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Via email only: rachel.brophy@cumbria.gov.uk

3rd July 2017

Dear Ms Brophy,

Re Application Ref: 4/17/9007 – Development of Existing surface mine entrance for a new underground metallurgical coal mine and associated surface development [...] Pow Beck Valley and area from Marchon Site to St Bees Coast, Cumbria

Friends of the Earth (FoE) England, Wales and Northern Ireland objects in principle to the above application for deep surface coal mining at the former Marchon Site, Pow Beck Valley, Cumbria. Our key concerns include:

- The need to consider the impact of the proposal on climate change;
- Conflict with the approach to considering coal developments in the NPPF; and
- Incompatibility with recent government announcements/ consultations on coal phase-out
- Regulation 22 consultation required regarding 'Climatic Factors' as per EIA regulations and scoping requirements

Matter 1 – The need to consider the impact of the proposal on climate change

1. Despite being an application for coking/ metallurgical coal, the projected timeframe and quantity of extraction is at odds with the expectations of overarching climate change legislation – namely the Climate Change Act (2008) – which introduced legally binding targets to reduce the UK's greenhouse gas emissions by at least 80% by 2050 from 1990 levels, and the Paris Agreement.
2. Paragraph 93 of the National Planning Policy Framework (NPPF) reflects this legislative approach, stating that:

“Planning plays a key role in helping to shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development”
3. Coal is described by the Committee on Climate Change as one of the fuels with the highest carbon intensity¹ and so its extraction and combustion must be minimised on a national and global scale in order to

¹ Onshore Petroleum - The compatibility of UK onshore petroleum with meeting the UK's carbon budgets (Committee on Climate Change – March 2016)

comply with current and future climate budgets². The application will not only drastically increase UK extraction (up to 2.1 million tonnes per annum at its expected peak), but is inextricably linked to the emissions impact of the burning of coal. Despite the intention to extract ore from the coal for steel making, rather than burning for energy generation, the development would conflict with the above legislative and national planning policy objectives to reduce greenhouse gas emissions.

4. It is clear that this is a very large mine, with a very long life span indeed. The application talks of a production life-span of 20-50 years, and a peak of 2.8 million tonnes a year. Assuming a 40 year life (following construction), and an average of 2 million tonnes a year, that is total production of 80 million tonnes, which will emit around 175 million tonnes of carbon dioxide. The level of emissions and proposed life-time of the mine is of major concern.
5. As stated above, the UK already has legally binding climate change targets under the Climate Change Act 2008 to reduce emissions by at least 80% on 1990 levels by 2050 – with 2050 within the lifetime of this mine. We note that the wording is “at least” – it is the intention of the Paris Agreement that all nations ratchet up their ambition over time, and the UK Government has said it will “continue to take a lead in global action on climate change”ⁱ. Post- Paris, the CCC has said that an equal distribution of the remaining Global Carbon Budget implies the UK “reaching net zero CO₂ emissions by 2033-55 for 2°C and 2026-28 for 1.5°C”ⁱⁱ. In this context, the UK can be expected to be not emitting carbon dioxide well within the lifetime of this mine, and in which case the proposal to dig for coal so far into the future is not compatible with the UK’s climate change aims.
6. We would argue that the lifetime of the mine is therefore far too long and at the very least should be substantially reduced in order to ensure UK carbon budgets are met. We feel operational timescales being put forward are excessive and will prolong the climatic impacts linked to the mining, export and use of the coal. There has also been little to no consideration of methane release within the documentation, which, as well as CO₂, is very large contributor to climate change and which (as a result of the mine’s expected output and lifespan) requires further consideration.

Matter 2 – Conflict with the approach to considering coal developments in the NPPF

7. The application is also in conflict with paragraph 149 of the NPPF. This states that:

“Permission should not be given for the extraction of coal unless the proposal is environmentally acceptable, or can be made so by planning conditions or obligations; or if not, it provides national, local or community benefits which clearly outweigh the likely impacts to justify the granting of planning permission.”

8. In terms of economic benefits, the proposal aims to provide around 500 jobs linked to the operation of the mine itself. We note however the high number of jobs in the tourism industry in Cumbria (i.e. 63,316 roles³) or 35000 FTE tourism jobs (as put forward by the applicants) that could be impacted on as a result of the negative perception of the proposal and the landscape and visual impacts.
9. The applicants also suggest mitigation benefits, such as planting of a substantial number of trees, creation of footpaths, as well as restoration (although this will not be undertaken for up to 50 years based on current timescales).
10. There are however a number of negative impacts identified within the documentation as a result of the proposal, including those which represent significant effect in EIA terms:

Landscape and Visual Impact

- i) The LVIA suggests the main Marchon site will introduce the most potential for significant adverse

² The current 2nd Climate Change budget runs until the end of 2017 and requires a 29% reduction below 1990 levels. This will increase to 25% in the 3rd budget (2018-2022). According to the CCC, we are not however on track to meet the 4th budget (i.e. 2023 to 2027) and so more action is needed to reduce carbon emissions going forward.

<https://www.theccc.org.uk/tackling-climate-change/reducing-carbon-emissions/carbon-budgets-and-targets/>

³ <https://www.cumbriatourism.org/>

landscape effects. This is in part due to its scale and extent, as well as proximity to sensitive uses such as residential developments (some sites where outline permission has been agreed) and dependant on geographical location. The LVIA states in terms of Urban Fringe LCT (5d) *“the overall magnitude of change within the vicinity of the site would be substantial/moderate... This would be considered significant within close proximity to the site”*. Areas within vicinity of the site include High Road, a proposed housing development and agricultural properties located east of High Road, and such significant effects would be long term; at least 12 years before possible reduction by proposed landscaping (although this is only likely during spring and winter months).

- ii) In terms of *visual effects*, the scale of change as a result of the main development at the Marchon site is considered to be ‘large’, with the LVIA suggesting major/moderate **significant adverse effects** from a range of viewpoints around the site, including from a number of properties (including those not yet built re Story Homes development). For Houses to the north of Sandwith (Group 5), such significant adverse visual effects remain for the duration of the scheme (50 years). Such impact is unacceptable for such a duration of time in an area so close to sensitive landscape features such as St Bees Head Heritage Coast (west) and the Lake District National Park (east). Indeed, residents located along High Road (Group 1) will also experience major/moderate significant adverse effects, resulting due to a loss of current long range views towards St Bees due to the sheer scale of the proposed complex. Even with landscape planting and bunding, such adverse impact is considered to reduce only after 10 years when planting schemes have matured (see paragraph 10.10.24 of LVIA). Once again, the report’s authors however fail to mention that landscape screening could be less effective when plants and trees are not in bloom (depending on types planted). Similar levels of major/moderate significance of effect would also result for ‘Houses along Wilson Pit Road’ (group 4) and only 15 years after the development has been in existence might such effects reduce beyond significant effect (again as a result of landscaping).
- iii) Major /moderate significant adverse effect is also expected as a result of the improvements to the rail sidings and siting of the welfare office and Rail Loading Facility (RLF) within the more sensitive Pow Beck Valley. The report states such visual impact would continue for the duration of the scheme (i.e. 50 years) from views such as ‘Lake View’, as no screening is available. While impact to views from public roads would not be significant, such impacts are expected on views from parts of the Coast to Coast path (a well-used recreational route). These include between Bell House and Stanley Pond when passing the site, with a prominent adverse view of the RLF due to its scale and lack of screening. Other views where significant effect would be experienced include local footpaths (para 10.11.29) within and away from the RLF.
- iv) Consideration of cumulative visual effects, include significant effect for houses associated within the unconsented NPL Housing scheme, as well as users of the Hutbank Landfill footpath. There would also be significant effects if the Nugen Mirehouse Housing development was consented, although the applicant claims such cumulative effect would result from that development rather than from the RLF (which would already be located). Again, the North West Coast Connections Project (i.e. new larger pylons and a new electricity line) would result in significant cumulative effects with the scheme.
- v) The proposals thus have the potential to introduce strong potential for significant landscape, visual and cumulative effects around both the main Marchon site and the RLF situated in the Pow Beck Valley. Such significant effect will impact a large number of high sensitivity receptors, including existing houses and those not yet built (but considered part of the baseline due to having planning consent), as well as footpaths (such as the Coast to Coast walk). There is also a high potential for significant cumulative landscape and visual effects, as a result of forthcoming development. Such potential for long term significant landscape and visual effect is simply unacceptable (especially in light of limited other benefits) and while it may dissipate over distance, the legacy is that many users living at or experiencing views from these receptors will experience significant levels of impact for the lifetime of the development (currently 50 years). The LVIA’s conclusions seems to underplay such impact, with the EIA technical summary almost misleading readers with its summary of the LVIA’s actual findings: *“Whilst the development will bring change to the local area, it is not expected to be negative”* (page 7 – Non-Technical Summary).
- vi) The reality is that the development will introduce significant effect to the landscape and visual experience of the area in two different locations, representing large scale change and with limited other benefits – 500 jobs notwithstanding – compared to other types of scheme (e.g. renewable energy) which actually help the UK is reduce its carbon footprint. Such impacts should carry significant weight in

the planning balance. **Appendix A** also lists other issues with the submitted LVIA.

The potential for subsidence

11. While the remaining chapters of the ES suggest few other instances of significant effect to air, noise, ecology, historic environment, highways, some doubts remain in terms of possible marine subsidence which, while out of the remit of consideration of Town and Country Planning Act 1990, should nonetheless be a material consideration in coming to a decision for this EIA level application. There are big questions regarding the potential for sea bed subsidence adjacent to the St Bees Head Marine Coastal Zone, SSSI and Heritage Coast, despite an underwater ('no mine') buffer proposed by the applicants and use of vaguely described "*appropriate excavation techniques*"⁴. While the applicants suggest a possible range of between 5-40cm of vertical displacement on the sea bed, Chapter 17 Marine Ecology of the ES also states:

*"The direct impacts on the marine and intertidal environment are therefore likely to be limited to subsidence of the seabed following mining works. The impact of this subsidence cannot yet be fully assessed..."*⁵

12. Despite estimates, it's clear the applicants cannot accurately predict actual levels of subsidence, with the only potential "remedy" comprising ongoing monitoring of subsidence (with information from the ES used as a baseline). We would question whether or not this is suitable enough mitigation or robust enough analysis of the possible impacts, especially if impacts from subsidence end up being greater than that proposed. In light of the importance of St Bees Head re its flora, fauna and geological make up as well as species associated with the MCZ (hence its subsequent varied designation), we would suggest the authority work closely with Natural England (and other statutory bodies) regarding possible impacts to protected species in this highly designated area as a result of impacts from under-sea mine working.

Seismicity

13. We would also query whether or not there has been robust enough analysis of the potential for seismicity (and subsidence) relating to well-known nuclear facilities in the wider area, including Sellafield and proposed new facility at Moorside? What potential is there for seismicity to effect these and other facilities (including low level waste repository at Drigg) and the possible high level radioactive waste facility which has been proposed in West Cumbria for some time. Further consideration on the potential effects on these sensitive uses is needed before the risks can be ruled out, and consultation with the owners of these facilities would be advisable (if not yet done already).

Discharge of mine water

14. There is also a question mark over potential for discharge of mine water from the existing anhydrite mine at the Marchon site. This will require a pipeline from the site through the SSSI for temporary discharge into the sea within the MCZ designation. Chapter 17 states this will be subject to additional applications and permitting, however we would argue consideration of this should be incorporated into this EIA assessment for the scheme, as it links to the potential of utilising the Marchon site. While some of the site has been de-designated as contaminated land⁶, it's suggested other parts of the site not under the client's ownership may still be. We acknowledge however that the Rhodia UK part of the Marchon ownership was since de-designated. The Geo-Environmental Desk Study supplied with this application (Westlakes Engineering) however states there is no record as to "*what steps, if any, have been taken to treat the mine entries.*" (pg 3 – *Appendix 13.3*). This suggests some doubt as to how the former mine was closed off.
15. Chapter 12 Hydrology and Hydrogeology of the ES also provides some information as to the condition of mine water, albeit there does not seem to have been analysis at mine water at **all available depths** in the anhydrite shaft:

"Further analyses of water quality from deeper within the mine workings is planned for the near future to confirm that the collected water quality within the shaft is representative of the water within the historic workings as a whole."

4 See para: 17.31.2 – Chapter 17 (ES)

5 See footnote 5 above

6 See Appendix 13.5 – letter from Copeland Council.

16. We would suggest a request for further evidence is made by council under Regulation 22 for the benefit of the EA – as a statutory consultee linked to this application – and linked to its own responsibilities regarding preserving water quality. PPG states that:

“Applicants should provide sufficient information for the local planning authority to be able to identify the likely impacts on water quality.”⁷

17. In this instance it would appear that the applicant needs to undertake more surveys in terms of establishing the quality of all mine water expected to be pumped out to sea. This would clarify the quality of all mine water (compared to EA groundwater data), and enable determination beyond scientific doubt as to its suitability and whether it should be pumped into the MCZ at St Bees Head.
18. In light of the above significant landscape and visual aspects of the scheme, as well as doubts as to subsidence or a lack of information regards the quality of coal water to be pumped from the mine into the MCZ, it is certainly unclear whether or not the application’s ‘benefits’ (mainly employment) “**clearly outweigh**” the environmental impacts that could result. The planning balance should lean towards refusal, with the application unlikely to meet the expectations of paragraph 149 of the NPPF as to whether effects can be mitigated, despite the “great weight” attached to the benefits of mineral extraction (which are mainly economic in this case).

Matter 3 – Incompatibility with recent government announcements and consultations on coal phase-out

19. Despite the applicant’s stated intentions for the use of coke coal, the proposal is nonetheless incompatible with recent government announcements and consultations linked to coal phase-out. Its use within ore extraction and steel making will inevitably lead to its being burnt and CO₂ release. Amber Rudd stated in her speech on UK Energy Policy (Nov 2015) that; “*Unabated coal is simply not sustainable in the longer term*” and that government would begin consultation in 2016 to set out proposals to “*...close coal by 2025 - and restrict its use from 2023*”, with the overall aim of “*being one of the first developed countries take coal off the system*”.⁸ We would suggest this is a clear sign that coal is on the way out and applications for its extraction are incompatible with government’s strategic approach which aims to reduce its well documented contribution to climate change.

Matter 4 – Regulation 22 consultation required regarding Climatic Factors as per EIA regulations and scoping requirements

20. There is a clear lack of consideration regards climate change within the EIA documentation, despite the intension for coal to be used in steel-making rather than for energy creation in power stations. The extraction of such large quantities of coke coal for the use in domestic and European steel markets over such a long period is highly likely lead to inevitable climate change impacts – many of which have not been assessed in this application. This is despite Schedule 4 of the 2011 EIA regulations which require consideration of significant impacts on... “*climatic factors*”⁹. Any such analysis should also consider the developments extraction impact on methane release, which is likely to be relevant to this application.
21. The emissions impacts of transporting coal by train (albeit admittedly better than HGV) and boat haulage to mainland Europe is also not considered fully; with only very limited comparison of the proposed application option with the ‘do nothing’ scenario that suggests offsetting of transport emissions linked to importing such coal from the US¹⁰.
22. We would urge the planning authority to invoke regulation 22 of the 2011 EIA Regs in respect of requesting further information regards the potential for significant effect on *climatic factors* as a result of the burning of coal at the mine.

Conclusion

7 016 Reference ID: 34-016-20140306 - <https://www.gov.uk/guidance/water-supply-wastewater-and-water-quality>

8 Amber Rudd’s speech <https://www.gov.uk/government/speeches/amber-rudds-speech-on-a-new-direction-for-uk-energy-policy>

9 See 2011 EIA regulations - http://www.legislation.gov.uk/ukxi/2011/1824/pdfs/ukxi_20111824_en.pdf

10 See Chapter 3 of ES - Alternatives

23. The application is incompatible with the aims of reducing carbon dioxide emissions as per UK carbon budgets linked to the 2008 Climate Change Act (and as embraced within national planning policy).
24. While the extracted coke coal is to be used in the manufacturing (not in the generation of electricity) in order to meet both current and future carbon budgets its use should be limited going forward (as ultimately the coal is still burned for ore extraction). This proposal aims to extract immense quantities of coal over the next 50 years (up to 2.1million tonnes per annum), and as such is not aligned with UK climate change legislation. If permission is not refused, then its proposed lifespan of the scheme should be drastically reduced.
25. Linked to the above, the ES has also not considered how the burning of extracted coal or release of methane would affect 'climate factors' (as intimated by Schedule 4 of the 2011 EIA Directive). The council should request additional information as they present clear environmental impacts as a result of the proposal.
26. The environmental statement has demonstrated the likely introduction of significant landscape and visual (and cumulative) impacts at a number of receptors as a result of the proposals. These are major impacts that should weigh heavily against the scheme due to the scale of impact. There are also doubts raised as to the potential for subsidence in the sea bed at the St Bees Head MCZ, as well as questions over the quality of the mine water scheduled to be pumped out into the Irish Sea. These combined factors – without further investigation and information from the applicants – could be reasonably considered to have potential for impact on the objectives of the MCZ. Finally, there appears to be a lack of consideration regarding seismicity impacts for existing nuclear and waste facilities in the wider area.
27. As such, a range of additional information should be sought from the applicants to enable robust consideration of the scheme's potential for significant effect in terms of water quality, subsidence and seismicity (and climatic factors). This should be undertaken under Regulation 22 of the EIA Regulations (2011)¹¹.

Yours sincerely,

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¹¹ As the scoping opinion request was made before May 2017, the application is considered under the 2011 regulations, rather than newly adopted 2017 EIA regulations.

Appendix A: Other issues/queries with the LVIA submission include:

- The scoping exercise included concern from the National Trust that the 10km study area for landscape and visual impact would not be adequate to take into account *all possible* instances of significant effect. This concern was echoed by Friends of the Lake District, who suggested such a distance was not justified, with the Lake District National Park being only within 6.5km of the site. Considering GLVIA (3rd Edition) considers such discussion should “*include landscape professionals at the competent authority, as well as statutory consultees, interest groups and local people*”, its surprising further justification has not been supplied as to why 10km was chosen. Chapter 10 of the ES simply states the LVIA study area has been defined as 10km... “*as agreed as agreed with Cumbria County Council (CCC) and their consultants White Young Green (WYG)*”. We would question the point of the scoping exercise if concerns from a statutory consultee and local group have not been rectified.
- The LVIA fails to consider those landscape policies within the new Cumbria Minerals and Waste Local Plan which has undergone Examination-in-Public and where the Inspector has suggested Main Modifications. These should be given consideration within the LVIA, in order to better substantiate the policy context and possible instances of significant effect.
- The LVIA suggests the Marchon site to be more than 7km west of the Lake District National Park. Our own calculations put it closer to 6.6km (from Hazel Holme to the eastern edge of the Marchon site). Is this correct?

i <https://www.conservatives.com/manifesto> , page 42. May 2017.

ii <https://www.theccc.org.uk/publication/uk-action-following-paris/> Box 2.3. An equal distribution is still very generous to the UK as it ignores historical responsibility.