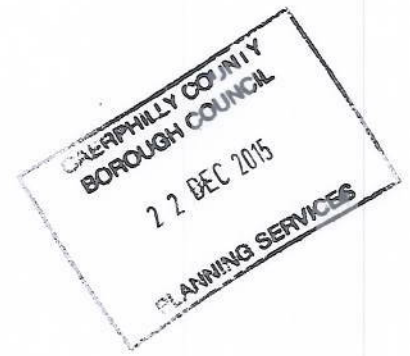


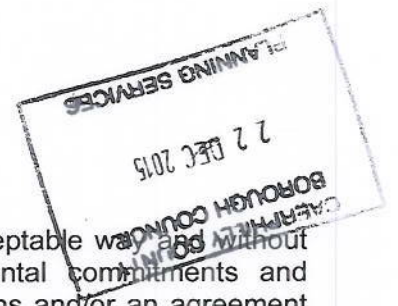
# Planning Appeal Application Form

## Continuation Sheets

### Section H. Grounds of appeal (Appeal Form Page 7)



1. The development would yield an important resource of Welsh Dry Steam coal to support the needs of two of Wales largest industries: the Welsh electricity generation industry, represented by RWE Npower Plc at Aberthaw power station and the Welsh steel industry represented by Tata UK Limited at Port Talbot steel works. In addition the development would support other industries of importance in Wales including industrial, specialist steam heritage, private and export markets.
2. Minerals Planning Policy Wales (MPPW) sets out that each Mineral Planning Authority is expected to make a contribution to meeting local, regional and UK needs (see MPPW paragraphs 11 and 12).
3. Evidence will be provided to show that there is a compelling case of need for the extraction of the coal reserves at Nant Llesg, arising from a shortage of supply compared to demand. The rapidly dwindling supply of Welsh dry steam coal requires new resources to be released in order to meet that demand, reduce imports and to provide the necessary confidence on which important anchor companies in Wales can make key investment decisions.
4. MPPW emphasises (i) the importance of ensuring that the economic benefits associated with the proposed development are given equal consideration with social and environmental issues in the decision making process; and (ii) the need to recognise that there will be occasions when economic benefits will outweigh social and environmental considerations – see MPPW paragraphs, 5, 7, 55 and 62. There are important economic benefits arising from the development, including the creation of between 144 and 239 Full Time Equivalent (FTE) direct job opportunities (depending on shift patterns) and a further 173 to 249 FTE indirect jobs.
5. MPPW acknowledges that all coal extraction development will give rise to some degree of adverse environmental effect and the requirement is not to eliminate effects but to ensure that the effects on local communities and the environment are minimised and maintained within acceptable limits – see MPPW paragraphs 5, 7, 10 and 61.
6. A central theme of MPPW is to ensure (see MPPW paragraphs 5 and 62) that:
  - (i) Proposals are environmentally acceptable or can be made so by planning conditions or obligations, and there must be no lasting environmental impact; or
  - (ii) Alternatively, if this cannot be achieved, the development should provide local or community benefits which clearly outweigh the dis-benefits or likely impacts to justify the grant of permission.
7. This test is also reinforced in Minerals Technical Advice Note 2: Coal (MTAN2) at paragraph 45.



8. The development could proceed in an environmentally acceptable way without lasting environmental damage. The various environmental commitments and mitigation measures can be controlled by planning conditions and/or an agreement pursuant to section 106 of the Town and Country Planning Act 1990.
9. In general terms, the criteria set out in MPPW paragraph 34 have all been addressed and the proposed development could proceed within acceptable/conventional criteria and limits advised in MTAN2 in terms of environmental management (see MTAN 2 paragraphs 98 – 99 and Appendix C), noise (see MTAN2 paragraphs 167 and 177 and Appendix M) , blasting (see MTAN2 paragraphs 132 – 156 and Appendix L) and dust emissions (see MTAN2 paragraphs 132 – 156 and Appendix K), and without material adverse effects on hydrology and hydrogeology (see MTAN2 paragraphs 201 – 223), traffic and transportation (see MTAN2 paragraphs 196 – 200) and soil resources (see MTAN2 paragraphs 278 – 281 and Appendix R). A satisfactory Health Impact Assessment and Social Impact Assessment have been undertaken and are included as part of the application.
10. The scheme has been designed to provide a margin of 500 metres between the settlement boundary and the limit of excavation for coal working and the construction of the overburden mound, as advised in MPPW paragraph 40. The scheme does however draw upon the examples of “exceptional circumstances” referred to in MTAN2 paragraph 32 which allow works to take place within 500 metres of settlement boundaries, including the remediation of land historically damaged by shallow coal working and by the deposit of mine waste. Evidence will be provided to show that the creation of a screening landform to mitigate the visual and noise effects of the development would be in the spirit of an appropriate exceptional circumstance which would justify these short term working operations within the 500 metre zone. There will be no coal extraction within 500 metres of the settlement boundary.
11. The scheme also provides for satisfactory and suitable restoration and aftercare, secured through the creation of an escrow account which will be funded with a substantial payment on the commencement of development and ongoing payments throughout the lifetime of the development so as to ensure that the costs of aftercare and restoration are fully funded. Progressive restoration is incorporated throughout active operations, as required by MPPW Paragraph 50. The restoration and aftercare proposals have been designed to enhance the long term quality of the land and landscape to the benefit of local communities, ensuring that a valuable asset is passed on to future generations, as required by MPPW Paragraph 48.
12. The compliance with all criteria set out in MPPW and MTAN2 is reflected in the strong advice given to members of the Minerals Planning Authority by its professional officers in the face of significant objections, with the sole reason for refusal of the scheme given by the Minerals Planning Authority relating to the visual impact on residents and the Brecon Beacons National Park during the construction and removal of the overburden and visual and acoustic screening mounds.
13. The visual impact on the Brecon Beacons National Park Authority during the construction and removal of the overburden and visual and acoustic screening mounds is overstated and undue reliance has been placed by the Minerals Planning Authority on a holding objection given by the Brecon Beacons National Park Authority. Evidence will be provided to demonstrate that there would be no unacceptable impacts on the Brecon Beacons National Park.

14. Evidence will also be provided to show that any visual impact on residents has been mitigated so far as possible, by the construction of a visual and acoustic screening bund and by the employment of modern working methods, to ensure the screening of operations on the overburden and the visual and acoustic screening mounds, such that they are not unacceptable. The impacts would also be balanced in the short term by enhancements associated with land remediation measures undertaken on land adjoining the development and in the longer term by a restoration scheme which would deliver landscape land use and biodiversity mitigation and compensation.
15. Notwithstanding the conclusion that the proposal is environmentally acceptable, or can be made so by the use of conditions or planning obligations, evidence will be provided to show that the development would also bring about substantial local community benefits, including:-
- (i) The remediation of historic mining dereliction associated with the treatment of shafts and adits which will improve public amenity and remedy unsafe conditions on extensive areas of publicly accessible urban common land;
  - (ii) The restoration of areas of land, some of which have previously been subjected to earlier and somewhat pioneering opencast mining to open mountain grassland, interspersed with woodland belts and a substantial package of new paths, improving public amenity;
  - (iii) The improvement of the second worst mine water discharge in Wales, which is unlikely to be rectified with public funds absent the scheme;
  - (iv) The improvement in run-off siltation to the lake in Darren Valley Country Park, with significant savings to the public purse;
  - (v) The improvement in visibility along the southern approach to the junction of Bogey Road and Fochriw Road to improve highways safety;
  - (vi) The remediation or removal of waste from the Merthyr Industrial Services landfill site north of the South Tunnel Road;
  - (vii) The creation of nature conservation and geodiversity conservation as a part of the restoration scheme, together with substantial off site benefits, at the Bryn Caerau area and further afield.
  - (viii) Demonstrable employment and economic benefits associated with direct and indirect employment of mainly local people and the contribution to the local economy of some of the most deprived areas of Wales.
  - (ix) The creation of a community benefit fund of up to £6 million to be used exclusively in the communities that have the most potential to be impacted upon by the development, which communities are some of the most deprived in Wales.
16. These local and community benefits clearly outweigh any dis-benefits or likely impacts, including the visual impacts referred to by the Minerals Planning Authority as their sole reason for refusal, and they justify the grant of planning permission



17. It follows from the above that the overall balance of the national need for coal and the other benefits associated with the development against any environmental effects of the development weigh heavily in favour of a grant of planning permission.
18. The development could also proceed in accordance with the Minerals Planning Authority's Caerphilly Local Development Plan adopted in November 2012, including inter alia policies SP1, SP8, SP10, SP 11 SP12, CW2 (contrary to the assertion of the Minerals Planning Authority in its reasons for refusal), CW4, CW5, CW22, CW23, MN1, MN2 (in respect of which it is noted that the coal is safeguarded), MW1, NH2 and NH3. The development is thus entitled to a grant of permission by operation of section 38(6) of the Planning and Compensation Act 2004.



**PERSONAL DETAILS** (these will not be made publically available)



**Section 3a. Appeal Site Ownership Details** (Appeal Form Page 13)

Surface Owner or Tenant	Date Notice Served
Miller Argent (South Wales) Limited (Comp. Regn. No. 4261274) Cwmbargoed Disposal Point, Fochriw Road, Cwmbargoed, Merthyr Tydfil CF48 4AE	Not Applicable
Dowlais Top Investment Company Limited (Co.Regn.No.770366) 5 St Andrews Crescent, Cardiff CF10 3DA	23rd December 2015
Caerphilly County Borough Council Chief Executive, Caerphilly County Borough Council, Penallta House, Tredomen Park, Ystrad Mynach, Hengoed CF82 7PG	23rd December 2015
Lorraine Howells Upper Cwm Carno Farm, Rhymney, Caerphilly NP22 5QY	23rd December 2015
Alun Jones 9 Hampton Street, Twynyrodyn, Merthyr Tydfil, Mid Glam CF47 ORR	23rd December 2015
Martin Jones 4 Bryn Terrace, Mountain Hare, Merthyr Tydfil, Mid Glam CF47 OLG	23rd December 2015
Merthyr Industrial Services Limited (Co. Regn. No. 2016463) Plot 2, Penygarnddu Business Park, Merthyr Tydfil CF48 2TA	23rd December 2015
Network Rail Infrastructure Limited (Co. Regn. No. 02904587) Kings Place, 90 York Way, London N1 9AG	23rd December 2015
Western Power Distribution (South West) plc (Co. Regn. No. 02366894) Avonbank, Feeder Road, Bristol BS2 0TB	23rd December 2015

Mineral Owner		Date Notice Served
Miller Argent (South Wales) Limited (Comp. Regn. No. 4261274) Cwmbargoed Disposal Point, Fochriw Road, Cwmbargoed, Merthyr Tydfil CF48 4AE		Not Applicable
Dowlais Top Investment Company Limited (Co.Regn.No.770366) 5 St Andrews Crescent, Cardiff CF10 3DA		23rd December 2015
Llanfair Court Investments Ltd (Co. Regn. No. 00555937) 5 St Andrews Crescent, Cardiff CF10 3DA		23rd December 2015
Others Unknown		Notice published in the Western Mail on 23 <sup>rd</sup> December 2015

"owner" means a person having a freehold interest or a leasehold interest the unexpired term of which is not less than seven years, or, in the case of development consisting of the winning or working of minerals, a person entitled to an interest in a mineral in the land (other than oil, gas, coal, gold or silver).

