

Planning, Taxi Licensing and Rights of Way Committee Report

Application No: 19/1899/REM **Grid Ref:** 283050.34 211312.71

Community Council: Tawe-Uchaf CC **Valid Date:** 11/11/19 **Officer:** Carms CC

Applicant: Celtic Energy Ltd, 9 Beddau Way, Castlegate Business Park, Caerphilly, CF83 2AX

Location: Nant Helen Surface Mine, Coelbren, Neath

Proposal: Variation of condition 45 of planning approval 18/1070/REM to allow for a revised restoration scheme.

Application Type: Variation of Condition

The reason for Committee determination

The application constitutes a proposed major development and two Local Members have called-in the application and requested the opportunity to address the Planning, Taxi Licensing and Rights of Way Committee.

Site Location and Description

The Nant Helen Surface Mine covers an area of some 345 hectares and is located approximately 200m east of Penrhos; 350m south east of Cae'r-bont; 350m south of Caehopkin; 750m south of Abercrave; 725m west of Coelbren; 900m north-west of Onllwyn and 650m north of Seven Sisters.

The north and west of the working area is covered by woodland, whereas the land to the south and east is open upland common land forming part of Mynydd-Y-Drum. A significant part of the site itself (184 hectares) also falls within the Mynydd-y-Drum Common. The Sustrans National Cycle Route 43 Celtic Trail East follows the northern and western boundary of the site.

The opencast void has moved in a westerly direction during the operation of the Nant Helen series of sites, which began operations in 1986. The current void is located at the western end of the development within the area of Nant Helen Remainder. The overburden storage mounds are to the east of the void with the coal preparation plant, stocking area, offices and workshops located further to the east.

Access to the site is gained from the A4221 at Coelbren, along a 1.2km access road which heads west before turning south towards the office/workshop area. There is also an internal haul road link which runs south from the office/workshop area before turning east towards Onllwyn Washery.

The site itself, apart from the section of internal haul road to Onllwyn Washery, is within Powys but much of the land to the south of the site is within Neath Port Talbot.

The planning permission for Nant Helen Remainder, granted in 2012, was granted subject to 65 conditions and a Section 106 Agreement which covered Community

Benefits, a mechanism for the provision of a Financial Restoration Guarantee Bond eventually rising to £30 million (paid at £1.5 million per quarter), and an extended aftercare period of 10 years rather than 5 years on all areas of the site. Payments into the Restoration Guarantee Fund currently stand at £19.5 million (plus interest), whereas it should have been at £30.28 million by September 2017 – Celtic Energy Ltd was not in a position to meet the quarterly payments after December 2015.

Celtic Energy Ltd submitted revised restoration details in August 2016 to discharge the requirements of Condition 54 of the 2012 planning permission. The 2012 planning permission contained a restoration strategy for the site but Condition 54 required a detailed restoration scheme for the whole site to be submitted to and approved by the Local Planning Authority.

The Restoration Strategy approved in 2012 sought to restore the site to predominantly upland common with enclosed agricultural pasture (including species rich grassland) on lower slopes and broadleaf woodland planting on the western side and along the corridor of the restored small watercourses which will drain the area naturally. The landscape was intended to reflect that which is likely to have existed prior to the large scale mining activity that has taken place in this area. The area where the overburden mound is located was to be reduced to a summit level of 296m AOD and reshaped to remove the engineered profile, with the surrounding land sloping away from the summit.

The detailed restoration scheme of August 2016 was broadly similar in terms of the restored land uses. These remained as primarily upland common, enclosed pasture but with areas of marshy grassland rather than species rich grassland and slightly reduced areas of woodland planting. In addition, there were amendments to the proposed watercourses and drainage system.

The most significant change to the approved restoration strategy was in terms of the landform to be created following completion of the development. Essentially it involved an increase in the height of the final summit of the overburden mound area from 296m to 305m with slightly steeper slopes, although the engineered slopes were still to be re-profiled. The increase in height of the summit had the knock-on effect of reducing the amount of material available to fill the final void and resulted in a valley feature being created within the final void rather than restoration to the original approved profile. The height of the current overburden mound is approximately 338m AOD so it was still to be reduced by over 30m. The main driver for the change in landform was a reduction in movement of overburden materials required for restoration and the consequent reduction in liability. The change resulted in the movement of approximately 10 million m³ less overburden and a reduction in liability of some £16 million. The approved restoration scheme remains the scheme approved in February 2017.

An application was submitted in December 2018 for the variation of condition 2 of the planning permission P/2011/0217 to allow an extension of the time period to remove the remaining 800,000 tonnes of coal at this site and to complete the approved restoration. The application sought to extend the period for the extraction of minerals up to 31st December 2021 with the completion of restoration by 30th June 2023. The

application was approved on 29th August 2019 subject to conditions and a revised Section 106 Agreement. The revised Section 106 Agreement did not require any further Financial Guarantee Bond payments from Celtic Energy Ltd and instead included certain commitments by Celtic Energy Ltd to undertake annual restoration tasks which reduced the liability. The intention being that at the end of coaling, when the income stream ceases, there was sufficient money in the Financial Guarantee Bond to cover the remaining restoration.

Condition 45 of the 2019 planning permission requires the restoration of the site to be undertaken in accordance with the detailed restoration scheme approved in February 2017.

This current application seeks to replace the February 2017 restoration scheme with a revised restoration scheme which in part reflects the desire to produce a flexible and adaptable landform in order to facilitate future job creation opportunities, nature conservation, leisure and tourism opportunities as well as agricultural restoration.

It should be stressed that the restoration scheme still proposes restoration to a mix of agriculture (upland common and enclosed pasture), woodland/hedgerows and nature conservation habitats. Whilst the landform created would allow for future leisure, tourism and industrial opportunities, which could include industrial uses such as the Welsh Government's proposal to develop a Global Centre of Rail Excellence (GCRE) for rail testing and storage, these are not proposed in this application and would be subject to separate planning applications in the future. The creation of the proposed landform in no way prejudices planning applications which may be submitted for future uses which would have to be considered on their merits. The proposed landform has to be considered on its merits.

A draft planning application which includes earthworks with cutting and embankments as well as drainage works associated with a revised landform is currently subject to pre-application consultation until 16th March 2020. This relates to land outside of the opencast coal site which would also lend itself to potential future uses such as the GCRE. It is anticipated that the application will be submitted in April 2020.

The proposed revised restoration scheme involves retaining additional material in the overburden mound with a consequent change in the landform created in the area of the current excavation void. The revised scheme increases the height of the summit of the overburden mound from the currently proposed 305m AOD to 320m AOD. Therefore, approximately 18m will be removed from the height of the current mound together with a shallowing of the slopes to remove the current 'stepped' engineered profiles. A semi-circular corridor is provided which would facilitate either the potential GCRE proposal or potentially some form of leisure/recreational use.

The void area consequently becomes restored to a steeper sided valley/bowl feature with a level at approximately 145m AOD in the base. It is intended that the steeper slopes will be restored to acid grassland/lichen heath with the base restored to marshy grassland with two shallow ponds/wetland areas. The ponds/wetlands have a dual role of attenuation of storm water run-off as well as being of nature

conservation interest. The level of water in the restored void area will be controlled by an outlet at 145m AOD which will discharge through a cutting into the Nant Penrhos.

The revised scheme would shorten the restoration period by approximately 12 months.

Consultee Response

Cllr David Thomas (Tawe Uchaf Ward) and Cllr Sarah Williams (Abercraf Ward).

With reference to the Section 73 application to vary Condition 45 we would like to offer the following comments/concerns:

1. We are pleased to see that the revised plans no longer incorporate a lake on the hillside above Penrhos/Caerbont and Golwg y Cwm School.
2. However the large void still exists and we are concerned about the steepness (approx. 1:3) and depth (100 metres) of the banks leading into what would in effect be an artificial amphitheatre and constitute a dangerous 'blot on the landscape'.
3. The revised plans incorporate two 'ponds' at the bottom of this void which are meant to act as attenuation features to ensure no flooding occurs in the valley below. No assurances have been given as to who will maintain these features after the site is restored and Celtic Energy have left e.g. if they fill with silt water flow will not be controlled and the villages below could potentially flood.
4. We understand that enough finance was held in the Bond to complete the restoration to the specifications contained in the current plan that was previously accepted by Planning Committee and is now being presented for a variance of condition. If the original restoration plan incorporated most of this void being filled what has changed?
5. We welcome the restoration of public rights of way and common land for grazing.

Finally it has to be said that we are very conscious of the fact that residents have for years had to put up with severe inconvenience from opencast mining in this area. One of their major concerns was that on completion they would be left with a large hole in the hillside. This appears to be the proposal and is not acceptable despite the fact that it will be grassed. Indeed the steepness of the slope would present a dangerous obstacle to anybody walking these hills.

We would request that Planning Committee give consideration to these points before reaching a decision.

We would also request that both of us be allocated a provisional time slot to jointly speak at the Planning Committee meeting.

Tawe-Uchaf CC

Tawe Uchaf Community Council considered the above proposal at a meeting on the 11th December, 2019. Following detailed discussion the Council agreed to submit the following comments

The site plan reveals a very steep bank constructed from the completed final void. From the elevations indicated on the plan the bank created is too steep; the steepness will encourage major water run off down the steep bank into the restored void. The Council considers this steep bank is both dangerous and creates unnecessary risks to safety;

The Council continues to have major concerns on the stability of the restored void; the stability of the site could be compromised by water ingress from the old Ynyscedwyn Colliery workings; the concerns are not effectively addressed in the restoration plan; the Council considers that the stability issues pose a major risk to future safety;

There is inadequate reference to the ongoing monitoring and maintenance on the restored site following completion; the water courses will require inspections to avoid future problems building up; who will be responsible for the monitoring and inspection

The Council is of the opinion this is a very basic restoration proposal and is not acceptable from a site and public safety standpoint.

Ystradgynlais Town Council

The Ystradgynlais Town Council fully supports the observations and comments which have been made in respect of this planning application by the local County Councillors.

In addition to the enclosed comments the Town Council would also wish to add the following observations as the current restoration plan did not have the proposed void that is now being proposed:-

- Serious concern is expressed by the Town Council over the steepness of the void walls proposed as it would be a health and safety danger to all and could also result in land erosion and possible slippage over time.
- With regard to the wetland, water feature area and ponds proposed, who will take the full responsibility for the continuing maintenance and regular oversight of these areas?
- Under no circumstances must there be any water features or water ponds to be allowed in the void after restoration as these feature / water ponds would be clearly above the level of the old workings of both Abercrave and Ynyscedwyn collieries.

The above statements constitute the Ystradgynlais Town Councils response and observations in respect of this planning application.

Natural Resources Wales (initial comments)

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales (NRW) about the above, which we received on 20/11/2019.

We understand a previous proposal for restoration of the quarry was submitted under application 18/1071/REM, this application was subsequently withdrawn, and a new condition was applied to the associated variation of condition application 18/1070/REM (extension of time) to secure the discharge of a restoration scheme previously approved under application DIS/2016/0153.

We have reviewed the following documents:

1. S73 Application for Variation of Condition 45 of Planning Application 18/1070/REM – Further Addendum to Original Environmental Statement and Supporting Information submitted under Planning Reference 18/1070/REM including Revised LVIA. (October 2019) and associated appendices (Appendix 2 drainage, and Appendix 3 LVIA)
2. Celtic Energy Limited - Nant Helen Remainder – Planning Permission 18/1070/REM - Condition 45 – no document reference or data given.
3. Celtic Energy Ltd – Nant Helen Remainder Surface Coal Mine Site Condition 45: Restoration of Watercourses – Design Statement Revision C – no document reference or data given.
4. Drawing – Nant Helen Remainder – condition 45 Revised Restoration Scheme – Restoration Land use. Celtic Energy Limited, 07A05115>DWG, 16.10.19.

We have significant concerns with the proposed development as submitted. We recommend you should only grant planning permission if the following requirement is met. Otherwise, we would object to this planning application.

Requirement 1 - Landscape: the submission of additional information to demonstrate the revised restoration plan does not have a long-term adverse impact on the landscape of the Brecon Beacons National Park.

Landscape

Our advice relates to the potential impacts on the Brecon Beacons National Park.

The Brecon Beacons National Park lies 200m to the north of the site at its closest point. The site is prominent from Cribarth (Viewpoint BB1 2011 LVIA) and Llorfa Ridge (Viewpoint BB2 2011 LVIA).

We understand that the revised restoration scheme changes the original restoration proposal by retaining more of the current overburden mound than the current approved scheme. Much of the main overburden mound would be retained including steep slopes facing the Tawe Valley and National Park to the north.

It is stated that the LVIA undertaken as part of the original ES is largely unaltered and still relevant, therefore we assume the effects of the revised restoration are still considered neutral to slightly adverse, as opposed to moderate beneficial under the

previous, now withdrawn, restoration proposal (18/1071/REM). Photographs and photomontages of views from the south with indicative sections are provided, but there are no photographs, photomontages or sections of views from the National Park.

The revised restoration now indicates that some of the areas of high nature conservation interest (acid grassland/lichen heath/rush pasture) would be stripped off and replaced on the reduced and re-profiled main overburden mound. The submitted information states that the proposal creates a sympathetic landform and scheme that demonstrates beneficial effects on the National Park equal to the original proposed restoration. However, no information to demonstrate the effects on the National Park has been submitted.

Requirement 1 - Landscape: the submission of additional information to demonstrate the revised restoration plan does not have a long-term adverse impact on the landscape of the Brecon Beacons National Park.

Specific information is required on:

- Photographs & photomontages from viewpoints BB1 & BB2 (panoramas & single frame images reproduced at A3 with an approx. 40 degree horizontal angle of view) showing the current impact & predicted impact of the revised restoration, to compare with the 2010 images.
- Indicative sections of the consented restoration scheme for comparison with the proposed revised scheme.

The information is required to demonstrate that a restoration scheme can be achieved which conserves and enhances the natural beauty of the National Park. This information needs to confirm how the proposals would achieve the same level of benefits and visual integration as the original scheme, to avoid adverse effects on views from the National Park, which are a Special Quality.

More comments with regards to Landscape considerations is given in appendix 1 below.

Groundwater

It is our understanding that the current application seeks the approval of a revised restoration scheme as illustrated in plan drawing 07A05115.DWG dated 16/10/2019.

Unfortunately, the restoration plan drawing approved under DIS/2016/0153 has not been submitted for comparison and is no longer available for viewing on the Powys Planning website. We are therefore unable to establish whether there are significant changes proposed.

Within the section 10 and 11 of document headed "S73 Application for Variation of Condition 45 of Planning Application 18/1070/REM – Further Addendum to Original Environmental Statement and Supporting Information submitted under Planning Reference 18/1070/REM including Revised LVIA", we understand that the effect on the hydrology and hydrogeology will be the same as detailed within the initial planning permission (P/2011/0217). From this we assume that the void will be filled

using cut and fill material and streams will be restored or reinstated over the former workings. From a groundwater viewpoint we have no objection as we assume the approved schemes approximately follow the format of condition 54 of planning permission P/2011/0217 (i.e. the original restoration scheme).

However, if our interpretation of the proposal is incorrect, please re-consult us with a definitive explanation of the proposed restoration scheme.

Protected Species

Discharge of Condition 45 requires the submission of a detailed restoration scheme where the design should aim at achieving maximum ecological resilience. We therefore consider the discharge of condition 45 to be intrinsically related to discharge of condition 32 (Ecology, submission of an Ecological and Habitat Monitoring and Management Plan (EHMMP)).

We are not aware whether an application for discharge of condition 32 has been submitted to the local authority and whether an EHMMP has been produced based on up to date ecological survey information. Therefore, we are not able to comment on the proposal's impact on European Protected Species at this stage. We will need to be consulted on a discharge of condition 32 application and associated EHMMP to be able to provide additional comments on this matter.

Other Matters

Our comments above only relate specifically to matters included on our consultation topic list, Development Planning Advisory Service: Consultation Topics (September 2018), which is published on our website. We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other environmental interests.

We advise the applicant that, in addition to planning permission, it is their responsibility to ensure they secure all other permits/consents/licences relevant to their development. Please refer to our website for further details.

Natural Resources Wales (additional information)

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales (NRW) about additional information on the above, which we received on 03/02/2020.

We have reviewed the following documents:

- Celtic Energy Limited – response letter dated 28/01/2020 and titled: NRW response to Section 73 application to vary condition 45 of planning permission 18/1070/REM in relation to t restoration scheme – –and attached A3 photos

We have no objection to the proposed development as submitted and we provide the following advice.

Landscape

We have reviewed the recently submitted information for Viewpoints BB1 & BB2 and compared it with the information submitted in 2011 and our own knowledge of the area.

The Landscape Visual Impact Assessment (LVIA) submitted as part of the Original Environment Statement (ES) in 2011 concluded at section 10.14.2 that the long term effects on the National Park would be Moderate beneficial.

The Addendum to the original ES (18/1071/DIS) with a revised restoration scheme concluded at section 11.2.8 that the landscape and visual effects of the new proposal would be at best Neutral to Slight adverse.

The recently submitted information now suggests that the current, further revised scheme would have a Moderate beneficial long term effect on receptors at Viewpoints BB1 & BB2, in line with the original assertions in 2011. It is stated that the magnitude of change compared to the previous restoration proposal is negligible.

We consider that the beneficial effects on the National Park have been overestimated and that the current revised restoration would be a less beneficial scheme, as a result of the retention of much of the overburden landform and void. However, we do not consider the differences to be so great as to have a long-term adverse impact on the landscape of the Brecon Beacons National Park.

Having said so, we would like to reiterate that we consider the photographs and photomontages submitted to be of poor quality and difficult to interpret. They have not been produced in accordance with our previous advice or best practice guidance (Landscape Institute Technical Guidance Note 06/19 Visual Representation of Development Proposals). Panoramas reproduced in an A3 document will make the development appear further away than, in reality, in the field. As a result, the existing open cast and proposed restoration would be more visible than shown in the photographs and photomontages.

Please refer to our previous response letter of 20/12/2019 for comments on groundwater and protected species.

Other Matters

Our comments above only relate specifically to matters included on our consultation topic list, Development Planning Advisory Service: Consultation Topics (September 2018), which is published on our website. We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other environmental interests.

We advise the applicant that, in addition to planning permission, it is their responsibility to ensure they secure all other permits/consents/licences relevant to their development. Please refer to our website for further details.

Welsh Government Agricultural Advisor

Thank you for your consultation regarding the Section 73 application to vary condition 45 of planning permission 18/1070/REM in relation to the restoration scheme at Nant Helen Surface Mine.

The original agreed restoration is agricultural after use, which for this application is considerable at 247 hectares comprising common land, enclosed fields and marshy grassland.

From the application and associated documents, it appears that the applicants propose an alternative after use proposal for the site. The proposal is to create a flexible landform that could be used for a variety of after uses such as nature conservation, leisure, tourism, amenity and industrial use.

Our remit covers restoration and aftercare where agricultural management is the primary objective, and not where the primary objective is a flexible after use.

A decision on after use of the site is a matter for the MPA and outside our remit. If the application is approved, we may need to consider our future input to the case, if the after use of the site is not to be primarily agricultural.

We would be pleased to discuss further at your convenience.

Neath Port Talbot County Borough Council

I refer to the above planning application referred to this Council in accordance with the above Act and order and in accordance with the attached report, the contents of which we ask you note and have regard to, would offer no objections.

REPORT

SITE AND CONTEXT

The application site comprises the existing Nant Helen Open Cast Coal Site (OCCS), Powys.

The Nant Helen OCCS covers an area of some 345 hectares and is located approximately 200m east of Penrhos; 350m south east of Cae'r-bont; 350m south of Caehopkin; 750m south of Abercrave; 725m west of Coelbren; 900m north-west of Onllwyn and 650m north of Seven Sisters. The site has been extensively worked as an open cast coal mine and consists of restored land, overburden mounds, coal stocking areas, barrel wash and plant maintenance areas, site office facilities and a void which is currently being mined. The site is currently being mined by Celtic Energy, although mining operations will cease in 2021, at which point Celtic Energy will be required to restore the land in accordance with regulatory requirements and agreements with Powys County Council.

The north and west of the working area is covered by woodland, whereas the land to the south and east is open upland common land forming part of Mynydd-Y-Drum. A significant part of the OCCS (184 hectares) also falls within the Mynydd-y-Drum

Common. The SUSTRANS National Cycle Route 43 Celtic Trail East follows the northern and western boundary of the site. The opencast void has moved in a westerly direction during the operation of the Nant Helen series of sites, which began operations in 1986. The current void is located at the western end of the development within the area of Nant Helen Remainder. The overburden storage mounds are to the east of the void with the coal preparation plant, stocking area, offices and workshops located further to the east.

Access to the existing site is gained from the A4221 at Coelbren, along a 1.2km access road which heads west before turning south towards the office/workshop area. There is also an internal haul road link which runs south from the office/workshop area before turning east towards Onllwyn Washery.

DESCRIPTION OF DEVELOPMENT

This is a consultation from Powys CC as an adjoining Authority in respect of details pursuant to the variation of Condition 45 of Planning permission 18/1070/REM, namely a revised restoration scheme.

NEGOTIATIONS

Not applicable.

PLANNING HISTORY

The Nant Helen OCCS has a detailed planning history, primarily (but not wholly) relating to land in the Powys administrative boundary, dating back to 1996, including (but not limited to) the following: -

- N1996/0112 (NPT)

Extract coal by open cast methods incl. Washing of coal bearing material (access only in Neath b.cl.Area). Approved 01.01.1997

- P2001/0405 (NPT)

Vary condition 1 of previous planning application P96/0112 - to extend the period in which the development is begun until 31st July 2003

- P/2011/0217 (PCC)

Western extension to Nant Helen surface mine for the purposes of coal extraction along with completion of coaling at existing site and associated ancillary development including restoration and subsequent aftercare of the full development site - Planning Permission Granted subject to S106 Agreement – 9th March 2012

- PP 106-98-005/PP 106-12-001 (PCC)

Nant Helen Extension – Planning permission Granted at Appeal – 21st July 1998

- 18/1070/REM (PCC)

Section 73 application to vary condition 2 of P/2011/0217 to allow an extension to time to allow extraction of all the coal and completion of restoration.

PCC resolved to grant subject to section 106 agreement (outstanding)

CONSULTATIONS

NPT Ecologist - It is welcomed that the existing biodiversity value of the site has informed the design of the current proposal. However, it is of concern that the biodiversity value and assessment of the amended restoration proposals have utilised out of date ecological information. The information presented was collected in 2010 and 2012, this is significantly out of date particularly in relation to the type of early successional habitats discussed, and such habitats can quickly deteriorate due to scrub and grass encroachment. It also appears that there is very little up to date species information presented to inform the proposals and any mitigation necessary, if protected species were found to be present. It is therefore recommended that up to date ecological surveys are undertaken to inform the amended restoration proposals. The current ecological information presented is not considered appropriate or adequate.

Further discussion as to the potential to recreate or translocate habitats, if removal of the overburden mound was necessary, would also be expected. Whilst retention of S7 (formerly S42) is welcomed it may be the case that such habitats can be moved or recreated elsewhere on site to address landscape or visual amenity issues for example. Consideration of this option would be recommended if alternative options are recommended for non-biodiversity reasons. Information relating to ecosystem resilience is also recommended to be provided to ensure the LPA can appropriately assess the application in line with the S6 duty of the Environment Wales Act 2016.

REPORT

The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet its sustainable development (or wellbeing) objectives. This report has been prepared in consideration of the Council's duty and the "sustainable development principle", as set out in the 2015 Act. In reaching the recommendation set out below, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

National Planning Policy:

Planning Policy Wales (Edition 10) was extensively revised and restructured at the end of 2018 to take into account the themes and approaches set out in the Well-being of Future Generations (Wales) Act 2015, and to deliver the vision for Wales that is set out therein.

PPW10 takes the seven Well-being Goals and the five Ways of Working as overarching themes and embodies a placemaking approach throughout, with the aim of delivering Active and Social Places, Productive and Enterprising Places and Distinctive and Natural Places. It also identifies the planning system as one of the main

tools to create sustainable places, and that placemaking principles are a tool to achieving this through both plan making and the decision making process.

Local Planning Policies

The Development Plan for the area comprises the Neath Port Talbot Local Development Plan which was adopted in January 2016, and within which the following policies are of relevance:

Strategic Policies:

- Policy SP14 The Countryside and the Undeveloped Coast
- Policy SP15 Biodiversity and Geodiversity
- Policy SP16 Environmental Protection
- Policy SP17 Minerals

Topic Based Policies:

- Policy EN6 Important Biodiversity and Geodiversity Sites
- Policy EN7 Important Natural Features
- Policy EN8 Pollution and Land Stability
- Policy M2 Surface Coal Operations
- Policy M4 Criteria for the Assessment of Mineral Development

Assessment

Officers received a disk and hard copy of the application in order to assess the application, which along with additional meetings with the applicant has given sufficient clarification for the application to be interrogated and for the following assessment to be made.

Observations and comments

The restoration proposal is mainly in line with the original strategy approved incorporating the land use.

The major potential concern for NPT relates to the proposed finished profile and nature of the landform of the existing overburden mound facing the Dulais Valley which varies from the previously-approved restoration profiles.

The amended scheme shows that the existing top tier of the overburden mound (up to 20m) facing the Dulais Valley communities will be removed leaving just the bottom tiers to be blended into the existing topography. The removed material will help create the remaining restoration profile within the void area of the site.

The height of the finished landform at its greatest point is shown as approximately 24m higher than the original restoration strategy profile (was 296m AOD), and as a consequence the retained overburden would have a greater landscape and visual impact than the original restoration scheme when viewed from areas of NPT to the south, south-east and east of the site. Nevertheless, Officers are satisfied that the photomontages and sightline sections demonstrate that the reduction in height and regrading of the side slopes would soften its finished appearance and ensure that in addition to reducing the existing long-term visual impact from the current overburden mound, would result in a finished landform which would in itself have no unacceptable adverse visual or landscape impacts. It is also understood that this would generally conform with (the former) CCW's original comments back in 2011 insofar as the bottom two tiers would be retained for landscape and ecological reasons and the shallow graded western and eastern flanks would protect views from surrounding areas especially from the Onllwyn and Seven Sisters area. The same would apply looking from the Cwmllynfell area towards the Sarn Helen area. Changes to the void area, while significant, would have no adverse impact on views from NPT.

Accordingly, while the restoration profile will be materially different to the original restoration strategy, there are no objections to the scheme in respect of landscape or visual impacts from views within NPT.

It would be advisable, however, to carry out this work under an agreed phasing regime. This could cover any early abandonment of the site resulting in lessening the effect on residential amenity where the limited effect of the landscape falls short on deliverability of the restoration scheme. It is also important to ensure that the restoration bond is sufficient to secure full restoration of the site.

It is noted that the access to Onllwyn within NPT has not been addressed under this application, though no objections are raised to this approach.

Technical Assessment

Following a detailed assessment of the submitted documentation, calculations, land use etc. relating to the site, the submissions are found to be acceptable.

Calculations roughly equate to the current void amounting to 16 million cube, part of this void will be filled by the overburden generated when the site is still in production. The remainder of the void will be filled by removing the material from the main overburden surcharge mound currently creating the visual impact on landscape within the Dulais Valley.

Most of the site will be restored by treated soil form material to provide the land use. There is a limited soil form covering on the current Over Burden Mound facing the Dulais Valley which is to be stripped and placed over the proposed final contours, enhancing the general form of the slopes formed, and thus enabling the overburden mound to secure a more natural profile which ties in more sympathetically with the wider landscape. This re-profiling would reduce the landscape impact of the western and eastern flanks of the retained overburden mound when viewed from the Dulais Valley.

The surcharge mound in layers will be reduced then married into the existing topography. This in principal will be in line with CCW's original historic comments.

The drainage proposals are shown within the application and are considered to be acceptable.

It has been stated that there is £18.5 million available in the current escrow account to deliver the restoration scheme proposed. Following review NPT is satisfied that this will be sufficient to deliver the amended restoration scheme. We would recommend additional work to revisit the restoration and aftercare cost estimate, along with the introduction of an annual review of costings and the escrow account to increase or decrease the value, while the legal agreement could be revisited on a phased operation agreed to guarantee delivery of the proposed restoration and aftercare of the site.

The current 12 year aftercare provision could be revisited to the normal 5 and 10 year cycles hence we would like to see confirmation of the restoration and aftercare costs – these could be aligned to the application under the legal agreement under a task based costing.

There are no detrimental comments made regarding the submission, but as above we consider that the legal agreement currently in place should be revisited and should seek to ensure that sufficient controls are in place to secure the guaranteed delivery of the proposed restoration and aftercare scheme.

Confirmation of the restoration and aftercare costs would be beneficial to ensure the restoration of the site.

Biodiversity

While welcoming that the existing biodiversity value of the site has informed the design of the current proposal, the Council's ecologist has raised concerns that the presented ecological information is out of date particularly in relation to the type of early successional habitats discussed, and such habitats can quickly deteriorate due to scrub and grass encroachment. It also appears that there is very little up to date species information presented to inform the proposals and any mitigation necessary, if protected species were found to be present. They also state that there should be further discussion as to the potential to recreate or translocate habitats, including potential for S7 habitats to be moved or recreated elsewhere on site to address landscape or visual amenity issues.

It is therefore recommended that your ecologists ensure they are satisfied with the level of information available to inform their assessment of the amended restoration proposals.

CONCLUSION

Neath Port Talbot County Borough Council offers no objections to the amended restoration scheme under Condition 45 of Planning permission 18/1070/REM.

Brecon Beacons National Park Authority

Thank you for your consultation received 3 February 2020 regarding the above.

Background

In August 2019 planning permission was granted to extend the operational time period 18/1070/REM together with the discharge of a scheme submitted for a detailed restoration scheme.

Condition 45 states that:-

“The Restoration of the site shall be undertaken in accordance with the detailed scheme approved under planning reference DIS/2016.0153”.

Celtic Energy are now seeking to vary Condition 45 and the approved restoration scheme.

The application is supported by an Addendum to the Original Environmental Statement (OES) and a number of other documents including a Revised LVIA. (October 2019) and associated appendices (Appendix 3 LVIA), a

Revised Restoration Scheme – Restoration Plan 07A05132, Celtic Energy Nant Helen remainder - Sections and Celtic Energy Response to NRW – A3 photographs of viewpoints BB1 and BB2 from the National Park within the original LVIA.

The Addendum to the OES states that the revised landform is seeking to create a flexible landform so that the site could be used for not only agricultural purposes but also nature conservation, leisure, tourism, amenity and industrial uses. Removal of up to 20m of the existing spoil from the top of the overburden mound would be undertaken to reduce the overall height and help create the remaining restoration profile within the void area of the site.

The revised scheme includes steep sided slopes retained to all sides of the overburden mound except to the north-east where it would blend into plateau slopes. A combined agricultural and nature conservation after-use is proposed, with enclosed grassland pasture, open upland grassland and features including ponds & wetlands, hedgerows & woodland. The site would be restored with a combination of topsoil, subsoil and soil forming material (SFM), with the overburden mound re-profiled to reduce the engineered appearance, de-compacted and ripped prior to soil spreading and surface treatment to establish better vegetation and drainage. Upland broadleaf Oak woodland would be established on some of the northern slopes along margins of existing woodland and along watercourses.

Consideration

PPW Wales Edition 10 states at Para 5.14.50 that mineral extraction should be restored to a high standard suitable for its agreed after-use.... Restoration and aftercare should provide the means to at least maintain, and preferably enhance the long term quality of and landscapes for mineral extraction.

PPW Wales Edition 10 states at Para 6.3.5 that planning authorities have a statutory duty to have regard to National Parks purposes to their identified special qualities in the exercise of their functions.

The Brecon Beacons National Park lies 200m to the north of the site at its closest point. The site is prominent from Cribarth (Viewpoint BB1 2011 LVIA) and Llorfa Ridge (Viewpoint BB2 2011 LVIA).

The revised restoration scheme proposes to retain more of the existing overburden mound than the previously approved scheme. Much of the main overburden mound would be retained including steep slopes facing the Tawe Valley and National Park to the north.

The Addendum to the OES acknowledges that further assessment is required in relation to Landscape and a revised LVIA assessment has been produced. However the Landscape Assessment as part of the OES is largely unaltered. It states that “views from the north are largely screened by intervening topography and vegetation with more distant views from the west and from the national park remaining largely imperceptible at that distance.” Photographs and photomontages of views from the south with indicative sections are provided, but there are no photographs, photomontages or sections of views from the National Park. The conclusion of the Addendum states at Para 7.4.1 that “whilst the mound will still be noticeable from the above viewpoints, in the wider landscape context it is not out of place due to its juxtaposition with the neighbouring upland landscape of the Brecon Beacons National Park. It is stated that, whilst different from the original proposals, in landscape and visual terms, the additional benefits it will bring are more than sufficient to make it acceptable.

It is considered that appropriate revised viewpoints should be provided from within the National park to compare the approved restoration and proposed revised restoration levels from the National Park in order to justify the statements made. Sections of the consented restoration scheme and proposed revised scheme should be provided for comparison purposes. It should also be made clearer what the additional landscape and visual benefits would be.

Conclusion

It is considered that additional information should be submitted to support the application to demonstrate that the revised restoration plan conserves and enhances the natural beauty of the National Park and does not have a long-term adverse impact on the special quality of the landscape of the Brecon Beacons National Park. A HOLDING OBJECTION is therefore raised.

Clwyd Powys Archaeological Trust

Thank you for the consultation on this application.

As condition 45 is non-archaeological the variation of the condition will have no archaeological implications.

The Coal Authority

Thank you for your notification of 20 November 2019 seeking the views of the Coal Authority on the above planning application.

The Coal Authority is a non-departmental public body sponsored by the Department of Business, Energy & Industrial Strategy. As a statutory consultee, The Coal Authority has a duty to respond to planning applications and development plans in order to protect the public and the environment in mining areas.

I can confirm that there would be no objection to the variation of Condition 45 as proposed.

Please do not hesitate to contact me if you would like to discuss this matter further.

Dwr Cymru Welsh Water

We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

ASSET PROTECTION

It is acknowledged this application is to vary condition 45 of planning permission 18/1070/REM in relation to the restoration scheme for the above development site.

We can advise the development site is crossed by two 500mm trunk watermains, the approximate position being shown on the attached plan. Dwr Cymru Welsh Water as Statutory Undertaker has statutory powers to access our apparatus at all times. I enclose our Conditions for Development near Watermain(s).

It can be advised that the protection zone for each watermain is 6 meters either side from the centreline of each main (total of a 12 meter protection zone). However, this easement width is for guidance purposes only and the location of the watermains will need to be verified on site before commencing work, whereupon the easement will be confirmed. This can be arranged by contacting our Plan & Protect Team on 0800 917 2652.

We note from reviewing the submitted Revised Restoration Scheme (drawing number:07A05118.DWG) in conjunction with the Current Site Layout (Figure 2), that a watercourse is proposed located in the western end of the development site leading from two proposed ponds within the existing quarry of which heads in a north-westerly direction. We also acknowledge the Revised Restoration Scheme also includes a grey area around the watercourse of which is stipulated as 'Cutting'.

Further clarification is requested from the applicant as to what is proposed where they stipulate 'Cutting' on the Revised Restoration Scheme.

We can confirm that we would not permit a new watercourse or any alteration of ground levels within the 12 meter protection zone of each water main.

Should the applicant submit any additional information in relation to this application, we kindly request to be re-consulted.

Advisory Notes

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

If you have any queries please contact the undersigned on 0800 917 2652 or via email at **developer.services@dwrcymru.com**

Wales & West Utilities

Wales & West Utilities plans should now be obtained from LSBUD (<https://eur03.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.linesearchbeforeudig.co.uk%2F&data=02%7C01%7Cplanning.consultations%40powys.gov.uk%7C804e35541ca14ecd901508d76dbe0c9e%7Cc01d9ee10eb0475499ae03ae8a732b50%7C0%7C0%7C637098535331146341&sdata=CWhfY%2FN2OJ5KtvjMkBO05fSaJTB46fSW%2F%2FchUYwh2AE%3D&reserved=0>).

If you are working on behalf of a utility company, local authority or contractor working on behalf of a local authority and would still like to continue receiving asset information directly from WWU's Plant Protection Team, an administration fee of £36.00 + VAT will now be applicable.

If you would like to proceed with your request, please let us know whether you will be paying by card or cheque and we will process your request.

Please note that your request will not be processed until we receive payment.

CADW

Thank you for your letter of 20 November 2019 inviting our comments on the information submitted for the above planning application.

Advice

Having carefully considered the information provided with this planning application, we have no objections to the proposed development. Our assessment of the application is given below.

Our role

Our statutory role in the planning process is to provide the local planning authority with an assessment concerned with the likely impact that the proposal will have on scheduled monuments, registered historic parks and gardens, registered historic landscapes where an Environmental Impact Assessment is required and development likely to have an impact on the outstanding universal value of a World Heritage Site. We do not provide an assessment of the likely impact of the development on listed buildings or conservation areas, as these are matters for the local authority.

It is for the local planning authority to weigh our assessment against all the other material considerations in determining whether to approve planning permission.

National Policy

Applications for planning permission are considered in light of the Welsh Government's land use planning policy and guidance contained in Planning Policy Wales (PPW), Technical Advice Notes and related guidance.

PPW ([planning-policy-wales-edition-10.pdf](#)) explains that it is important that the planning system looks to protect, conserve and enhance the significance of historic assets. This will include consideration of the setting of an historic asset which might extend beyond its curtilage. Any change that impacts on an historic asset or its setting should be managed in a sensitive and sustainable way.

The conservation of archaeological remains and their settings is a material consideration in determining a planning application, whether those remains are a scheduled monument or not. Where nationally important archaeological remains are likely to be affected by proposed development, there should be a presumption in favour of their physical protection in situ. It will only be in exceptional circumstances that planning permission will be granted if development would result in a direct adverse impact on a scheduled monument (or an archaeological site shown to be of national importance).

Technical Advice Note 24: The Historic Environment elaborates by explaining that when considering development proposals that affect scheduled monuments or other nationally important archaeological remains, there should be a presumption in favour of their physical preservation in situ, i.e. a presumption against proposals which would involve significant alteration or cause damage, or would have a significant adverse impact causing harm within the setting of the remains.

Assessment

A restoration scheme for the mine has previously been approved (Planning Application DIS/2016/0153) as a combination of agricultural use and nature conservation that is complementary with its transitional lowland-upland landscape setting. The current application is for similar uses of the site but with some specific changes. These alterations will not change the setting of any designated heritage site more than the approved restoration scheme.

PCC Contaminated Land Officer

With respect to the above application, I have no comments to make.

PCC Built Heritage Officer

Recommendation: No objections

Background to Recommendation

Designation

Listed Buildings within Study area of 18/1070/REM

Cadw ID 7544 Cae'r Lan Castle included on the statutory list on 21/01/1994

Cadw ID 25952 Fan house to former Ynyscedwen Mine included on the statutory list 04/12/2001*

* Fan house to former Ynyscedwen Mine is also a Scheduled Ancient Monument Cadw ID BR198 designated on 31/01/1992

Policy Background

The advice has been given with reference to relevant policies, guidance and legislation

The Planning (Listed Buildings and Conservation Areas) Act 1990

Planning Policy Wales 10th edition 2018

Conservation Principles published by Cadw

TAN24

Managing Conservation Areas in Wales – Annexe to TAN24

Setting of Historic Assets in Wales – Annexe to TAN24

Heritage Impact Assessments – Annexe to TAN24

Historic Environment Records

Local Development Plan

Strategic Policy SP7

DM13 Design and Resources Local Development Plan Themes and Objectives;

Theme 4 – Guardianship of natural, built and historic assets

LDP Objective 13 – Landscape and the Historic Environment

Comments

I am mindful of the advice in Sections 66 of the Planning (Listed Buildings and Conservation areas) Act 1990, which require authorities considering applications for planning permission or listed building consent for works which affect a listed building

to have special regard to certain matters, including the desirability of preserving the setting of the building. The setting is often an essential part of a building's character especially if a park, garden or grounds have been laid out to complement its design or function. Also, the economic viability as well as the character of historic buildings may suffer and they can be robbed of much of their interest and of the contribution they make to townscape or the countryside if they become isolated from their surroundings, e.g. by new traffic routes, car parks, or other development.”

However, I would also refer to more recent guidance in paragraph 6.1.10 of Planning Policy Wales 10th edition 2018 which states, *“For any development proposal affecting a listed building or its setting, the primary material consideration is the statutory requirement to have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses.”*

Section 6.1.9 of PPW 10 advises that *“Any decisions made through the planning system must fully consider the impact of the historic environment and on the significance and heritage values of individual historic assets and their contribution to the character of place”*

Section 6.1.7 of Planning Policy Wales 10th edition requires that *“it is important that the planning system looks to protect, conserve and enhance the significance of historic assets. This will include consideration of the setting of an historic asset which might extend beyond its curtilage. Any change that impacts on an historic asset should be managed in a sensitive and sustainable way”*

The application seeks to vary condition 45 of planning application 18/1070/REM, which states that the restoration of the site shall be undertaken in accordance with the detailed restoration scheme approved under planning reference DIS/2016/0153. The impact of the proposal on the setting of historic assets was undertaken at the time of the original permission.

I acknowledge chapter 15 of the submitted documents Assessment of Cultural Heritage, however note that this chapter focuses on archaeology and not the setting of listed buildings which ideally should also have been considered.

I acknowledge that Cadw have commented in respect of listed building Cadw ID 25952 Fan house to former Ynyscedwen Mine which is also a Scheduled Ancient Monument Cadw ID BR198 and would not disagree with their initial findings and current comments in that the proposed mine would have no impact on the setting of BR198, and acknowledge that listed building Cadw ID 25952 is a Fan house of c1880 to former Ynysgedwen mine and as such linked to mining.

I note the distance of the site from Cadw ID 7544 Cae'r Lan Castle which is a former Inn built for the former Swansea Canal c 1800 and extended in later C19 and now occupied as a house.

I note the proposed changes to the restoration scheme, and would not consider that the revisions to the restoration scheme as proposed would have an impact or harm the setting of the listed buildings. As such I would raise no objections to the proposal.

PCC Countryside Services & Outdoor Recreation

Thank you for giving the Countryside Services and Outdoor Recreation team opportunity to comment on this planning application.

As indicated in the plans accompanying the application, a number of public rights of way cross the site and would be affected by the proposed restoration scheme. These are public footpaths 11, 40, 19, 90, 50, 49 (which becomes footpath 52), and 7.

It is noted that provision is made for the public footpaths to cross any new boundaries (fences and earth banks) and watercourses; stiles, gates and crossing points are indicated on the plan at appendix 2, figure 4-223908. In relation to these proposals:

- Separate authorisation must be sought section under 147 of the Highways Act 1980 to install structures on a public right of way, to cross new boundaries. In authorising these structures, a 'least restrictive access' approach is followed by Powys County Council. As such, as a minimum pedestrian gates would need to be installed at the new boundary crossings, not stiles; field gates are also acceptable. This authorisation can be issued on application by the owner or occupier of land that is already used, or being brought into use for agriculture, forestry or the breeding and keeping of horses, where a structure is needed for the purpose of controlling the movement of animals. Otherwise, a gap of no less than 1.2 metres wide must be left in the boundary where the footpath crosses it.
- Gates must be no less than 1.2 metres wide and comply with the current British Standard (BS5709:2018.) Timber wicket gates are acceptable if they meet these requirements, but metal self-closing designs may be preferable for the landowner, as they generally require less ongoing maintenance and adjustment to open and close effectively.
- The proposed bridges to cross watercourses are acceptable in principle. However, it would be preferable to install more durable structures with lower ongoing maintenance to cross watercourses wherever possible (e.g. culvert crossings.)

In relation to the proposed landform after restoration:

- Consideration needs to be given to the point where footpath 11 crosses the corner of the embankment above the proposed new ponds; it would appear from the plans that it will descend and then ascend the slopes on either side. As part of the construction, a graded route should be created across the slope for the path, to ensure that the gradients are not unduly steep and that the path has a level surface across a minimum width of 2 metres.

- Likewise, the northern end of footpath 40 crosses a steeper area of the embankment. A route should be constructed across the slope, so that the path has a level surface across a minimum width of 2 metres.
- The southern end of footpath 19 would descend the slope via a direct line. Consideration needs to be given to construction of the slope to minimise the gradient of this section of footpath; steps need to be avoided, due to the long term maintenance implications.
- Removal of the buildings on the retained hardstanding is welcomed, as it will ensure that footpaths 49 and 50 are fully open for use.

Use of the footpaths listed above across the application site is suspended for the duration of coaling under Opencast Coal Orders of 1986 and 1997; alternative ways have been provided by the Orders. As such, no additional temporary closure is considered necessary during the restoration works subject of this application, but the temporary alternative routes must be safeguarded during construction.

PCC Planning & Highway Ecologist

I have reviewed the revised restoration scheme submitted with regards to the Section 73 application and in principle I have no objections to the revised proposals from an ecological perspective, the scheme appears to increase the proposed areas of acid and marshy grassland compared to the previous scheme and additional waterbodies have been incorporated into the proposed layout – the areas of woodland planting appear to be similar to that agreed under the originally approved restoration.

I would agree with the comment made by NRW that ultimately the detail of the habitat management and monitoring will be covered by the EHMMP required to be submitted in relation to condition 32

One thing I would raise is that they have identified that in the revised restoration scheme being put forward for this proposal that due to the overburden mound having developed into an area of conservation interest with several areas of 'Section 42' priority habitat types – these would be equivalent to Environment (Wales) Act 2016 Section 7 Habitats - and that the surface soil layer from feature is proposed to be transferred to the replacement landform and reshaped overburden mound to enable the re-establishment of the Section 7 habitats – however no recent survey information has been provided with the application to confirm the habitats currently present in this area including their extent and condition, the survey information provided with the application is that submitted with the original ES from 2011.

In absence of supporting information to demonstrate that there is adequate and appropriate habitats currently present to enable the proposed habitat creation through transfer of surface soil layers associated with the identified habitats it is difficult to determine whether this proposed element of the restoration scheme is achievable/appropriate.

PCC Land Drainage Officer

No response received to date

PCC Highways

Does not wish to comment on the application

PCC Environmental Health Service

Having regard to the Noise Assessment undertaken by Hepworth Acoustics a planning condition is recommended to include the findings of the report in respect of the implementation of a Noise Management and Action Plan, the proposed working hours, noise mitigation and control and noise monitoring.

The noise levels in the current planning consent should continue to be conditioned.

It is also recommended that the dust mitigation measures in the air quality report provided by Alex Grant (AirQ) be conditioned.

Representations

The application has been publicised by display of site notices and in the press, to date no objections have been received from members of the public.

Planning History

18/1070/REM – Variation of Condition 2 of planning approval P/2010/0217 to allow an extension of time to allow extraction of all the coal and completion of restoration – Planning Permission Granted subject to Section 106 Agreement – 29th August 2019

18/1071/DIS – Discharge of Condition 54 of planning consent P2011/0217 in relation to revised restoration scheme - Withdrawn

DIS/2016/0153 - Discharge of condition 54 of planning approval P/2011/0217 - provision of detailed restoration scheme – Approved – 2nd February 2017

P/2011/0217 - Western extension to Nant Helen surface mine for the purposes of coal extraction along with completion of coaling at existing site and associated ancillary development including restoration and subsequent aftercare of the full development site - Planning Permission Granted subject to S106 Agreement – 9th March 2012

P2008/0850 – Construction of drainage channel – Planning permission granted – 16th November 2011

PP 106-98-005/PP 106-12-001 - Nant Helen Extension – Planning permission Granted at Appeal – 21st July 1998

Principal Planning Constraints

Potential impact on the landscape.

Potential impacts on the water environment.

Potential impact on biodiversity and the natural environment.

Principal Planning Policies

National

The Well-being of Future Generations (Wales) Act 2015

The Environment (Wales) Act 2016

Planning Policy Wales (Edition 10, 2018)

Mineral Technical Advice Note 2 - Coal (2009)

Technical Advice Note 5 – Nature Conservation and Planning (2009)

Local Planning Policy

Powys Local Development Plan (April 2018)

Strategic Policy SP7 - Safeguarding of Strategic Resources and Assets

Policy DM1 – Planning Obligations

Policy DM2 – The Natural Environment

Policy DM4 – Landscape

Policy DM6 – Flood Prevention Measures and Land Drainage

Policy DM10 – Contaminated and Unstable Land

Policy DM13 – Design and Resources

Policy DM14 – Air Quality Management

Policy M1 – Existing Minerals Sites

Policy M4 – Minerals Proposals

Policy M5 – Restoration and Aftercare

Supplementary Planning Guidance: Biodiversity and Geodiversity (October 2018)

Supplementary Planning Guidance: Planning Obligations (October 2018)

Officer Appraisal

The Well-being of Future Generations (Wales) Act 2015 (WFG) imposes a duty on public bodies to carry out 'sustainable development' in accordance with the 'sustainable development principle'.

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

'Sustainable development principle' means that Local Authorities must act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

In order to achieve this principle the Act introduces five ways of working to support decision making which ensures public bodies take account of:

- a. Long-term thinking – balancing the need to take action to address current issues with the need to meet long term needs of Wales.
- b. An integrated approach – considering how a body's objectives may impact upon the social, economic, environmental and cultural well-being and considering how an individual body's objectives impact upon other public bodies' objectives.
- c. Engagement – involving the people and communities with an interest in the wellbeing objectives, engaging them in finding sustainable solutions.
- d. Collaboration – acting collaboratively with other bodies, or different parts of a body acting together in a co-productive way, to assist in the achievement of the body's objectives.
- e. Preventative action – deploying resources to undertake action now in order to prevent problems occurring or getting worse.

Well-being goals identified in the Act are:

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh language
- A globally responsible Wales

The Environment (Wales) Act 2016 has been designed to complement the WFG Act by applying the principles of sustainable development to the management of Wales' natural resources.

The "sustainable management of natural resources" means— (a) using natural resources in a way and at a rate that promotes achievement of sustainable development and the well-being goals (b) taking other action that promotes achievement of that objective, and (c) not taking action that hinders achievement of that objective.

The Environment Act also imposes a duty to require all public authorities, when carrying out their functions in Wales, to seek to "maintain and enhance biodiversity"

where it is within the proper exercise of their functions. In doing so, public authorities must also seek to “promote the resilience of ecosystems”.

Section 38 (6) of the Planning and Compulsory Purchase Act 2004, requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. For the avoidance of doubt, the development plan in this instance is the Powys Local Development Plan 2011-2026.

Principle of Development

The principle of the development of the Nant Helen Surface Mine was established by the grant of planning permission in March 2012. Nothing in this application allows for additional coaling or excavation that hasn't already been approved.

Environmental factors

Landscape and visual impacts

LDP Policy DM4 states that proposals must not, individually or cumulatively, have an unacceptable adverse effect, on the valued characteristics and qualities of the Powys landscape. It goes on to state that all proposals will need to:

1. be appropriate and sensitive in terms of integration, siting, scale and design to the characteristics and qualities of the landscape including its: topography; development pattern and features; historical and ecological qualities; open views; and tranquillity; and
2. Have regard to LANDMAP, Registered Historic Landscapes, adjacent protected landscapes (National Parks and Areas of Outstanding Natural Beauty) and the visual amenity enjoyed by users of both Powys landscapes and adjoining areas'.

In terms of LANDMAP, the Visual and Sensory Aspect Area is mainly the Nant Helen Opencast/Restoration Aspect Area (BRCKNVS926) which has a low evaluation. The justification for the evaluation states that the area has been reclaimed in a way to minimise topographical intrusion, although the overburden tip is still visible to the west. There is a distinct lack of tree/woodland/hedgerow planting which means the landscape appears visually sterile and unlike the surrounding pastoral landscape. The principal management recommendation is to increase woodland and boundary planting, planting hedgerows with trees, planting woodland copses in valleys to echo the surrounding landscape and in the long term remove/regrade the overburden spoil tip to reflect a natural landform.

The north western part of the site falls at the eastern extremity of the Tawe Valley and Cwm Twrch Visual and Sensory Aspect Area (The river corridor and mosaic of pasture and deciduous woodlands) and is evaluated as moderate and the south western part of the site forms part of the Twyn Eithinog Visual and Sensory Aspect Area (Small relatively featureless area of upland with residual mining remains) which is also evaluated as moderate.

The Landscape and Visual Impact Assessment (LVIA) considered as part of the 2012 planning permission accepted that there would be adverse visual impacts in the short term but the restoration proposals would result in substantial landscape benefit within the site in the medium to long term and moderate beneficial effects on the landscape setting and visual amenity of nearby settlements and rights of way. A revised LVIA submitted in support of this application confirms that there would be adverse visual impacts in the short term but the restoration proposals would result in landscape benefit within the site in the medium to long term and slightly beneficial effects on the landscape setting and visual amenity of nearby settlements and rights of way.

The most visible element of the Nant Helen site is the overburden mound which is referred to locally as the 'wedding cake' due to its layered profiles. The top of the mound is currently at approximately 338m AOD. The currently approved restoration details propose to reduce the summit level to 305m AOD and to re-profile the outer slopes to form a more natural profile in accordance with the LANDMAP recommendation. This revised proposal seeks to reduce the summit level to 320m AOD and to re-profile the outer slopes to remove the engineered profile. It also results in a consequent valley feature in the area of the current void. There is also a proposed semi-circular platform which could facilitate the GCRE or some other form of leisure/recreational use. Such features are not out of place in upland coal mining areas as there are often relics of the lines of tracks/tramways to former private coal mines.

The Brecon Beacons National Park Authority and NRW have expressed concerns about the long term adverse impact on the landscape of the National Park, primarily from the partial retention of the overburden mound, and requested additional information to demonstrate that the restoration scheme can be achieved which conserves and enhances the natural beauty of the National Park. Additional information has been submitted and has been forwarded to BBNPA and NRW. NRW has responded confirming no objections. They consider that the beneficial effects on the National Park have been overestimated and that the current revised restoration would be a less beneficial scheme, as a result of the retention of much of the overburden landform and void. However, they do not consider the differences to be so great as to have a long-term adverse impact on the landscape of the Brecon Beacons National Park. BBNPA has not responded to the additional information to date.

Neath Port Talbot County Borough Council has considered the potential impact of the increased final height of the overburden mound on communities in the Dulais Valley and has concluded that the revised landform would not have any unacceptable adverse visual or landscape impacts.

Tawe Uchaf Community Council, Ystradgynlais Town Council and Cllrs David Thomas and Sarah Williams consider that steepness and depth of the slopes left in the valley feature will be artificial in nature and a blot on the landscape. However, slopes of 1 in 3 are not considered to be out of accord with land in upland locations and is similar to restoration profiles achieved on other opencast coal sites such as

Maesgwyn, Selar, Margam and East Pit. Final details on the precise alignment of public rights of way and the provision of structures along the routes will be the subject of applications under separate legislation.

The other principal management recommendation of LANDMAP is to increase woodland and boundary planting, planting hedgerows with trees and planting woodland copses in valleys to echo the surrounding landscape. This is reflected in the approved restoration details.

There are therefore landscape benefits associated with the restoration of the site.

Hydrology, Hydrogeology and Land Stability

The site is located almost entirely in the headwaters of the Afon Tawe and Afon Dulais catchments, with a very small area to the east of the site draining to the Afon Pyrddin catchment. The larger part of the site drains towards the Afon Tawe to the north, with the southern part of the site draining to the Afon Dulais to the south.

The drainage from the existing site is managed via a series of lagoons and settlement ponds prior to discharge into surrounding watercourses. These discharges are controlled by NRW under a Permit.

LDP Policy DM6 states that development proposals must avoid unnecessary flood risk by assessing the implications of development within areas susceptible to all types of flooding; any development that unacceptably increases risk will be refused.

The approved restoration details (February 2017) include provision for the restoration of watercourses, ponds and attenuation features. The design incorporated attenuation ponds, wetlands and rush-lined channel beds which would slow down and reduce surface water flows away from the site. Whilst the revised scheme incorporates amendments to the approved scheme the design principles are the same. The water features will slow down and reduce surface water flows away from the site and reconnect the restored on-site watercourses to the existing downstream watercourses that were severed by site operations.

Essentially the watercourses will be created to connect with the natural drainage features beyond the site boundary. The reinstated watercourses will, where practicable, be constructed using a natural clay bed lined with loose stone and with variable bank profiles, channel widths, small waterfalls and pools in order to create landscape and habitat diversity as well as control flows.

However, where gradients exceed 1 in 12 the channel beds will need to be reinforced with rock. These sections will be stepped and formed with backfall areas to provide small pools and help to slow down flows. An estimated 17% (previously 26%) of restored watercourses will be rush-lined, 53% (previously 35%) lined with gravel beds and 30% (previously 39%) reinforced with rock.

Tawe Uchaf Community Council, Ystradgynlais Town Council and Cllrs David Thomas and Sarah Williams express concerns in relation to ponds being located within the restored valley/bowl feature and the responsibility for their ongoing maintenance.

Of particular concern appears to be the fear of increased run-off from the steeper slopes and water features and increased risk of flooding. However, far from being a source of increased flooding the surface water drainage proposals have been designed to reduce the incidences of flooding downstream by incorporating attenuation features which slow down the rate of flow during adverse weather conditions. Maintenance will be the responsibility of the landowner, with the first 10 years covered by an extended aftercare scheme.

Concerns have also been expressed in relation to the stability of the steep slopes and the potential for instability from water ingress from old colliery workings such as Ynyscedwyn and Abercrave. As stated above, the slopes are 1 in 3 whereas the natural angle of repose of replaced overburden is 1 in 1.5. The slope angles are similar to those restored successfully at other opencast coal sites in the area and are therefore considered to be stable.

The opencast coal workings have intersected old mine workings such as those from Ynyscedwyn Colliery. There are three drainage adits in the general area which control the outflow of underground minewater – the Yard Adit (associated with the International Colliery) at 122.5m AOD; the Gwaun Clawdd Adit at 106.1m AOD and the Cwm Du Adit (associated with Ynyscedwyn Colliery) at 93.6m AOD. All of these adits drain into the River Tawe and are well below the proposed 145m AOD level of the restored land. Therefore, the likelihood is that the Post Restoration rebound of ground water (from a base of approximately 76m AOD) will result in additional flows from the site through the Cwm Du adit (as it's the lowest) when the groundwater reaches that level rather than flows from the old workings into the backfill. It is anticipated that groundwater levels will recharge to approximately 145m AOD and therefore flows will be into the adits and not from the adits.

In terms of groundwater and surface water, it is expected that the restoration scheme will have no adverse impact and is beneficial on the basis that the drainage element of the restoration scheme is designed to reduce the risk of flooding.

Impact on Ecology and Biodiversity

LDP Policy DM2 requires development proposals to demonstrate how they protect, positively manage and enhance biodiversity and geodiversity interests including improving the resilience of biodiversity through the enhanced connectivity of habitats within, and beyond the site.

During the consideration of the Nant Helen Remainder application in 2012, the impact of the development on biodiversity and ecology was an important consideration. The ecological impacts of the proposal were balanced against the benefits of the wider enhancement of biodiverse habitats contained within the restoration strategy and it was considered that there was sufficient ecological benefit from the restoration of the site in the longer term.

There was (and is) little scope to introduce biodiversity within the Mynydd-Y-Drum Common which covers just over 50% of the site. The Common is to be restored as upland acid grassland (with a small area of species rich acidic grassland), watercourses and wetland areas. Whilst the Welsh Government Agricultural Advisor

has indicated that his remit does not cover flexible after-uses the majority of the afteruse will be agricultural. There is no change to the proposals in relation to the handling and management of soils or the methods of soil replacement. There are minor changes to the aftercare of some areas but these will not have any significant impact on the agricultural use of what is primarily upland pasture/common.

The remainder of the land to the north and west of the common is shown in the approved 2017 restoration details to be restored to a mix of enclosed agricultural land bounded by hedgerows, including areas of marshy grassland; broadleaf woodland planting areas; watercourses with woodland corridors and wetlands/ponds. The enclosed pasture to be created with boundary hedgebanks and stream corridors contribute to landscape integration and nature conservation. The revised 2019 scheme is similar but introduces acid grassland/lichen heath onto the steeper slopes.

Purple moor grass and rush pasture, hedgerows and ponds are included as Section 7 habitat of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales under the Environment (Wales) Act 2016. Linear habitat such as hedgerows, and rhos pasture (purple moor grass and rush pasture) are also Powys LBAP habitat with defined action plans.

The Powys LBAP Linear Habitats Action Plan states as Target 2 that it will – ensure that there is no net loss of species-rich hedgerows and verges in Powys. It encourages replacement of hedgerows lost through development or agricultural activity and seeks to maintain local distinctiveness of traditional hedgerows. This restoration scheme seeks to re-instate hedgerows and complies with this target.

Target 1 of the Rhos pastures Action Plan seeks to – ‘Maintain, and where possible, enhance the current extent, condition and availability to key species, of rhôs pasture in Powys’. This restoration scheme meets that aim.

Whilst concerns have been expressed in relation to the age of ecological survey data, both NRW and the Council Ecologist comment that ultimately the detail of the habitat management and monitoring will be covered by the Ecological and Habitat Monitoring and Management Plan required by Condition 32 of the planning permission. No objections have been received from NPT ecologists, the Powys ecologist or NRW in relation to adverse impacts on biodiversity.

For the above reasons it is considered that the proposals maintain biodiversity and the nature conservation and amenity value of habitats and features that are important for wild flora and fauna and the planting of broadleaf woodland in appropriate locations is encouraged. The scheme places a heavy emphasis upon the creation of wildlife habitat that complements the surrounding land and is therefore beneficial in biodiversity terms and complies with the biodiversity duty set out in the Environment Act.

Built Heritage

CADW has confirmed that a restoration scheme for the mine has previously been approved (Planning Application DIS/2016/0153) as a combination of agricultural use and nature conservation that is complementary with its transitional lowland-upland

landscape setting. The current application is for similar uses of the site but with some specific changes. These alterations will not change the setting of any designated heritage site more than the approved restoration scheme.

The Council's Built Heritage Officer has commented that the application seeks to vary condition 45 of planning application 18/1070/REM, which states that the restoration of the site shall be undertaken in accordance with the detailed restoration scheme approved under planning reference DIS/2016/0153. The impact of the proposal on the setting of historic assets was undertaken at the time of the original permission.

I note the proposed changes to the restoration scheme, and would not consider that the revisions to the restoration scheme as proposed would have an impact or harm the setting of the listed buildings. As such I would raise no objections to the proposal.

On the basis of these responses it is concluded that there is no harm to listed buildings or scheduled ancient monuments or the settings of both.

Financial Guarantee

LDP Policy DM1 states that planning obligations will be sought where necessary to ensure that, amongst other things, restoration arrangements are achieved. LDP Policy M5 also states that financial bonds will be sought to secure the necessary works for restoration and aftercare.

As stated above, the current planning permission for this site is subject to a Section 106 Agreement which covers, the provision of a Financial Restoration Guarantee Bond (including annual tasks to reduce liability) and extended the aftercare period from 5 to 10 years on all areas of the site. The Restoration Guarantee Fund currently stands at £19.5 million.

As this application is for the variation of a condition and would result in a new planning permission being issued, the Authority will need to vary the Section 106 Agreement. Celtic Energy Ltd has submitted a Draft of a revised Section 106 Agreement. This indicates that the Council would hold sufficient money in the Restoration Guarantee Bond to complete the revised restoration in full in the event the operator was to default.

Conclusion

The Well-being of Future Generations Act is the Welsh Government response to the challenges we face as a nation, climate change, poverty, poor health and jobs. Well-being goals identified in the Act are:

- A prosperous Wales – this application seeks to provide a landform which is slightly beneficial in landscape terms and also provides the flexibility and adaptability to support other uses such as industry, tourism, leisure and recreation which would potentially provide employment opportunities and prosperity in an area where jobs would be welcomed (subject to the necessary permissions being obtained).

- A resilient Wales – the proposals maintain and enhance a biodiverse natural environment and provide attenuation for storm water drainage which is becoming necessary as a result of the impacts of climate change.
- A healthier Wales – the restoration will provide opportunities for leisure and recreation use of the land, more than 50% of which is open access common land. The reconnection of the public rights of way system will allow easier public access to the countryside for recreation. Communities surrounding the site are generally in the lower half of the table of most deprived areas in Wales and increased access to the countryside would be beneficial to health.
- A more equal Wales – Ystradgynlais¹ is the overall most deprived area within Powys and is in the 10% most deprived in Wales. Seven Sisters and Onllwyn are in the top 20-30% most deprived in Wales. The site is being restored to a landform which is flexible and adaptable. This provides opportunities for future development which would provide jobs.
- A Wales of cohesive communities – communities at the top end of the Tawe and Dulais Valleys are considered to have a generally cohesive structure but in order to make these communities more attractive and viable it is important to provide opportunities for job creation and increased access to attractive countryside for leisure and recreation. This restoration does both those things.
- A Wales of vibrant culture and thriving Welsh language - communities in the Tawe Valley (Ystradgynlais, Ynyscedwyn, Abercrave) have relatively high numbers of Welsh speakers (approx. 40%). This is one of the highest concentrations in Powys (together with north-west Powys). It is important to provide opportunities for job creation and increased access to attractive countryside for leisure and recreation in order to preserve the communities and the culture which they support.
- A globally responsible Wales – the proposal seeks to improve the prospects for economic, social environmental and cultural benefits and is considered to have the potential to make a positive contribution to well-being.

On the basis of the above, the proposal is not considered to conflict with national legislation, national policy and guidance or local planning policy. A revised Section 106 Agreement will be required in order to secure restoration and aftercare in full.

In reaching this conclusion the Council has considered the likely significant effects of the development on the environment.

Recommendation

It is recommended that the application be approved subject to the following conditions and subject to a revised Section 106 Agreement being entered into which provides a Restoration Guarantee Fund for the restoration and aftercare of the site.

If the Committee are minded to approve the application Welsh Government must be notified under the provisions of the Town and Country Planning (Notification) (Coal

and Petroleum) (Wales) Direction 2018 so that they have an opportunity to consider whether to 'call-in' the application.

CONDITIONS

1. Extraction of minerals shall cease by 31st December 2021, restoration shall be completed by 30th June 2022 and ancillary buildings to which this permission relates (other than those shown as being retained as part of the restoration scheme) shall be removed by 30th September 2022.

Except as modified within the Section 106 Agreement relating to this permission, the site shall be subject to aftercare for a period of 5 years in accordance with the provisions of an aftercare scheme approved by the Local Planning Authority.

2. The development hereby permitted shall be carried out in accordance with the following documents and plans or as otherwise modified by any revisions or by other conditions, schemes or approvals by the Local Planning Authority:
 - Planning Application Validated on 11th November 2019.
 - Environmental Statement – February 2011.
 - Addendum to Original Environmental Statement and Supporting Information – November 2018
 - Addendum to Original Environmental Statement and Supporting Information – Appendices - November 2018
 - Further Addendum to Original Environmental Statement and Supporting Information (including revised LVIA – October 2019)
3. A copy of this permission and the approved plans showing the method and direction of working and restoration shall be displayed in the operator's site office at all times during the life of the site. Any subsequent approved amendments shall also be displayed.
4. From the date of the commencement of coaling the site operator shall maintain records of the monthly output of coal and shall make them available to the local planning authority at any reasonable time upon request. These records shall be kept for the duration of coaling operations at the site.
5. At intervals of 6 months, details, in the form of a land survey, sectional details and calculations, shall be provided to the Local Planning Authority indicating the extent and volume of the extraction void and the extent and volume overburden mound at each such interval.

Hours of operation

6. Except in an emergency which shall be notified to the Local Planning Authority as soon as practicable, no development, which includes the starting up of plant and machinery, or other activities associated with the development (other than water pumping, servicing, environmental monitoring, maintenance and testing of plant) authorised or required by this permission shall be limited to 0600 - 2200hrs Monday to Friday and 0700 - 1300hrs on Saturdays.
7. Notwithstanding condition 6 above, no soils shall be stripped or replaced, no topsoil or subsoil mounds shall be formed or removed and no water treatment areas shall be constructed or removed except between the following times 08.00 to 17.00 hours Mondays to Fridays (excluding Bank/Public Holidays) and 08.00 to 13.00 hours on Saturdays.
8. No coal shall be transported from the site except between the hours of 0700 and 1800 on weekdays (excluding bank holidays) and 0700 and 1300 hours on Saturdays.

Access

9. There shall be no vehicular access to the site, other than from the two points marked "X" shown on Figure 5.01 of the Environmental Statement. No coal traffic shall use the access on to the A4221 for either ingress or egress.
10. The existing wheel cleaning facilities, consisting of a fully automatic wheel wash, supplemented as required by a high pressure hose, shall be retained and all coal lorries shall be washed before travelling along the coal haul route to the public highway.

Dust

11. The approved Dust Management Action Plan (submitted in respect of Condition 25 of planning permission P/2011/0217) shall be implemented at all times for the duration of operations at the site, including restoration and aftercare.
12. All permanent roads within the site shall be hard surfaced and such roads shall be swept and watered regularly and, wherever practicable, site traffic will be prohibited from using such roads unless the vehicle has been washed at a wash bay beforehand.
13. Dust on internal haul roads and other areas of the site traversed by vehicles to be suppressed by means of water bowsers.
14. No coal shall be stocked on the site other than within the area designated in Figure 5.01 of the Environmental Statement, unless otherwise agreed in writing by the local planning authority.

Blasting and Vibration

15. The approved Blasting Management Action Plan (submitted in respect of Condition 19 of planning permission P/2011/0217) shall be implemented at all times for the duration of operations at the site, including restoration and aftercare.
16. Blasting shall be confined (except in the case of an emergency or as otherwise agreed with the Local Authority) to between 1000 and 1300 hours and between 1400 to 1600 hours Monday to Friday (excluding Bank/Public Holidays) and 1000 to 1300 hours on Saturdays. Notices highlighting these blasting times shall be displayed at the site entrance.
17. Each blast shall be preceded by an audible and visual warning to persons on or in the vicinity of the site. The warning methods used shall be displayed at the site entrance. Sentries shall be posted at any possible access points to prevent trespass during blasting operations.
18. No blasting operations shall be carried out which would result in any component of the peak particle velocity attributable to the blast exceeding 4mm/sec at 95% confidence and 6mm/sec at 100% confidence as measured at any occupied property.
19. All practicable steps shall be undertaken by careful design of blasting operation to limit air overpressure. Where air overpressure exceeds 120dB, as measured at the nearest noise sensitive property, the operator shall review the blast design and make such amendments (prior to the next blast) that are considered necessary to the blast design in order to reduce air overpressure below 120dB.

Noise

20. The approved Noise Management Action Plan (submitted in respect of Condition 16 of planning permission P/2011/0217) shall be implemented at all times for the duration of operations at the site, including restoration and aftercare.
21. Noise arising from operations at the site as measured at any noise sensitive location shall not exceed background (LA90) plus 10dB LAeq,1hr or 55dB LAeq,1hr (free field), whichever is the lesser, during normal working hours (0700 to 1900 hours Monday to Friday excluding Bank/Public Holidays and 08.00 and 12.00 hours on Saturdays). At all other times the noise arising from operations at the site shall not exceed 42dB LAeq, 1hr (free field) at any noise sensitive location.
22. Notwithstanding the noise level limits set out in Condition 21, the level of noise from operations consisting of the stripping of soils and the construction

and removal of soil mounds, baffle mounds and water treatment areas, measured at any noise sensitive property, shall not exceed 67dB LAeq 1hr (free field) between 1000 to 1600 hours on Monday to Friday excluding Bank/Public Holidays and for a period of up to 8 weeks in a year.

Water Management

23. Drainage ditches, settling ponds and lagoons shall be de-silted and maintained in such condition that they are able to perform effectively for the purpose for which they have been provided.
24. Unless otherwise approved in writing by the Local Planning Authority, any ditch, watercourse or culverts passing through the site shall be protected, supported or diverted so as to not impair the flow or to render less effective drainage onto and from adjoining land.
25. The site shall continue to utilise the existing water discharge points and treatment areas as identified in Figure 13.05 of the Environmental Statement, unless otherwise agreed in writing by the Local Planning Authority.
26. The approved scheme for the monitoring of local watercourses (submitted in respect of Condition 33 of planning permission P/2011/0217) shall be implemented at all times for the duration of operations at the site, including restoration and aftercare.
27. The approved scheme for the protection and conservation of soil to prevent the pollution of the water environment (submitted in respect of Condition 34 of planning permission P/2011/0217) shall be implemented at all times for the duration of operations at the site, including restoration and aftercare.
28. The approved scheme for groundwater monitoring (submitted in respect of Condition 35 of planning permission P/2011/0217) shall be implemented at all times for the duration of operations at the site, including restoration and aftercare.
29. The approved method statement for the pollution prevention measures during operational and post operational phases of the development (submitted in respect of Condition 36 of planning permission P/2011/0217) shall be implemented at all times for the duration of operations at the site, including restoration and aftercare.

Lighting

30. External lighting sets to be erected or used on the site in accordance with the following provisions:

- a. All site lighting shall be reviewed and where necessary fitted with additional cowlings/shrouds to ensure all lights are directed downwards.
- b. Lighting towers equipped with lights on more than one side shall have switches fitted that allow lights not required for Health and Safety purposes to be switched off.
- c. Lights within the administration and workshop areas shall be connected to PIR sensors after 10pm to ensure that when not required for Health, Safety or Security reasons they will remain turned off.
- d. All new lighting equipment shall be fitted with shrouds and maximum height of equipment when at surface to be no more than 5m.
- e. At all times lights shall be directed away from light sensitive areas.
- f. Half yearly surveys of site lighting shall be conducted at locations to be agreed with the Local Authority within the Site Technical Working Party. The results shall be made available to the Local Authority and reported at the Site Technical Working Party.
- g. Monitoring of complaints shall be undertaken through a documented complaints procedure together with reports received during Technical Working Party and Site Liaison Committee meetings.

Archaeology

- 31. The approved programme detailing a written scheme of archaeological investigation for an archaeological watching brief (submitted in respect of Conditions 44 and 45 of planning permission P/2011/0217) shall be implemented at all times for the duration of operations at the site, including restoration and aftercare.

Ecology

- 32. Within 6 months of the date of this permission an Ecological and Habitat Monitoring and Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The details shall include, inter alia, the following:-
 - a. detailed provisions for the enhancement of biodiversity for all areas of the site subject to extended aftercare;
 - b. calculation and estimates of any loss of BAP habitats and the proposed minimum provisions for translocation, replacement, mitigation or compensation within the aftercare scheme;

- c. the monitoring and management of habitats until the completion of aftercare including the extended aftercare as agreed in the Section 106 Agreement. This shall include annual reports and proposed mitigation, and detail the process to implement any remedial action that is identified from the monitoring results to deliver the agreed habitat type and quality.

The scheme shall be implemented in accordance with the approved details.

- 33. The approved scheme for the phased removal of vegetation and woodland areas (submitted in respect of Condition 7 of planning permission P/2011/0217) shall be implemented at all times for the duration of operations at the site, including restoration and aftercare.
- 34. Prior to the commencement of any phase of tree felling or vegetation clearance during the development further checks and surveys shall be undertaken to ensure that there is no presence of Crossbills, Honey buzzard, Goshawk, Peregrine falcon, Red kite, nesting birds, Marsh fritillary, Otter or Badger within the areas to be developed.
- 35. The Reptile Mitigation and Translocation scheme submitted on 4th July 2011 shall be adhered to and implemented in full unless otherwise agreed in writing with the LPA.
- 36. The approved bat survey report and tree survey report (submitted in respect of Condition 49 of planning permission P/2011/0217) shall be implemented at all times for the duration of operations at the site, including restoration and aftercare.
- 37. Prior to commencement of development that would result in the loss or major disturbance of any waterbodies a detailed amphibian translocation scheme shall be submitted to and approved in writing by the Local Planning Authority.
- 38. The approved Ecological Monitoring Schedule (submitted in respect of Condition 65 of planning permission P/2011/0217) shall be implemented at all times for the duration of operations at the site, including restoration and aftercare.

Soil Stripping, Handling and Storage of Soils

- 39. All topsoil and subsoils shall be stripped, conserved and re-spread in accordance with the proposals described in the Environmental Statement and in the approved restoration scheme. Any amendments to this specification shall be agreed in writing by the local planning authority before being implemented.
- 40. All areas of excavation, overburden, proposed storage mounds, haulage and temporary access roads, hardstandings, water treatment and lagoon sites,

drainage channels and any other areas likely to be disturbed by any subsequent operations shall be stripped of topsoil, subsoil and any soil forming material which shall be stored in separate mounds or used in the progressive restoration of the site. The soil mounds shall be stored without overlapping and shall be sited, constructed and managed to prevent contamination by any other material, liquid or compound.

41. All natural topsoil found within any soil mound previously identified as subsoil or soil forming material shall be separated from the mound 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, and approved in writing by, the local planning authority prior to the placement of the contaminated material.
42. All storage mounds of topsoil, subsoil and soil-forming material, and their margins shall be seeded to grass within the first growing season, and in any event within 6 months of their construction, maintained to encourage a dense grass sward to develop and shall not be allowed to over winter without grass cover. All vegetation growing on soil storage bunds and their margins within the site shall be maintained by cutting at least once during the growing season. All noxious weed growth shall be controlled by cutting or herbicide spraying to prevent weed seed contamination of the soil resource on site or on surrounding land.
43. Other than those essential for site access, only those vehicles involved in loading soils shall be permitted on unstripped areas, and then restricted only to operations to recover the soils. Vehicles used in transporting soils shall only travel over areas of ground that have previously been stripped of topsoil and subsoil.

Contamination

44. If evidence of contamination is found in or around the development area development must not proceed until a report on potential contamination of the site has been prepared by an appropriately qualified person and submitted to and approved by the local planning authority. This report shall include a phased investigation approach, incorporating risk assessment, to identify the extent of contamination and any measures required to remediate the site, including post-development monitoring. Where remediation works are required, the development shall not be occupied/used until a validation report, to show that the works have been satisfactorily carried out, has been submitted and approved in writing by the local planning authority.

Restoration and Aftercare

45. The restoration of the site shall be undertaken in accordance with the detailed restoration scheme included as Appendix 2 of the Further Addendum to the

Original Environmental Statement and Supporting Information dated October 2019 and Figure 45.1.

46. Unless otherwise approved in writing by the Local Planning Authority and notwithstanding any progressive restoration undertaken during the course of the coaling period, backfilling of the void and the full restoration of the site shall commence no later than four weeks after the completion of coaling at the site.
47. The developer shall inform the Local Planning Authority in writing of the termination of coal extraction from the site within 14 days of the cessation of coaling.
48. The Local Planning Authority shall be given a minimum of 48 hours written notice prior to the commencement of any phase of soil replacement operations, including the dismantling of soil mounds.
49. No soils shall be replaced on any areas restored to finished ground profiles until the levels achieved, in the form of a written statement and plan, have been submitted to and approved in writing by the Local Planning Authority.
50. Unless otherwise approved by the Local Planning Authority, all settlement ponds or lagoons shall be emptied of water and slurry, their impounding banks breached, their voids filled with dry inert material originating from the site and their surfaces graded to the approved levels.
51. In the event of the cessation of winning and working of coal which in the opinion of the local planning authority constitutes a permanent cessation within the terms of Schedule 9 of the Town and Country Planning Act 1990 a revised scheme for the restoration of the site shall be submitted to the Local Planning Authority within 6 months of the cessation of coaling for its written approval. The revised scheme shall be implemented within 6 months of its approval, or as may be otherwise approved in writing by the Local Planning Authority.
52. Within 2 years of the date of this permission or in the event of the cessation of winning and working of coal which in the opinion of the local planning authority constitutes a permanent cessation within the terms of Schedule 9 of the Town and Country Planning Act 1990, whichever is the sooner, details of an aftercare scheme, to bring the site to the required uses for agriculture, amenity and nature conservation, shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the steps that are to be undertaken and the period during which they are to be taken together with the following:-
 - a. the designated areas of the intended after uses for the whole site;

- b. the timing and pattern of vegetation establishment (including species to be planted, grass seeding mixtures and application rates, stock types and sizes, spacing, method and position of planting);
- c. cultivation practices for the preparation of soils;
- d. hedgerow construction;
- e. fertiliser and lime application and weed control based on soil and chemical analysis and identification and justification of any areas that would be the subject of treatment by biogran or biosolids;
- f. drainage proposals including the timing of installation, maintenance and temporary drainage measures including any ponds and wetlands;
- g. grassland management, including class of grazing stock, livestock, stocking density and mowing practices;
- h. The provisions for the seeding of woodland ground flora;
- i. watering facilities and the provision of supplies;
- j. the full assessment of the introduction of areas to be restored to nature conservation and their application to local biodiversity objectives;
- k. the creation, management and maintenance of any paths, tracks or roads;
- l. any other agricultural, silvicultural or conservation treatment relevant to the site; and
- m. fencing.

Unless otherwise approved in writing by the local planning authority development shall be carried out in accordance with the approved details.

53. Once a year, the site operator shall arrange a formal review to consider the restoration and aftercare operations which have taken place on the site during the previous year, and also to agree with the Local Planning Authority the programme of management for the following year. The parties invited to this review shall include the site operator, the owners of the land, any other occupiers, the Local Planning Authority, Natural Resources Wales and the Welsh Government Regional Planning Advisor.

Community Liaison

54. The approved scheme for the operation of a Technical Working Party (submitted in respect of Condition 11 of planning permission P/2011/0217) shall be implemented at all times for the duration of operations at the site, including restoration and aftercare.

55. The approved scheme for the operation of a Site Liaison Committee (submitted in respect of Condition 10 of planning permission P/2011/0217) shall be implemented at all times for the duration of operations at the site, including restoration and aftercare.

Reasons

1. Mineral extraction is temporary in nature and to protect the character and appearance of the site and the surrounding area.
2. To enable the Local Planning Authority to control the development and to minimise its impact on the amenities of the local area.
3. To ensure that the developer and site contractors are aware of the working programme and the conditions attached to carrying out the development and in order to comply with Policies DM2, DM4 and DM13 of the LDP in terms of minimising the impact on biodiversity, the landscape and amenity.
4. In order that the local planning authority can monitor output at the site and to comply with Policies DM13, T1 and M4 of the LDP in relation to impact on the local highway network.
5. To ensure that the developer and site contractors are following the working programme and the conditions attached to carrying out the development and in order to comply with Policies DM2, DM4 and DM13 of the LDP in terms of minimising the impact on biodiversity, the landscape and amenity.
6. To protect the living conditions of nearby residents in compliance with Policy DM13 of the LDP.
7. To protect the living conditions of nearby residents in compliance with Policy DM13 of the LDP.
8. To protect the living conditions of nearby residents in compliance with Policy DM13 of the LDP.
9. In the interests of highway safety and to comply with Policies T1 and M4 of the LDP.
10. To protect the living conditions of nearby residents in compliance with Policy DM13 of the LDP.
11. To protect the living conditions of nearby residents in compliance with Policies DM13, DM14 and M4 of the LDP.
12. To protect the living conditions of nearby residents in compliance with Policies DM13, DM14 and M4 of the LDP.

13. To protect the living conditions of nearby residents in compliance with Policies DM13, DM14 and M4 of the LDP.
14. To ensure that the impact on the landscape is minimised in compliance with Policy DM4 of the LDP.
15. To protect the living conditions of nearby residents in compliance with Policies DM13 and M4 of the LDP.
16. To protect the living conditions of nearby residents in compliance with Policies DM13 and M4 of the LDP.
17. To protect the living conditions of nearby residents in compliance with Policies DM13 and M4 of the LDP.
18. To protect the living conditions of nearby residents in compliance with Policies DM13 and M4 of the LDP.
19. To protect the living conditions of nearby residents in compliance with Policies DM13 and M4 of the LDP.
20. To protect the living conditions of nearby residents in compliance with Policies DM13 and M4 of the LDP.
21. To protect the living conditions of nearby residents in compliance with Policies DM13 and M4 of the LDP.
22. To protect the living conditions of nearby residents in compliance with Policies DM13 and M4 of the LDP.
23. To protect the water environment and to comply with Policies DM6 and M4 of the LDP.
24. To protect the water environment and to comply with Policies DM6 and M4 of the LDP.
25. To protect the water environment and to comply with Policies DM6 and M4 of the LDP.
26. To monitor and protect the water environment and to comply with Policies DM6 and M4 of the LDP.
27. To monitor and protect the water environment and to comply with Policies DM6 and M4 of the LDP.
28. To monitor and protect the water environment and to comply with Policies DM6 and M4 of the LDP.
29. To monitor and protect the water environment and to comply with Policies DM6 and M4 of the LDP.

30. To protect the living conditions of nearby residents and to comply with Policy DM7 of the LDP.
31. To protect the historic environment and to comply with Policies S7 and M4 of the LDP in relation to the historic environment.
32. In the interests of nature conservation and visual amenity and to comply with Policies DM2, DM4 and M4 of the LDP.
33. To protect the character and appearance of the area in the interest of amenity and to comply with Policies DM2, DM4 and M4 of the LDP.
34. To ensure that the species are not present following initial surveys and to comply with Policies DM2 and M4 of the LDP.
35. To protect the reptile population and in order to comply with Policies DM2 and M4 of the LDP.
36. To ensure further inspection and survey is undertaken to ensure no bat roosts have been created following initial survey for bats and to comply with Policies DM2 and M4 of the LDP.
37. To protect the amphibian population and to comply with Policies DM2 and M4 of the LDP.
38. In the interests of nature conservation and to comply with Policies DM2 and M4 of the LDP.
39. To ensure adequate management, conservation and utilization of soil resources for the restoration of the site and to comply with Policy M5 of the LDP.
40. To ensure adequate management, conservation and utilization of soil resources for the restoration of the site and to comply with Policy M5 of the LDP.
41. To ensure adequate management, conservation and utilization of soil resources for the restoration of the site and to comply with Policy M5 of the LDP.
42. To protect the character and appearance of the site and the surrounding area in order to comply with Policy DM4 of the LDP and to ensure soil resources are protected for beneficial restoration to comply with Policy M5 of the LDP.
43. To protect the character and appearance of the site and the surrounding area in order to comply with Policy DM4 of the LDP and to ensure soil

resources are protected for beneficial restoration to comply with Policy M5 of the LDP.

44. In order to protect against any potential contamination and to comply with Policy DM10 of the LDP.
45. To ensure that the site is restored to a condition suitable for a beneficial after-use and complies with Policy M5 of the LDP.
46. To protect the character and appearance of the site and the surrounding area and to minimise impacts of the landscape and to comply with Policy DM4 of the LDP.
47. To aid the monitoring of site activities and to ensure that restoration is not delayed and to comply with Policy M5 of the LDP.
48. To aid the monitoring of site activities and to ensure that restoration is not delayed and to comply with Policy M5 of the LDP.
49. To ensure adequate restoration and to comply with Policy M5 of the LDP.
50. To protect the character and appearance of the site and the surrounding area and to comply with Policy DM4 of the LDP.
51. To protect the character and appearance of the site and the surrounding area and the living conditions of nearby residents and to comply with Policies DM4, DM13 and M5 of the LDP.
52. To ensure adequate aftercare of the site and to comply with Policy M5 of the LDP.
53. To ensure adequate restoration and aftercare and to comply with Policy M5 of the LDP.
54. To aid the monitoring of site activities and to ensure activities are being undertaken in accordance with the planning permission and in order to comply with Policies DM2, DM4 and DM13 of the LDP in terms of minimising the impact on biodiversity, the landscape and amenity.
55. To aid the monitoring of site activities and to ensure activities are being undertaken in accordance with the planning permission and in order to comply with Policies DM2, DM4 and DM13 of the LDP in terms of minimising the impact on biodiversity, the landscape and amenity.

Notes

1. This application shall be read in conjunction with the section 106 Legal Agreement relating to the site.

2. In the conditions, the term 'emergency' means any circumstance in which the site operator has a reasonable cause for apprehending injury to persons or serious damage to property.
3. The development site is crossed by two 500mm trunk watermains. Dwr Cymru Welsh Water as Statutory Undertaker has statutory powers to access our apparatus at all times. I enclose DCWW Conditions for Development near Watermain(s). It can be advised that the protection zone for each watermain is 6 meters either side from the centreline of each main (total of a 12 meter protection zone). However, this easement width is for guidance purposes only and the location of the watermains will need to be verified on site before commencing work, whereupon the easement will be confirmed. This can be arranged by contacting our Plan & Protect Team on 0800 917 2652. We can confirm that we would not permit a new watercourse or any alteration of ground levels within the 12 meter protection zone of each water main.
4. Wales & West Utilities plans should now be obtained from LSBUD (<https://eur03.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.liresearchbeforeudig.co.uk%2F&data=02%7C01%7Cplanning.consultations%40powys.gov.uk%7C804e35541ca14ecd901508d76dbe0c9e%7Cc01d9ee10eb0475499ae03ae8a732b50%7C0%7C0%7C637098535331146341&sdata=CWhfY%2FN2OJ5KtvjMkBO05fSaJTB46fSW%2F%2FcHUYwh2AE%3D&reserved=0>)