C8 – the retention and enhancement of the open, natural character of common land is a prime objective.

21. The main Local Plan policies are:

Policy MW2 – land not required for operational purposes at East Pit should be immediately restored, particularly where it would reduce the impact on the landscape or local settlements.

Policy E1 – encourages employment development to provide jobs in northern Lliw Valley.

Policy EQ6 – general presumption against development on common land.

22. No policies from the emerging UDP have been quoted. However, the draft Minerals Local Plan contains a number of relevant draft policies, the main ones being:

Policy MR1 – lists criteria to be considered for minerals applications.

Policy DC3 – lists matters to be considered in assessing the impact on the landscape, and presumes against permission if there is significant visual intrusion.

Policy DC10 – traffic generated to be safely accommodated on existing roads and not cause significant deterioration in the amenity and environment of settlements through which it would pass.

Policy DC13 – encourages transportation by methods other than road.

Policy DC19 – takes into account not only employment generated by the proposal but also any adverse effects on other employment generating investment in the area.

Policies DC22-24 – minerals development not permitted if nuisance and disturbance due to noise, dust or blasting would be unacceptable.

Policy DC25 – minerals development not permitted if cumulative environmental impact on local communities would be unacceptable.

Policy DC29 – financial security will be sought to ensure restoration is carried out.

23. Reference has also been made to the plans of the neighbouring authorities: the Dyfed Structure Plan, Dinefwr Local Plan and Deposit Draft of the emerging Carmarthenshire Unitary Development Plan in respect of Carmarthenshire CC; and the Brecon Beacons National Park Local Plan, adopted in May 1999 (Document 9.5), and the 2002 Consultation Draft of the emerging Brecon Beacons National Park Unitary Development Plan (Documents 9.6 & 9.7) in respect of the National Park. Relevant policies are also reproduced in core



document EPER11. On the whole, they add nothing to the policies mentioned above, though supporting text paragraph 2.2 of the Brecon Beacons National Park Local Plan is worthy of note. It says *“If the special qualities of the National Park are to be protected, careful control needs to be exercised over development that straddles the Park boundary or is conspicuous from within the Park.”*

24. Finally, relevant national policy is contained in Planning Policy Wales, Minerals Planning Policy Wales, “Sustainable Development: the UK Strategy”, and various Minerals Planning Guidance documents where they remain applicable in Wales. Specific paragraphs are reproduced in core document EPER11 (Document 7), and only selected items are detailed below.
25. “Sustainable Development: the UK Strategy” defines a sustainable framework for minerals extraction, and this includes conserving minerals as far as possible whilst ensuring an adequate supply to meet the needs of society, minimising the production of waste, encouraging sensitive working practices during minerals extraction, and preserving or enhancing the overall quality of the environment once extraction has ceased. It highlights the need to balance society’s demands for minerals against the conservation of resources and protection of the environment.
26. Planning Policy Wales advises that there is a duty to have regard to the purposes of the National Park where activities may affect it, whether the activities lie within or outside the designated area. However, it also says that statutory designation does not necessarily prohibit development, but its effects on the natural heritage interests protected by the designation should be carefully assessed.
27. Minerals Planning Policy Wales provides extensive relevant policy guidance, and is included in full at the back of Document 7, as well as selected highlights in core document EPER11 of Document 7. MPPW expands upon the sustainable framework outlined above. In particular, paragraph 5 says:

*“Mineral working is different from other forms of development in that:*

  - *Extraction can only take place where the mineral is found to occur;*
  - *It is transitional and cannot be regarded as a permanent land use even though operations may occur over a long period of time;*
  - *Wherever possible any mineral workings 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;*
  - *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 benefits to communities and/or wildlife.*
28. Paragraph 10 provides further explanation and advises that the essential role of mineral planning authorities in relation to mineral working is to ensure that a proper balance is struck between the fundamental requirement to provide society with a range of minerals, the need to ensure a prudent use of finite resources, and the protection of existing amenity and the environment. It says that the overriding objective is to provide a sustainable pattern of mineral extraction by adhering to 5 key principles, which are expanded upon in subsequent paragraphs.

29. The first key principle is to provide positively for the working of mineral resources to meet society's needs through, as far as practicable, the identification of areas for future working and the safeguarding of deposits from permanent development that would hinder extraction for future generations. The second key principle is to protect areas of importance to the natural and built heritage from inappropriate mineral development, and paragraph 22 advises that mineral development proposed adjacent or close to a National Park should be carefully assessed to determine whether or not the environmental and amenity impact is acceptable, including the setting of the National Park.
30. The third key principle is the need to reduce the impact of mineral extraction and related operations during the period of working by, for example, ensuring sensitive working practices and improved operating standards. Advice is included on environmental impact assessment and the use of planning conditions, and paragraph 40 describes the use of buffer zones to provide areas of protection around the workings.
31. The fourth key principle is to achieve a high standard of restoration and aftercare, and to provide for beneficial after-uses when mineral working has ceased. Paragraph 50 advocates progressive restoration, and paragraph 54 addresses measures to reduce uncertainty about the completion of restoration proposals, for example by the use of financial guarantees and Section 106 Agreements. Finally, the fifth key principle is to encourage the efficient use of minerals by minimising waste and maximising re-use and recycling.
32. Based upon these key principles, paragraph 62 of MPPW specifies requirements that all opencast development proposals should meet. These may be summarised as: environmentally acceptable and no lasting environmental damage; if not achievable, then local and community benefits to clearly outweigh the disbenefits; high standard of restoration to beneficial and suitable after-use; plus additional tests where appropriate in respect of designations such as National Parks or AONBs.
33. Advice on the control of noise at surface mineral workings is contained in Minerals Planning Guidance (MPG) 11, issued by the Department of the Environment and the Welsh Office in 1993. Although replacement advice has recently been issued in respect of aggregates (Minerals Technical Advice Note MTAN (Wales) 1: Aggregates, March 2004), it does not apply to coal, and MPG11 remains the relevant extant advice. The annexes of MPG3, Coal Mining and Colliery Spoil Disposal: July 1994, also remain in force in Wales, pending their replacement by a Technical Advice Note. Annex C contains guidance on other impacts including visual, blasting, dust, transportation and nature conservation.

### **Case for Celtic Energy Ltd**

The material points are:

#### *Circumstances of Call-in* (Documents 10.1 & 38.4)

34. Celtic Energy was surprised that the application was called-in, not least because a request for call-in of the earlier, more extensive application had been declined. The call-in was made some 6½ weeks after the Council resolved to approve the application, and it was initially understood that this had occurred as a result of requests by Carmarthenshire CC and the Brecon Beacons NPA. However, it was confirmed at the inquiry that neither of these authorities had made such a request or had intended to do so; they were content to rely on the decision of Neath Port Talbot CBC. In fact, the call-in was made as a result of a request by an

Assembly Member, Mr Rhodri Glyn Thomas (on behalf of Adam Price MP and himself), albeit with letters of support from Carmarthenshire CC and a local Councillor (see letters in Annex PK RS 1 of Document 22.2).

35. Mr Thomas' letter included the statement "*I am informed that the proposed development will further mining activities in the area for another decade, with an additional interlude of 20 years before full restoration.*" Unfortunately, he had been misinformed. The net extra time attributable to mining activities would be some 7-7½ years, and restoration would be delayed by a similar period. This was not disputed by the main parties at the inquiry.

*Policy* (Document 38.4)

36. It was accepted at the inquiry that policies included in the emerging draft Neath Port Talbot UDP and in the various Carmarthenshire CC and Brecon Beacons NPA plans add nothing to those contained in the development plan, which comprises the West Glamorgan Structure Plan (Review No.2) and the Northern Lliw Valley Local Plan. The relevant development plan policies generally address protection of amenity and the environment, and the interpretation and application of these policies is not in dispute.
37. The Brecon Beacons NPA has made particular mention of West Glamorgan Structure Plan Policy M4 and draft West Glamorgan Minerals Local Plan Policy MR2, which say that minerals development will be resisted in certain areas defined as of significant environmental sensitivity, including the periphery of the Brecon Beacons National Park. However, it was accepted at the inquiry that the East Pit site does not lie within the area so defined, and that these policies are not directly relevant.
38. In the national context, the main message in Minerals Planning Policy Wales and "Sustainable Development: the UK Strategy" is the need to balance environmental and other considerations. These matters are all analysed in the Environmental Statement (Core Document EPER2, Document 8).

*Need for the Coal* (Documents 10.1, 15 & 38.4)

39. The need for the coal is the "driver" for the application. National policies (particularly "Sustainable Development: a UK Strategy" and Minerals Planning Policy Wales) recognise the need to ensure an adequate supply of minerals to meet the needs of society, and this includes coal. Although there is a move towards greater reliance on renewable energy in the long term, coal still plays a vital role in electricity generation and other energy needs of society and is likely to do so for many years yet. The UK already imports about half of its coal supplies, and if it is to avoid greater reliance on imported coal, then it needs to make its own reserves available. The European Community has also recognised that there is an imbalance between Community and imported coal and has adopted a resolution which acknowledges the importance of coal as an indigenous source of energy providing greater security of supply.
40. Celtic Energy is one of the leading suppliers of opencast coal in the UK and is the largest producer of anthracite. It supplies a broad spectrum of customers with coal ranging in quality from high volatile steam coal to low volatile anthracite. Many of its products are blended to meet specific customer requirements, with 70% of its sales going to electricity and industrial markets, 20% to domestic markets and about 10% exported elsewhere in Europe. If it failed to supply these markets, they would be sourced from imports. The industry is demand led, and Celtic Energy seeks to satisfy some of that demand for as long as it can.

41. Alternative indigenous supplies are few in number. Betws colliery closed in mid 2003, and Brynhenllys Revised site ceased coal production in September 2003. Neither Tower Colliery nor Aberpergwm in Glynneath are able to increase production, and the proposed scheme is needed to supplement production from Selar and Nant Helen Extension sites, as sales are currently being lost to imports. Although coal from these 2 sites is classified as anthracite, its characteristics and qualities vary significantly within seams, and it is necessary to maintain sufficient reserves of each type of coal in order to meet market specifications. Since the Brynhenllys site closed the Company has had to adjust its product blends, to the detriment of some customers, and this cannot be maintained indefinitely. The Company has a major coal preparation and distribution facility at Onllwyn to enable coal from these various sites to be processed for markets, and this facility would be threatened if the full range of coals and the continuity of supply was interrupted. Production from the proposed East Pit East scheme would provide the replacement quality of anthracite needed and would enable the Company to continue to supply its markets.
42. Representatives of the Opencast Coal Committee of Wales and the Transport and General Workers Union have presented evidence to support the need for continuity of supply of appropriate grades of coal and have expressed concern about the future of the Onllwyn Washery and the wider coal industry in the area if the proposed East Pit East scheme does not go ahead. Mr Eric Davies (Chairman of CBI West Wales), an accountant with considerable experience in the coal mining industry, has also emphasised the need for coal and for a range of coals for blending.
43. Anthracite coal has "sustainability" benefits as it is low-volatile and efficient in energy production terms. The Big Seam, at the base of the proposed void, is critical to the viability of the proposed operations, and shallower workings would not be economical. The proposal would allow 2.1M tonnes of coal to be recovered at East Pit. If the site is not worked those reserves would be sterilised, as it would not be economic to recover them at some time in the future once the site has been restored. Instead, other less attractive sites would have to be worked in the future in order to meet the demand for coal. National policy recognises that coal can only be worked where it exists.

*Benefits to Employment and the Local Economy (Documents 10.1, 15 & 38.4)*

44. The proposal would provide a substantial number of highly paid, skilled jobs, as described in evidence presented by the Coal Committee of Wales and the Transport and General Workers Union representatives. The previous East Pit operations provided jobs for 138 people, about 90% of who lived within 16 km (10 miles) of the site. It is anticipated that the proposed extension would provide a similar number of well-paid jobs in the same general area (Core Document EPER2, Document 7).
45. The local community needs jobs not only for the sake of the individuals concerned but also for the benefit of the communities as a whole. The Community Councils have made reference to the Tairgwaith Village Appraisal Report, prepared by Amman Valley Enterprise in September 2003 (Appendix 15 of Document 24.1), which included survey data collected in the village. The report says that, when residents were asked to suggest means of enhancing the local environment, "more employment locally" was by far the most popular suggestion, and that two thirds of the people surveyed identified "employment" as contributing towards a thriving, healthy community.

46. The local communities in the area have grown up over the years to support the traditional coal mining industry, and their prosperity in the past stemmed from coal. In addition to the jobs provided directly on the site, the local economy would benefit from considerable knock-on effects. When the East Pit opencast site was working, some £7000 per day was spent in the local area (reported by the former East Pit storekeeper at the Inquiry evening session). Celtic Energy as a whole injects some £7M per annum into the economy of South Wales in wages and salaries alone.
47. Opponents of the proposal have alleged that opencast coal mining is harmful to the local economy and deters investment in other employment or housing developments in the area. However, there is no evidence to support this. Inward investment is influenced by many factors, such as market opportunities, transport links, and the availability of grants, factory space and resources. Such factors have generally caused companies to choose locations along the M4 and the A465 (Heads of the Valleys) road, rather than more remote valley locations. Inward investment has occurred in the vicinity of other opencast coal sites, such as Sony at Pencoed, Hitachi and Panasonic at Hirwaun, and O P Chocolates and Haller at Merthyr Tydfil. The Opencast Coal Committee has presented further evidence of development close to opencast coal sites.
48. Similar claims have been made in the context of tourism. However, the area has no clearly identified recreational or tourism potential apart from walking, and no evidence has been brought forward to suggest that opencast coal workings in this northern part of the coalfield have affected tourism or visitor numbers to the nearby National Park. Various claims have been made that tourism development is being deterred by the existing opencast operations but no evidence is put forward to support these claims.
49. There is an extensive network of public footpaths in the area, and those over the East Pit site have been affected by the opencast operations. However, temporary alternative routes have been provided around the edge of the site, which are no less convenient to the public, and opponents of the opencast scheme have taken no issue with these. Furthermore, the footpaths within the site have traditionally been used for workers to gain access to the various coal mines (now long gone), and their routes reflect this. They were not part of a wider network of footpaths, and there is no evidence to suggest that in more recent years they have been widely used for purposes other than to gain access to the area of common land. Figure 13 in the Environmental Statement (Core Document EPER2, Document 8) shows the routes of both the public footpaths that are already suspended and those that would be suspended if the current proposal were to go ahead.
50. It is difficult to reinstate former footpaths until the whole site has been restored, as legal advice indicates that it would not be lawful to return suspended footpaths piecemeal. Nevertheless, the Company is sympathetic to the wish to return footpaths wherever possible and would support the Council in trying to find a way round the apparent legal impasse. It has long recognised "permissive" footpaths within and around the site, a matter not appreciated by some of the objectors.

*Landscape and Visual Impact* (Documents 10.1, 11.1, 15 and 38.4)

51. Concerns expressed by Carmarthenshire CC and the Brecon Beacons NPA are essentially on 3 matters: visibility and visual intrusion on the National Park, particularly on views from the hills and from the A4069 road as it stretches northwards from Brynamman; intrusion on the amenity of nearby residents; and doubts about the restoration proposals, including the impact of them being delayed. Assessment has been carried out of both the impact on the landscape

itself and the visual impact (Section 5.1 of the Environmental Statement, Core Document EPER2 at Document 8). The assessment has been thoroughly and meticulously carried out and, although the methodology was challenged at the inquiry, no such challenges were made in the evidence of the various parties concerned. The methodology used is based on that recommended in the Landscape Assessment Guidance, published by the Countryside Commission in 1993, and the Guidelines for Landscape and Visual Impact Assessment published by the Landscape Institute and the Institute of Environmental Management & Assessment in 2002 (see Appendix B of the Environmental Statement).

52. The direct impact on the landscape of the application site itself would arise from the physical works necessary to extract the coal. Whilst this would inevitably be severe, unlike a permanent development, it would be restored in due course to a mix of enclosed agricultural land and open common grassland, similar to what is there today and what existed prior to previous mining works on the site. Any landscape impact outside the site would be an indirect impact that would not affect the fabric of the landscape itself.
53. The main features of importance to the landscape of the site are illustrated on Figure 3 of the Environmental Statement. In the proposed extension area they comprise the gently rolling landform with its vegetation pattern and hedgerows, the woodland associated with the stream valleys, the public rights of way and several houses along the western end of Ochr-y-Waun, which are owned by Celtic Energy and would be demolished. In the area of the previous workings the main features are the large void, the 2 very substantial grassed overburden mounds and the soil storage mound around the north-eastern and eastern sides of the void. Around the peripheries of the site there are the offices and workshops, the water treatment areas and the former coal stocking area.
54. These features would be affected by the following operations:
  - site preparation work, including removing most of the existing soil storage mound and the establishment of a new mound along the eastern boundary of the site during the first 6 months;
  - extending the western overburden mound eastwards over the subsequent 12 months period, and extending the excavation void eastwards and south-eastwards over the 7 years period of coal extraction;
  - location of the coal washery plant to the south-west of the excavation void;
  - subsequent removal of the western and southern overburden mounds for backfilling the excavated void, and removal of the soil storage mound to complete the restoration of the whole site, towards the end of the coaling period and over a restoration period of 2 years;
  - removal of the washery plant and all other buildings and structures, and establishment of final restoration features and vegetation.
55. The site is not subject to any special landscape designations or specific planning policies. During the operational phase the impact on the landscape features and character of the extension site is assessed as substantial but this would be remedied in the restoration and aftercare phases. Initial reconstruction of the soil storage mound would have a short-term impact on the setting of the remaining residences along Ochr-y-Waun, the nearest occupied house (Number 38) being some 100 metres from the foot of the mound at its nearest point. Extension of the western overburden mound would involve considerable initial activity but would have little effect thereafter. Both the soil storage mound and the overburden mound

extension would be graded and seeded to minimise their visual impact during the course of the main coaling operations. The eventual removal of the existing overburden mounds to backfill the excavated void would have to take place in any case, even if the proposed opencast extension were not permitted. The impact of the proposals under consideration would merely be to delay that work for some 7½ years. All of the other restoration works would be delayed for a similar period.

56. Taken as a whole the proposed works and operations would have a moderate short-term impact on the setting of the surrounding settlements, particularly Cwmllynfell and Pencoetgae-bach. However, the effects would be mitigated in the long-term through the restoration proposals, which would re-establish the existing features and landscape character of the area.
57. Turning now to consider the visual impact, the assessment has covered both short-range and long-range views. The visual context of the site is illustrated in Figure 4 of the Environmental Statement (Core Document EPER2, Document 8). The Environmental Statement also contains a series of photographs and photomontages taken from key locations to illustrate the effect of the existing site and the proposed extension on available views. The photographs were taken from key viewpoints (see plan MOC 2.1 in Document 11.3) within the zone of visual influence, i.e. the area from which the site can be seen.
58. Four particular views were described in some detail in the Environmental Statement, and the same existing and likely future views (by means of computer-generated photomontages) were usefully compared in Documents MOC 2.2 – MOC 2.5 (in Document 11.3): from Heol Brynbrain in Cefn-bryn-brain on the edge of the National Park; from Pencoetgae-bach, close to the eastern boundary of the site; from Cors-Helyg, on the A4068 near the north-eastern corner of the site; and from Tro'r Derlwyn, on the A4069 north of Brynamman in the National Park. These photographs and photomontages illustrate the limited impact that the proposal would have on such views.
59. At the first 3 viewpoints there would be visual impacts ranging from moderate to substantial during the short period when the soil mound was being constructed. However, thereafter the mound would provide substantial visual screening of the site operations until it was removed at the end of the work. Final restoration works would be seen but their impact would be reduced as the restored landform and vegetation became established. The extended void would be visible from the higher viewpoint at Tro'r Derlwyn but, because of the distance and angle of view, would not be a dominant feature. The impact is assessed as moderate. The retention of the overburden mounds for a further 7½ years would not affect views from the east but they would continue to be visible from Tro'r Derlwyn and other higher viewpoints to the north of the site.
60. In response to the comments of the National Park Authority further views from the hillsides to the north and from Brynamman and other nearby settlements have been assessed, and the views are illustrated by photographs MOC 2.6 – MOC 2.11 in Document 11.3. Assessment of these views also show that the main source of potential visual impact would be the movement of vehicles and the dark colour of soils evident during the initial period of activity in forming the soil storage mound and extending the western overburden mound. Once formed and grassed these features would be absorbed into their context and have little impact. Extension of the void excavation would be seen from high land (mainly to the north) but would otherwise appear little different from now, as progress eastwards would proceed slowly with backfilling following it from west to east.

61. Taken as a whole, it is clear that, rather than causing “great detriment” to the National Park as asserted, the main visual impact of the proposal would be the additional time over which the site would be worked rather than any significant change in scale or effect over what has gone before. That extra time would be 7½ years rather than the 9½ years asserted in the National Park Authority’s evidence. The National Park Authority has also drawn attention to advice in its own Local Plan (paragraph 2.22 in Document 9.5) that *“careful control needs to be exercised over development that straddles the Park boundary or is conspicuous from within the Park”*. It is accepted that the Brecon Beacons NPA Local Plan is a material consideration; however, the proposed development neither straddles the boundary nor is conspicuous from the Park. Being visible is not the same as being conspicuous. The same paragraph of text also includes advice that *“in responding to consultations, the NPA will try to ensure that the integrity of the Park is not compromised and the visual amenity of residents and visitors within it are not spoilt”*, and at the inquiry the National Park acknowledged that these are more appropriate tests. Again, these tests go beyond mere visibility.
62. When the National Park was designated it served as a counterpoint to the active coalfield immediately to the south and contrasted with the sights and activity of the group of collieries and pit heaps in this area. One witness at the inquiry described the land between Cefn-bryn-brain and Tairgwaith as “derelict” when he was a youth. Since that time a number of opencast coal sites have been worked along the southern edge of the National Park, and the National Park Authority has raised no objections to these in the past. A sense of perspective is necessary in assessing the impact on the National Park, and the tests to be applied should not devalue the currency of tests applicable to development proposals within the Park itself.
63. It is also relevant that the main “receptors” of visual impact from high land within the National Park would be walkers and other visitors on Mynydd Du, an area that the National Park Authority values for its sense of remoteness and identifies as a “vulnerable area” with increased visitor pressure (Document 21.1). The National Park Authority wants to discourage increased use of this area, which seems to conflict with its stance in the current case.
64. Turning to more local views, it was established at the inquiry that Carmarthenshire CC accepts that the visual impacts of the proposed scheme on communities in its area would be no worse than those attributable to the previous workings. Minerals Planning Policy Wales advises that, for a site close to a National Park where the setting might be affected, careful assessment is called for in order to decide whether the impact would be acceptable or not. That policy clearly acknowledges that some impact might be acceptable. Celtic Energy’s assessment has been careful, thorough and soundly based. Some of the assertions made by other parties have been exaggerated. The proposed development would not cause unacceptable visual impact or harm to the landscape.

*Restoration* (Documents 8, 10.1, 15 and 38.4)

65. The Company’s intentions for restoration and aftercare of the entire site are explained in some detail in the Environmental Statement (Core Document EPER2, Document 8) and are illustrated on Figure 30 of that document. The design objectives include the provision of a replacement landscape structure and field pattern which closely reflects the character of the surrounding area in order to assimilate the site into the wider landscape, the reinstatement of former footpaths and mitigation of the loss of natural habitats. Most of the site would be restored to open common pasture land but part also to areas of woodland, tree belts and hedges to reflect the pattern of enclosed fields. There would also be wet meadows, ponds and streams formed to natural shapes and draining towards the Amman and Twrch rivers.



66. Sufficient soil and soil-forming material would be available to provide an average soil layer of over 300 mm over the area of the site. Suitable grass seed mixes for upland common and enclosed agricultural land and species mixes for woodland and hedgerows would be agreed with the Council, and all work would be carried out in accordance with good practice methods approved by the Council. The restoration work would be followed by a programme of maintenance and aftercare for a minimum period of at least 5 years to ensure that the approved standards were achieved.
67. Celtic Energy has successfully restored other opencast and deep mine sites in South Wales and has received a number of awards and commendations for its restoration and environmental work (see Appendix MKG 2 of Document 10.1). Some of the other parties have criticised certain restoration features at other sites, particularly at Gilfach Iago and Ffos Las. However, these are matters of detail, which have perfectly reasonable explanations, and should not affect confidence in the Company's ability and intentions to provide a high standard of site restoration.
68. Several other matters have been raised. Firstly, several parties have argued that restoration works should be phased and as much work brought forward as possible. It has also been suggested that the restoration works associated with the previous site workings should have been already carried out under the terms of the planning permission. However, as almost all of the site area would be operational land if permission for the proposed extension were granted, such early restoration would be impractical. This is recognised by Neath Port Talbot CBC and, if the current application is unsuccessful, the restoration requirements would be addressed.
69. Concerns have also been expressed about the lack of financial guarantees for restoration. However, when British Coal was privatised in 1995, the operations of British Coal were transferred under prescribed restructuring provisions, and Celtic Energy has the same rights and responsibilities in law as British Coal in this regard. Hence local provisions for financial guarantees do not apply to the Company. Nevertheless, Celtic Energy is prepared to set up an Escrow Account (as detailed in the Section 106 Agreement – Document 32.2) with a cumulative sum of over £4M, along similar lines to that established for the Margam site. This money would be released gradually as the restoration work was carried out.

*Transportation and Traffic* (Documents 8, 10.1 and 38.4)

70. Heavy lorries, noise, blasting and dust were the main effects on living conditions raised by local residents, and each of these are now dealt with in turn.
71. As stated earlier, an application for planning permission for a new railhead to be constructed on land just to the south of the site has been submitted by Celtic Energy. That application was not called in and is being held in abeyance until the current application is determined. No firm commitment could be given to any quantity or proportion of coal being transported by rail, as that would depend on customer requirements. However, the Company has a commendable record in investment in rail infrastructure, and up to 50% of the coal would be expected to be hauled by rail. The proposed on-site washery and coal storage facilities would be used in conjunction with this rail transport. Some parties have expressed doubts about the practicality of reopening the former rail facilities. However, the feasibility of reopening the rail line and viaduct has been confirmed by Network Rail's Regional Engineering Manager.
72. Coal for the railhead would be transported a short distance by road (about 145 metres) to the railhead almost opposite the entrance to the East Pit site. The rest of the coal would be transported by road to the Company's main washery and distribution centre at Onllwyn. The

route used would be along New Road, and left along the A4069 and A474 "A" class roads, via Pontardawe and Ystradgynlais to Onllwyn. Some parties have commented on slope instability problems at the edge of the road at Gelligron Hill. However, the Highway Authority has advised that work on stabilisation of the rock face supporting the A474 at that point is expected to be completed by Easter 2004.

73. A thorough transport assessment has been carried by Ove Arup, consulting engineers (see Appendix G of Environmental Statement, Core Document EPER2, Document 8). This assessment considered not only the situation where 50% of the coal was transported by rail but also the worst case scenario of all of the coal being transported to Onllwyn by road. If all of the coal were transported by road approximately 60 lorries per day would enter and leave the site, some 13 more than the situation that existed before the previous East Pit operations were closed in late 2001. Clearly, if rail transport were also used, the number would be much less. It is estimated that about 10% of daily coal lorry traffic would travel during the morning and evening peak hours, i.e. between 3 – 6 lorries per hour each way during these periods.
74. Since the previous site operations closed, lorry movements to and from the site have been negligible, and resumption of the lorry traffic would be perceived as a significant increase. However, in comparison with previous operations, even the worst case scenario would not involve a significant increase and, if rail transport were employed, lorry numbers would be much reduced. The transport assessment has shown that such numbers would not have any significant effect on the road network in terms of convenience, safety, noise, pollution or any other environmental effects. The Council's officers acknowledged this in their report to committee (Core Document EPER3, Document 7), subject to certain controls that can be effected by planning conditions.
75. One particular matter of concern is the restriction of lorry movements along New Road at times when children are arriving at and leaving school. This could be controlled by the Company and could be the subject of a suitable planning condition. Similar arrangements existed for the previous operations and were generally successful. However, future operations would be carried out directly by Celtic Energy, rather than by contractor, and conditions of this sort could be even more stringently enforced.

*Noise* (Documents 8, 13.1, 13.2, 15 and 38.4)

76. A comprehensive assessment of noise has been carried out by a specialist consultant, Mr Lisk. Details are contained in the Environmental Statement (Core Document EPER2, Document 8), which also contains figures 21 and 22A – 22D. Figure 21 shows the noise monitoring locations at key points around the boundaries of the site, which were selected in consultation with the Council's Environmental Health Department, and figures 22A – 22D show the assumptions made for the sources of noise applicable at each of the 4 stages of the proposed work: Phase 1, the advance preparation works; Phase 2, the initial work on the proposed extension area; Phase 3, the main coaling operations in the excavated void; and Phase 4, the final restoration work, including the removal of the overburden and soil storage mounds.
77. The assessment provides an exaggerated, worst case scenario, which assumes that each receptor is downwind and that all of the plant and equipment is working simultaneously within the most sensitive areas all of the time. Sound power levels have been based on data in BS5228, "Noise and Vibration Control on Construction and Open Sites", except where higher measurements are known or BS5228 has no data (e.g. in respect of the washery). A standard, well known computer software calculation suite called "Sitenoise" has been used to enable

numerous scenarios to be modelled, and Mr Lisk has double-checked a sample of the results by manual calculation.

78. The results are presented in a series of tables, which represent worst case predictions of noise levels that receptors might be expected to experience for some of the time. The most useful data is in Table KL2 (Document 13.2), which replaces Table KL1 in Mr Lisk's evidence. It provides an assessment of predicted noise levels at each of the monitoring sites, during each of the 4 phases of work, both in absolute terms and as a comparison with background noise levels. These may be compared with the advice contained in MPG11, "The Control of Noise at Surface Mineral Workings", which itself takes into account advice contained in the World Health Organisation's publication "Environmental Health Criteria 12: Noise" and BS4142, "Method of Rating Industrial Noise Affecting Mixed Residential and Industrial Areas".
79. An explanation of terminology is appropriate at this point. BS4142 advises that complaints would be likely if the new development would lead to noise levels of 10 decibels  $L_{Aeq, T}$  above the background noise level ( $L_{A90, T}$ ), while a difference of 5 dB would be of marginal significance.  $L_{A90, T}$  is the noise level exceeded for 90% of the time, "A weighted" to reflect the frequency sensitivities of the human ear, measured over a specified period of time T (typically 1 hour), which is an accepted measure of the background noise level.  $L_{Aeq, T}$  is the equivalent continuous sound level having the same energy as a fluctuating sound, again "A weighted" and over a specified period of time T. However, it can be difficult to measure background noise levels, and MPG11 recommends a set of absolute noise levels for site attributable noise: 55 dB  $L_{Aeq, 1h}$  (free field, i.e. measured 3.5 metres away from any facade) during the working day, defined as 0700 hours to 1900 hours; and 42 dB  $L_{Aeq, 1h}$  (free field) at night, defined as 1900 hours to 0700 hours. It does, however, also allow for higher levels of noise to occur for relatively short periods of time to enable baffle mound construction to take place, where such work would cause temporary inconvenience but would lead to longer-term benefits. A noise level of 70 dB  $L_{Aeq, 1h}$  (free field) for periods up to 8 weeks is considered acceptable, though MPG11 acknowledges that some worthwhile operations may take longer.
80. The noise assessment carried out shows that during the "normal operations" phases (Phases 2 & 3) and the restoration phase the worst case noise levels would be within, and generally well within, the normal WHO and MPG11 criteria. Furthermore, during the "normal operations" phases the worst case predicted noise levels would also be well within the bracket of comparison adopted by BS4142, i.e. no more than 10 dB above background noise levels.
81. Phase 1 (advance preparation works) and the restoration phase would involve work that would not be wholly screened or, for a short time, not screened at all. Nevertheless, the highest predicted noise level would be 57 dB  $L_{Aeq, 1h}$  (free field), only marginally above the normal 55 dB  $L_{Aeq, 1h}$  limit and well within the 70 dB  $L_{Aeq, 1h}$  limit considered acceptable by MPG11 in such circumstances. For comparison purposes, MPG11 advises that 55 dB  $L_{Aeq, 1h}$  is roughly equivalent to the noise made by a person talking normally and is generally agreed to be a tolerable noise level.
82. The Council's officers are experienced in previous opencast coal workings and acknowledged in their report to committee (core document EPER3, in Document 7) that noise impacts would be acceptable and would not in themselves justify refusal. Controls could be applied by means of suitable planning conditions covering such matters as hours of work and continued noise monitoring at sensitive properties. Overall, the levels of noise generated by the proposed development would not unacceptably harm the amenity of nearby residents.

83. Opponents of the proposal have made much of the records of past complaints about noise at the East Pit site. However, the past record is generally good, typically 2-3 complaints per year between 1993 and 2000. It is well known that tolerance levels for noise vary from person to person and depend on a number of factors, which influence their reaction to it. It is accepted that Celtic Energy's register of complaints is not comprehensive. However, the additional complaints identified by other parties follow the same pattern as those analysed by the Company. They generally related to one-off management errors, such as unshielded pumps or lighting generators, rather than general plant noise and were rectified immediately. Investigation of other complaints has generally been shown them to be unfounded.
84. Finally, some parties have referred to the lack of a formally designated buffer zone around the site. Whilst national guidance advocates the identification of buffer zones in local plans, none are specified in the current development plan. Where zones have been designated elsewhere, Minerals Planning Authorities usually specify 200 metres width. The current proposal would maintain a distance of 200 metres between the top edge of the excavation and the nearest residential property.

*Blasting* (Documents 8, 15 and 38.4)

85. Blasting is an issue that always causes concern, largely due to understandable apprehension of the unknown. Everyone has seen television pictures of blasting at stone quarries where a large face of stone is brought down and a large "bang" is accompanied by dust and debris. In marked contrast, blasting at an opencast coal site is designed to contain as much of the energy as possible within the strata in order to fracture and loosen it in situ, rather than to separate it. Energy lost through noise or air overpressure is wasted energy, and the skill of the charge designer is to contain the vibrations within the site.
86. There are 2 aspects of blasting that may cause concern, namely ground vibration and air overpressure. Peak particle velocity (ppv) of a vibration is accepted as the best criterion for measuring ground vibration and assessing the possibility of ground and structural disturbance. The generally agreed safety standard below which brick and stone structures in reasonable condition would not be damaged by ground vibrations is a ppv in the range 19 – 50 mm/sec according to the frequency. Blasting at all opencast sites is controlled so that ppv's at residential or other sensitive properties would not exceed 12 mm/sec or such lower figure as might be set by the mineral planning authority, i.e. well inside the safety margin. The generally recognised threshold of nuisance is 4 mm/sec.
87. Recordings taken at East Pit in the past 10 years have generally been less than 1 mm/sec and have seldom exceeded 2 mm/sec; there is no evidence to indicate that the 4 mm/sec threshold of nuisance was breached at any time. The nature of the material at East Pit is well known, and it is not anticipated that blasting levels for the proposed extension works would be any different from the past. The planning condition proposed by Neath Port Talbot CBC would set a maximum ppv of 6 mm/sec and required 90% to have been below 4 mm/sec (core document EPER5 in Document 7); the Company would comfortably meet such a condition.
88. Air overpressure, the airborne waves generated by blasting, depends on many factors including atmospheric conditions. Modern blasting practice, such as down-the-hole initiation and containment, has reduced the incidence of air overpressure energy losses. However, it remains the reason for most complaints and is often mistaken for ground vibration. Between 1993 and 2000 Celtic Energy received 20 complaints about blasting at East Pit. Most were from a small number of people, and corresponding recordings showed that ppv levels were generally less than 1 mm/sec.

89. For safety reasons Celtic Energy sounds a warning prior to every blasting operation and, in consideration of its neighbours, all blasting is carried out within limited, specified hours during the morning and afternoon. Again, these could be the subject of suitable planning conditions. Overall, there is negligible risk that blasting operations would cause any damage to surrounding buildings or that nuisance or unacceptable loss of amenity would be caused to nearby residents.

*Dust and Air Quality* (Documents 8, 10.1, 14, 15 and 38.4)

90. The Environmental Statement (Core Document EPER2 in Document 8) includes a thorough appraisal of possible dust effects and mitigation measures. That study has been reviewed and enhanced by the evidence of Mr King, a specialist consultant (Document 14). Other parties have presented evidence on complaints about dust, and this has also been reviewed. Little can be learned from this data other than that most complaints about dust are in regard to observations of it being raised at the site of operations rather than to it being deposited outside the site. Some of these observations were made many years ago before it became common practice to use vapour masts at key locations or when poor tipping and loading techniques were being employed. Some of the complaints alleged plant exhaust fumes were to blame for the apparent dust clouds. However, plant used on opencast sites is subject to stringent emission standards and is so sophisticated that it would cease to run if poor engine performance were to occur. There is no question of exhaust fumes having any meaningful effect on air quality.
91. It is dust that escapes from the site that has the potential to cause nuisance or air pollution. Whilst taking every practical precaution to minimise the creation of dust within the site, the deposition of dust would also be monitored. In the past monitoring has taken place at various locations both within the site and in the surrounding communities (see Figure 28 of the Environmental Statement – core document EPER2, Document 8). These have shown that generally very little dust has been deposited during the more recent opencast coal operations at East Pit.
92. Over the past 10 years dust monitoring has been carried out using 2 techniques: Sticky Pads and BS Deposit Gauges. These are the methods nominated within national guidance for the assessment of dust nuisance. No statutory limits have been set for acceptable levels of dust nuisance but some guidance is provided within the Arup Report and the Draft revision of MPG11 (for England). The Arup Report on Environmental Effects of Dust from Surface Mineral Workings was produced in 1995. The Consultation Draft of MPG11, Controlling and Mitigating the Environmental Effects of Minerals Extraction in England, was published by the DETR in May 2000. In the absence of specific guidance for Wales, it provides a useful indication of acceptable standards and is a material consideration.
93. The Arup Report advises that a sticky pad measurement of 0.5% EAC/day (“effective area covered” per day) is likely to prompt a possible complaint from the public, 2% EAC/day is likely to prompt a probable complaint, and serious complaints are likely above 5% EAC/day. Draft MPG11 (England) suggests that a rate of 0.5% EAC/day may be considered to be the maximum generally acceptable. Over the period 1992 – 1999 only 268 readings out of over 10,000 collected exceeded the 2% EAC/day “probable complaint” criteria, i.e. less than 3% of results, and 205 of those 268 were recordings taken within the site. Furthermore, there was a general reduction in readings in 1999 compared with 1992, reflecting the improved modern dust control techniques.

94. With regard to the BS Deposit Gauges the Arup Report described dust deposition standards in the USA, Germany and Australia as ranging in value from 133 to 650 mg/m<sup>2</sup>/day (milligrams per square metre per day, assessed as monthly means). Draft MPG11 (England) suggests guideline values in the range 200 – 350 mg/m<sup>2</sup>/day. For the previous East Pit works Celtic Energy and Neath Port Talbot CBC agreed to adopt 180 mg/m<sup>2</sup>/day as a suitable standard (i.e. 10% below the MPG11 suggestion), in the light of past experience of what is acceptable. In fact, over the period 1997 – 2001 only 6 of 254 samples (i.e. 2.4%) exceeded the 180 mg/m<sup>2</sup>/day threshold, and 93% of data registered deposition rates below 100 mg/m<sup>2</sup>/day. Given the small number of exceedances and the likelihood of other external influences, these results are as good as could be expected.
95. The Company's proposals for dust control measures would be in accordance with Best Available Technology (BAT) and the relevant national guidance and would include the use of water bowsers, wheel wash facilities, vapour masts, the fitting of dust collection systems to drilling rigs and the early seeding of disturbed non-operational areas and soil and overburden mounds. It is unlikely that significant nuisance would occur as a result of dust generated by the proposed operations.
96. Carmarthenshire CC alleges that there is a "potential to generate complaints about dust". Every development has such potential. However, adequate controls would ensure that the proposed operations at East Pit would not cause unacceptable effects. Concerns expressed by Carmarthenshire CC and the Brecon Beacons NPA are unfounded and unsubstantiated. Other objectors have also raised the question of dust but no facts have been brought forward to support their claims, and some have clearly not even read the Environmental Statement.
97. Turning to consider allegations of health risks from dust in the air, these are appropriately assessed in terms of PM<sub>10</sub>, i.e. particles less than 10 microns in size, which are generally considered to be respirable and therefore potentially hazardous to health. In 1997 the Government published the UK National Air Quality Strategy, which aimed to set a programme of air quality improvements under a duty imposed by Section 80 of the Environment Act 1995. For PM<sub>10</sub> a minimum standard of no more than 50 µg/m<sup>3</sup> (micrograms per cubic metre), measured as a 24 hours rolling mean, was set as a target for achievement by 2005. A revised strategy was published in January 2000, which confirmed the limit of 50 µg/m<sup>3</sup> as a 24 hour rolling mean but reduced the annual mean to 40 µg/m<sup>3</sup> by the same date. The strategy was reviewed again in February 2003 and introduced tighter standards for PM<sub>10</sub>, which are to be targets, rather than objectives, and achievable by 2010. The annual mean standard is reduced from 40 µg/m<sup>3</sup> to 20 µg/m<sup>3</sup>. It is against this standard that East Pit has been assessed.
98. Modelling has been carried out based on data from the Government's Automated Urban and Rural Network (AURN) and data collected at Ystradowen by Celtic Energy in order to compare communities around the site with other rural and urban communities in South Wales. Account has also been taken of the results of 2 recent studies: firstly, the Newcastle Study (a study carried out in 1999 for the DoH/DETR to see if particles from opencast coal mining impaired the respiratory health of children living nearby – Appendix AMK1 in Document 14), which found that PM<sub>10</sub> concentrations in communities within 750 – 1400 metres of opencast coal operations were on average 14% higher than in control communities; and secondly, a study for the Environment Agency (carried out in 2001 – Appendix AMK2 in Document 14), which found that within 100 – 300 metres of the most significant dust source at a "worst case" coal handling plant PM<sub>10</sub> levels were 27% higher than the local ambient level, though the airborne concentration fell off exponentially with distance from source to less than 1% of its original strength at a distance of 500 metres.

99. Taking into account both of these factors, modelling of air quality indicates that by 2010 PM<sub>10</sub> levels in all of the local communities would be comfortably below the latest target level of 20 µg/m<sup>3</sup>, even allowing for a “worst case” projected opencast contribution of between 2 – 4 µg/m<sup>3</sup>. To put this into context, PM<sub>10</sub> concentrations in central Cardiff averaged 21 µg/m<sup>3</sup> in 2002 and are predicted to fall to 19 µg/m<sup>3</sup> by 2010. Air quality standards would be met, and there is no reason to refuse the proposal on health grounds related to dust. Officers of Neath Port Talbot CBC have also reviewed the relevant material and have reached the same conclusions.

*Ecology and Nature Conservation* (Documents 8, 10.1, 12, 15 and 38.4)

100. Implications for ecological and nature conservation interests is one of the matters on which the National Assembly particularly wished to be informed. The Environmental Statement (Core Document EPER2 in Document 8) contains the results of detailed ecological surveys carried out in 1994, 1996 and 2001 and covering vegetation, birds, mammals, amphibians and invertebrates. Those surveys showed that:

- there were no statutory or non-statutory sites of nature conservation within or adjacent to the extension site;
- whilst there would be some limited loss of biodiversity during the working phase of the proposed scheme, mainly the UK Biodiversity Action Plan and Local Biodiversity Action Plan purple moor-grass and rush pasture, the greater extent of this type of pasture would remain, and the proposed mitigation and restoration measures would ensure that short-term effects would be insignificant and in the long-term there would be no net adverse effect;
- whilst a number of legally protected and Biodiversity Action Plan species have been recorded, most were “incidental” users and not dependent on the site, although mitigation would be proposed in selected cases;
- two of the protected species, badger and bats, were recorded as inhabiting the site, and appropriate mitigation would be required and proposed.

101. The Countryside Council for Wales (CCW) has raised no objection to the proposed development, subject to certain conditions (see letters in Appendices RNH3, RNH4 and RNH5 of Document 12). More recent (September 2003) bat and badger surveys have been carried out as recommended by CCW (Appendices RNH6 and RNH8 of Document 12).

102. During the 2001 survey one of the houses that would be demolished for the proposed scheme, Number 44 Ochr-y-Waun, was identified as being used as a roost by the brown long-eared bat. Droppings were recorded in the roof-space but, as the survey was not carried out at the best time of year, the status of the roost could not be determined. The survey in September 2003 recorded pipistrelle bat activity associated with Number 44, but it was concluded that the roost was small and irregularly used and not of significance for the maintenance of the local population. Therefore, the loss of the property would not be detrimental to the local bat population and, with suitable mitigation, the demolition should be licensable under the Conservation Regulations 1994. Furthermore, in November/December 2003 the property was vandalised and the roof slates were stolen making it unsuitable as a bat roost. This reinforces the previous conclusions. However, if required the soil mound could be reconfigured to exclude that property from those to be demolished.

103. The September 2003 survey confirmed the existence of 2 outlier badger setts on the site, one in a metal pipe and the other under a concrete platform, and that badger habitation and use of the site had not significantly altered since the earlier surveys. The loss of these 2 setts and the temporary loss of the surrounding habitat, which represents only a small proportion of the group's foraging territory, would not be detrimental to the badger population and is capable of mitigation. The closure of the 2 setts is capable of being licensed by CCW without any modification of the proposed scheme.
104. Other matters have been raised by several parties but none of them alter the basic conclusion that there are no material ecological or nature conservation reasons why the proposal should not be granted planning permission. This conclusion is shared by CCW.

*Other Environmental Matters* (Documents 8, 15 and 38.4)

105. Some parties have raised concerns about site drainage and potential pollution of the aquifer and local watercourses. The Environment Agency was consulted on these matters prior to submission of the planning application and is content with them. Celtic Energy has an impeccable record of compliance with consents for the discharge of water from the previous operational site, and the local streams show no sign of pollution caused by the opencast operations.
106. Claims have also been made about possible effects on ground stability. Mr and Dr Jordan have expressed concerns about effects on old mine workings under their house (36 Ochr-y-Waun). However, as they have been told before (Document 10.3), there are not believed to be any old workings in that area, and there is no reason to believe that the proposed extension would have any more effect than the previous opencast operations.
107. Dr Saunders has made an alarmist claim that the proposed excavations could affect regional land stability on a macro scale, which is quite unfounded. Geological experts have not suggested such a risk in this area, and throughout the world minerals extraction takes place without any such effect.
108. Finally, mention has been made of archaeological interests, and it has been claimed that Celtic Energy has carried out development that has damaged items of important cultural heritage. The particular matter referred to was some structures on the Brynhenllys opencast site that had been identified as "possibly of the Bronze Age". Under the terms of the planning permission an investigation was carried out by the Clwyd Powys Archaeological Trust, which showed that the remains at Pen-y-wern were an old lime kiln and a series of structures quite unconnected with the Bronze Age. The Company has explained this on several occasions but clearly a misunderstanding still exists in some quarters.

**Support by Neath Port Talbot CBC (the Local Planning Authority) (Document 16)**

The material points are:

109. The Council reported how it dealt with the application but, apart from the discussions on possible planning conditions and the Section 106 Agreement, played little further part in the Inquiry. The application was reported to the planning committee on 21 January 2003 with an officer recommendation for refusal, where it was resolved to defer a decision until a site visit was made to view the impact on the area. The site visit was made on 17 February 2003 and at a special committee meeting on the same day the Planning and Development Control Committee resolved to approve the application.



110. The principal development plan policy relating to this proposal is Structure Plan Policy M2, which lists 10 criteria for the assessment of planning applications for minerals development. The committee report addressed each of these criteria and, on balance, recommended refusal for 3 reasons: firstly, because of the retention of incongruous features for a minimum of a further 7½ years and the detrimental effect on the visual amenity of the National Park due to additional intrusion into the landscape; secondly, on account of the impact on the local community of Cefn-bryn-brain, Rhosaman and Cwmllynfell; and thirdly, due to the cumulative detrimental impact on local residents and the surrounding area of a further period of at least 7½ years of unreasonable disruption due to visual impact, noise and dust. These are detailed in the committee report (Core Document EPER3 in Document 7).
111. The minutes of the Committee's meeting of 17 February 2003 (Core Document EPER4 in Document 7) describe the members' site visit, various further representations, and the formal resolution. The site visit is described as follows:
- "At the East Pit site the extent of the proposed extension was identified in order that Members could see how the new void would relate to the existing void and the surrounding areas. The Committee first observed the site from the National Park and then assessed the extent of the overburden mound by visiting Ochr y Waun in Cwmllynfell where they were made aware of the location of the nearest occupied dwelling along that road. Members were then taken to Penybryn to assess the proximity of the proposal to the houses in that area and the position of the water treatment area. The Committee then visited a working opencast coal mine at Nant Helen in Banwen."*
112. The Committee considered that the balance of criteria was in favour of the proposal, and its formal resolution was as follows: *"that in respect of the environmental arguments and economic arguments it is considered that the economic benefits outweigh the environmental impact, therefore the above application be approved upon the signing of a Section 106 Legal Agreement to cover a restoration fund and to secure local environmental improvements and subject to conditions that will be reported to the next meeting of the Planning and Development Control Committee."*
113. Suitable conditions were reported to the next committee meeting (on 25 March 2003) and were approved subject to slight amendment of Condition No. 25 (see Core Document EPER5 of Document 7).

### **Support by Opencast Coal Committee of Wales and Others**

114. The Opencast Coal Committee of Wales is an independent body, originally formed in the 1970s as part of the Transport & General Workers Union. All of its committee members are employees (or former employees) of Celtic Energy Ltd, and all of its subscribers are members of the TGWU. It effectively represents the men who work at Celtic Energy's opencast coal sites and at their washery at Onllwyn (and other opencast sites). 4 members of the Committee and one retired founder member gave evidence at the inquiry, and this was supplemented by evidence from the TGWU's Regional Industrial Organiser. At the evening inquiry session 6 former East Pit employees gave evidence in support of the scheme, as did Mr Eric Davies, a local chartered accountant and CBI chairman, who lives in Gwaun Cae Gurwen and has considerable experience in the mining industry. The OCCCW also submitted a petition of support for the scheme (Document 5).

The material points are:

*Opencast Coal Committee of Wales* (Documents 17.1 – 17.4 and 38.1)

115. The local communities in the area have been built up around the coal industry and have traditionally depended on the industry for their prosperity and survival. Many local people still work in the industry and are concerned for its future if the current proposal were to be turned down. East Pit used to provide well paid employment for 138 people (listed in Document 17.2), and the current proposal would provide a similar number for its duration. It would also secure the future of a further 500 jobs at Onllwyn and other local sites, as the success of the industry depends on the security of coal supply and the integration of various coal qualities. As many former East Pit employees have found, alternative factory jobs are not as well paid and do not bring as much money into the community as opencast coal jobs.
116. Contrary to the claims of many opponents, the existence of an opencast coal site does not deter other developers from investing in the area. Considerable new development has occurred close to other opencast sites, and photographic evidence was submitted to the inquiry showing highly priced “executive” housing estates and “high tech” industrial units built in recent years next to opencast sites at Llanilid West, Ffyndaff and East Merthyr (Document 17.3). One representative also described his own experience of highly priced houses being built in his own village close to an opencast site, which shows that people moving into the area are not deterred by the presence of such a site. There is also no truth to the claim that the existence of an opencast coal site is harmful to house prices.
117. Much of the opposition to the proposal has been from retired people but jobs are needed in order to maintain the survival of the local communities. Some members have worked in the industry all of their lives, and the Onllwyn washery has been in existence for over 70 years, providing good employment for lots of local people. The current East Pit proposal presents a choice: either the preservation of good jobs and communities in Wales; or the export of jobs overseas.
118. The Committee was dismayed at the decision to call in the application, particularly as it was made at the request of a local Assembly Member and local Member of Parliament. It had been believed that they supported the scheme.
119. Most opencast workers live in the local community and are as concerned as anyone to ensure that no harm is caused to the environment or the living conditions of local people. Employees see their priorities as: protection of the environment first; health and safety second; and production third. The Opencast Coal Committee itself would be involved in monitoring operational practices, including the movement of lorries, and would be keen to ensure that all necessary safeguards were employed. Celtic Energy has a good record as a responsible company, and its intention to operate East Pit itself provides even better assurance than if the work were contracted out, as it used to be. For example, elsewhere the Company has invested in rail facilities to reduce the use of road transport and has been responsible for restoring a lot of derelict land left behind after many years of mining activities.
120. Turning to environmental effects, video evidence of restoration work at other opencast coal sites was shown at the inquiry. This has generally been very successful. Records indicate that there have only been about 200 complaints on environmental issues surrounding opencast mining at Margam, Nant Helyn and Selar over the period 1986 – 2003. These have covered dust, noise, blasting, highways and water issues and are not disproportionate to an industry of this size, making a mockery of some of the exaggerated media coverage. The Committee has no knowledge of blasting ever having caused damage to buildings. There have been massive operational improvements in opencast mining in the past 50 years – and even in the past 10 years. Much better techniques, working practices and equipment are used nowadays to minimise environmental effects.

121. Furthermore, fears about health effects are also unfounded. The Newcastle study (Appendix AMK1 in Document 14) was commissioned to produce an independent analysis of the connection between asthma and opencast dust and it rejected any connection out of hand, showing that such claims are completely disingenuous. No opencast employees are known to have suffered any health effects from dust. Mention has also been made of diesel fumes from the large site machines. However, these are now very expensive, sophisticated items of plant, and their computerised controls are so refined that they would shut-down rather than allow the engine to operate inefficiently. They are serviced frequently and are maintained to a far higher standard than any family car.

#### *Transport and General Workers Union*

122. The Transport and General Workers Union is the recognised trade union in the opencast coal industry and fully supports the proposal to extract anthracite reserves at East Pit. Unlike many developers, the opencast coal industry in South Wales has a proud record of working with the local communities and of restoring the land to its original characteristic form.

123. The TGWU's main concern is the health and safety of its members and of the communities in which they work. The union would not support any scheme without trying to ensure that best safety practice were followed, and it always elects a trained safety representative at every site to carry out regular inspections. The TGWU will not compromise on health and safety matters. There is a public misconception that links the opencast industry with respiratory illness and disease but the TGWU has no record of any member suffering respiratory illness as a result of working on an opencast site. When planning authorities grant permission for opencast sites they always stipulate strict criteria to ensure the wellbeing of workers and the local community, and the record of Celtic Energy is good in responding to any concerns on such matters.

124. The main basis of the TGWU's support for the scheme is because of the benefits it would bring to the local economy by providing good jobs. East Pit used to provide jobs for 138 people, most of whom lived within 10 miles of the site. It is expected that the current proposals would provide similar opportunities. The union is also concerned that, if permission is not granted, existing jobs at 3 other opencast sites and the washery would be at risk. The only way to fund the restoration of the land is by using profits from the coal extraction, and if that were not possible the developer could be placed in severe financial difficulties, which could have implications for the other sites.

125. It is a disgrace that in 2002 some 50% of UK coal demand was met by imports when there are vast reserves available in the UK. Imported coal means exported jobs, and often the reason imported coal is cheaper is because it has been produced without the same attention to health and safety and by exploiting child labour. Support for the East Pit extension would do something to resist these injustices and to ensure well paid, better trained British workers have a future in the UK coalfields.

*Former East Pit Employees (Messrs John Jones, David Jones, Ken Thomas, Peter Dymond, Robert Mumford and Phillip Ryan)*

126. The area needs well-paid jobs, especially to encourage and retain younger people. Factory jobs in the area are far less well paid, especially as house prices in the Amman Valley have risen considerably (despite the presence of opencast coal sites); clearly, people are not put off moving to the area by the opencast coal operations. The former employees who spoke had generally had long experience in the business, typically 30-40 years, and are keen to get back to such work. One person used to be the storekeeper at East Pit and advised that about £7000

per day had been spent locally on machine parts and daily consumables, a huge benefit to the local economy.

127. Some lived in communities next to this or other opencast sites and said that noise and dust had not caused them any problems. The benefits of good site restoration were also described, in particular at the former Garnant site, which is now a golf course. There is concern about the viability of getting restoration work done at East Pit if the current proposal does not go ahead. One person said that he preferred to see it restored by Celtic Energy in some 10 years time rather than risk having to wait 40 years for it to be restored at public expense.

*Mr Eric Davies*

128. Mr Davies was raised at Ochr-y-Waun and has lived at Gwaun Cae Gurwen for the past 20 years. He used to be the Finance Director for a mining company with 5 mines. He says that, whilst no one wants an opencast coal site on their doorstep, one has to be realistic and accept that it is an important industry that needs to be nurtured and sustained. Gwaun Cae Gurwen is not a wealthy community, and an economy needs work opportunities if it is to be vibrant. His work as an accountant and as Chairman of CBI West Wales includes involvement in business start-up initiatives, and it is clear that a business of this size cannot be overlooked and is vital to the local economy. As a local resident he is also concerned to ensure that restoration work is carried out at East Pit and is doubtful about liability if the current proposals do not go ahead to fund it.

### **Case for Carmarthenshire CC and Brecon Beacons National Park Authority**

The material points are:

129. The overall case put on behalf of Carmarthenshire and the National Park Authority is similar to that in the recommendation for refusal made to committee by Neath Port Talbot CBC's officers, viz:

- that the proposed development would result in the retention of incongruous features in the landscape for a further minimum period of 7½ years and would create an additional intrusion into the landscape, which would have a detrimental effect on the visual amenity of the area and to views from and the setting of the National Park, contrary to Structure Plan Policy M6(i), (ii) and (iv) and Policy DC3 of the draft deposit Minerals Local Plan;
- that it would be likely to have an unacceptable impact on the local communities of Cefn-bryn-brain, Rhosaman and Cwmllynfell in terms of dust nuisance, which would be contrary to Policy DC22 of the deposit draft Minerals Local Plan; and
- that it would perpetuate opencast activities at the site for a further minimum period of 7½ years, which, added to the previous workings at East Pit, East Pit Extension and Pengosto, would result in an unreasonable level of disruption in terms of visual impact, noise and dust, thereby causing detrimental cumulative impact on local residents and the surrounding area, contrary to Policy DC25 of the deposit draft Minerals Local Plan.

*Policy* (Documents 21.1, 22.1 and 38.3)

130. The development plan policy framework and relevant general national policy have been explained earlier in the report. However, some additional comment is needed in respect of adjoining local planning authority policies and National Park legislation.

131. In Carmarthenshire the framework for the control of mineral workings is contained in the Dyfed County Structure Plan, Alteration No.1, dated November 1990. The key policies are M1, which provides a presumption against mineral working developments where there would be significant transport, amenity or public service provision objections, M19, which lists the criteria against which such proposals are to be considered, and EN13, which is a more general policy encompassing various aspects of character effects. These policies are reproduced in Core Document EPER11 (in Document 7).
132. The purposes for which National Parks in Wales and England were designated are set out in Section 5 of the National Parks and Access to the Countryside Act 1949, as amended by Section 61 of the Environment Act 1995, viz: *“(a) conserving and enhancing the natural beauty, wildlife and cultural heritage; and (b) promoting opportunities for the understanding and enjoyment of the special qualities of those areas by the public”*. With regard to decisions affecting the National Park, Section 62 of the 1995 Act introduced Section 11A into the 1949 Act, which states: *“In exercising or performing any functions in relation to, or so as to affect, land in a National Park, any relevant authority shall have regard to the purposes specified in Section 5 of the Act [i.e. the purposes for which the National Parks were designated]”*.
133. National Park designation confers the highest status of protection as far as landscape and scenic beauty are concerned, and this is reflected by the protection afforded by relevant sections of Planning Policy Wales and Minerals Planning Policy Wales. The key sections are reproduced in Core Document EPER11 (Document 7) and essentially strengthen the tests for acceptable environmental and amenity impact where development adjacent or close to the National Park may have a detrimental effect on its special qualities.
134. Paragraph 2.22 of the Brecon Beacons National Park Local Plan, adopted in 1999, is relevant in this respect (Document 9.5). It concerns consultation by neighbouring planning authorities over development that straddles the Park boundary or is conspicuous from within the Park and says that, *“in responding to these consultations, the NPA will try to ensure that the integrity of the Park is not compromised, the visual amenity of residents and visitors within the Park is not spoilt, and that unacceptable additions to air and noise pollution are not created.”*
135. Section 5 of the National Parks and Access to the Countryside Act 1949 requires National Park Authorities to prepare and publish a regular Park Management Plan. In order to do this the Brecon Beacons NPA has consulted widely with Park residents and visitors and has identified the most valued special qualities of the Park to be its landscape and natural beauty, peace and tranquillity, opportunities for walking and access to the open countryside, open spaces and qualities of remoteness, traditionally managed farmland, and wildlife (Appendix 4 of Document 21.2). Almost all of this part of the National Park is expected to become “access land” under the Countryside and Rights of Way Act 2000, as it is registered common land (see provisional map in Appendix 5 of Document 21.2).

*Landscape and Visual Impact* (Documents 21.1, 22.1 and 38.3)

136. East Pit is readily visible from a substantial area of land in the National Park, particularly from the slopes of Mynydd Du, and the scale of the site inevitably means that it is a visual focus in views from the Park and an impediment to views of the Park. Mynydd Du is identified in the Brecon Beacons National Park Local Plan (Document 9.5) as a “vulnerable area”; its qualities of remoteness are especially sensitive to local increases in visitor numbers or recreation activity because it is an attractive area and readily accessible to the general public. In this regard Mynydd Du is considered to be in a class of its own, and in the emerging Brecon Beacons National Park Unitary Development Plan (Documents 9.6 and 9.7)

it is proposed to designate Mynydd Du as a protected "remote area". Celtic Energy's landscape impact assessment has failed to take into account these landscape qualities. It would not have reached the conclusions that it did if the Landscape Institute's professional guidelines had been properly followed and it had been acknowledged that views are a factor contributing to landscape and that aesthetic factors contribute to landscape assessment.

137. The landscape assessment was restricted to characterisation of the physical landform. The indirect effects of the overall development, occupying 90% of the panoramic views from the rising slopes of the National Park, were not considered; instead the assessment concentrated on the lack of change from the extension element of the application. It asserts that the essential character of the southern part of the National Park is derived partly from its juxtaposition with the coalfield and that the current impact of the site is limited and acceptable. In fact, the existing site is a prominent feature from roads, common land and hilltops within the Park. Rather than the coalfields being a significant factor, the Hobhouse Report of 1947 (MOC 5.4 in Document 11.3), which led to the National Park designation, identifies the lack of urban sprawl on the northern edge of the mining towns and the views of the outlying pits of the South Wales coalfield from the southern fringes of the Park. A proposal to advance an "outlying pit" closer to the Park would be contrary to National Park purposes to preserve and enhance the natural beauty of the park and promote opportunities for open-air recreation.
138. The landscape assessment has also failed to follow Landscape Institute Guidelines in other matters of good practice (see Document 23.3). The methodology and specific techniques used have not been described, the advice and opinions of others were not sought, and no consultations were carried out to identify the value placed on the landscape by the local community and others. No prior contact was made with the National Park Authority to identify the qualities sought to be preserved in the Park, and little regard was had to planning policies applying to it, despite clear statutory and national guidance. Neither the effects on the setting of the National Park nor any systematic analysis of the existing character of the adjoining settlements has been properly considered.
139. Returning to the long distance views themselves, most parts of the National Park from which the site is visible are open common land that epitomise many of the Park's special qualities, and any proposal that harms these qualities is of great significance for the National Park. Its feelings of remoteness are compromised by the sight or sound of human activity or its results, and the machinery involved in opencasting is large, brightly coloured and noisy. There are a number of popular walks on the southern face of the Park from which the opencast site is clearly visible, and both site activity and the extensive alien landforms of the site, particularly the overburden mounds, impinge prominently on views and on the qualities of remoteness. (Document 20)
140. No screening would be effective on views from the hillside opposite, and the full range of the proposed site would be visible. If the proposal were allowed this artificial landscape would continue to dominate the views to the south for a further 9½ years, or longer if production were delayed. Views from the A4069 road, a popular scenic route as it snakes up through the National Park, would be similarly affected. Photograph BBNP 4 in Appendix 7 of Document 21.2 shows visitors descending from a coach near Tro'r Derlwyn.
141. Turning to more local views, the proposal would have a significant impact on views from the neighbouring settlements. To a large extent most of the main coaling operations would be screened from view from locations close to the site. However, construction of the screening mounds themselves would have a severe visual impact on nearby residents. The soil storage

mound near the north-eastern and eastern boundaries of the site would be in close proximity to Cwmllynfell, Cefn-bryn-brain and Rhosaman and would be prominent visual intrusions in views from those villages. The mound on the hillside above houses in the Rose and Crown area of Rhosaman would loom above them. In addition, some work on the overburden mound would be visible from certain settlement areas (notably Cefn-bryn-brain), as would the beginning of excavations on the highest ground in the extension area, despite the soil screening mound. If some of the overburden were stored on the southern mound rather than all on the western mound there would be some reduction in this impact.

142. Like the long-distance views, some of the settlements would also continue to be affected by views of the overburden and soil storage mounds for a further few years. A particular effect of this so far as Cefn-bryn-brain is concerned is illustrated by the photograph and photomontage for Viewpoint 1 in the Environmental Statement (Core Document EPER2, Document 8). Viewpoint 3 shows similar implications in respect of Cors-Helyg. Comparison of these shows the unnatural landforms caused by these stored materials, which would be perpetuated for a further 9½ years if the proposed scheme goes ahead. Although the storage mounds have been seeded with grass, parts of them still show the dark colour of the excavated material, and the newly extended part of the western overburden mound and the soil storage mound (in its new position) would be bare until new grass became established on them. If the current application is refused, site restoration could begin immediately and be completed within some 2 years.
143. Finally, the direct landscape impact should not be discounted. The form of the original common on the outskirts of Cwmllynfell would be destroyed by the extension of the void and, although every effort may be made to restore it to a similar shape and character, the original physical forms would be lost. The first opencast operations at East Pit may have been justified by the associated restoration of the earlier coal extraction devastation but the same cannot be said for the currently proposed extension into undisturbed commonland.
144. Both Carmarthenshire CC and the Brecon Beacons NPA cite Policy DC3 of the draft Minerals Local Plan as a general summary of the main policy requirements. That policy refers to visual intrusiveness, loss of landscape features and the quality of the landscape as important considerations and says that, where visual intrusion is significant, planning permission will not be granted unless practicable and effective measures can be implemented to reduce the visual impact to an acceptable level. In this case, visual intrusion would be significant and acceptable alleviation measures would not be achieved. Hence, the proposal would not meet policy requirements.

*Restoration* (Documents 21.1, 22.2 and 38.3)

145. Strictly speaking, the existing site should have already been restored. The 1986 permission for East Pit included provisions for site restoration, and Schedule 14 of the Environment Act 1995 sets down a strict timetable for review of such requirements. That timetable expired in October 2001 and does not include any allowance for the flexible extension currently being enjoyed. Celtic Energy says that the current application to further extend the site was not made earlier because it did not expect opposition to it and that, until the current application is resolved, it is not appropriate to begin any restoration work of the original site. It says that, if permission is granted, all of the land will be needed as operational land and backfilling of the void with the stored overburden material cannot yet begin. It is surprising that the Company was not aware of opposition to further extension of the site, as this had been raised by the Site Liaison Committee. If restoration work had been started when it should have been, it would have been completed by now.

146. Some parties have raised concerns about financial provisions for the restoration work, the cost of which has been estimated to be in excess of £40M. In the absence of a Section 106 obligation for substantial community benefits and of a bond to provide for restoration of the entire site, at the very least provision should be made for a bond to ensure restoration of the extension site and any associated increase in cost of restoring the present site.
147. Furthermore, there is concern about the standard of restoration that might be carried out. Although Celtic Energy claims to be a model restorer, problems have occurred at other former opencast sites (namely Ffos Las and Gilfach Iago) where restoration has not taken place in accordance with approved details. Another possible problem is the conflict of interests between restoring the common land to its present unimproved state for nature conservation or upgrading it to meet the wishes of commoners for improved grazing quality. In considering restoration it should be remembered that the aim to preserve the landscape implies no loss of quality whilst improvement would go beyond what was there before. In view of the loss of original common land, it is questionable whether the newly reclaimed extension site would be as good as or better than before and how many years it would appear disturbed before becoming an accepted part of the landform.

*General Amenity (Documents 22.1, 22.2 and 38.3)*

148. Experience in the past has shown that most of the problems of noise and dust have occurred due to construction of the soils and overburden mounds in locations relatively close to the neighbouring settlements and at elevations at and above normal ground levels. By definition, this work is generally not screened, and in the area near Rhosaman it is questionable whether, on balance, the further construction of screens is beneficial or not. There appears to be a conflict between the screening of longer distance views and the amenity of nearby residents. One of the factors affecting dust nuisance is wind direction and, if overburden tipping were split between the western and southern mounds, rather than just the western mound as proposed, tipping location could be varied to suit wind conditions. However, Celtic Energy has not considered possible use of the southern overburden mound. It is not accepted that tipping on the western mound would not cause nuisance to nearby residents.
149. With regard to effects on amenity, several factors need to be taken into account. The first is that the numbers of complaints recorded in the past do not necessarily reflect the degree of nuisance experienced, as most people have lived with opencast coal sites on their doorsteps for many years and do not complain when they think that little can be done about it. The true strength of feeling is better represented by the large number of letters submitted by local residents in connection with this application (both to the local authority and the Planning Inspectorate) and the number of people who attended the evening session of the public inquiry.
150. Secondly, national and development plan policies make no reference to particular or defined levels of the various parameters capable of constituting a statutory nuisance. Policy is in respect to amenity, and any perceived increase is a diminution in amenity. Thirdly, there is the question of whether the effects of the proposal fall to be judged against the existing amenity, with the site having been closed for over 2 years, or against that with the site still working in its previous operational circumstances. As Celtic Energy failed to ensure continuity of operation and local residents have got used to the improved levels of amenity currently enjoyed, any diminution of amenity should be measured against the current levels.
151. Finally, and most importantly, one should consider the cumulative effect of the many impacts. Minerals Local Plan Policy DC25 recognises the importance of taking into account



the cumulative impact, and by cumulative impact it does not just mean the sum of the various present impacts but also the exposure over a long period of time. Whilst each effect taken in isolation may be regarded as acceptable, the combination of them all together for an extended period of time may produce an unacceptable total environmental impact. That is the case here; the amenity of this community is subject to "death by a thousand cuts and the torture has been long continued".

152. Turning to specific effects, transportation methods for the coal remain uncertain. If permission were refused for the rail terminal or if suitable customers did not arise, all transport would be by road, with the associated effects on the amenity of the local residents. The effects of the proposed operations in terms of noise, dust and blasting are dealt with in the following paragraphs.

*Noise (Documents 19.1, 19.2 and 38.3)*

153. Minerals Planning Guidance 11 (MPG11), The Control of Noise at Surface Mineral Workings, advises that during the working week the daytime nominal limit at noise sensitive properties should be 55dB  $L_{Aeq, 1hour}$  but also recognises that, where that level exceeds the background noise levels by 10 dB or more, complaints are likely. However, experience has shown that complaints also occur at lower noise levels and, under these circumstances and where the disruption is a long-term prospect with little chance of resolution, local residents feel that their quality of life is being threatened. The history of complaints at East Pit itself clearly illustrates this.

154. Neither Carmarthenshire CC nor the Brecon Beacons NPA has undertaken any detailed noise assessment, and that undertaken for Celtic Energy is taken at its face value. The results of that depend on the base data used, including plant noise output levels measured on other opencast sites. Without further details of how this data was collected it is difficult to determine whether it is reliable or not.

155. Turning to the results of the assessment as presented, the daytime noise limit of 55dB  $L_{Aeq, 1hour}$  would be likely to be exceeded in the vicinity of 38 Ochr-y-Waun during the preparation phase when the perimeter baffle mound was being constructed. It is stated that this phase would be likely to take about 12 weeks. However, with the uncertainties of the weather in this area it could take much longer. The assessment also shows that a large number of receptors would experience noise levels more than 10 dB above background levels during the initial preparatory and the restoration phases of the work.

156. In addition to these obvious matters of concern, it is considered that the assessment may have underestimated noise levels at 2 locations. Firstly, excavation work near the surface of an area of elevated land within the extension area (at a height of 208 - 216 m AOD compared with the soil mound at a height of up to 208 m AOD) would not be effectively screened by the eastern soil mound and could lead to high noise levels at Ochr-y-Waun and other nearby residential areas during the early part of the Phase II works. Secondly, no allowance seems to have been made for noise sources in the north-east corner of the site close to Glan yr Helyg and Gors-Helyg. Consequently, noise levels would be likely to be higher than predicted while material was being hauled and placed on the western overburden mound, operations that would involve a considerable amount of activity near ground level. This is a particular concern as a large number of the complaints in connection with previous operations at East Pit were made when the present overburden mounds were being constructed.

157. Two other matters are also relevant in connection with noise. The first is that account should be taken of the nature of the site noise, which would generally be of a continuous nature at a

high level. The background noise levels have taken into account traffic noise along the main road through Rhosaman and Cwmllynfell, which is intermittent in nature. When vehicles are not passing along the road, background noise levels are even lower. The second is that Celtic Energy's noise assessment has taken no account of effects on the wider National Park area. Although it is accepted that distance would mitigate noise levels, the absence of such an assessment leaves doubts as to impact.

158. Overall, it is considered that further operations at East Pit would undoubtedly give rise to complaints about noise. Whilst much of the work would be carried out below ground or behind acoustic bunds, a substantial amount would also take place at or above ground level, particularly during the early stages. This would be impossible to screen and would inevitably cause disturbance to local residents. Policy DC23 of the Minerals Local Plan requires a mineral developer to demonstrate that practicable and effective noise controls or other mitigation measures could be successfully implemented. Celtic Energy has failed to do this.

*Blasting* (Document 19.1)

159. Residents who live near opencast coal sites have expressed concern about vibrations from blasting operations caused by ground vibration and air overpressure. In Carmarthenshire blasting at opencast sites is usually constrained by condition to a limit of 3 ppv (peak particle velocity). This is well below the level at which structural damage to buildings would be caused but it is still sufficient to cause worry and distress to nearby residents. As with noise, although blasting can be regulated within acceptable standards, local residents remain concerned about the effects of blasting, and their quality of life is degraded by it.

*Dust* (Documents 19.1, 19.2 and 38.3)

160. Fugitive dust emissions from the site would inevitably affect the local community. The incidence of recorded complaints in connection with previous operations at East Pit clearly demonstrates the potential for problems of nuisance. Most past complaints occurred during the period when material was being tipped to form the western overburden mound, which at times was little more than 200 metres from the nearest sensitive property. The prevailing wind is in an easterly direction, and the villages of Cefn-bryn-brain, Cwmllynfell and Ystradowen would be at most risk, particularly as the proposed extension would take the main operations even nearer to those communities. The Environment Agency report cited by Celtic Energy (Appendix AMK2 in Document 14) indicated that dust levels are typically reduced to some 1% at a distance of 500 metres from its source. However, many properties would be much closer than this, and would experience higher levels of dust.

161. Most problems would be expected during the work for soil stripping, removal of overburden, soil baffle mound construction and overburden mound construction. Dust is particularly generated from haul roads and from tipping and spreading operations (see photograph of tipping in PK Annex 12 of Document 22.1). Although Celtic Energy would propose to use a variety of techniques to combat dust, experience shows that some would still be inevitable. A major component would be damping with water but at times this would conflict with construction requirements for dry materials for mound construction or would be only partially effective in high winds.

162. The proposed additional tipping to the western overburden mound near Rhosaman is of great concern on account of the large number of complaints generated when similar work was previously carried out. Risk of dust nuisance could have been reduced if tipping had been divided between the western and the southern mounds, depending on wind and weather conditions. However, that flexibility would not exist under the current proposals. It is

inevitable that, if operations were resumed at East Pit in accordance with this proposal, dust nuisance to local residents would occur.

163. With regard to health risks due to dust, it is acknowledged that the Newcastle Study (Appendix AMK1 in Document 14) concluded that, although the incidence of dust at the PM<sub>10</sub> size may be higher, there is no evidence to suggest a corresponding increase in respiratory disease amongst residents living close to opencast sites. However, the report did find that PM<sub>10</sub> levels were higher in the vicinity of such sites, and this is supported by the Environment Agency report, which found PM<sub>10</sub> levels up to 27% higher than local ambient levels within 100 –300 metres of a coal handling plant. Whilst levels may be well within the National Air Quality standard the operation of an opencast site would still be likely to cause higher PM<sub>10</sub> levels than if it were not there.
164. The Local Air Quality Management (LAQM) regime introduced by the Environment Act 1995 requires local authorities to undertake period reviews of air quality within their area in respect of key pollutants including dust (specifically particulates measured as PM<sub>10</sub>). Carmarthenshire CC's first review in 2002 concluded that there were no problems within the county in respect of particulates. Current statutory guidance to local authorities (Technical Guidance LAQM.TG(03), DEFRA 2002) indicates that emissions from sources such as quarries and opencast sites may be discounted where background levels are relatively low and public exposure locations are more than 200 metres away. However, if properties were located within 200 metres, such emissions would have to be taken into account in the periodic screening. Currently there are no confirmed PM<sub>10</sub> complaints in respect of East Pit. However, if complaints were to arise, the area may have to be declared an Air Quality Management Area to control particulate emissions.
165. Policy DC22 of the Minerals Local Plan requires a mineral developer to demonstrate that practicable and effective dust controls or other mitigation measures could be successfully implemented. In view of the likelihood of certain operations giving rise to complaints it is not considered that Celtic Energy could do this.

*Need (Documents 22.2 and 38.3)*

166. Minerals Planning Policy Wales identifies the main aims relating to minerals planning, and one is to provide for an adequate supply of minerals to meet the needs of society whilst protecting and improving amenity. Celtic Energy argues that it would be wasteful to leave the reserve of coal untapped, though it has provided little evidence to support that claim. It is noteworthy that at several other sites the decision has been made to voluntarily leave coal in the ground, e.g. Amman Colliery, to the west of Brynamman, and Rock Castle West, near Penygroes. Carmarthenshire CC considers that East Pit has reached the stage where no more coal could be won without harming amenity and that the balancing exercise between the need for coal and harm to the environment dictates that the current proposal should be refused. Celtic Energy's case is more about the desire to prevent imports gaining a further market share to the disbenefit of Welsh producers rather than the needs of society.
167. Celtic Energy has described the need for the right quality of anthracite to balance its other supplies. However, it has presented no evidence that its customers could not be supplied from elsewhere. Furthermore, the Company has sold off other anthracite-bearing land, which casts doubt on this argument. It is not the role of planning to protect the commercial interests of individual companies.
168. Although Minerals Planning Policy Wales indicates that the objective of the Government's energy policy is to secure a diverse and sustainable supply of energy at competitive prices,

Planning Policy Wales, which post-dates it, accepts that the burning of fossil fuels is a major contributor to global warming and that the supply of fuels should be consistent with the promotion of energy efficiency and the full and proper protection of the local and global environment. At East Pit the balance now falls in favour of environmental protection rather than further coal extraction.

#### *Community Benefits* (Documents 22.1 and 38.3)

169. It is not surprising that those employed in the industry support the provision of jobs or that the Company prays the support of benefits to the local economy and, indirectly, the local communities. However, these would all be short-term compared with the environmental harm caused. Excepting restoration work, which would be expected to take place in any case, the proposed site operations would last only about 7½ years. The environmental harm would occur throughout this period and beyond until the restoration works had become fully established. Harm to the physical landscape itself would be permanent and irrecoverable. There is not even any assurance that further extensions would not be sought when the current proposal has been completed.
170. Minerals Planning Policy Wales advises that, where environmental harm would occur, local or community benefits should be provided to clearly outweigh the disbenefits in order to justify the grant of planning permission. No meaningful community benefits have been offered in this case, and attention is drawn to an example of recent good practice where the developer made contributions to a trust for the benefit of local communities (PK Annex 13 in Document 22.1).
171. In the absence of community benefits being offered, the decision rests on whether or not the environmental and amenity impacts would be acceptable, bearing in mind the setting of the National Park and the cumulative impact on the local communities.

#### **Case for Community Councils** (Documents 24.1 and 24.2)

172. Land to the west and south of the site (and most of the site itself) lies within the Gwaun Cae Gurwen Community Council area; land to the east is within the area of the Cwmllynfell Community Council; and the Quarter Bach Community Council covers the land to the north. These administrative boundaries are shown on the plan in Appendix 1 of Document 24.1. The 3 community councils opposed the proposal and presented a combined case.

The material points are:

#### *Policy*

173. The most relevant national policy is contained in Minerals Planning Policy Wales (MPPW), and paragraph 7 says that decisions should take account of the Assembly's Sustainable Development Scheme, and it identifies the main aims as they relate to minerals planning. The proposal does meet these aims in that: it does not protect and improve amenity for local residents; it does not protect the environment, including the Brecon Beacons National Park; it delays restoration and so does not represent a prudent use of natural resources; and the economic benefits do not outweigh the adverse impact on residential amenities and the natural landscape. Paragraph 10 of MPPW lists 5 key principles to be taken into account when considering proposals for minerals development, and in a similar way the proposal is not in accord with these principles. Part 2 of MPPW includes 3 paragraphs specifically relating to coal, including a list of specific requirements in paragraph 62.

174. Turning to local policies, the most useful is Structure Plan Policy M2, which lists 10 criteria to be considered in the determination of planning applications for minerals development. The current proposal does not meet the requirements of this and other Structure Plan policies as the requirement for extraction would not outweigh the harm caused to sustainable development principles, conservation interests, recreation and tourism strategies, economic and investment strategies, landscape, amenity and cumulative environmental impact. Policy M3 deals specifically with cumulative environmental impact, an important factor in this case.
175. The adopted Local Plan adds little in the way of relevant policies. However, it is clear that the former Lliw Valley Borough Council was concerned about the concentration of opencasting at East Pit in terms of the impact on local communities and the landscape and its prejudicial effect on prospects for improving the local environment, including its recreational potential. The provisions of the deposit draft Minerals Local Plan are being incorporated in the emerging Unitary Development Plan, which sets out the current approach to minerals development and reflects the National Assembly's emphasis on sustainability. It recognises the importance of mineral resources but says that their exploitation must be balanced against the impact on local residents and the wider environment, including the cumulative impact of many years previous working.

### *Landscape and Visual Impact*

176. The local communities have endured the impacts of coal mining over a long period of time, including opencast mining since 1948. The history of mining in the area has been covered elsewhere in this report. East Pit does not occupy an isolated location; it is surrounded by villages, and in some places houses lie within 60 metres of the site boundary. On its eastern side the proposed extension would actually involve the demolition of several houses along Ochr-y-Waun.
177. Residents of the 3 community council areas have very real concerns about the state of the land and the prospect of further opencast mining. The site covers an area some 2.5 km east-to-west and 2 km north-to-south and, if the proposed extension scheme were approved, it would remain as a large expanse of engineered landscape for a further extended period. Many mining communities have benefited from the introduction of restoration schemes and other environmental improvements. It is unreasonable to expect the local communities affected by East Pit to accept further delay. By the time any restoration work would begin opencast mining would have taken place on the site for over 60 years – effectively most of a person's lifespan.
178. Two other aspects of restoration are also of concern. The first concerns the lack of progressive restoration. Negligible progressive restoration has been carried out so far, and little would occur before the end of the proposed coaling operations. Not only is this contrary to Structure Plan Policy M2 but it also perpetuates the existence of a despoiled and alien landscape over the whole of the site for many years to come. The second matter concerns the financial provisions for the restoration work. It was reported to the planning committee that restoration of the whole site could cost in excess of £50M, yet the financial guarantee contained in the Section 106 Agreement amounts to the woefully inadequate sum of £3.5M. The local communities are sceptical as to the reasons why Celtic Energy has not already started restoration work at East Pit and are concerned that, in the absence of a robust financial agreement, adequate finance may not be available.
179. The current landscape impact is essentially the loss of natural contours and the intrusion of voids and alien temporary mounds of spoil (see plans and photographs in Appendix 2 of Document 24.1). The Council's committee report itemised the impact of the proposed scheme

as: site preparation, comprising vegetation removal, soil stripping and mound creation; erection of 11 metres high washery plant; void extension, mounding and backfilling during the extraction period; subsequent removal of mounds for backfilling and restoration; and the establishment of final restoration features and vegetation. The effects of these works would be the removal of certain landform features, suspension of public footpaths and loss of natural habitats, particularly at the eastern end where the common land is undisturbed at present and 4 hectares of priority habitat (purple moor grass and rush) would be lost.

180. The same committee report details the impact on visual amenity as follows: the coal washery would be visible from the Brecon Beacons; alien features would be introduced on the eastern and north-eastern boundaries; the water treatment areas on the eastern boundary would be visible from Pengoetgae-bach; the extension of the western overburden mound would be particularly visible from the north and north-east including from the National Park; and plant would be visible on the haul roads. The visual impact of the existing development is all too evident, and the application proposals would have a significantly worse effect on local residents, particularly on account of the close proximity of high bunds on the eastern side. These would appear overbearing and intimidating and would cause loss of amenity to residents of Cwmllynfell, Cefn-bryn-brain and Rhosaman. In addition, the psychological impact of the ongoing situation should not be underestimated. The close proximity of East Pit has a generally depressing effect on the adjoining communities and makes the locality a less pleasant place to live and work than would otherwise be the case.
181. Turning to the wider landscape, Minerals Planning Policy Wales acknowledges the potentially harmful effect of minerals development adjacent or close to the National Park. East Pit already has an unacceptable impact on the National Park by reason of visual intrusion, and the application proposals would exacerbate that situation. The site lies within 40 metres of the National Park boundary at Rhosaman and is widely visible from within the Park as it rises above the site.
182. The main roads in the area form an important gateway to this part of the National Park, and people travelling south through the Park along the A4069 have extensive views over the lower-lying land below both from the road and from several car parks at vantage points. Similar views are available to walkers, cyclists and horseriders over a much wider area of the Park, and the application is visible from many viewpoints. The presence of this extensive scarred area is incompatible with the objectives of the National Park as an area to be enjoyed for its quiet beauty and informal recreational purposes. Even where the opencast workings themselves may not be visible, the overburden mounds and other earth structures are distinctly alien features. The proposed extension scheme would exacerbate and extend this visual impact.

#### *Other Amenity Impacts*

183. Structure Plan Policy M2 requires consideration to be given to the effect on amenity, including noise, dust and vibration. Notwithstanding the assurances given by Celtic Energy, the Council's Head of Environmental Health and Trading Standards has expressed concerns about likely levels of noise and dust generated by the proposed works, as explained in the report to committee. This reinforces the views of the local people themselves. The past working of East Pit has led to regular complaints about noise, dust and vibration due to blasting and, if the current proposal were to go ahead, similar incidents would be likely to occur in the future.
184. Noise would be particularly harmful during the advance preparation works, particularly at Ochr-y-Waun. In the past, blasting has led to complaints from residents at Cwmllynfell,

Rhosaman and Cefn-bryn-brain, and vibration nuisance would be expected to occur in these same areas again. Dust would be generated by operations such as soil stripping, materials handling, blasting, vehicle movements and coal processing. Whilst all surrounding villages could be affected, in view of the prevailing wind direction, it is likely that villages to the north-east of the site would be worst affected. The Council's committee report said: *"It is considered that the development, even in its amended form in this application, will have such a scale of activity close to residential areas that there is a plausible and reasonable prospect that nuisance dust generated from the site would have an effect on the amenities of the area"*. Despite proposed measures to reduce or control potential nuisance, some disturbance would still be likely to ensue.

185. The transportation of the coal from the site would also cause nuisance and road safety hazard. Lorry traffic would cause noise and dust and introduce an additional road safety hazard, particularly along New Road in Tairgwaith where the access road passes a primary school. The use of trains also has the potential to generate significant noise levels both in movement and in the loading of trucks, and operations in the possible railway siding area would also give rise to dust.
186. It is not just one single environmental or amenity impact that would be unacceptably harmful to the living conditions of local residents. It is the cumulative effect assessed both in terms of the future cumulative effect but also the time-related cumulative fatigue that has built up over many years. Since the previous site operations closed in late 2001 the local population has enjoyed the benefits of life without the effects of opencast coal mining. If it were to return, its effects would be felt all the more.

#### *Local Economy*

187. Although the Council's planning committee considered otherwise, the officers' report to committee concluded that the potential economic benefits did not outweigh the harmful impacts that would be caused by the proposed development. This is the view also taken by most local people.
188. The area is not reliant on opencast coal jobs. Despite the existence of "well paid" opencast jobs in the past, the area remains "deprived" by reference to a range of national indices. The wealth created by the coal industry in the past has not led to a prosperous local community. It is noteworthy that the closure of East Pit in 2001 did not give rise to a significant rise in unemployment in the area; in fact, unemployment levels have fallen steadily since 1996. This has been influenced by the initiatives of Amman Valley Enterprise in training and attracting commercial development to the area, and no doubt also reflects the fact that there are plenty of well paid jobs within travelling distance elsewhere in South Wales.
189. In fact, there is a powerful argument for suggesting that the economic wellbeing of the local communities would be better served by the early restoration of the whole East Pit site and that this would support the regeneration of the area. The area has much to offer existing and future residents, business people and visitors but this potential is currently severely harmed by the ongoing presence of East Pit, and the harm would be perpetuated for a further lengthy period if the current proposed extension were allowed to go ahead. The intrusive features of East Pit have an adverse effect on the image of the area and its ability to attract new housing and commercial development. In fact, when the site has been restored parts of it would itself have potential for commercial development for new businesses.
190. The local area also has considerable potential for tourism and recreation, which is deterred for similar reasons. In addition, the rights of way over the site are currently suspended. If

these were reactivated the site itself would have potential for tourism and recreation facilities. The proposed opencast extension would further delay these opportunities. It would also take an area of farming land out of use (the common land on the proposed extension area) for some 10 years.

191. Finally, Minerals Planning Policy Wales advises that development may be acceptable if the environmental impact was outweighed by local or community benefits. However, no such benefits have been offered in this case, in contrast to the approach taken, for example, in East Ayrshire. There a fixed sum per tonne of coal or other material removed from the site is paid into a trust fund where it is used as a mechanism to fund community benefits. At East Pit the only community benefit is from a number of short-term jobs. Celtic Energy argues that there is a need for the coal. However, the payment of some £3M in Government grants over the period 2000 – 2002 gives some doubt to the benefits of supporting this industry.

#### *Deficiencies of Environmental Statement*

192. While considering Celtic Energy's proposals it has become clear that there are certain deficiencies in the Environmental Statement. Essentially they are as follows:

- possible use of the rail pad has not been properly addressed, as that use is the subject of a separate planning application and environmental statement;
- the local communities were not consulted on options for restoration of the site;
- possible use of the coal stockyards has not been explained;
- the visual impact appraisal has not included the effects of the existing features in the western part of the site, e.g. the access, offices, rail pad;
- hours of operation less than the unacceptably long hours specified have not been considered despite being more generous than hours of work suggested in national guidance;
- the noise impact of the rail pad and associated distribution centre has not been considered.

#### **Case for Mr Owen & Dr Sue Jordan** (Documents 25.1 and 26.1)

193. Mr and Dr Jordan live at 36 Ochr-y-Waun, which would be close to the eastern boundary of the site extension and the repositioned soil storage mound. They have lived there for over 25 years.

The material points are:

#### *Restoration*

194. There is a long history of opencast coal mining at East Pit; by 2014 (the end date if this proposal goes ahead) some parts of the site would have been occupied for 45 years. However, this seems to be in contravention of the legal requirements of previous authorisations. The Opencast Coal Sites Act 1958 included provision for the land to be restored to its original use after 10 years. The Coal Industry Act 1975 extended this period to 20 years. The Housing and Planning Act 1986 transferred responsibility for the authorisation of opencast sites to local planning authorities.

195. The original permission for East Pit was granted in 1981, before the approval responsibility passed to the local authority. Permission for the Extension site was granted in 1987. Under



the terms of those permissions restoration of the original site should have been carried out by 2001, and the Extension site should be restored by 2007. If the current application is approved, neither of these requirements would be met. It is contended that this situation is an abuse of the law, and it is certainly an abuse of the faith of local people that the opencast coal workings would blight their lives for only a limited period of time.

196. When Celtic Energy submitted its first application for planning permission for a larger extension in 2001 (subsequently withdrawn and replaced by the current application), it was indicated that the site would not be worked immediately. To local people this seemed like a way of avoiding the onerous restoration responsibilities with which the Company is burdened. That view is not helped by the Company's latest proposal, which avoids any meaningful phased restoration of the wider site, even though only a small part of it would be involved in the proposed extension operations. Restoration of the whole site will involve a substantial cost, and it is doubtful whether Celtic Energy has the financial resources to achieve it. Consequently, the Company is putting it off for as long as possible.

#### *Common Land*

197. The proposed scheme would involve the loss of yet another area of common land. Large parts of the common are already in disarray and need substantial improvements to bring them back to a reasonable level of productivity, e.g. topsoil and deep-rooted trees. The interests of the commoners would be harmed if further extension on to virgin common land were permitted.

198. Celtic Energy has been carrying out negotiations with the Commoners Association. However, that is unconstitutional and improper. Recent legislation, the Rights of Third Parties Act, has confirmed that common rights rest with the holding, and only the owner of each holding can agree to suspension of his/her common rights. Any agreement between Celtic Energy and the Commoners Association has no effect on the rights of individual commoners.

#### *Property Deterioration*

199. Celtic Energy owns most of the properties along Ochr-y-Waun. For the past 10-15 years Celtic Energy (or its predecessor, British Coal) has owned all of the houses beyond Number 16 with the exception of Number 36, Mr & Dr Jordan's house, and it has made little attempt to maintain them properly. The photographs in Appendix 3 of Document 25.1 illustrate their deterioration since 1985 and their general poor condition nowadays. Only 3 of the houses are still fit for habitation and all except 2 of the others are roofless ruins. The Company seems to have followed a deliberate policy of dereliction for the properties in its ownership rather than a "duty of care" and good neighbourliness. This has detracted from the other properties along that road and from the sense of community. It has reinforced the lack of faith of the local people that the Company has an interest in the local community.

#### *Impact on Health, Amenity, Landscape and Ecology*

200. None of the local people want the opencast site on account of its impact on their living conditions and on the attractiveness of the area for economic development. The impact on local residents has been well rehearsed elsewhere. The proposed scheme would cause major visual intrusion and would be hugely negative in regard to noise, vibration and dust. The heavy traffic burden on unsuitable local roads would also cause nuisance over a much wider area, including the communities of Brynamman and Pontardawe. Removal of an area of virgin common land currently used and occupied by various rare birds and mammals would involve the loss of a diverse habitat. Polecats, nightjars and barn owls have recently been seen on the land.

201. The proposal would also be contrary to the UK strategy on sustainability. The operational methods would destroy vast quantities of the local building stone and ironstone resource, which would merely be a waste product. Almost 98% of the material excavated would be waste and little more than 2% usable coal. Furthermore, the proposed void would be some 200 metres deep and located only about 200 metres from Number 36 Ochr-y-Waun, which raises concerns over ground stability, drainage and other service provisions. Despite requests for information, no acceptable reassurances have ever been received.
202. The health implications of dust are a particular concern. The Newcastle Study (Document 25.2) found a significant association between frequency of GP visits for respiratory, skin and eye conditions and living close to an opencast coal site. Number 36 is far closer to the proposed workings than the community studied at Newcastle and its occupants would be at considerable risk. In addition, a survey by the Institute of Occupational Medicine at Edinburgh has found a high incidence of dust related health problems in opencast coal workers, which reinforces concerns about the harmful effects of dust generated at such sites.

#### *Need and Local Economy*

203. Finally, the need for the coal and the claimed benefits to the local community are disputed. For many years the world price of anthracite has been dictated by exports from China. However, that has now stopped, and no doubt Celtic Energy sees this as giving hope that its business can recover profitability. Nevertheless, the retail price of anthracite is still 30% lower than in 1979, probably because of competition from gas, and the viability of the proposed East Pit operations remains doubtful.
204. The claimed "jobs benefit" is a myth. There were 20,000 jobs in anthracite deep mining in 1950; nowadays there are barely 500 in opencast operations. When East Pit closed at the end of 2001 unemployment in the area actually fell. Rather than being beneficial towards employment, the opencast coal site has blighted jobs and driven away young people and potential investors to the detriment of economic growth. There is a lesson to be learned from other parts of the UK, where local economies have thrived once opencast mining has ceased.

#### **Case by Dr Gordon Saunders** (Document 27.1)

205. Dr Saunders lives in Essex but presented objections on behalf of several local residents. He made submissions on the following main topics: visual amenity; atmospheric pollution; noise; blasting vibrations; hydrology; and employment opportunities in the area.

The material points are:

#### *Landscape and Visual Impact*

206. The site lies on the boundary of the Brecon Beacons National Park, and it is axiomatic that National Parks are at their most vulnerable along their boundaries where economic forces are continually attempting to encroach upon them. Indeed, Celtic Energy owns land within the National Park (see Plan A2) which is underlain with coal measures, and which raises concerns about possible further extensions in the future. Minerals Planning Policy Wales warns about the possibility of development affecting the setting of National Parks and the need for such proposals to be carefully assessed.
207. The development proposed would result in the retention, enlargement and extension of existing incongruous features in the landscape (the excavation, overburden and soil mounds, and associated operational structures) for at least a further 10 years, which would further impair the visual amenity and tranquillity of users of the National Park. These are clearly

visible from vantage points on the southern slopes of Mynydd Du for distances of at least 2 km or more and would have an adverse impact on the statutory purposes for which the National Park was established. The harmful impact would also be contrary to Structure Plan and Minerals Local Plan policies.

208. In addition, dust particles from the site operations would produce a haze, particularly fine particles less than 10 µm in size, which would be likely to remain in suspension for several days. These particles would also provide increased centres for the condensation of atmospheric moisture and hence an increased likelihood of mists, detrimental to the amenity of both National Park users and local people.
209. With regard to neighbouring communities the existing overburden mounds and associated structures already form intrusive and incongruous features, which demonstrably detract from visual amenity. This impact would remain for a further 7-8 years and would be further exacerbated by extension of the overburden mounds, the construction of an additional soil screening mound on the northern and eastern margins of the site, and the construction of new operational structures, particularly the washery (18metres by 8.5 metres), main feed hopper (6.9 metres high) and screening plant (10.3 metre high). These would be clearly exposed to view along parts of the northern, southern and eastern boundaries at Heol-bryn-brain, Cors-Helyg, Pengoetgae-bach and Craig Derlwyn (on A4069 north of Brynamman). The harm to local amenity would be contrary to Structure Plan and Minerals Local Plan policies.

*Dust and Air Pollution (also Documents 27.2 - 27.4)*

210. If the proposed development were to go ahead there would be a significant increase in the ambient levels of atmospheric pollution from dust and exhaust fumes throughout the operational period. Celtic Energy's claims are based on the analysis of monitoring data collected over the period 1997 – 2000. However, that has little relevance due to inadequate data collection and sampling procedures and superficial statistical analysis of the results, which are a mixture of incomplete sets of data. They are of little use for future prediction.
211. Sediment entrainment, transportation and deposition is an extremely complex process, and the measurement of deposited amounts in isolation provides no more than a very crude indication of suspended dust levels. The results of the dust deposit gauges are also highly suspect as no account has been taken of meteorological conditions or weekly peaks and lows, and there is no indication of data spread or statistical distribution. Furthermore, no meaningful data is provided for the period 1986–96, when dust levels from the previous operations would probably have been at their highest.
212. There is no reliable evidence to support Celtic Energy's claim that deposited dust levels were below 200 mg/m<sup>2</sup>/day (the accepted nuisance level) throughout the previous East Pit Extension operations. In fact, the data shows at least 2 occasions when that level was exceeded at Cefn-bryn-brain and Rhosaman. Whilst there seems to be no correlation between dust measurements and complaints, the previous site operations did lead to numerous complaints, which peaked in 1993 when much of the site work was at surface level. It is significant that the proposed further extension would move the sources of dust generation up to 500 metres closer to residential areas than previous operations. Therefore it would be expected that even more nuisance would be caused by the dust and more complaints would arise.
213. There is a lack of data on the distances that dust is carried at East Pit, i.e. on the spatial extent and volumes of dust. The coarse dust plume cannot be defined with any confidence, and it could affect a much wider area than indicated by Celtic Energy, possibly several miles. Finer

particles are carried much further and are affected far more by atmospheric processes than simple gravity. If fine dust can be transported to this area from continental Europe then fine dust from East Pit can itself be exported hundreds of miles.

214. Atmospheric dust measurements have only been taken at Ystradowen, even though it is poorly sited and produces little useful data. Celtic Energy's methodology in calculating a 24 hour running mean concentration of  $16.4 \mu\text{g}/\text{m}^3$  is also highly questionable. 4 breaches of the  $50 \mu\text{g}/\text{m}^3$  maximum limit for fine dust in the atmosphere were recorded at Ystradowen but explained by Celtic Energy as mirroring high levels elsewhere in the UK and attributed to some distant source. However, this conclusion is not fully explained. Contrary to claims that dust samples have not matched the petrographic analysis of the East Pit source, the dust analysis shows a mix of coal, dirt, sand, animal and vegetable matter that could easily emanate from East Pit.
215. There can be no doubt that dust from the East Pit site would occur under normal meteorological conditions and cause nuisance and detriment to the quality of life for local residents. However, it would also cause increased health risks. It is firmly established beyond doubt that there is a link between human exposure to certain airborne particles and the incidence of respiratory and pulmonary diseases. The Newcastle study referred to by Celtic Energy (Appendix AMK 1 of Document 14) concluded that there is an increase in  $\text{PM}_{10}$  concentration levels in areas around opencast coal sites and a statistically significant increase in GP consultations for respiratory diseases and skin and eye conditions in communities adjacent to sites.
216. Celtic Energy has failed to quantify concentration levels of suspended fine particles, though they have said that the dust is largely composed of silica and coal particles. This fine dust would extend far beyond the site boundaries. Projections have been based on Government data from the AURN network, though the network only includes one rural monitoring site in Wales, makes no allowance for meteorological conditions and involves a very superficial methodology. Consequently, the projections are of doubtful relevance and little more than "crystal ball gazing". Allowance for the opencast coal site input to levels of dust is based on factors of 14% and 27% from the Newcastle and Environment Agency (Appendix AMK 2 in Document 14) studies respectively, though these are from quite limited data. Other studies have found much higher coefficients, including several hundred percent. There is also a measure of scientific uncertainty over what is considered to be a safe level for  $\text{PM}_{10}$  concentrations, and in 2000 the National Air Quality Strategy reduced the recommended precautionary national standard from  $50 \mu\text{g}/\text{m}^3$  to  $40 \mu\text{g}/\text{m}^3$ . Prudence would dictate caution and recommends a substantial reduction in this.
217. Finally, particulate air pollution would also be caused by fumes from the earth-moving vehicles and plant on the site and from heavy lorries on the local roads, which is also known to be injurious to health. No data has been provided on this by Celtic Energy. Pollution levels are influenced by atmospheric conditions, and under stable conditions pollution levels can rise significantly.

*Other Amenity Impacts (also Document 27.5)*

218. Apart from dust the most significant amenity impacts would be noise and vibration. Noise pollution may cause annoyance and health effects and is difficult to predict. Its assessment is a function of many variables, including the noise frequency and volume, transmission factors, distance from source, timing and duration, and the pattern and characteristics of the sound. It is patently obvious that the proposal to restart quarrying at East Pit would substantially

increase the ambient noise levels in the surrounding settlements to the detriment of the living conditions of their residents.

219. It is predicted that the average “filtered” noise level would increase from its present alleged level of 40 dB(A) to some 48 dB(A) during the long-term operational phase of work. As the scale is logarithmic, this represents a ten-fold increase in noise intensity level, which would be expected over a 16-hour (2 shift) working day for a protracted period of several years. Furthermore, the assessment predicts much higher levels of noise during the initial phase of preparatory works, typically 57 dB(A) over a period of 12 – 16 weeks. Such increases would be well above the “level of nuisance”. Moreover, given the nature of the noise from quarry plant and machinery and the fact that operations would be 4-500 metres closer to residential properties than before, there are substantial grounds for concluding that the increased noise levels predicted by Celtic Energy are grossly under-estimated.
220. There are considerable doubts about the assumptions made in the Company’s noise assessment, for example, that the previous operations at East Pit did not cause undue annoyance. The Company claims that only some 2 complaints per year were made about noise from the site. However, records show that 43 complaints were made between 1989 and 2001. Also some of the analysis is based on very limited monitoring data, which is not necessarily representative of overall noise levels. The Company says that no case was ever brought against it for breach of noise nuisance standards but this is hardly an appropriate standard against which to measure performance. Clearly, these raise considerable doubt on the reliability of Celtic Energy’s predictions.
221. It is worth remembering the Neath Port Talbot CBC’s report to committee (Core Document EPER3 in Document 7), which said of noise: *“noise is considered a borderline case”* and *“there is evidence that noise levels are likely to be a source of nuisance during the advance phase preparation works when (predicted) noise levels would increase by as much as + 17 dB(A) (and last for some 12 – 16 weeks)”*. Celtic Energy’s position that the levels of noise generated would not cause any adverse impact on amenity is clearly untenable.
222. Turning to vibration, this can occur as a result of ground surface vibration and air waves from blasting. Records show that between 1993 and 2000 some 20 complaints were made in respect of vibration and possible damage to buildings in Rhosaman, Cefn-bryn-brain and Cwmllynfell. As blasting would take place 4-500 metres closer to residential areas an increased incidence of complaints would be likely.
223. It is likely that ground vibration would be such as to lead to cosmetic or even structural damage to buildings, even if the blasting were controlled to keep vibration within permitted statutory levels. Given that mistakes occur in even the best planned operations, damage to property may well be anticipated. Further vibration damage may also be expected along the coal transportation routes as the region is perhaps the best noted in Wales for slope instability; for example, the road between Gwaun Cae Gurwen and Pontardawe crosses an area of slope instability on Gelligron Hill at Rhyd-y-fro. In view of the likelihood of damage to buildings, if the development were to go ahead, consideration should be given to identifying a protected zone where damage would be subject to automatic compensation without the need for expensive litigation.

### *Geology*

224. Further operations at East Pit would be likely to lower the water table in the immediate vicinity, draining down old colliery workings and causing leachate to discharge into the site. Groundwater discharges from old colliery workings are generally highly acidic and polluted,

and the adjacent landfill site at Cefn-bryn-brain is known to contain radioactive waste. Disposal of the consequently polluted water from the East Pit operations would put at risk all surface streams into which it is allowed to drain and their floodplains.

225. A further cause for concern is the long-term cumulative effect of blasting and rock extraction on the geological structure of the area around the East Pit site. The geology of the area is complex and heavily affected by faulting and thrusting zones. Some of these are major fracture zones in the earth's crust, which are frequently affected by mild seismic activity, and there are numerous lines of crustal weakness or incipient instability where there is potential for movement and potential readjustment in response to disturbance of natural crustal stresses and strains.
226. Over the years vast quantities of coal, surface overburden and rock waste have been removed from quarries in the area. At East Pit alone over 5M tonnes of coal have already been removed, and the current proposal would involve a further 2.1M tonnes. This represents about 240M tonnes of material overall, the removal of which invites pressure release from the underlying sediments. The proposed further extension of East Pit would exacerbate this potential for massive structural instability.

*Need and Local Economy* (also Document 27.5)

227. Celtic Energy has argued that there is a need for the coal and that the proposed development would be economically beneficial to the local area. Considering first the argument of need, the market for coal has, at best, remained static over the past 20 – 30 years, and there is no shortage of supplies. If coal from East Pit is so vital then why was the previous consent allowed to lapse before the current proposal for further extension of the site was put forward? East Pit Extension ceased producing coal over 2 years ago, and there has been no indication that anthracite coal has been in short supply since then. Indeed, such is the price of coal at present, that several pits in South Wales have had to be supported with grants from Central Government.
228. It is also not true to say that the quality of anthracite available at East Pit is uniquely required to meet particular market demands, as the same rich seams run through an extensive area of the anthracite coalfield from Trimsaran in the Gwendraeth Valley, through the upper Loughor and Amman valleys, to the upper valleys of the Tawe, Neath and Corrwg. Therefore, sites more remote from the Brecon Beacons and local communities could be selected to exploit these anthracite reserves.
229. Celtic Energy also argues that the re-opening of East Pit would bring well paid jobs back into the local community to the benefit of the local economy. However, even if 138 jobs were made available, they would be spread thinly over the community and would only exist for a few years. Their benefits would be far outweighed by the harm caused to the local economy, as opencast coal operations act as a deterrent to the establishment of alternative, more permanent business enterprises, including tourism for which the area is well located between the 3 traditional tourist areas of South Wales. If the current proposal were to go ahead it would continue to deter other investment in the area to the detriment of its long-term economy.

### *Overall Policy Conflict*

230. The proposed development should be refused for the following reasons:

- cumulative detrimental impact on the amenity of local residents, particularly by reason of visual, noise and dust impacts, contrary to Policy DC25 of the draft Minerals Local Plan;
- negative impact of the retention and extension of incongruous features and structures for a further 7 – 8 years on the visual amenity and setting of the Brecon Beacons National Park, contrary to Structure Plan Policy M6 and Policy DC3 of the draft Minerals Local Plan (as well as Policies EN13, M1 and M19 of the Dyfed Structure Plan and sections 61 and 63 of the Environment Act 1995);
- dust nuisance and potential hazards for local communities, contrary to Policy DC22 of the draft Minerals Local Plan;
- inadequate monitoring and assessment of dust and other airborne pollution;
- lack of guarantees for effective site restoration and recompense for property damage; and
- negative impact on regional and local businesses and long-term employment prospects in the region.

231. It is clear also that the proposal conflicts with national policies on sustainability. The extraction of further coal at East Pit would compromise the ability of future generations to meet their own needs. The resource would not be wasted if it were not used; it would remain available for possible future use.

### **Other Objections made at Inquiry (including Evening Session)**

232. Five people spoke against the proposal at the main inquiry and a further 5 spoke at the evening session. Mr Field presented evidence on behalf of the Ramblers Association. All of the other speakers are local residents and presented their views as such. In addition, representatives of the various Community Councils submitted 8 petitions opposing the proposal (Documents 6.1 – 6.8).

The material points are:

*Mr David Field, for the Ramblers Association* (Documents 28.1 – 28.3)

233. The Ramblers Association is the largest representative body of walkers in Great Britain with 138,000 members. Locally, the Association represents some 2000 members in Glamorgan, 390 in Powys and 1120 in Carmarthenshire. Apart from promoting walking, the Association aims to defend the beauty of the countryside so that people can continue to enjoy views from footpaths and open countryside.

234. Access to public footpaths over the present East Pit site has been suspended for many years and, if the proposed development goes ahead, several additional lengths of footpath would be suspended and the whole would remain suspended from use for up to 10 years. This would prevent local people and visitors from walking along these public rights of way. In addition, the Countryside and Rights of Way Act 2000 will permit freedom to roam on much of the land, as it is registered common land and open country, which is included on the provisional access map. The proposal would also deny public access to this land for the duration of the proposed work.

235. The proposal would also detract from peoples' enjoyment of walking along other public footpaths and on other proposed access land. People walk for exercise, health, relaxation, fun, adventure, spiritual well-being and appreciation of natural beauty and national heritage. It would detract from this on account of the continuing effects on the views of the site and the polluting impacts of industrial noise and dust. These would deter local and visiting walkers. The use of heavy lorries to transport coal from the site would also have an environmental impact on local roads, many of which pass through the open countryside. These lorries would detract from enjoyment of walking along the roads (for example when moving between footpaths) and would increase road safety risks.
236. Walking in undeveloped open countryside is a natural attraction for tourism, which could bring longer-term benefits to the area. It is the main activity for people visiting the Welsh countryside. A study conducted on behalf of the Ramblers Association into the economic value of walking in rural Wales (see Document 28.3) estimated that walking-related tourism expenditure and employment in Wales yields £132M per year and generates 4,800 jobs. The proposed development would detract from this.

*Mrs Frances Stowe*

237. Having moved to live in Rhosaman some 2 years ago after East Pit had closed, Mr and Mrs Stowe have enjoyed relative peace and quiet. When they moved there was no indication in legal searches that East Pit might reopen, and they are now concerned about the prospects of noise, dust and blasting vibration. Mr Stowe has emphysema and could be critically affected by increased levels of dust, particularly as the prevailing wind direction would be towards Rhosaman.
238. No community benefits have been offered to offset the inevitable detriment to the quality of local peoples' lives. If the opencast site were reopened it would destroy the community and deter potential tourism developments in the area. Furthermore, there is no guarantee that the site would be restored even after a further 10 years.

*Mr Hywel Gwyn Evans (Documents 29.1 – 29.2)*

239. Mr Evans is from a mining family and has lived in Cwmllynfell, between the opencast sites at East Pit and Brynhenllys, for most of his life. Unlike days gone by, Celtic Energy's managers no longer live amongst the local community and appreciate its concerns.
240. Various landmark reports and conclusions with respect to opencast coal sites are referred to (see list at front of Document 29.1). Firstly, in 1987 a public inquiry was held into the proposed opencast site at Brynhenllys. In his report (Number 2 on list) the Inspector said that the environment and local people in Cwmllynfell had suffered enough. The Secretary of State accepted the Inspector's conclusions and his recommendation that the application be refused. In 1991 Frank Dobson MP, the Shadow Energy Secretary, produced a report on opencast coal mining (Number 3 on list) and said that opencast coal mining is short-sighted because of the harm it causes to the environment and local communities; he considered that local communities were paying too high a price and that tighter rules were needed to ensure prompt restoration of sites. Also in 1991, a Welsh Affairs Select Committee Report on opencast coal mining (Number 4 on list) referred to Cwmllynfell being "attacked" from the west by East Pit and from the east by Brynhenllys.



241. In 1993 another public inquiry was held into revised proposals for Brynhenllys (Number 5 on list), and the Inspector concluded that the noisy operations were bound to be disruptive. In 1998 a study was carried out into diesel emission particles from the Brynhenllys site (Number 6a on list). That report found that, whilst dust levels were low before the opencast site came along, there was an increasing frequency of dust as operations on the site progressed. The report presented damning evidence of the change in air quality since the opencast operations started and found mineral particles in the air over 400 metres away from the site. Mr Evans showed 4 video recordings at the inquiry to illustrate his opposition to opencast coal operations, and in particular showing incidents of dust and diesel emissions.
242. Fine particles are the most dangerous to health, and the Newcastle study (also referred to by other parties – see Appendix AMK 1 of Document 14), carried out without prior warning, found that children living close to an opencast coal site consulted their GP on average 47% more than a comparable community remote from such a site in connection with ear, nose and throat complaints. In 1999 Scottish research into the health effects of opencast dust (Number 6b on list) reported that controls on machinery were still inadequate and that high levels of PM<sub>10</sub> particles were being produced. As a result the Scottish Office has subsequently issued guidelines for a 500 metres buffer around such sites.
243. The area around East Pit is deteriorating on account of the appearance of the site and the incidence of noise and dust. This has been recognised in the form of a revaluation of Council Tax bands for houses at Ystradowen (Number 7 on list, and letter included in Document 29.1). Noise monitoring carried out at Mr Evans' house (see graphs in Documents 29.1 and 29.2) shows noise levels of 61 dB(A) L<sub>eq</sub> (1 min) at certain times of the day. Photographs also show how unattractive the mounds are, and at a recent Brynhenllys site liaison meeting it was recorded that some 1,300 blasts had been carried out on the site so far. These illustrate the concerns of local people.
244. In 1993 the (then) Secretary of State decided that "the Country has to come first" and he allowed Brynhenllys to proceed. However, that is not the case now. Circumstances have changed, the need for coal is much reduced, and it is time to cease operations at East Pit and restore the site.

*Mr Thomas Stewart* (Documents 30.1 – 30.3)

245. As a community councillor, Mr Stewart has been involved in liaison with Celtic Energy (and its predecessor) for many years, particularly during the course of the 14 years of the previous operations (1987 – 2001). Towards the end of that time the local community believed that restoration of the site was imminent, particularly as the washery plant and the conveyor belt linking the main site to the railhead storage yard were removed. Celtic Energy's application to further extend East Pit was made only a few months before the previous work was due to cease. Many of the community councillors felt compromised by this apparent change of mind, as they had been assuring local residents that final closure seemed likely and restoration of the site imminent. The current proposal is now to defer that for many more years.
246. There seems to have been poor planning by Celtic Energy in regard to this proposal. The planning application was submitted at a very late stage, useful plant (especially the washery) has been removed from the site and new plant would have to be installed, and the site layout indicates an element of double handling of coal with a poor match between storage locations and the washery plant.

247. Coal haulage is a matter of major concern to the residents of Tairgwaith, a village with only one road in and out, which it shares with the main entrance to the East Pit site. There are doubts about whether any coal would actually be transported by rail, as it is more expensive than road transport and there are doubts about the condition of the viaduct. However, in any case, there would be a substantial increase in the number of lorries using New Road with consequent effects on road safety and air pollution.
248. The lorries would pass close to Tairgwaith Primary School, a local crèche and the Amman Valley Enterprise centre. The harmful effects of diesel fumes to health are well established, and there is concern about the effects on the health of the children, particularly in regard to asthma, of which there is a high incidence in Wales. Problems have also been experienced in the past from a road safety point of view. The previous site operations were subject to constraints on lorry movements past the school at the beginning and end of each school day. However, a survey in June 1998 confirmed that some of the drivers were ignoring this rule. Perhaps more direct control by the Company would reduce this problem.
249. Finally, turning to viability and job prospects, most of the local community believes that economic prospects for the community would be better served by immediately restoring the opencast site and improving the likelihood of regeneration of the area. The site itself is large, and some of it could be used to attract other employment opportunities to the community. It is also relevant that the coal industry is not viable, in any case. Government promotion of gas-fired power stations rather than coal has reduced the market, and the Coal Operating Aid Scheme now provides grant aid to maintain the industry. The previous East Pit extension scheme was itself supported by grants of £6M. It is not worth keeping it going.

*Mr Rees Madog*

250. Mr Madog worked in the coal industry for 40 years, and his main concerns are the effects on local residents and the restoration of the site. Celtic Energy would not be able to control noise levels all of the time, as shown by past monitoring, and at times levels would be intolerable to local residents. In particular, the proposed soil mound would not provide an adequate sound barrier to residents at Rhosaman and Gors-Helyg. The close proximity of the proposed operations to residential properties would be unacceptable. If the proposal were allowed to go ahead, consideration should at least be given to pulling the site boundary back along its eastern and north-eastern sides and to limiting hours of work to 5 days per week and, say, 0800 hours to 1800 hours each day. Local residents are entitled to peace and quiet in the evenings and at weekends.
251. Planning permissions for other opencast coal operations have been granted because of the previously awful state of the land, e.g. Brynhenllys. That is not the case for the proposed extension land involved in this proposal. Restoration of the existing site should proceed immediately rather than be delayed for several more years. However, if the scheme were allowed to go ahead, the restoration bond should be substantially bigger than currently proposed as there is a huge quantity of material to be put back into the void.
252. Provision should also be made for community benefits. Money was promised but never paid in respect of the Brynhenllys site, and there is little trust of Celtic Energy amongst the local community. The commoners have been offered compensation for their temporary loss of grazing rights but other residents have been offered nothing for loss of access to the common land.
253. Five people spoke against the proposal at the evening session. The gist of their representations is summarised in the following paragraphs.

*Mr Jim Rowlands*

254. The proposed development would be contrary to national policy contained in Minerals Planning Policy Wales. Firstly, paragraph 40 advocates the use of buffer zones around minerals workings in order to provide protection to properties that would be sensitive to the noise, dust and blasting vibration from such sites. It says that no new mineral extraction should take place in buffer zones. In this case, no specific buffer zone has been designated, and it is proposed to extend operations close to the Cwmllynfell community, which would be contrary to this policy.
255. Paragraph 62 of Minerals Planning Policy Wales says that opencast development should only be approved if it would be environmentally acceptable or if local or community benefits would clearly outweigh the other harmful effects. Neither of these would be met. Environmental objections were made at the 1987 and 1991 public inquiries in connection with the nearby Brynhenllys opencast site, and those objections remain valid. In addition, experience at the nearby Garnant opencast coal site has shown that structural damage has been caused to nearby houses as a result of blasting operations. It could not be guaranteed that similar problems would not occur at Cwmllynfell.
256. Community benefits were offered in connection with the Brynhenllys opencast site but these were not all paid as they should have been. The Company claimed financial difficulties and used the same excuse to avoid sorting out landslide problems there. No financial contribution towards community benefits has been offered for the current proposal, and no security bond would be proposed. Therefore, neither of the requirements specified in Minerals Planning Policy Wales would be met. Whilst it is acknowledged that jobs are important, they must be balanced against health and safety and the quality of life for local residents. In this case, the balance is firmly against the approval of the proposed development.

*Mr John Davies*

257. The proposal is to extend the current opencast site by almost 100 hectares, most of which is common land to which the Countryside and Rights of Way Act 2000 will give right of public access. The existing site has not been open for public access since 1967 when the rights of way were first closed, and it is about time they were reopened. If the proposed development were to go ahead it would another 7 – 10 years before there was any prospect of the footpaths and common land being reopened. It may be even longer, as there would be no guarantee that Celtic Energy would carry out site restoration even then. Originally, British Coal's plan was to work even further to the east, and it is feared that Celtic Energy may bring forward such a proposal, which would yet again defer restoration of the main site.
258. In the mean time, the proposed renewed operations would have a harmful effect on the living conditions of nearby residents on account of noise, dust and blasting vibration and would continue to detract from the appearance of this beautiful area. As a community councillor, Mr Davies has raised a number of complaints with Celtic Energy but with little success. Clouds of stone dust have been observed, and several incidents have been recorded on video (video was shown at the inquiry). They seem to have occurred when the water bowsers were not in use or were ineffective. In 1993-94 excessive noise was experienced for some 2 months but complaints made then do not appear on Celtic Energy's complaints register. On one occasion Mr Davies' house was shaken by a large blast from which it took 15 minutes for the dust to disperse. Celtic Energy's complaints register shows that several villages have been affected by noise, dust and vibration disturbances. Apart from nuisance, possible long-term effects on children's health is also a major worry.

259. Mr Davies worked in the coal industry until 1989 and is aware that many collieries have closed over the years because of the reduced need for coal. It is questionable whether there is actually a need for the East Pit coal today, and it is time that it was closed down. The minutes of East Pit site liaison meetings in 1999-2000 recorded concerns about property prices as people were unable to sell their houses. Nowadays, since the closure of East Pit operations in 2001, house prices have risen and sales are often achieved within a few weeks. If East Pit were reopened it would be a step backwards for the local community.

*Mr Dan McCallum*

260. Mr McCallum lives in Tairgwaith and reports that, while the quality of life there was poor up until 2001, it is much better since East Pit closed down. Celtic Energy is not responsive to the concerns of the local community, and it is considered unlikely that the promise to avoid lorry traffic at school start and end times would be honoured.

261. Very few local jobs would be created at East Pit if the proposal were to go ahead. The demolition of the washery at East Pit has cast doubts about job creation. It is difficult to encourage other enterprises to the area when the opencast coal site is there. The economic health of the area would be better served by closing East Pit completely.

*Mr Terry Pugh*

262. Mr Pugh has lived in Tairgwaith for 25 years and has had to put up with several phases of the East Pit development. The ravages of opencasting are obvious, and the village has suffered 50 years of environmental effects. "Grey snow" is not unknown in Tairgwaith and, while the dust may not be a prime cause of silicosis it does contribute towards asthma.

263. Mr Pugh worked in the deep pit and opencast coalmining industries for many years and was made redundant on 3 occasions, which is not unusual in this industry. Workers in the coal industry will have to do something else one day; they may as well do it now.

*Mrs Helen Davies*

264. Mrs Davies has lived in Rhosaman all her life, and her father and brother have both worked in the opencast coal industry. However, it is possible to find other jobs in the area. This part of the Amman Valley is a beautiful area and especially good for walking, even though footpaths on the site have been closed for many years. There are tourism opportunities, which are deterred by the presence of the opencast site, and the local communities would benefit if it were closed and restored.

### **Written Representations** (Documents 3 and 4)

265. In addition to representations made at the public inquiry, a large number of letters have been submitted by local residents, interested organisations and their representatives. Letters submitted to the Planning Inspectorate (or forwarded by the Council to the Inspectorate) before the public inquiry are contained in the folder marked "Document 3". 17 letters were submitted to the Inspector at the inquiry and are contained in the folder marked "Document 4". Document 3 contains some 75 letters, including ones from Gwenda Thomas AM, Peter Black AM, Rhodri Glyn Thomas AM and Adam Price MP. 17 of the letters in Document 3 are in support of the proposed development; all of the rest, and all of the letters handed in at the inquiry (i.e. those in Document 4), are opposed to the development.

266. The large number of letters submitted is a clear indication of the strength of feeling amongst the local communities, particularly in opposition to the proposal. They strongly reinforce the matters presented at the inquiry but, on the whole, do not raise new issues. Therefore, I have not included any further summary here.

### **Section 106 Agreement** (Documents 32.1, 32.2, 33.1 and 33.2)

267. Celtic Energy Ltd and Neath Port Talbot CBC have entered into a Section 106 Agreement, a certified true copy of which was submitted near the end of the public inquiry (Document 32.2). A draft version (Document 32.1) was provided earlier in the inquiry, and comments on that were submitted by Carmarthenshire CC and the consortium of local Community Councils (Documents 32.1 and 32.2 respectively). These were considered by Celtic Energy in finalising the Agreement, which covers provisions for reclamation and aftercare work in a small area of the site, the donation of an area of recreational land, certain footpath work, and the payment of monies into an Escrow Account towards the cost of the reclamation work.

268. Within 18 months of the start of development reclamation works would be carried out for a small area of land near the site entrance (shown coloured blue on the plan attached to the Agreement). That land contains a number of disused settlement lagoons and ponds and would be regraded to tie-in with the levels of surrounding land and seeded to be suitable for grazing as upland common land. The donation area is marked in purple on the same plan and would be transferred to the Council for recreational or community use (a children's playground has been suggested). The Company would also use reasonable endeavours to assist the Council in attempts to re-open the suspended footpaths and provide access for people to walk them.

269. The payment of money into an Escrow Account is also included in the Agreement. For each tonne of coal produced from the site £2 would be paid into the account and, after coal production has ceased, £0.48 would be released from the account to the Company for each cubic metre of overburden mound removed towards filling of the void. In the event of the Company failing to meet the terms of the planning permission, the money in the account would be available to the Council to effect work on the site itself.

270. Carmarthenshire CC commented about the feasibility of using the donation area, which is common land, without it being de-registered under Section 13 of the Commons Registration Act 1965 and about its status as public access land under the Countryside and Rights of Way Act 2000. These matters affect the ability to build on the land and the benefits gained by the local community, which would be quite modest. The consortium of community councils would also prefer common land rights to be removed from the reclamation area, so that it could be used for recreational or community purposes in conjunction with the donation area. It would also like to see other surplus areas of land donated for the benefit of other villages affected by the opencast site.

271. With regard to the suspended footpaths, Carmarthenshire CC commented that the suspension of many of the footpaths could be revoked as their suspension is no longer necessary for the purpose of carrying out the permitted activities. However, Celtic Energy explained that most of the land would still be in operational use (e.g. for the storage of overburden material) and so the footpath suspensions could not be fully revoked. Carmarthenshire CC also suggested that the phrase "reasonable endeavours" in regard to arranging the removal of common rights from the donation area and the re-opening of the suspended footpaths be changed to "best endeavours", which is interpreted in law as meaning a high level of commitment. Whilst Celtic Energy indicated that there was such commitment, the final version of the Agreement does not reflect any revised wording.

272. Both Carmarthenshire CC and the consortium of community councils drew attention to the lack of community benefits for settlements other than Tairgwaith and indicated that they would like consideration to be given to the possibility of separate arrangements being made between the Company and all the communities of Carmarthenshire and Neath Port Talbot for payments into community funds. Celtic Energy responded that it would not wish to see funds diverted from the commitment for restoration of the site.
273. Finally, the consortium of community councils expressed concern that the financial provisions of the Agreement would fall far short of the full costs involved in restoration of the site. Some £4.2M would be held in the Escrow Account, which represents less than 10% of the full site restoration costs. It was suggested that the total estimated restoration costs should be covered by the account and that some surety or bond be required to secure the developer's obligations in the event of default by the Company.

**Conditions** (Core Document EPER5 in Document 7, and Documents 34, 35, 36, 37.1 and 37.2)

274. Having resolved at its meeting on 17 February 2003 to approve the planning application, at its next meeting on 25 March 2003 Neath Port Talbot's planning committee approved the set of planning conditions that were to be applied (Core Document EPER5). This list formed the basis for detailed consideration of possible conditions at the public inquiry. Carmarthenshire CC submitted comments to NPTCBC in advance of the public inquiry (Document 34), and during the course of the inquiry representatives of Celtic Energy, NPTCBC, CCC, and the BBNPA met to discuss conditions further and provided a set of "agreed comments" on the original set (Document 35). These were useful for subsequent discussions within the inquiry itself. The Council then produced a further document that took into account agreed changes for many of the conditions (Document 36), before a final discussion was held in the inquiry. Carmarthenshire CC and Celtic Energy submitted additional comments in respect of details for conditions on noise and blasting (Documents 37.1 and 37.2 respectively).
275. To avoid confusion the numbering referred to in the following paragraphs is based on the set of conditions originally approved by the Council (i.e. Core Document EPER5). Conditions recommended should the National Assembly resolve to grant permission are included as an annex to this report, along with reasons for each one. As an aid to relating those conditions to the original ones approved by the Council and to comments in the following paragraphs, in that annex the number in brackets is also a cross-reference to the original set of conditions approved by the Council.
276. Minor improvements to the wording of a number of conditions were agreed at the inquiry in order to improve clarity, including conditions 4, 7, 9, 10, 11, 15, 16, 18, 19, 20, 27, 28, 49, 54, 55, 56, 60, 61, 65, A14, A15 and C1. I have also made further improvements to several other conditions. In addition, it was agreed that a number of conditions needed to be supplemented by requiring implementation of an approved scheme in addition to its submission for approval.
277. Carmarthenshire CC would prefer overburden storage to be shared between the western and southern mounds but, if the proposal to use just the western mound is considered acceptable, it would support Condition 8, covering the extent of such storage. In conjunction with Condition 19 (for a turning facility at the end of Ochr-y-Waun), if it were considered necessary to change the shape of the soil mound to avoid demolishing Number 44 Ochr-y-Waun (on account of bats), it was agreed that an additional condition would be needed for the design change. It was also agreed that Condition 22 (which defines "emergency") was unnecessary and its scope would be better included in Condition 23 (hours of normal

operations) and that Conditions 26, 27 and 28 (covering working hours for other specific operations) should be combined. The community councils argued that plant maintenance work should be carried out during normal operating hours but Neath Port Talbot CBC and Carmarthenshire CC agreed with Celtic Energy that this would be impractical.

278. Conditions 29 – 31 deal with noise, and agreement could not be reached on a noise limit for outside normal operating hours. Consequently, a limit of 42 dB(A)  $L_{eq}$  (1 hour) is adopted, as recommended in MPG11, “Minerals Planning Guidance: The Control of Noise at Surface Mineral Workings”. Carmarthenshire CC proposed an alternative condition for the control of dust but that proposed by Neath Port Talbot CBC is preferred by Celtic Energy and, subject to slight modification, is considered satisfactory. Carmarthenshire CC also suggested an alternative drainage condition, arguing that it would be more precise. However, this is adequately covered in Conditions 35 and 38 proposed by Neath Port Talbot CBC.
279. The vibration limits to be set for blasting (Condition 41) were discussed, as Carmarthenshire CC argued for reduced limits (Document 37.1). However, evidence from Celtic Energy of limits set for other opencast coal sites (Documents 37.2) shows that the limits proposed by Neath Port Talbot CBC would be demanding yet reasonable. Carmarthenshire CC also suggested that more detailed conditions be applied in respect of site liaison and technical working party meetings. However, the Neath Port Talbot CBC proposals are adequate and offer the benefits of flexibility (Conditions 51 and 52).
280. With regard to long-term restoration, Carmarthenshire CC suggested an additional condition that the seed mixes for areas of common land and enclosed pasture be specified. However, provision for the approval of these is allowed for in Schedule C of Neath Port Talbot’s conditions and would be best left until nearer the time. Carmarthenshire CC also suggested a condition be added concerning the visibility of the proposed screening embankment from the Rose & Crown car park at Rhosaman (Document 37.1). Having considered the site lines, I conclude that this would be unnecessary.
281. Finally, turning to the schedules, within Schedule A several of the conditions are duplicated or would be better combined. Within Schedule B, Carmarthenshire CC argued for the much earlier submission of proposed restoration details. However, the aim of improved precision would be better achieved by simply specifying the time for submission of details from the beginning of the coaling operations rather than prior to their end (Condition B2). Carmarthenshire CC also suggested a more detailed condition for the reprofiling of the settlement ponds and lagoons (Condition B8) but I consider this to be unnecessary.

## Conclusions

282. At the time of the call-in the Assembly advised that it particularly wished to be informed about the visual and environmental implications of the proposed development on the site and surrounding area (including the Brecon Beacons National Park and Carmarthenshire), the ecological and nature conservation interests and the relevant national and development plan policies. Correspondence from local residents and their representatives made it quite clear that they were particularly concerned about matters that would affect their standard of life, including noise, dust, blasting vibration, heavy lorries and visual impact, and the effects on the attraction of tourism and other businesses to the area. On the other hand, Celtic Energy argued that there is a need for the coal and that there are economic benefits that outweigh any environmental harm. Several other matters have also been raised by interested parties, such as geology, drainage, water pollution and archaeology.
283. I have taken all of these factors into account. However, in my view the main considerations in this application are: its effects on visual amenity and the landscape, taking into account both the local impact and the wider impact on the National Park; its effects on the amenity and health of nearby residents, particularly in respect of noise, dust, vibration from blasting and heavy lorries; its effects on the local economy; and the need for the coal.

### *Policy Framework*

284. It is a requirement of the Town and Country Planning Act 1990 that, where an adopted or approved development plan contains relevant policies, an application for planning permission shall be determined in accordance with the plan, unless material considerations indicate otherwise. In this case the development plan comprises the West Glamorgan Structure Plan (Review No. 2) 1991-2006, adopted in 1996, and the Northern Lliw Valley Local Plan, dated 1993. Both plans contain relevant policies but it is common ground amongst the parties that all of the relevant criteria to be considered for individual planning applications for mineral development are listed in Structure Plan Policy M2. [19, 20, 110, 174]
285. Policy M2 lists 10 criteria and, for ease of reference, it is worth reproducing them here:
- (i) *the requirement for extraction of the mineral resource;*
  - (ii) *the extent to which the proposal contributes towards or is detrimental to the achievement of sustainable development;*
  - (iii) *the impact on landscape, countryside resources, wildlife habitats and species, and features or resources of conservation value, particularly those protected or designated under statutory powers;*
  - (iv) *the extent to which the proposal is prejudicial to or consistent with recreation and tourism strategies, policies and proposals;*
  - (v) *the effect on amenity, particularly as a result of noise, grit, dust, smell or vibration;*
  - (vi) *the beneficial or detrimental impacts on the economy and investment, particularly creation of new or retention of existing employment, and economic development strategies or proposals;*
  - (vii) *the effect on water supply, water quality, land drainage and water resources;*



- (viii) *the adequacy and impact of the arrangements for access to the site and for transportation of material to and from the site;*
- (ix) *the proposals for landscaping, rehabilitation, restoration and aftercare and the opportunities offered for positive environmental and after-use benefits, including reclamation of derelict land; and*
- (x) *the effects on local communities of cumulative environmental impacts.*

286. The 1995 Deposit Draft West Glamorgan County Council Minerals Local Plan is also a material consideration, though it was never taken through to adoption, and individual policies of both that and the Structure Plan deal with many of the individual criteria listed above. Draft Minerals Local Plan Policy DC3 is worth particular mention as it explains the basis for the assessment of landscape impact. Again, it is worth reproducing the list of 3 elements:

- (i) *the visual intrusiveness of the development as regards the surrounding area and major transport routes into and through the county;*
- (ii) *the loss or gain of particular landscape features; and*
- (iii) *the effect of the development on the quality of the landscape, especially in areas designated in development plans for landscape reasons.* [22, 144]

287. Relevant national policy is contained in Planning Policy Wales and Minerals Planning Policy Wales. PPW draws attention to the need to take into account the purposes of the nearby Brecon Beacons National Park and the effects on its natural heritage interests. MPPW provides useful guidance on sustainable mineral extraction and the need to strike a proper balance between the fundamental requirement to provide society with a range of minerals, the need to ensure prudent use of natural resources, and the protection of existing amenity and the environment. Paragraph 5 draws attention to the fact that extraction can only take place where the mineral is found to occur and that extraction is transitional and not a permanent use of the land. [24-28, 173]

### *Landscape and Visual Impact*

288. As indicated above, landscape impact is assessed on the basis of 3 elements: the loss or gain of particular landscape features; visual intrusion both close to the site and in longer distance public views; and the effect on the quality of the landscape, particularly bearing in mind the location of the site on the edge of the National Park. The methodology used in Celtic Energy's landscape assessment has been criticised but, in my view, with no good reason. The opposing bodies have carried out no formal assessment of their own and have not disputed the factual assessment. The dispute is over the extent of the visual impact. [51, 138]

289. The site itself is not subject to any landscape designations or specific planning policies. Most of it is already covered by man-made, engineered features associated with the past opencast working of the site, particularly the extensive volumes of stored overburden and soil material and the large void. The proposed extension area amounts to a little under 50 hectares (of the 400 hectares total site area) and comprises a mixture of undisturbed common land and enclosed grazing land with limited woodland, trees and hedges and no significant features. [9, 53, 55, 179]

290. Although the original form of this area would be lost, the proposal would include restoration to as near a reproduction of its present form and character as possible at the end of the coaling period. The whole scheme would take some 9½ years (comprising 6 months preparation, 7

years coal extraction and 2 years restoration), and there would clearly be a loss over that period, affecting the setting of Cwmllynfell and access to the land for commoners and walkers. **However, in the long-term the effect on landscape features would be negligible.** [13, 143, 197, 243, 252, 257]

291. At present the existing overburden and soil mounds and the large void are alien features in the environment, and restoration of the site (by filling the one with the other) would remove these and return the land to a more natural form. This would be a substantial benefit. However, it is a benefit that would be achieved whether or not the current proposal goes ahead, as restoration of the site is also a requirement of the previous planning permission, and it would be achieved earlier if the current proposal were refused. [65, 178, 179]
292. Some parties have expressed doubts about Celtic Energy's ability to meet the substantial costs involved in restoring the land if the current proposal were not allowed. However, Celtic Energy itself has made no such case, and the weight attributed to such a possibility must be considered fairly limited. Consequently, the effect of allowing the current proposal to go ahead would be to delay site restoration by about 7½ years. Some parties have criticised the lack of phasing of the restoration work, and phasing is strongly encouraged in national policy. However, I am satisfied that it would be impractical to do any more in this case than is already included in the proposal. [55, 68, 69, 124, 127, 128, 146, 177, 178, 194-196, 245, 251, 257, 269]
293. Turning to visual impact, the reconstruction of the soil mound near the north-eastern and eastern boundaries would bring that feature closer to the neighbouring communities of Cwmllynfell, Cefn-bryn-brain and Rhosaman. Its construction would be clearly visible over a period of several months; thereafter it would screen views of most activity within the site but would itself appear as an alien feature closer to the communities than at present. A small part of the extension area is at a higher elevation than the soil mound, and initial site work in that area would be visible from outside the site until the ground level was reduced. In addition, activities on the western overburden mound, where surplus material would be stored during the early stage of coaling, would be visible at some distance from several higher level parts of the neighbouring villages. **I conclude that there would be some harm to visual amenity for residents of the nearby villages to the east and north-east. However, taken as a whole, other visual impacts would not be significantly different from those experienced during previous operations and from the storage mounds as they are today.** [53, 58, 141, 142, 156, 180, 200, 209, 243]
294. From further afield, the site is clearly visible from the high ground to the north within the National Park. The overburden mounds of stored material cover large areas of the site, and those, the soil storage mound and the void may be seen from the slopes of Mynydd Du and from the A4069 road north of Brynamman. However, although these are large man-made features, their profiles are not clearly discernible when grassed, and the proposed extension scheme would not significantly change this. Whilst harmful to the landscape, the degree of harm would be quite limited, even allowing for the fact that Mynydd Du is an area popular for walking and is likely to be designated as "access land" under the Countryside and Rights of Way Act 2000. **The main visual impact of the proposed scheme on the wider area would be the retention of these features for an additional 7½ years (note that this would not be 10 years or 20 years as has been alleged elsewhere) before work was carried out to restore a more natural land profile.** [35, 59-61, 129, 135, 136, 140, 145, 180, 182, 207]

295. Finally, it is appropriate to consider the **effect on the quality of the landscape, particularly in regard to the National Park**. If the proposed scheme were allowed, plant and vehicles moving around the site and some of the fixed plant would also be visible, though at considerable distance. It has been suggested that the movement of vehicles around the site would harm the quiet and remote character of this part of the National Park. However, such parts of the Park are a considerable distance away from the site and, in my view, **this effect would be slight**. [61, 63, 139, 180]
296. The Brecon Beacons National Park Authority argues that it would be contrary to policy to allow an opencast coal site to creep closer to the Park boundary. However, the circumstances of this site are such that the effects of the proposed scheme on the National Park purposes to preserve and enhance the natural beauty of the Park and promote opportunities for open-air recreation would be little different from the present impact of the site, except in regard to the delay in restoring it. The Brecon Beacons National Park was created in the full knowledge that its southern boundary was closely associated with the coalfield and with the workings that existed at that time. Thus, from the point of view of effects on the quality of the Park landscape, some continued coal operations are not necessarily unacceptable. [62, 132, 134, 137, 181, 206, 207]
- 297. Overall, I conclude that the impact of the proposed development on the landscape and visual amenity would not be significantly different from that of the existing site and previous site operations. Whilst causing limited harm to local amenity and long distance views from the National Park, I consider the most significant factor would be the delay of some 7½ years in restoring the site and replacing the present unnatural landforms with a more natural profile and character.**

#### *Amenity of Local Residents*

298. The main factors to be considered under this heading are noise, dust, blasting vibration and transportation. These may be compared with the previous operations, which ceased in December 2001 or the circumstances today some 2½ years later when no work is being carried out at the site. It seems to me that, if permission were not granted for the proposed development, the fall-back situation would be one where the only site works envisaged would be the restoration work, which would take about 2 years. These would be likely to take place whether the current proposal were allowed or not. Consequently, it is appropriate to assess the impact of the preparation and main coaling periods of work (lasting some 7½ years) on the living conditions of nearby residents as they exist today. [150]
299. Dealing first with noise, Celtic Energy has carried out a detailed modelling exercise, which has provided estimates of noise for a range of noise sensitive locations and for a range of operational scenarios. Worst case assumptions have been used, and for most of the time the levels of noise experienced would be considerably less than these model predictions. The results have been compared with the guidance contained in Minerals Planning Guidance (MPG) 11, "The Control of Noise at Surface Mineral Workings" (1993), which is current guidance in Wales. This recommends that noise levels during the working day be limited to 55 dB  $L_{Aeq, 1 \text{ hour}}$  (free field) and to 42 dB  $L_{Aeq, 1 \text{ hour}}$  (free field) outside those hours but also advises that levels up to 70 dB  $L_{Aeq, 1 \text{ hour}}$  (free field) are considered acceptable for periods of a few weeks, for example to allow screening embankments to be constructed, which would have long-term benefits. For comparison purposes, 55 dB  $L_{Aeq, 1 \text{ hour}}$  (free field) is described as roughly equivalent to the noise made by a person talking normally and is generally agreed to be a tolerable noise level. [76-79, 81, 153]

300. For the normal coaling operations and for the restoration works the predicted noise levels would be well within the 55 and 42 dB limits specified above, although 2-shift working for the main coaling phase would extend operations later into the evening than allowed for in MPG11. Nevertheless, during the coaling phase the predicted noise levels would also be well within the advice of BS4142, "Methods of Rating Industrial Noise Affecting Mixed Residential and Industrial Areas", that noise should be no more than 10 dB above background noise levels. It is also relevant that the noise control condition agreed by the parties at the inquiry specifies a maximum daytime level of 50 rather than 55 dB  $L_{Aeq, 1 \text{ hour}}$  (free field), which shows how noise levels would be expected to be controlled. [80-82, 218, 219, 250]
301. The exception to this limit would be the initial preparatory phase when soil embankments would be constructed close to the site boundary in order to provide screening for the later site operations. In view of the benefits of such embankments, higher levels of noise for short periods are considered to be acceptable. Even so, the highest predicted noise level at a sensitive property would be 57 dB, well within the 70 dB  $L_{Aeq, 1 \text{ hour}}$  (free field) limit advised. Whilst MPG11 mentions a period of 8 weeks for this higher limit, it does not specifically restrict it and acknowledges that some operations may take longer. That may be the case here but, in view of the longer-term benefits and the modest predicted noise level, I do not consider that it would be unacceptable. [81, 155, 219, 221]
302. Incidences of complaints about noise during the previous East Pit operations were discussed at some length in the inquiry, and it is clear that most were in connection with isolated incidents rather than the level of general noise. Whilst, it is true that local residents may not complain about the general level of noise, which they feel unable to do anything about, little useful information is available from the complaints records. **Overall, I conclude that noise levels generated by the site operations would be unlikely to cause significant harm to the living conditions of nearby residents.** [82, 83, 120, 149, 158, 184, 220, 243, 258]
303. Blasting on the site is an emotive subject and its effects have been exaggerated by some of the participants at the inquiry. Unlike rock quarries, blasting at an opencast coal site is designed merely to loosen the ground material rather than physically move it from the quarry face. It is less effective if power is lost to the air (the cause of air overpressure waves), and blast size is generally quite modest. Monitoring of previous operations at East Pit has shown that ground-transmitted vibrations have been very low, and conditions agreed at the inquiry would set vibration limits at levels considered acceptable in terms of public perception and substantially below the levels at which damage to buildings would be likely to occur. Air overpressure cannot be readily measured but good practice would keep it to a minimum. This could be adequately ensured by applying a suitable condition on methods to be employed. During my site visit I observed a controlled blast at Nant Helyn opencast coal site and, even standing only 150 - 200 metres away, I found it barely perceptible. **My conclusion is that blasting would have a negligible effect on local amenity.** [7, 85-89, 120, 159, 222, 223, 243, 255, 258]
304. Turning now to consider dust, there are 2 elements of concern: nuisance due to deposition of dust particles in the surrounding communities; and health risks associated with the smaller  $PM_{10}$  particles suspended in the air. Again, the complaint records provide little useful information on past incidents as they generally refer to observation of isolated dust generation incidents on the site (e.g. a lorry tipping a load) rather than the transport of dust outside the site boundary. In addition, much of the evidence of such incidents is from several years ago when on-site dust suppression measures were less effective than they are today. Dust deposition monitoring has been carried out in the past at several locations within and around the site. Its extent, continuity and reliability have been questioned. However, dust

monitoring is not a precise science, and I am satisfied that the analysis carried out by Celtic Energy provides a useful guide despite its shortcomings. [90, 120, 160, 184, 210, 211, 213, 258]

305. This monitoring data indicates 2 things: firstly, that dust deposition was generally less in 1999 than in 1992, reflecting the improved modern dust control techniques; and secondly, that, apart from a few isolated incidents, results were generally well below the threshold agreed between Celtic Energy and Neath Port Talbot CBC for the previous East Pit Extension operations, which itself was below the generally accepted guideline value of 200 mg/m<sup>2</sup>/day. A range of Best Available Technology measures would be taken to control dust on the site and these could be specified by suitable conditions. **Whilst some nuisance dust would inevitably occur (particularly in certain weather conditions), I consider that it would generally be quite limited and that the effect on amenity would not be significant.** [91, 93-96, 161, 165, 212, 262]
306. It is not disputed that fine dust can be harmful to health as it can penetrate the respiratory system. PM<sub>10</sub>, i.e. particles less than 10 microns in size, is taken as a suitable measure of fine particles in the atmosphere that cause this risk to health. Research has been carried out at other opencast sites and has shown that PM<sub>10</sub> concentrations in the surrounding areas tend to be higher on average than the ambient background levels. Elevations of 14% and 27% have been recorded, though these fall away exponentially with distance from the dust source. It seems likely that the concentration of fine dust in the atmosphere would be higher in areas around the site if the proposed development were to go ahead. However, there is no record of any opencast worker having suffered respiratory disease as a result of working on an opencast site, and it is questionable how significant that increase would be. [97, 98, 121, 123, 163, 202, 215, 216, 241]
307. The UK National Air Quality Strategy has set an aim of improving air quality, and PM<sub>10</sub> is one of the parameters for which target standards have been set. The target is to achieve an annual mean standard of 20 µg/m<sup>3</sup> by 2010 with a limited number of exceedances of 50 µg/m<sup>3</sup> measured as a 24 hours rolling mean. Allowing for the localised increases in concentration found in the above studies, it is still projected that PM<sub>10</sub> levels in all of the local communities would be comfortably below this target standard. This is put in context by the fact that PM<sub>10</sub> concentrations in central Cardiff in 2002 averaged 21 µg/m<sup>3</sup>. **I conclude that, whilst there would be a slight increase in risk to health due to dust, that risk would be so low as not to warrant refusing the proposal on health grounds.** [97, 99, 164, 214, 216, 237, 242]
308. Assertions have also been made that air pollution would occur due to exhaust fumes from the machinery and lorries on the site. However, no evidence has been put forward to support this allegation, and I find it of little merit. The machinery used on opencast sites is highly sophisticated and maintained to a high standard. There is no reason to believe that it would cause air pollution. [90, 121, 217, 242]
309. Finally, there is the matter of transportation. Celtic Energy hopes to transport up to 50% of the coal by train. However, that would depend on the customer base as well as other factors, and it is possible that all of the coal may be transported by road. The Environmental Impact Assessment has considered this scenario and reports that, if all of the coal were transported by road, it would involve some 60 lorries per day travelling in and out of the site. The Council's highways officers advise that this number would have a negligible impact on highway safety, and because that number would represent only a small percentage of the

traffic on the local road network, **I consider that its general impact on local amenity would also be negligible**, with the sole exception of New Road. [71-74, 152, 200]

310. New Road is not a through road and is the only road in and out of both the East Pit site and the village of Tairgwaith. It also passes a primary school near its junction with the main road in Gwaun Cae Gurwen. 60 lorries per day in each direction would be a significant proportion of the traffic along New Road and would have the potential to have a marked effect on nuisance and noise along it for the duration of the operations. However, in my view, the level of harm caused by this number of lorries, which would amount to only 6 lorries per hour at peak times, would not be unacceptable. [74, 75, 185, 247]
311. During the previous East Pit operations lorries were barred from passing along New Road for periods of time at the start and end of each school day, and that could be controlled again for the proposed development. It has been claimed that some drivers paid little heed to this restriction in the past. However, Celtic Energy intends to operate the opencast site itself in the future rather than through a contractor (as in the past), and it would be reasonable to expect that better controls would be achieved. Furthermore, the Council could enforce against any breach of condition. [75, 119, 185, 248, 260]
312. I have concluded in respect of each amenity factor that the level of harm caused would be at best negligible and at worst acceptable. However, it has been argued that the cumulative effect of all of these would be unacceptable, particularly bearing in mind the length of time over which local people have endured opencast coal operations on this and other sites in the area. **This long-term cumulative effect has been described as “death by a thousand cuts”, and several local residents have said that the community has had enough. This is a powerful argument and, in my view, is the main argument against the proposed development.** Even if the current proposal were allowed, the strength of this argument would increase in respect of any proposals for further opencast work in the future. [12, 151, 176, 177, 186, 195, 240, 262]

#### *Local Economy*

313. I move on now to consider the benefits and disbenefits to the local economy, including possible effects on tourism. It is not disputed that the proposed development would provide a large number of highly paid, skilled jobs or that most of these workers would be likely to live within some 10 miles of the site. The previous operations at East Pit provided jobs for 138 people, and it would be likely that the current proposal would involve a similar number. These would be beneficial to the community as a whole as well as to the employees and their families themselves. The local economy would also benefit from the provision of other services, materials and equipment associated with the site operations. A former East Pit storekeeper reported that he had been responsible for expenditure of some £7,000 per week in the local economy. **These would be substantial benefits to the economy of the area, albeit for a limited period of about 9½ years in total.** [44, 46, 115, 124, 126, 128, 169, 188, 229]
314. It has also been argued that, if the proposal were not approved, some 500 other jobs would be put at risk. These are at the Onllwyn washery (which has been in existence for over 70 years) and other opencast coal sites in the area, and it is argued that the continued success of the industry depends on the security of coal supply and the integration of various coal qualities for product blending. East Pit would provide a high quality anthracite that is vital to the blending of products sought by Celtic Energy's customers. Without more detailed evidence it is difficult to accept that East Pit would provide a particularly scarce quality of coal.

However, as a matter of principle, it can be appreciated that the business needs flexibility, reliability and continuity of supply in order to be successful. The proposed development would, no doubt, make a significant contribution towards this – and hence towards the continued success of the Company and the retention of jobs at these other locations. Whilst the planning system does not aim to promote the success of individual companies, it does aim to achieve high levels of employment and a healthy economy. **The reduced risk to these other jobs would be another benefit of the proposed development.** [41, 42, 115, 117, 228]

315. Turning now to disbenefits, various parties have argued that the presence of an opencast site in the community is a disincentive to wider economic growth, as it harms the character and appearance of the area and deters potential investors in other industries and in housing. They say it also deters tourists from visiting this beautiful area because of the loss of footpaths, the reduced enjoyment of facilities and the lack of better facilities caused by deterred investment. They believe that the community would become more prosperous if East Pit were closed for good and point to the achievements of Amman Valley Enterprise in attracting some commercial development to the area and contributing towards reduced levels of unemployment. [189, 190, 204, 229, 249, 259, 261, 264]

316. Whilst it is entirely understandable to want to attract other types of investment to the area, I do not consider that the presence of opencast coal mining is necessarily a critical deterrent. Examples have been reported of high quality industrial and housing developments taking place close to operational opencast sites in other areas, and it seems more likely that other factors are the main drivers. The communities in this area are not well placed geographically and are not as well served with transport links as many competing areas. In my view, these are likely to be the main deterrents to investment rather than the presence of an opencast coal site. **I conclude that the reopening of East Pit opencast site would be unlikely to be a significant deterrent to other investment in the area.** [47, 116]

317. The Ramblers Association provided a useful reminder that walking is the main activity for people visiting the Welsh countryside and that it is a valuable source of tourism expenditure and employment in rural Wales. However, I do not agree with the contention that the proposed development would significantly detract from this. Whilst there would continue to be a number of footpaths closed within the site, alternative routes would be provided where appropriate; and, in any case, these footpaths do not form any significant part of the wider footpath network. It is said that the presence of heavy lorries on local roads would deter walkers as they move from path to path. However, any development would be likely to increase traffic levels. There is an inherent conflict between the development of an area and the quiet enjoyment of its road network. **I conclude that the proposed development would have a negligible effect on tourism in the area.** [49, 234-236]

#### *Need for Coal*

318. Celtic Energy reports that the need for the coal is the “driver” for the application. It is the largest producer of anthracite in the UK and needs the coal from East Pit in order to meet customer specifications for product blend. 70% of its sales go to the electricity and industrial markets, 20% to domestic markets and about 10% is exported elsewhere in Europe. If it failed to supply these markets, they would be sourced from imports, which already supply 50% of the UK market. Some parties have argued that this scheme is related more to the needs of the Company than the wider needs of the Country, and there is indeed a fine distinction. However, in view of the Company’s position as a major “player” in the UK market the two are also closely related. [39, 40, 166]

319. National sustainability policies recognise the need to ensure an adequate supply of minerals to meet the needs of society and that coal can only be worked where it exists. Although there is a general move towards other energy sources, coal is still a major component of the UK market and is likely to remain so for many years to come. The proposal would allow 2.1M tonnes of coal to be recovered at East Pit. If these reserves were not worked now they would become effectively sterilised as it would not be economic to recover them once the site has been restored. Consequently, either other less attractive sites would have to be worked or more coal would have to be imported to meet demand. The transportation of such a bulky material from other parts of the world is contrary to the most basic principle of sustainability. [43, 168]
320. Some parties have referred to government grant aid to the opencast coal industry and asked how an argument of “need” can be made when the industry is unable to compete with cheap imported materials, and it is not disputed that World coal prices are relatively low. It has been suggested that the simple answer is the need to safeguard British jobs. However, there is a strong sustainability argument in favour of maintaining an effective industry within the UK, where there are still vast reserves of coal. Taken as a whole, **I conclude that there is a need for the East Pit coal, which carries considerable weight.** [125, 203, 227]

#### *Other Matters*

321. Several other matters have been raised and need to be addressed. The first is nature conservation and ecology, one of the matters identified by the National Assembly and on which it wished to be informed. Extensive surveys have been carried out, and the Countryside Council for Wales has been consulted and has raised no objection to the proposed development, subject to certain conditions. There are no statutory or non-statutory sites of nature conservation within the site, though there would be some loss of purple moor-grass and rush pasture during the working of the site. However, the greater extent of this type of pasture would remain, and in the long-term appropriate restoration measures would ensure no net adverse effect. [100, 101]
322. Surveys have identified 2 protected species inhabiting parts of the site: bats and badgers. Evidence was found of use of the roof-space at Number 44 Ochr-y-Waun as a roost for brown long-eared and pipistrelle bats but it was not considered significant for the maintenance of the local population. Number 44 would be demolished under the proposed scheme, though the Company has said that the soil screening mound could be redesigned, if necessary, to avoid its loss. However, demolition of the house should be licensable under the Conservation Regulations 1994, and I see no need to retain it. Its loss would not be detrimental to the local bat population. [102]
323. There are 2 outlier badger setts on the site. However, closure of these is capable of being licensed by the Countryside Council for Wales. Subject to mitigation measures, the loss of these setts and a small area of foraging territory would not be detrimental to the badger population. Some local residents have reported other animals and birds in the area but there is no reason to believe these have any particular association with the proposed site or would be harmed by the proposed development. Suitable conditions could be applied to a grant of planning permission to minimise and mitigate effects on nature conservation. **I conclude that effects on nature conservation and ecology would be negligible.** [103, 104, 200]
324. The second matter is that of drainage and potential water pollution. It has been alleged that lowering the water table may lead to polluted leachate from old colliery workings or from an old landfill tip at Cefn-bryn-brain finding its way into the site and then draining into local watercourses. This is pure speculation, and there is no reason to suspect that it might occur.



Past workings at East Pit have involved lowering the groundwater levels around the void, and there has never been any sign of pollution in the local streams. [105, 224]

325. It has also been suggested that the removal of large quantities of material may increase the likelihood of geological movement as the area is widely affected by faulting and thrusting zones. However, minerals extraction takes place all over the World without any such effect, and there is no reason to suspect that it might occur here. Mention has also been made of damage to archaeological interests and Celtic Energy's failure to maintain the houses that it owns along Ochr-y-Waun. These are disputed by Celtic Energy and, at worst, show past management failures. However, they are of little relevance to the current proposal. [106-108, 199, 201, 225, 226]

326. Finally, allegations have been made of deficiencies in the Environmental Statement. However, I consider it has dealt adequately with all matters of any significance and that any omissions are unlikely to materially affect my conclusions on this proposal. [192]

#### *Conditions and Section 106 Agreement*

327. The Section 106 Agreement has been entered into by Celtic Energy and Neath Port Talbot CBC. The Agreement covers provisions for early reclamation of a small area of land near Tairgwaith, the donation of an area of recreational land near the site entrance in Tairgwaith, certain footpath work, and the payment of monies into an Escrow Account towards the cost of the main reclamation work. Apart from the latter, these are relatively minor matters, though of some potential benefit to the local population. **The setting up of a fund for restoration work would be a significant benefit**, even though its value would represent only a small percentage of the anticipated cost of the restoration work. [5, 268-271]

328. A total of 90 conditions have been put forward (including the 3 schedules covering the stripping, handling and storage of soils, the restoration work, and the subsequent aftercare). These were all discussed at some length at the public inquiry, and the final versions are included as an annex to this report. All of the conditions meet the tests prescribed in Welsh Office Circular 35/95, The Use of Conditions in Planning Permissions. **They would provide necessary controls over working methods aimed at minimising and mitigating impacts on the environment and local amenity.** [274-281]

#### *Overall Conclusion*

329. In reaching my conclusions I have taken into account the Environmental Statement, the requirements of Section 54A of the 1990 Act, and development plan, national and other local policies and draft policies. My main conclusions on the various matters may be summarised as follows:

- the effect on landscape features would be negligible;
- local and long distance visual impact would not be significantly different from previous East Pit operations and from the appearance of the site as it is today;
- the main visual impact would be the retention of the existing man-made features (principally the soil and overburden mounds and void) for a further 7½ years before site restoration;
- the effect on the quality of the National Park landscape would be negligible;

- noise levels would be unlikely to significantly harm the living conditions of nearby residents;
- blasting would have a negligible effect on local amenity;
- dust nuisance would not significantly affect amenity;
- whilst there would be a slight increase in risk to health due to dust, that risk would be so low as not to warrant refusing the proposal on health grounds;
- harm caused to amenity by coal lorries would not be unacceptable;
- the long-term cumulative effect on local communities over many years is a powerful argument against the proposed development;
- effects on nature conservation and ecology would be negligible;
- there would be substantial benefits to the local economy, albeit for a limited period of 9½ years in total;
- the reopening of the opencast site would be unlikely to be a significant deterrent to other investment in the area and would have a negligible effect on tourism;
- there is a need for the coal, which carries some considerable weight.

330. Minerals Planning Wales advises that the essential role of mineral planning authorities is to ensure a proper balance is struck between the fundamental requirement to provide society with a range of minerals, the need to ensure a prudent use of natural resources, and the protection of existing amenity and the environment. The officers of Neath Port Talbot CBC recommended to their members that the economic benefits would not outweigh the harmful impacts that would be caused. The members disagreed and resolved to grant permission for the proposal. [3, 109, 110, 112, 187]

331. **It is a finely balanced judgement. On balance, I conclude that the need for the coal and the economic benefits would outweigh the harm to the environment and the amenity of the local communities. In reaching this conclusion, I have given considerable weight to the need to retain a viable opencast coal industry for the benefit of society as a whole, and I consider this to be the decisive factor. One objector referred to the (then) Secretary of State's decision in 1993 to allow the Brynhenllys opencast site to go ahead on the basis that "the Country has to come first". The same argument remains today in respect of the East Pit proposals. [244]**

### Recommendation

332. I recommend that planning permission be granted subject to the conditions detailed in the annex to this report.

Clive Nield

## APPEARANCES

### FOR THE APPLICANT:

Mr David Smith of Counsel

Instructed by Mr David Warren, Company Secretary, Celtic Energy Ltd.

He called:

Dr M C Gandy, BSc, PhD, FGS, Planning Manager, Celtic Energy Ltd.  
FIQ, CGeol, MRTPI

Ms M O'Connor, DipLA, MSc, Director, Wyn Thomas Gordon Lewis Ltd, 21 Park  
MLI Place, Cardiff, CF10 3DQ.

Dr R N Humphries, BSc, MA, Humphries Rowell Associates, PO Box 18,  
PhD, FIQ, CBiol, MISoil Sci Common Road, Sutton-in-Ashfield, Notts,  
NG17 2NS.

Mr K Lisk, BSc, CEng, MICE Consulting Engineer.

Mr A M King, BSc Environmental Consultant.

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Brian Thorne

Solicitor, Neath Port Talbot CBC.

He called:

Mr C Patten, MRTPI Principal Planner Development Control, Neath Port  
Talbot CBC.

### FOR CARMARTHENSHIRE COUNTY COUNCIL AND THE BRECON BEACONS NATIONAL PARK AUTHORITY:

Ms Tina Douglass of Counsel

Instructed jointly by Linda Rees-Jones, CCC Solicitor, and Lynne Coughlan, BBNPA Solicitor.

She called:

Mr A Rees, BSc, MCIEH Environmental Health Officer, Carmarthenshire CC.

Mr R A L Michael 58 Min-y-Rhos, Ystradgynlais. (former Member of  
Brecon Beacons NPA)

Mr I M Roberts, DipTP, MRTPI Development Control Manager, Brecon Beacons  
NPA.

Mr P J Kendall, BA, MSc, Minerals Planning Officer, Carmarthenshire CC.  
MRTPI

FOR GWAUN CAE GURWEN, CWMLLYNFELL AND QUARTER BACH COMMUNITY COUNCILS:

Mr Paul Mainwaring of Counsel

He called:

Mr A Muir, BSc, DipTP, Managing Director, Harmers Limited, 39 MRTPI Lambourne Crescent, Cardiff Business Park, Llanishen, Cardiff, CF14 5GG.

INTERESTED PARTIES AND PERSONS:

Supporting Proposal

5 Representatives of the Opencast Coal Committee of Wales:

|                    |  |
|--------------------|--|
| Mr D Gwynfor Lewis | Treasurer of OCCCW. 10 Marshfield Road, Melyn, Neath, SA11 1BD.                      |
| Mr D Clem Llewelyn | Secretary of OCCCW. 10 Church Road, Cadoxton, Neath, SA10 8AU.                       |
| Mr Arthur Martin   | Former Founder Member of OCCCW. 3 Ynyswen, Pen-y-cae, Brecon Road, Swansea, SA9 1YP. |
| Mr D Nigel Hughes  | Chairman of OCCCW. 10 Granville Terrace, Dafen, Llanelli, Carmarthenshire, SA14 8HF. |
| Mr Leslie Watkin   | Vice Chairman of OCCCW. 18 Glantaw Park, Ystradgynlais, Swansea, SA9 1AE.            |
| Mr Gareth Jones    | Regional Industrial Organiser, T&G Wales, 1 Cathedral Road, Cardiff, CF11 9SD.       |

Opposing Proposal

|  |   |
|--|---|
| Mr Owen Jordan, BArch, MCIOB                             | Pengwaunsarah, 36 Ochr-y-Waun, Cwmllynfell, SA9 2GA.      |
| Dr (Mrs) Sue E Jordan                                    | Ditto.  |
| Dr Gordon E Saunders, BSc, MSc, PhD, DipEd, FRGS, MGeolA | 67 Sunnyside Gardens, Upminster, Essex, RM14 3DP.         |
| Mrs Frances Stowe  | "Arfron", Rhosaman, Ammanford, Carmarthenshire, SA18 1DP. |



## DOCUMENTS

|           |          |   |
|-----------|----------|---|
| Documents | 1.1-1.10 | Lists of persons present each day at the inquiry and the evening session.   |
| Document  | 2        | Letter of Notification, details of persons notified, public notices and advertisements of Inquiry.                      |
| Document  | 3        | Bundle of third party letters submitted to Planning Inspectorate.   |
| Document  | 4        | Bundle of third party letters submitted to Inspector at Inquiry.  |
| Document  | 5        | T&G Petition in support of proposal.  |
| Documents | 6.1-6.8  | Local community petitions opposing proposal.  |
| Document  | 7        | Folder of Core Documents EPER1, EPER3 – EPER11 & National Minerals Planning Publications:                               |
|           | EPER1    | Planning Application by Celtic Energy Ltd (31 July 2002).   |
|           | EPER3    | Report to Planning & Development Control Committee (17 February 2003).  |
|           | EPER4    | Committee resolution to approve development (17 February 2003).   |
|           | EPER5    | Approved planning conditions (25 March 2003).   |
|           | EPER6    | Letter from National Assembly to Neath Port Talbot CBC, dated 3 April 2003 (the Call-In letter).                        |
|           | EPER7    | Letter from National Assembly, dated 9 July 2003 (the Relevant Date letter).  |
|           | EPER8    | Letter from Carmarthenshire CC to Planning Inspectorate, dated 7 August 2003.   |
|           | EPER9    | Letter from Brecon Beacons National Park Authority to Planning Inspectorate, dated 20 August 2003.                      |
|           | EPER10   | Report to Planning & Development Control Committee (3 February 2004) on Heads of Terms for the proposed S106 Agreement. |
|           | EPER11   | Policy Reference List (collection together of relevant national and local planning policies).                           |
|           | MPG3     | Minerals Planning Guidance: Coal Mining and Colliery Spoil Disposal, July 1994.   |
|           | MPG11    | Minerals Planning Guidance: The Control of Noise at Surface Mineral Workings, April 1993.                               |
|           | MPPW     | Minerals Planning Policy Wales, December 2000.  |
| Document  | 8        | Core Document EPER2 – Environmental Statement.  |

|           |           |   |
|-----------|-----------|---|
| Documents | 9.1-9.7   | Full Policy Documents:  |
|           | 9.1       | - West Glamorgan Structure Plan (Review No.2), 1991-2006, adopted February 1996.  |
|           | 9.2       | - Northern Lliw Valley Local Plan, adopted/approved Dec 1993.   |
|           | 9.3       | - Minerals Local Plan for West Glamorgan, Deposit Draft, Feb 1995.  |
|           | 9.4       | - Neath Port Talbot County Borough Unitary Development Plan, Deposit Draft, January 2003.   |
|           | 9.5       | - Brecon Beacons National Park Local Plan, adopted May 1999.  |
|           | 9.6       | - Brecon Beacons National Park Unitary Development Plan, Consultation Draft, April 2002.  |
|           | 9.7       | - Brecon Beacons National Park Unitary Development Plan, First Round Consultation April 2002, Key Issues.   |
| Documents | 10.1-10.3 | Dr Gandy's Proof of Evidence with accompanying documents MKG1-MKG4, Summary of Proof, and additional document MKG5 (correspondence in connection with Mr & Mrs Jordan).   |
| Documents | 11.1-11.3 | Ms O'Connor's Proof of Evidence, Summary and accompanying documents MOC1-MOC7.  |
| Document  | 12        | Mr Humphries' Proof of Evidence with accompanying documents RNH1-RNH8.  |
| Documents | 13.1-13.2 | Mr Lisk's Proof of Evidence with Appendices and Annex, and additional Table KL2 presented at Inquiry.   |
| Document  | 14        | Mr King's Proof of Evidence with supporting documents AMK1-AMK6.  |
| Document  | 15        | Celtic Energy's Rebuttal Statement of Matters raised in the Submissions of Opposition Parties.  |
| Document  | 16        | Mr Patten's Proof of Evidence with Appendices 1-4.  |
| Documents | 17.1-17.4 | Written Statements presented by representatives of the Opencast Coal Committee of Wales, with lists of former employees, photographs of other opencast coal sites, and copy of letter from Stephen Timms MP to Dr Hywel Francis MP. |
| Document  | 18        | Mr Gareth Jones' written Statement on behalf of T&G Wales.  |

|           |           |  |
|-----------|-----------|--|
| Documents | 19.1-19.2 | Mr Rees' Proof of Evidence with Appendices, and Rebuttal Proof with Appendices.  |
| Document  | 20        | Mr Michael's Proof of Evidence.  |
| Documents | 21.1-21.4 | Mr Roberts' Proof of Evidence, Appendices 1-8, Summary of Evidence and Rebuttal Proof.   |
| Documents | 22.1-22.2 | Mr Kendall's Proof of Evidence with Annexes 1-13, and Rebuttal Statement.  |
| Documents | 23.1-23.4 | Additional documents submitted by Carmarthenshire CC & Brecon Beacons NPA: Countryside Council for Wales definition of "landscape"; extract from Tir Dafydd OCCS appeal decision; extract from 2002 Landscape Institute Guidelines; and letter to Neath Port Talbot CBC re community benefits. |
| Documents | 24.1-24.3 | Mr Muir's Proof of Evidence with Appendices 1-15, Summary of Proof and Additional Appendix 16 (East Pit Extension Opencast Site Technical Working Party Report No.3).  |
| Documents | 25.1-25.2 | Mr Jordan's Proof of Evidence with Appendices, and Executive Summary of DETR report "Do particles from opencast coal mining impair children's respiratory health?" (known as "the Newcastle study")  |
| Documents | 26.1-26.2 | Dr Jordan's Transcript of Evidence, and copies of correspondence between Dr Jordan and BBC Wales in connection with the "Taro Naw" programme of 29 October 2003.   |
| Documents | 27.1-27.5 | Dr Saunders' Proof of Evidence, 3 Rebuttal Proofs on "dust" and one on other matters.  |
| Documents | 28.1-28.3 | Mr Field's Proof of Evidence, Rebuttal Proof and extract from Rambler's Association report "The Economic Value of Walking in Rural Wales".   |
| Documents | 29.1-29.2 | Sources and evidence referred to by Mr Evans.  |
| Documents | 30.1-30.3 | Mr Stewart's Proof of Evidence, set of 9 associated reference documents, and copy of Celtic Energy Ltd letter of 23 August 2002 to Cllr Woolcock.  |
| Document  | 31        | Additional evidence presented at evening session by Mr Rowlands.   |
| Document  | 32.1-32.2 | Agreed Draft of Section 106 Agreement, dated 20/2/2004 (with plan); and certified copy of final signed/sealed Agreement.   |



|           |           |   |
|-----------|-----------|---|
| Document  | 33.1-33.2 | Carmarthenshire CC's & Community Councils' comments on Draft Section 106 Agreement.   |
| Document  | 34        | Carmarthenshire CC's comments on original conditions approved by Neath Port Talbot CBC.   |
| Document  | 35        | Agreed comments on original conditions, following discussion by all the main parties (as used for discussion at Inquiry).   |
| Document  | 36        | Amended version of Council's conditions (submitted on 3 March 2004), following previous discussions at Inquiry.   |
| Documents | 37.1-37.2 | Submissions by Carmarthenshire CC and Celtic Energy respectively concerning details of conditions on noise levels and blasting.   |
| Documents | 38.1-38.4 | Closing submissions on behalf of: the Opencast Coal Committee of Wales; the consortium of 3 Community Councils; the consortium of Carmarthenshire CC and the Brecon Beacons National Park Authority; and Celtic Energy Ltd. |
| Documents | 39.1-39.4 | Suggestions for site visit, with annotations by Inspector, including 2 days' itinerary.   |

## PLANS

|       |       |  |
|-------|-------|--|
| Plans | A1-A2 | Application plans: Location Plan & Site Area Plan.   |
| Plan  | B     | Extract from 1968 OS map, showing tracks across site, submitted by Carmarthenshire CC.                             |
| Plan  | C     | 1993 British Coal plan showing proposed additional overburden storage areas on western and southern sides of site. |

## PHOTOGRAPHS

|             |         |   |
|-------------|---------|---|
| Photograph  | 1       | 1985 aerial photograph, submitted by Brecon Beacons NPA.  |
| Photographs | 2.1-2.2 | Enlargements of parts of 1985 aerial photograph, submitted by Brecon Beacons NPA.                 |
| Photographs | 3.1-3.7 | Various types of stream channels at Tairgwaith, Ffos Las OCCS and other locations.                |
| Photographs | 4.1-4.4 | Redundant washery and lagoon site at Tairgwaith, with key location plan, submitted by Mr Stewart. |

## **Annex – Recommended Conditions (with Reasons)**

NB – The figures in brackets, e.g. (63), are cross references to Neath Port Talbot CBC's set of approved conditions in Core Document EPER5.

1. (1) Unless otherwise agreed with the local planning authority the development hereby permitted shall commence before the expiration of 1 year from the date of this permission.

*Reason: To comply with Section 91 of the Town and Country Planning Act 1990 and other material considerations.*

2. (2) At least fourteen days notice of the intended date of commencement of the development shall be given in writing to the local planning authority.

*Reason: To allow the local planning authority an opportunity to check that requirements relating to matters to be dealt with prior to the commencement of the development have been complied with and to arrange for the inspection and monitoring of the initial stages of the development.*

3. (3) The development is permitted for a temporary period only and, with the exception of restoration and aftercare requirements, shall cease not later than 7 years and 6 months after the commencement of the development as notified to the local planning authority.

*Reason: In accordance with Schedule 5 para 1 of the Town & Country Planning Act, to provide a period which takes account of the needs of the operator as well as other planning considerations.*

4. (4) Restoration and reinstatement works as approved under Condition 61 and Schedule B shall be completed within 2 years and 6 months of the cessation of coaling or 10 years of the commencement of operations, whichever is the sooner.

*Reason: To establish a timescale for the restoration of the site.*

5. (5) Permission is granted for the winning & working of coal by opencast methods, the ancillary operation of an on-site coal washery and the stocking of coal within the boundary indicated in red on Plan 07A02636 (the Site Area Plan) and, except with the prior approval of the local planning authority, such development shall be carried out, strictly in accordance with the approved plans & documents, or as otherwise modified by other conditions of this consent. The development hereby approved shall be entirely contained within the boundary indicated in red on Plan 07A02636.

*Reason: To avoid any ambiguity as to the development hereby permitted. The plan referred to is Plan A2.*

6. (6) The development hereby approved shall be substantially carried out in accordance with the following documents & plans, or as otherwise modified by other conditions of this consent or schemes subsequently approved under any other conditions:

- Planning Application dated 31st July 2002.
- Environmental Statement - July 2002.
- Plan 07A02636 - Site Area Plan.

- Plan 07A02600 - Site Development Details.

*Reason: To identify the plans & documents hereby approved. The second plan is Figure 18 in the Environmental Statement.*

7. (7) Unless otherwise approved by the local planning authority the working of the site shall be carried out in accordance with the working programme under sections 4.3 to 4.7 & the phasing plans, Figures 14, 15 & 16, of the Environmental Statement accompanying the application.

*Reason: To enable the local planning authority to adequately control development.*

8. (8) The western overburden mound shall only be extended with additional overburden to those levels set out on Plan 07A02600 and at no time shall such tipping be placed at a level greater than 256 metres AOD.

*Reason: In the interest of the amenities of the area. The plan is Figure 18 in the Environmental Statement.*

9. (9) Within the first 18 months of the commencement of operations and every 6 months thereafter until coal mining is complete, a topographical survey of all overburden mounds, topsoil & subsoil mounds shall be provided to the authority for its records.

*Reason: In order that the authority can monitor the progress of tipping and any progressive restoration within the site.*

10. (10) Unless otherwise approved in writing by the local planning authority the location of the proposed on-site washery shall remain within that area indicated on Plan 07A02600 and shall be constructed in accordance with the dimensions & layout as set out in Figure 17 of the Environmental Statement.

*Reason: To protect the amenities of the area. The plans are Figures 17 and 18 of the Environmental Statement.*

11. (11) Notwithstanding the provisions of Parts 19, 20 and 21 of Schedule 2 of the Town & Country Planning (General Permitted Development) Order 1995 (or any Order amending or re-enacting that Order) and except as detailed in the application hereby approved, no fixed plant or machinery, buildings, structures, erections and waste deposits above the height of 5m shall be erected, extended, installed or replaced at the site complex without the prior approval of the local planning authority.

*Reason: In the interest of the amenities of the area and to retain adequate control over the visual impact of the development.*

12. (12) Unless otherwise approved by the local planning authority the external walls and roof of buildings and the external surface of structures shall be dark green in colour and shall be maintained as such for the duration of operations.

*Reason: To retain adequate control in the interest of visual amenity.*

13. (13) Prior to the commencement of operations the operator shall erect new fencing to the extension area and maintain all existing fences and hedges around the perimeter of the site in a stock-proof condition throughout the period of working, restoration and aftercare.

*Reason: In the interest of safety.*

14. (14) Water treatment areas shall be individually fenced so as to prohibit stock or unauthorised personnel from entering.

*Reason: In the interest of safety.*

15. (15) The stocking of coal or coal products shall only occur within the area identified in orange on Plan 07A02600 and, unless otherwise approved in writing by the local planning authority, the height of any stockpiles shall not exceed 6 metres in height above ground level.

*Reason: In the interest of amenity.*

16. (16) The permission hereby granted relates only to the use of the access road and access point shown on Plan 07A02600 by vehicles gaining access to or from the site, and no other access or access point shall be used without the prior written approval of the local planning authority.

*Reason: In the interest of highway safety and the amenity of the area.*

17. (17) Before entering onto the public highway the wheels, undersides and bodies of all vehicles travelling from the site shall be cleaned, and their loads shall be secured and fully covered by sheeting and in such a condition as to avoid the deposit of slurry, mud, coal or other material upon the public highway.

*Reason: To ensure that such reasonable precautions are taken and provision made as is necessary to prevent the exit of vehicles onto the public highway which would be likely to deposit material on the public highway to the detriment of highway safety and amenity.*

18. (18) Prior to the commencement of any development, a scheme shall be submitted to the local planning authority for its approval indicating the arrangements for the transportation of coal produced at the site. The scheme shall be implemented as approved.

*Reason: To provide satisfactory arrangements for the transportation of coal and to protect the amenities of the area.*

19. (19) Notwithstanding the details submitted with the application, prior to the commencement of the development a scheme for the provision of a turning facility at Ochr y Waun shall be submitted to the local planning authority for its approval, and the said approved facility shall be provided prior to the demolition of any properties within the site and within the terms of such approval.

*Reason: In the interest of highway safety.*

20. (20) The drainage system for the access road shall be maintained in such a condition as to prevent any slurry or water run-off from entering onto the public highway.

*Reason: In the interest of highway safety and the amenities of the area.*

21. (21) Unless otherwise approved in writing by the local planning authority, heavy goods vehicles with the capacity of carrying coal or minerals shall not enter or leave the site, except between the following hours:

- 07.00 hours to 08.20 hours, 09.00 hours to 14.55 hours, and 15.30 hours to 18.00 hours on Mondays to Fridays.
- 07.00 to 13.00 hours on Saturdays.
- No coal movements shall occur on Sundays, Bank or Public Holidays.

*Reason: In the interest of the amenities of the area and to prevent such movements conflicting with school times.*

22. (23) Except in an emergency or when otherwise approved in writing by the local planning authority, operations, other than water pumping, servicing, environmental monitoring or maintenance of plant, shall only be carried out at the site between the following times: 0600 hours to 22.00 hours Monday to Friday, and 0600 hours to 1300 hours Saturdays. The term "emergency" means any circumstances in which the operator has a reasonable cause for apprehending injury to persons or serious damage to property or the environment.

*Reason: In the interest of amenity.*

23. (24) No operations other than environmental monitoring, servicing, maintenance of plant and water pumping at the site shall take place on Sundays, Bank or Public Holidays.

*Reason: In the interest of amenity.*

24. (25) Notwithstanding the provision of Condition 22, operations involving the formation or subsequent removal of bafflemounds and soil mounds and the stripping and replacement of soils shall not be carried out except between the following times: 0800 hours to 1800 hours Mondays to Fridays, and 0800 hours to 1300 hours Saturdays.

*Reason: In the interest of amenity.*

25. (26, 27 & 28) Notwithstanding the provisions of Condition 22, operations involving the on-site washery and operations relating to reclamation of the site and the haulage of overburden on to the western overburden mound and its spreading and removal shall not be carried out except between the following times: 07.00 to 19.00 hours Mondays to Fridays, and 07.00 to 13.00 hours on Saturdays. No such operations shall be carried out on Sundays, Bank or Public Holidays.

*Reason: In the interest of amenity.*

26. (29) Prior to the commencement of any operations hereby permitted a scheme shall be submitted for the approval of the local planning authority for the control and monitoring of noise generated directly or indirectly as the result of any operations on the site. The scheme, which shall include the following, shall be implemented as approved:

- (i) noise monitoring locations;
- (ii) frequency of measurement;
- (iii) presentation of results;
- (iv) modelling procedures;

- (v) procedures to be adopted if noise limits go above a certain level;
- (vi) procedures and methods to reduce noise emissions from the site to the lowest possible level; and
- (vii) measures to ensure that efficient silencing equipment is fitted to and used by all vehicles and machinery on the site.

*Reason: To provide for the suppression, control and monitoring of noise from the development where it is anticipated that preventative measures are likely to be required in the interest of the amenity of the surrounding area.*

27. (30) During the hours of work specified in Condition 22, except for operations such as the construction and removal of soil/screening mounds & water treatment areas and for periods that may be previously approved in writing by the local planning authority the free field noise levels attributable to operations involving the use of plant, machinery or other equipment on the development site as measured at the boundary of the curtilage of any residential or noise sensitive property shall not exceed 50dB(A)Leq 1 hour. Outside these hours, where maintenance, water pumping, servicing and environmental monitoring takes place, noise levels measured at the boundary of the curtilage of any residential or noise sensitive property shall not exceed 42 dB(A)Leq 1 hour.

*Reason: In the interest of the amenity of the area.*

28. (31) Except at such locations and for such periods as may be approved in writing by the local planning authority, the free field noise levels attributable to the construction and removal of baffle mounds, topsoil/subsoil mounds and water treatment areas, as measured at the boundary of the curtilage of any residential or noise sensitive property, shall not exceed 60dB(A)Leq over 15 minutes.

*Reason: In the interest of the amenity of the area.*

29. (32) Prior to the commencement of any operations, a scheme shall be submitted to and approved by the local planning authority for the control of dust which may arise directly or indirectly as the result of any operations including the movement of vehicles and plant anywhere on the site. The scheme shall be implemented in accordance with the approval and shall include provision to ensure that:-

- (i) a sufficient number of spraying units are provided and maintained in efficient working order so as to ensure that haul routes and other areas traversed by vehicles are kept damp during dry weather;
- (ii) spraying units have an adequate water supply at all times;
- (iii) the exhausts and through-body exhaust systems of plant and vehicles are such as to prevent exhaust gases being emitted downwards;
- (iv) effective dust collection systems are fitted to all blast hole drilling machines before such machines are operated;
- (v) prior to blasting, all arisings from blast hole drilling are bagged and disposed of safely;

(vi) one or more wind socks are provided and maintained so as to indicate wind direction and strength;

(vii) details of the arrangements ensuring that the tipping of overburden would cease or be relocated within the overburden storage area when wind strength and direction could cause dust nuisance to arise;

(viii) a sufficient number of vapour masts are provided and maintained so as to ensure that an effective vapour can be produced at any point in the site, including the top of spoil mounds, to dampen operational areas during dry weather; and

(ix) all spoil mounds and soil storage areas are seeded to grass as soon as practicable during or after their construction and a grass cover maintained until their disposal.

*Reason: To provide for the suppression and control of emissions of dust from the development where it is anticipated that preventative measures are likely to be required in the interest of the amenity of the surrounding area.*

30. (33) Prior to the commencement of the development a scheme shall be submitted to and approved by the local planning authority for the monitoring of dust. The scheme shall include provision for the measurement of fugitive dust particles and PM10 particulates. The monitoring scheme shall be carried out in accordance with the terms of such approval.

*Reason: To monitor the surrounding environment of dust and particulates in the respirable range.*

31. (34) Any facilities for the storage of oils, fuels or chemicals shall be on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipes should be detailed to discharge downwards into the bund.

*Reason: To prevent pollution of watercourses*

32. (38) Prior to the commencement of the development a scheme shall be submitted to and approved by the local planning authority for a detailed drainage and lagoon system for the site. The details shall include the design and nature of all cut-off ditches, their locations and the size, structure and height of the water treatment areas. The approved system shall be installed prior to the commencement of coaling.

*Reason: In the interest of prevention of water pollution and that other factors in relation to impacts on amenity can be evaluated.*

33. (39) All surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained, prior to discharge into any watercourse. Roof water shall not pass through the interceptor.

*Reason: To prevent pollution of watercourses.*

34. (35) Drainage ditches, settling ponds and lagoons shall be regularly desilted and maintained in such condition that they are able to perform effectively and efficiently the purpose for which they have been provided.

*Reason: To ensure that these facilities continue to function effectively and efficiently throughout the operational, restoration and after-care periods.*

35. (36) Prior to the commencement of the development, a scheme shall be submitted to and approved by the local planning authority for the monitoring, collation and assessment of groundwater levels to the north and east of the extraction area. The scheme shall be implemented as approved prior to the commencement of coaling.

*Reason: To undertake groundwater monitoring in a sensitive location.*

36. (37) Within 4 years of the date of the commencement of operations as notified to the local planning authority under condition 2, a scheme shall be submitted to the local planning authority for its approval for the additional monitoring of groundwater levels and groundwater quality during the restoration period. Such a scheme shall be structured with the following requirements:-

(i) the provision for a minimum of two years monitoring data prior to the cessation of mineral working;

(ii) the frequency of the collection of the water level and water quality data from the boreholes at the site;

(iii) the frequency of the reporting of the information of the data to the local planning authority (including the provision for the interpretation of the data by a qualified hydrogeologist);

(iv) the review of the monitoring network to ensure that it is adequate in addressing any future relevant concerns regarding recovering minewater;

(v) the consideration of suitable mitigation measures should the monitoring data collected indicate that there will be an impact on nearby controlled surface/groundwater from recovering minewater.

*Reason: To monitor and assess the recovery of recovering minewater during restoration.*

37. (40) Except in the case of emergency for health and safety reasons or with the written consent of the local planning authority, blasting shall only be carried out between the following times: 10.00 to 12.00 and 14.00 to 16.00 hours on Mondays to Fridays, and 10.00 to 12.00 hours on Saturdays. Blasting shall not be carried out on Sundays, Bank or Public Holidays.

*Reason: To protect the amenities of local residents.*

38. (41) At all times, blasting shall be designed so that the ground vibration measured as peak particle velocity (ppv) in any one of three orthogonal planes shall not exceed 6 mm per second at any residential or similarly sensitive property at the boundary of the site. However, within this design limit, the ground vibration for at least 95% of all blasts in any 20 week period shall not exceed a ppv of 4 mm per second.

*Reason: To protect the amenities of local residents and the structure of buildings.*



39. (42) Prior to the commencement of the mining operations hereby permitted, a scheme shall be submitted to and approved by the local planning authority for the measurement and monitoring of blasting. The scheme shall be implemented as approved, and shall include:

- (i) blast monitoring locations and frequency of monitoring;
- (ii) the monitoring equipment to be used;
- (iii) the presentation of results; and
- (iv) procedures to be adopted if vibration goes above a certain level.

*Reason: To enable the effects of the development to be adequately monitored during the course of operations.*

40. (43) There shall be no secondary blasting carried out on the site except with the prior written approval of the local planning authority.

*Reason: To protect the amenities of the local environment.*

41. (44) The operator shall make every effort to reduce the effects of air blast over-pressure arising from blasting. Such effort shall have regard to blast design, methods of initiation and the weather conditions prevailing at the time of initiation.

*Reason: To protect the amenities of the local environment.*

42. (45) Prior to the commencement of the development a scheme for a system of warning techniques to be carried out and notices to be placed around the site boundary shall be submitted to and approved by the local planning authority to warn the public of blasting at the site. The scheme shall be implemented as approved.

*Reason: In the interest of the amenities of the area.*

43. (46) Prior to the commencement of development a scheme shall be submitted to and approved by the local planning authority to maximise foraging potential for badgers and maintain their movement within undisturbed areas of land around the opencast site. The scheme shall be implemented as approved.

*Reason: To protect the existing badger population.*

44. (47) Unless otherwise approved by the local planning authority, vegetation clearance shall not take place between the 14th March and 31st July in any year.

*Reason: To protect nesting birds.*

45. (48) Prior to the commencement of operations a scheme shall be submitted to and approved by the local planning authority for the management of all areas that will not be disturbed by opencast operations. These shall include the fencing off of areas of ecological sensitivity and the provision of works to protect habitats that may be affected by adjacent works. The scheme shall be implemented in accordance with the terms of the approval.

*Reason: In the interest of visual amenity and nature conservation.*

46. (49) In accordance with details, which shall be submitted to and approved by the local planning authority, prior to the commencement of coaling at the site a sign shall be erected and maintained at the site/quarry complex exit, advising lorry drivers of vehicle routes approved by the local planning authority.

*Reason: In the interests of highway safety and the amenities of the area.*

47. (50) From the commencement of development to its completion, a copy of this permission including all documents hereby approved and any other documents subsequently approved in accordance with this permission shall be maintained and available for inspection at the site office.

*Reason: To ensure that the operators of the site and any appropriate officer of the local planning authority has access to such approvals on site.*

48. (51) Prior to the commencement of operations a scheme shall be submitted to and approved by the local planning authority for the setting up, operating and regular convening of a Site Liaison Committee, and the scheme shall be implemented as approved.

*Reason: To assist in the control of and assessment of monitoring of the environmental effects of the development.*

49. (52) Prior to the commencement of operations, a scheme shall be submitted to and approved by the local planning authority for the setting up of a Technical Working Party, and the scheme shall be implemented as approved.

*Reason: To assist in the control of and assessment of monitoring of the environmental effects of the development.*

50. (53) Except as may be otherwise agreed by the local planning authority, the only coal to be prepared, treated and stocked at the site shall be that extracted from the site, and no other mineral or other material shall be imported into the site for preparation, treatment, stocking or deposition.

*Reason: To avoid any ambiguity or confusion as to the development hereby permitted and in particular to prevent development on a scale or of a nature not envisaged at the time the application to which this permission relates was considered, unless the local planning authority has given its prior approval.*

51. (54) Unless otherwise approved in writing by the local planning authority, no overburden material shall be removed from the site.

*Reason: To ensure that sufficient material is retained on the site for restoration purposes.*

52. (55) Prior to the commencement of development a landscaping scheme, for the treatment of the side-slopes of excavations and areas of fill, topsoil, subsoil and soil-forming material dumps, screening bunds and overburden mounds and any other parts of the site not disturbed or affected by the operations, shall be submitted to the local planning authority for approval. The scheme shall be implemented in accordance with the terms of the approval.

*Reason: To minimise the visual impact of the development by ensuring that areas disturbed, including faces of excavations and slopes of fill, in the initial development of the site but which are*

*then no longer required for continuing operational purposes are landscaped at the earliest opportunity.*

53. (56) Prior to the commencement of development a scheme shall be submitted to and approved by the local planning authority for the lighting of all areas, buildings, plant and machinery. All lighting shall be subject to health and safety requirements and be angled so as to reduce light pollution to a minimum. The scheme shall be implemented in accordance with the terms of the approval.

*Reason: In the interest of amenity.*

54. (58) Access to the site shall be afforded at all reasonable times to officials of the Royal Commission on Ancient and Historical Monuments in Wales, the Glamorgan-Gwent Archaeological Trust and to any archaeologist nominated by the local planning authority, and such personnel shall be allowed to investigate features, building and ruins on site, prior to and during initial site operations in accordance with the Confederation of British Industry, Archeological Investigations Code of Practice for Mineral Operators. When excavation is underway the operator shall inform the local planning authority of any features of archaeological or historic interest which may be discovered, and afford the bodies named above reasonable opportunity for an inspection, recording and, where appropriate, removal from the site of such features of interest.

*Reason: To preserve and record features of archaeological interest.*

55. (59) 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 works in order to mitigate the impact of the works on the archaeological resource.*

56. (60) Prior to the commencement of the development details of the proposed alternative routes to be created in place of the proposed suspended Rights of Way shall be submitted to and approved by the local planning authority. Such details shall indicate the gradients, crossings and surfacing of such routes, which shall be provided in accordance with the approved details.

*Reason: In the interest of retaining satisfactory footpaths in the area.*

57. (61) Throughout the period of working, restoration and aftercare, the developer shall protect and support any ditch, watercourse, or culvert passing through the site, or satisfactorily divert it, and shall not impair the flow or render less effective drainage onto and from adjoining land.

*Reason: To ensure that conditions on the site are maintained for effective restoration and aftercare and that the operations do not affect adjacent lands.*

58. (62) The developer shall ensure that any flow of water used for agricultural purposes that is adversely affected by the development is reinstated in a satisfactory manner, including the provision of alternative supplies during the course of operations.

*Reason: In the interest of agricultural management.*

59. (63) Unless otherwise agreed with the local planning authority no material or machinery shall be stored within the area identified in yellow on Plan No. 07A02600 other than within the building occupying that area.

*Reason: In the interest of the amenities of the area. The Plan is Figure 18 in the Environmental Statement.*

60. (64) Soil stripping, handling and management shall be carried out in accordance with the attached Schedule A.

*Reason: To ensure satisfactory stripping, handling and management of soil.*

61. (65) Restoration and reinstatement shall be carried out in accordance with the attached Schedule B.

*Reason: To ensure satisfactory restoration.*

62. (66) Aftercare shall be carried out in accordance with the attached Schedule C,

*Reason: To ensure satisfactory aftercare.*

63. (67) All schemes approved under the terms of any conditions attached to this permission shall be implemented in accordance with the terms of such approvals for the duration of the development and, where appropriate, the aftercare period.

*Reason: To assure that schemes approved under the permission are implemented.*

## **SCHEDULE A**

### **SOIL STRIPPING, HANDLING AND STORAGE OF SOILS**

A1. All soils and soil-forming materials identified in the Environmental Statement dated July 2002 Section 3.6 shall be stripped and stored on the site in the allocated areas on Plan No. 07A02600, or as otherwise approved in writing by the local planning authority following the submission of revised proposals.

A2. The local planning authority shall be given a minimum of 48 hours prior notice in writing of any soil stripping operation.

A3. Soil stripping shall only be carried out when the soil is in a dry and friable condition and between the months of May and September inclusive, unless otherwise approved by the local planning authority.

A4. (A5 & A8) In order to minimise compaction of soils, only those vehicles involved in loading soils shall be permitted on unstripped areas and then only restricted to the minimum necessary to recover the soils. Vehicles used in transporting soils shall only travel over areas of ground that have previously been stripped of topsoil, subsoil and shallow soil-forming material.

A5. (A6) Areas of all haulage roads, temporary access roads, hardstandings, office and workshop accommodation, lagoon sites, drainage channels and all other areas likely to be disturbed by any subsequent operations shall be stripped of topsoil, and where appropriate, soil-forming material and the materials then placed in appropriate dumps.

A6. (A7) In order to maintain soil structure and minimise soil compaction all stripping operations shall be by truck and shovel. The only equipment permitted on areas of unstripped soils are 360 degree track laying excavators involved in the soil loading operations. Vehicles to be used in transporting and discharge of recovered soils shall only be those that discharge their load at the rear extremity of the vehicle. Any alternative methods shall be approved by the local planning authority prior to commencement of any such operation.

A7. (A9) No turf, topsoil, subsoil or soil-forming materials shall be removed from the site.

A8. (A10) Any additional soils or soil-forming material found and identified during the general excavation shall be stored at locations to be approved in writing by the local planning authority for the subsequent restoration of the site.

A9. (A11) Prior to placing subsoil and soil-forming material into mounds, the site of the mound shall first be stripped of topsoil which shall be incorporated in the topsoil mound.

A10. (A12) All topsoil, subsoil and soil-forming material identified for use in the restoration of the site shall be stored in separate dumps without overlapping and shall be sited, constructed and managed to prevent loss or contamination by any other material, liquid or compound.

A11. (A13) All completed soil dumps shall be surveyed and mapped within 3 months of the date of their completion and copies of these plans shall be deposited with the local planning authority to serve as a record of location, soil type and quantity.

A12. (A14 & A17) Sufficient soil-forming material shall be recovered to ensure that the restored soil profile (comprising topsoil and/or soil-forming material) is no less than 0.5m (settled) in depth over the whole of the site, except where otherwise approved by the local planning authority. Prior to its storage the developer shall demonstrate to the local planning authority the suitability of this material to perform satisfactorily within an agricultural soil profile.

A13. (A15) All storage mounds of topsoil, subsoil and soil-forming material, and their margins shall be seeded to grass within the first planting season following their formation and maintained to encourage a dense sward to develop. All vegetation growing on soil storage bunds & peripheral areas within the site shall be maintained by cutting at least once during the growing season. All noxious weed growth shall be controlled by cutting and/or herbicide spraying to prevent weed seed contamination of the soil resource on site or on surrounding land.

A14. (A16) Unless otherwise approved by the local planning authority, any humus-rich topsoil of the type encountered on this site shall be stored in dumps not exceeding 3 metres in height.

## **SCHEDULE B**

### **RESTORATION**

B1. (B1) Unless otherwise approved by the local planning authority or as modified by other conditions & schemes under this permission, the restoration of the site shall be carried out in accordance with the principles of the Restoration Strategy Proposals as contained in the submitted Environmental Statement dated July 2002 Section 6 and Figure 30 of the same document.

B2. (B2) Not later than 5 years after the commencement of coaling at the site, or in the event of a cessation of winning and working of minerals 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 & Country Planning Act 1990, a detailed restoration and contour plan along with a written statement shall be submitted to the local planning authority for its approval. The scheme and plan shall include details of the following:

(i) the removal of buildings, plant and machinery and the reinstatement of the site and access roads by clearing plant, buildings, machinery, roadbase, concrete or brickwork;

(ii) details of the respreading of overburden, subsoil and topsoil previously stripped from the site, specifying the areas, soil type, depths and placement;

(iii) the ripping of any compacted layers of final cover to ensure adequately drainage and aeration, such ripping normally to take place before placing the topsoil;

(iv) the machinery to be used in soil respreading operations and the method of soil replacement;

(v) the detailed final levels of the reclaimed land and the gradient of the slopes, graded to prevent ponding and erosion by surface water and designed to conform to the surrounding landform;

(vi) the drainage of the reclaimed land including the formation of suitably graded contours to promote natural drainage and the installation of artificial drainage where necessary, and the position and design, including longitudinal and transverse cross sections, of main outflow, field and carrier ditches and water courses;

(vii) the position, design and erection of fencing, hedge or bank constructions, gates, walls, cattle grids, ditches and water supplies in order to show field layout and field enclosure details;

(viii) the creation of any attenuation ponds or water features including farm ponds;

(ix) the distribution and area of woodland, reedbeds and conservation areas;

(x) provision of and position of any highway, footpaths/bridleways to be reinstated or linked with existing Public Rights of Way, including the crossing and surfacing of such routes; where ditches or streams cross the route of any road, track or right of way, they shall be piped or culverted beneath it, unless otherwise approved by the local planning authority.

The restoration of the site shall be carried out in accordance with the terms of such approval.

B3. (B4) All natural topsoil found to be covering or otherwise within any soil dump previously identified as subsoil or soil-forming material shall be carefully separated from the main bulk and treated separately in the restoration. Where such material is contaminated by Japanese Knotweed, this shall be controlled by a course of treatment the details of which shall be submitted to the local planning authority for approval prior to the placement of the contaminated material.

B4. (B5) The local planning authority shall be given a minimum of 48 hours prior written notice of any soil replacement operation including the dismantling of soil dumps.

B5. (B6) All soils or soil substitute materials shall be placed by the "narrow bed, loose tipping" technique unless otherwise approved by the local planning authority. The following general rules shall apply:

(i) the soils shall be as dry as possible before any attempt is made to move them;

(ii) no wheeled dumped trucks shall be allowed across laid soils;

(iii) the final topsoil, or subsoil used as topsoil substitute, surface shall be placed and levelled by backactor machine and not by bulldozer;

(iv) any ripping or other soil loosening operation thought necessary within the loose laid soils shall only be carried out with the prior approval of the local planning authority;

(v) stone removal from topsoil, or subsoil used as topsoil substitute, shall be carried out to achieve an acceptable seedbed;

(vi) the final surface shall only be traversed by agricultural machinery suitably adapted to reduce ground pressure to the minimum.

B6. (B7) All plant and buildings, shall be removed from the site on completion of mining and/or restoration works, unless otherwise approved in writing by the local planning authority.

B7. (B8) Unless otherwise approved by the local planning authority, all settlement ponds or lagoons shall be retained under the restoration plan for the site, be emptied of water and slurry, their impounding banks be breached, and the voids be filled with dry inert material originating from the site and then be graded to approved levels.

B8. (B9) Following the satisfactory replacement of overburden to approved contours, the resultant base material shall be comprehensively ripped to a minimum depth of 300 mm to break up surface compaction before any soil material is spread. Special attention shall be given to areas of excessive compaction, such as haul/access roads, where deeper ripping may be necessary. All larger stones and boulders, wire rope and other foreign material arising shall be removed.

B9. (B10) In circumstances where the developer has been unable to secure sufficient soil-forming material to satisfy condition A12 above, the overburden shall be ripped to 500mm depth in the manner as identified under B8 above followed by further cultivation and de-stoning of the top 300mm to remove all stones greater than 150mm side dimension.



## **SCHEDULE C.**

### **AFTERCARE**

C1. Not later than 5 years after the commencement of coaling at the site an aftercare scheme setting out in detail the requirements necessary to bring the land to the required standard for use for agriculture and amenity (i.e. when it is reasonably fit for those uses) shall be submitted for the approval of the local planning authority. The scheme shall include details of the following:

(i) the timing and pattern of vegetation establishment including species to be planted, grass seeding mixtures, stock type and size, spacing, method and position of planting;

(ii) cultivation practices for the preparation of the soils, sub-soil or colliery shale;

(iii) secondary treatments such as moling, sub-soiling, discing, stone picking as necessary;

(iv) drainage including timing of installation work, maintenance works or temporary drainage measures;

(v) fertilizer and weed control to improve soil fertility and control of weeds to be based on soil/shale sampling, the results of which shall be submitted to the local planning authority;

(vi) the provision of a minimum of 6 hectares of new Purple Moor grass & Rush Pasture habitat;

(vii) provision of water supplies and land drainage facilities, including watercourses, field ditch systems and piped field underdrainage where appropriate;

(viii) a detailed annual programme for the first and subsequent years for the aftercare of the site, which shall include the following information:

(a) identity of the person(s) responsible for the succeeding year's programme;

(b) vegetation establishment and layout;

(c) secondary treatments such as further moling, subsoiling or fertilizing requirements;

(d) field drainage requirements and maintenance;

(e) tree and hedge establishment for the year including maintenance such as beating-up, weed control, fertilizer application, cutting or pruning.

C2. Following approval of the regrading works and the replacement of any soil-forming material, subsoils and topsoils, aftercare of the land shall be carried out for a period of five years.

C3. Land subject to aftercare provisions shall be enclosed by adequate stock-proof fencing and shall be maintained in stock-proof condition for the duration of the aftercare period.

C4 Notwithstanding the details submitted in the application and the restoration strategy in the Environmental Statement July 2002, the details set out in paragraphs 6.2.3 to 6.2.10 and tables 10-13 inclusive shall be amended and modified within any such terms as approved under the scheme to be submitted under C1 above.