

PLANNING AND DEVELOPMENT CONTROL COMMITTEE
28TH JANUARY 2014

ENVIRONMENT

REPORT OF THE HEAD OF PLANNING – N. PEARCE

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PART 1 – Doc.Code: PLANDEV-280114-REP-EN-NP

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Human Rights Act

The Human Rights Act 1998 came into force on 2nd October 2000. It requires all public authorities to act in a way which is compatible with the European Convention on Human Rights. Reports and recommendations to the Sub-Committee have been prepared in the light of the Council's obligations under the Act and with regard to the need for decisions to be informed by the principles of fair balance and non-discrimination.

Background Papers

The relevant background papers for each of the planning applications listed in sections 1 to 5 above are contained in the specific planning applications files and documents listed in Background Information in each individual report. The contact officer for the above applications is Nicola Pearce

SECTION A – MATTERS FOR DECISION

1. PLANNING APPLICATIONS RECOMMENDED FOR APPROVAL

<u>ITEM 1.1</u>	
<u>APPLICATION NO:</u> P/2013/890	<u>DATE:</u> 13/12/2013
PROPOSAL: Two storey side extension, front porch, and associated retaining works. change of use of land into curtilage of dwelling to facilitate parking area and access drive.	
LOCATION: Blaengwynfi Farm, Caroline Street, Rear Lane Numbers 1-24, Blaengwynfi, Port Talbot	
APPLICANT:	Mr Clive Rogers
TYPE:	Full Plans
WARD:	Gwynfi

BACKGROUND INFORMATION

Planning History: None
Publicity and Responses (if applicable): The application was advertised in the press and a site notice displayed on site: To date no responses have been received. Biodiversity Officer: No objection Contaminated Land Officer: No objection Head of Engineering and Transport(Highways): No objection subject to condition Head of Engineering and Transport (Drainage): No Objection subject to condition Building Control Officer: To date no response has been received.
Description of Site and its Surroundings: The application site is located at Blaengwynfi Farm, Blaengwynfi, Port Talbot which is set within 8 acres of pasture and forestry land located on the side of a hill overlooking the Lynfi valley. The farm dwelling is West facing with a reduction in levels from the rear to the front. The ground level at the rear of the property is approximately

at 1st floor level with a retaining wall holding the land and providing a walkway around the rear of the house. Further to the rear are two stone barn buildings. To the front of the house is a stone retaining wall which has become overgrown with vegetation. There is a grass garden area located to the North. The application property is constructed with a pitched roof finished in slate tiles and dashed render.

Access is via a private track off Caroline Terrace. The nearest residential properties are to the South West of the site on Caroline Street which are located on a much lower level approximately 60m away.

The application site is located outside the settlement limits defined within Policy H3 the Neath Port Talbot Unitary Development Plan (UDP), with the change of use of land being a departure from Policy.

Brief description of proposal (e.g. size, siting, finishes):

This application seeks planning permission to change the use of a small parcel of land to form part of the residential curtilage, in order to provide a vehicle turning area and access drive to the rear area of the property. It also proposes the construction of a two-storey side extension, a single storey front porch and a retaining wall.

The area of land to be changed into residential curtilage is a triangular parcel of land immediately to the South of the dwelling house and measures 18m wide at the widest point narrowing to a 4m wide over a distance of 30m. The area slopes steeply at its highest in the North East to its lowest in the South West. The change of use will allow an access to the rear of the property and provide a turning head, which will be achieved by grading the land.

The two-storey side extension will be positioned on the Northern side elevation and will measure 7.3m wide by 6.8m in depth and will reach a height of 5.7m at the eaves 8m at ridge level. Windows will be sited on the three elevations and a door on the side. It will be constructed with a smooth white K-render and Cromleigh slate, which will match the existing dwelling house

The single storey porch extension will measure 2.3m in width by 1.5m in depth and will have a height of 2m at the eaves to a maximum height of 4m. It has a modern appearance and will be constructed from oak frames, frameless glazing windows and doors and a Cromleigh slate roof.

Material Considerations:

The main issues to be considered with regard to this application relate to the principle and impact of the change of use at this location, and the impact of the proposed extension, having regard to the prevailing planning policies, the potential impact upon residential and visual amenity and the impact upon highway safety.

Policy Context:

Policy GC1 New Buildings/Structures and Changes of Use

Policy ENV8A Replacement Dwellings in the Countryside

Policy ENV17 Design

Policy ENV1: Development in the Countryside.

A proposal for development in the countryside will not be permitted unless: -

- a) it is development for agricultural or forestry purposes, and it has been demonstrated that the development is necessary to meet the needs of farming or forestry practices and that it justifies a countryside location; or
- b) it is associated with farm diversification; or
- c) it is a small-scale employment-generating rural enterprise adjacent to a rural settlement in accordance with Policy EC5; or
- d) it is development necessary to serve the social, recreational or economic needs of the local community (this includes the expansion of an existing commercial or industrial use) and it has been demonstrated that the development cannot be located within a settlement; or
- e) it is the conversion, re-use, adaptation or replacement of an existing building; or
- f) it is a development appropriate to and associated with nature conservation; or
- g) it is a gypsy caravan site in accordance with Policy H7; or
- h) it is development necessary for communications, telecommunications and other forms of infrastructure provision, renewable energy generation, waste treatment or disposal, derelict or contaminated land reclamation, or minerals extraction; and in all cases the development would not create unacceptable impacts upon the character or appearance of the countryside, biodiversity, the amenities of neighbouring residents or other land users, traffic generation or highway safety.

The application site lies outside the settlement limits defined in the adopted Unitary Development Plan and, as such, must be considered in the context of the countryside protection policies outlined above.

Members should also note that an element of the application is a departure from the development plan as the applicant proposes to change the use of a parcel of land into residential curtilage to provide a turning area and access track. This element of the proposal would not strictly comply with Policy ENV1 detailed above, however the land to be included would provide a turning area so that the applicant could enter and leave the site in a forward gear which would improve highway safety and also provide a vehicular access to the rear of the property where there are several outbuildings that the applicant may use in the future to garage his vehicles. The works involved to achieve this would be minimal and involve the grading of the land and surfacing of the tracks. It is considered that these works would not be visually prominent and would have very little impact upon the character and appearance of the open countryside. It is therefore considered that the change of use of land would have little visual impact on the surrounding countryside and that in this case would be considered acceptable.

Details in relation to visual amenity, residential amenity, highway and pedestrian safety, and biodiversity are addressed later within this report.

Visual Amenity:

Whilst the principle of an extension to an existing dwelling within the countryside is generally acceptable, the guidance note contained within paragraph 8.12.2 of Policy ENV8A states that “proposals for replacement dwellings and for conversion to and the extension of existing dwellings will be expected to enhance the countryside. They should take the opportunity to provide a design which may be innovative, but which respects the design, scale and layout of dwellings in the local countryside. The size and bulk of the proposed building is likely to have a major influence on its visual impact, and proposals should not normally exceed the footprint or cubic content of the original building by more than 20%”. It has been calculated that the footprint of the existing proposed extensions would measure as follows:

Existing

Original house	9.3m x 7.7m	71.61m ²
	Total	71.61m ²

Proposed

Original house	9.3m x 7.7m	71.61m ²
Two storey side extension	6.8m x 7.3m	49.64m ²

Front Porch	2.3m x 1.5m	3.45m ²
	Total	124.36m ²

It can therefore be seen that the proposal extensions would increase the footprint of the original dwelling by 74%. Given the design of the extension, the increase in volume is of a similar proportion.

Notwithstanding that the extensions would significantly increase the size of the dwelling, it is nevertheless important to determine whether such extensions would cause unacceptable harm to the countryside. In this respect, it is noted that the massing from the side extension and retaining wall would take place on the least prominent side of the dwelling (North East). For the most part the proposal would be viewed against the existing dwelling or against the backdrop of the outbuildings to the rear of the main house, while the extension will be set back from the main front elevation and set down. Whilst this would be seen from the surrounding area, it has been designed to appear subordinate to the main dwelling house, while the extension and dwelling will be finished in the same materials and have the same fenestration. Accordingly, it is considered on balance that the proposed extension would not cause unacceptable harm to the surrounding countryside such that refusal would be warranted on such grounds.

The application also involves a new retaining wall, to replace the existing substandard retaining wall which is located at the rear of the property. For the most part views of the wall will be restricted by the house, however the wall will project past both side elevations and will be partially visible from the surrounding area. Nevertheless, the new wall would not represent a dominant element in local or wider views, while a condition can be imposed to ensure the facing edge of the wall is finished in render to match the main dwelling house, thus minimising any impact it would have upon the character of the area.

It is also proposed to create a small glazed entrance porch. While this has a more modern appearance and design compared to the rest of the dwelling, it is considered that the modern feature would not detract from the overall character and appearance of the dwelling or have a detrimental impact upon the open countryside.

The proposal involves a variety of development consisting of extensions to the dwelling, retaining walls and access tracks. The applicant has also proposed to repair the existing retaining wall to the front of the property. This would result in a large area of built form, and it is considered

appropriate in this case to provide landscaping that would help soften the built form and minimise any impact the proposal would have upon the countryside. A suitably worded condition is recommended.

As such it is considered that the proposed development would have no unacceptable detrimental impact upon the character or appearance of the dwelling or upon the surrounding countryside. To further protect the visual impact of development on this site, however, permitted development rights will be removed for the provision of outbuildings and additional enclosures within the curtilage of the dwelling as extended.

Residential Amenity

Although there are front rear and side facing habitable room windows proposed on the extension, due to the rural location of the application site and the fact that the nearest residential property is approximately 60m away and at a much lower level, it is considered that the proposal would not have any unacceptable impact in relation to overshadowing, overbearing impact and overlooking. The application would therefore be considered acceptable in relation to residential amenity.

Highway Safety

Part of the proposal is to create a turning area to allow vehicles to enter and leave in a forward gear and to create an access to the rear of the house improving the access within the site. This is considered to be an improvement on the current situation. As such the Head of Engineering and Transport (Highways) has raised no objection to the proposal subject to a condition relating to the surfacing and drainage of the access track and turning area. This can be imposed via a suitably worded condition. The application is therefore considered to be acceptable in terms of highways and pedestrian safety.

Ecology:

The land around the house consists of a grass/scrub with little if no ecological importance. The proposal would not result in the loss of any trees. As such the Local Authority's Biodiversity officer has raised no objection to the proposal. The application is therefore considered to be acceptable in terms of Ecology and Biodiversity.

Others (including objections):

The site is located within an area that may be at risk from land

contamination however the Local Authority's Land Contamination Officer has raised no objection to the proposal. The application is therefore considered to be acceptable in relation to land contamination.

The application lies within a coal referral area, and therefore a note will be added to advise the applicant of this and recommend that they contact the Coal Authority for further information.

Conclusion:

It is considered that the proposed change of use would represent a minor encroachment into the countryside, and the proposed extension would represent an appropriate extension of an existing rural dwelling, and would accordingly not have a detrimental impact upon the character or appearance of the property and surrounding countryside, or on residential amenity, and there would be no adverse impact upon highway and pedestrian safety. Accordingly the proposed development would represent an acceptable minor departure or comply with Policies GC1, ENV1, ENV8 and ENV17 of the Neath Port Talbot Unitary Development Plan. Approval is therefore recommended.

RECOMMENDATION: **Approval with Conditions**

CONDITIONS

(1) The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

(2) Unless otherwise agreed in writing with the Local Planning Authority, the materials to be used in the external surfaces of the development hereby approved shall be as detailed on the submitted plans.

Reason

In the interest of visual amenity

(3) The retaining wall shall be built in accordance with the approved details and calculations and finished in materials to match the main dwelling house, and retained as such thereafter.

Reason:

In the interest of visual amenity

(4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any order revoking and re-enacting that Order with or without modification), no building, enclosure or raised platform shall be constructed within the area of curtilage extended by this consent as identified in green on plan NPT1 attached to this consent.

Reason

In order to safeguard the amenities of the area by enabling the Local Planning Authority to consider whether planning permission should be granted for garages or outbuildings having regard to the particular layout and design of the estate.

(5) Prior to the commencement of work to the access track and turning area, details of the surfacing and drainage shall be submitted to the Local Planning Authority. Measures shall be taken to ensure no water shall directly or indirectly discharge onto the highway and greenfield run off rates are not increased. The track/turning head surfacing and drainage shall be constructed in accordance with the approved details prior to the first beneficial use of the dwelling house and retained as such thereafter.

Reason

In the interest of highway and pedestrian safety.

(6) Prior to the first beneficial use of the dwelling a scheme for landscaping to provide appropriate screening in front of the retaining structure to the West of the dwelling shall be submitted to and agreed in writing with the Local Planning Authority. The approved scheme shall be carried out in the first planting season after completion of the development or its occupation, whichever is the sooner and any trees or plants which within a period of five years are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and the same species, unless the Local Planning Authority gives written consent to any variation.

Reason

In the interest of visual amenity and to accord with Section 197 of the Town and Country Planning Act, 1990.

REASON FOR GRANTING PLANNING PERMISSION

The decision to grant planning permission has been taken in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise.

It is considered that the proposed change of use would represent a minor encroachment into the countryside, and the proposed extension would represent an appropriate extension of an existing rural dwelling, and would accordingly not have a detrimental impact upon the character or appearance of the property and surrounding countryside, or on residential amenity, and there would be no adverse impact upon highway and pedestrian safety. Accordingly the proposed development would represent an acceptable minor departure or comply with Policies GC1, ENV1, ENV8 and ENV17 of the Neath Port Talbot Unitary Development Plan. Approval is therefore recommended.

2. ENFORCEMENT REPORT

EAST PIT EAST REVISED OCCS

Background

- 2.1 Members may recall that the current circumstances as they relate to the East Pit East Revised (EPER) Opencast Coal Development were reported to this Committee on 22nd January 2013 and 5th March 2013.
- 2.2 These reports are included as appendices to this report, and should be read alongside this update report. The reports set out the factors that needed consideration in relation to the ongoing development at the site, given that the temporary consent granted in December 2004 for coaling had expired on 30th November 2012.
- 2.3 Following the consideration of the report on 5th March 2013, Committee resolved not to take enforcement action subject to the developer, Celtic Energy Ltd, submitting a planning application under Section 73A of the Act for the continuation of coaling at the site under condition 3 of the 2004 consent (A-PP-185-07-014) within three months of the date of Committee. It was also resolved that discussions should be entered into with Celtic Energy regarding the contributions to the Escrow Account with a view to entering into a Section 106 relating to the application, if approved, and to cover the period from 30th November 2012.
- 2.4 The Section 73A application (ref: 2013/0530), which seeks to regularise the development and allow the site to continue working, was received in June 2013 and has been the subject of publicity consultation and assessment since that time.
- 2.5 Members will also be aware that a separate application (ref: 2012/1073) was submitted in November 2012 which proposes the continuation of coaling at the site along with an extension to the coal extraction area to the north east and a revised restoration strategy. Generally referred to as the “Lakes” application, this also includes proposed built development in the form of new leisure facilities including a hotel, 78 holiday lodges, a campsite, Visitors Centre and dive centre, together with the development of a Country Park and recreational lake.

- 2.6 Both applications have been the subject of continued assessment on a number of issues which currently are unresolved, although further information has been requested. This further information, including some additional technical assessments and information, is anticipated soon, although a definite date and deadline have not been put forward by the developer.
- 2.7 Members should also note there are separate applications being considered for the continued operation of a rail loading facility at Gwaun cae Gurwen.
- 2.8 Members will also recall that a visit was undertaken by Members to the site on November 22nd 2013. The visit was undertaken solely for Members to familiarise themselves with the nature and scale of the current development and the proposals within the above mentioned applications, along with the proximity of the development to the surrounding communities and local features.
- 2.9 Both applications have required detailed analysis and information over a number of months, during which time complaints have been received from local residents, mainly with regard to blasting operations although there have also been concerns regarding dust and noise impacts. These have been the subject of continued monitoring and ongoing discussions with the developer.
- 2.10 While detailed analysis, monitoring and consideration has been given to all environmental impacts, such matters can only be formally considered as part of a balanced assessment of each respective application when it is brought before Members. Nevertheless, as a background to this enforcement report, the following analysis of the current situation as it pertains to environmental impacts is summarised below.
- 2.11 **Blasting effects** such as ground vibration, and time periods and air over pressure have been carried out by the operator within the limits previously set out in the 2004 consent and current advice and standards within MTAN (Wales) 2 – Coal published in January 2009. Nevertheless, some local residents have continued to complain to this Authority and the developer referring to the fact that all such operations do not have any effective planning permission at this present time.

- 2.12 **Noise complaints** have been significantly less frequent and monitoring indicates that the noise limits that were adopted in the 2004 consent are not being breached and would also lie within the limits set out within MTAN (Wales) 2 - Coal.
- 2.13 Historically **dust monitoring** around all the site has shown that fugitive dust deposition has been significantly within the limits of 80mg/m²/day as suggested in MTAN (Wales)2 - Coal. However, elevated levels above this limit have been monitored at the Authority's deposit gauge at Ochr y Waun for a period April to September 2013. Whilst there has been a reduction in the deposit gauge results towards the end of 2013, further review and additional monitoring was initiated in Autumn 2013 to try and establish if there was any other reason or factor that would explain such levels. It should be noted that other deposit gauges in the locality have not shown any similar trends or consistent higher levels of deposition.
- 2.14 As a consequence of the dust deposit gauge results at Ochr y Waun during mid 2013, the applicants have been requested to review their assessment on dust impacts and provide a detailed account of this and any additional provisions for dust suppression that they can introduce. This forms part of the delay in bringing a report forward to Committee on the Section 73A application in particular.
- 2.15 Having regard to the above, the Authority is continuing to receive requests for the Planning Authority to enforce against the current activity and serve a Stop Notice to cease operations at the site.
- 2.16 Advice to planning authorities on enforcement is contained in Planning Policy Wales and TAN9 – Enforcement. The following extracts are relevant:

“An effective development management process requires local planning authorities to be prepared to take enforcement action in appropriate circumstances. The decisive issue for the authority is whether the breach of planning control would unacceptably affect public amenity or the existing use of land and buildings meriting protection in the public interest” (PPW 3.8.1)

“Whilst the fact that enforcement action is discretionary and should be used as a last resort and only when it is expedient to do so, this

position should not be taken as condoning the wilful breach of planning controls”. (TAN9).

- 2.17 Taking into consideration the background set out above and in the Appendices to this report, it is important to note the following:
- 2.18 The developer, albeit in breach of condition 3 of the 2004 consent, has submitted, in accordance with the requirements of the resolution of Committee on 5th March, a section 73A application to regularise the current operations.
- 2.19 Notwithstanding this application, some details of the submission have required further appraisal and clarification and further information was requested of the applicant in August 2013, along with a position regarding an amendment to the Escrow Account and community benefits. These discussions are continuing albeit an outcome is expected shortly.
- 2.20 At the same time the results from the deposit gauge at Ochr y Waun prompted a requirement to reassess the potential impacts of dust from existing and future operations.
- 2.21 While it is fully acknowledged that operations continue at the site, without the benefit of planning permission, and that there has been a period of elevated dust results at one monitoring station, the broader impacts of the development have not hitherto been outside the limits for blasting, vibration, air over pressure from blasting, and noise from site activities. Furthermore, results from the monitoring of PM10's, also at Ochr y Waun, do not show any level of non compliance to air quality standards and therefore there is no current conclusion to these results and fugitive dust deposition.
- 2.22 Although delayed by discussions and the need for additional submissions, the current applications are progressing and it is anticipated that the Section 73A application will be in a position to be reported to Committee within the next 2 months. This process would allow Members to consider the current continuing activity in the context of all relevant planning policy and material considerations.
- 2.23 In the meantime, although it cannot be guaranteed, the likelihood of the weather providing extreme conditions that could exacerbate any dust nuisance is relatively low. In this regard it is considered

that taking account of all the impacts that still prevail on the amenities of the surrounding communities and closest residents, there is no overriding justification in pursuing enforcement action against the operator at this time.

2.24 Having regard to the above, the following recommendation is made:

1. That it is not expedient at present to take enforcement action (Enforcement and Stop Notice) in respect of the continuing coaling operations at East Pit Opencast Coal Site, but that an additional report is submitted to the Planning and Development Committee in the event that Officers consider there has been a material change to the impacts of the current development upon the local area which requires further consideration of the expediency of enforcement action.

2. ENFORCEMENT REPORT

East Pit East Revised Open Cast Coal Site

- 2.1 Members considered a report on the above at the January 22nd meeting of this Committee and resolved as follows:

that the matter be deferred for a cost benefit analysis in connection with the possible serving of a Stop Notice be undertaken and the matter to be brought back to the next Planning and Development Control Committee scheduled for the 12th February, 2013.

- 2.2 Following this, there were two meetings with representatives of Celtic Energy. These were organised to pursue the data gathering required for a Cost benefit Analysis associated with a Stop Notice to be undertaken and to discuss potential ways forward to allow the Local Authority to regain control over East Pit without recourse to enforcement action. These required further legal advice hence the matter was not reported on 12th February as referred to in the Minute.

- 2.3 Subsequent to receipt of the legal advice, there have been two further meetings with representatives of Celtic Energy Limited. At those meetings they provided details of the costs which they would incur should a stop notice be served. However and more importantly, they have agreed to submit a planning application for the continuation of coaling on the same basis as under the consent granted in 2004 and that such an application will be submitted as soon as practicable. Legal advice has been sought both internally and externally with regard to this potential course of action and that advice has been that the operators can indeed submit an application to regularise the activities undertaken in addition to seeking consent to continue coaling within one application under S73A of the Act. The application if approved will enable the Local Authority to regain control over the site, which was the main objective of the report presented to members at the Planning and Development Control Committee on the 22nd January 2013. To that end, Celtic have already commenced work on putting together such an application for submission to this authority. Nevertheless, given the above mentioned minute, a Cost Benefit Analysis has been undertaken and is included within Appendix 1 of this report.

- 2.4 Appendix 2 attached to this report is a copy of the January Committee report, but amended as updated by the Amendment Sheet circulated to the Committee on the day and verbally at Committee.
- 2.5 Members will note that the recommendation in January was to first invite the submission of a planning application and giving 3 months to do so and only to take enforcement action should Celtic Energy decline to make an application.
- 2.6 Advice to planning authorities on enforcement is contained in Planning Policy Wales and TAN 9, Enforcement. In this regard, the following extracts are relevant:

*“An effective development management process requires local planning authorities to be prepared to take **enforcement action** in appropriate circumstances. The decisive issue for the authority is whether the breach of planning control would unacceptably affect public amenity or the existing use of land and buildings meriting protection in the public interest.” (PPW 3.8.1)*

“Whilst the fact that enforcement action is discretionary and should be used as a last resort and only when it is expedient to do so this position should not be taken as condoning the wilful breach of planning controls.” (TAN 9).

- 2.7 The issue to consider, therefore, is whether it is expedient to take enforcement action given that Celtic Energy are now going to submit a planning application to regularise the unauthorised works undertaken since the 30th November 2012 and to continue coaling the area previously approved in 2004 for this site. As stated previously such an application, if approved, would bring the development within the control of the Authority through the imposition of appropriate conditions.
- 2.8 The continued coaling will extend extraction in an easterly direction and therefore closer to properties in Ochr y Waun and Cefn Bryn Brain. All soils were stripped for this phase prior to 30th November 2012 and further soil stripping is unlikely to be required until late summer 2013. Coal extraction operations and overburden handling would continue within the void, thus extending the area of the void. This will cause some vibration, noise and dust. Overburden is being placed within the void at the proposed restoration levels with no further tipping being placed above

ground at this time. The net effect is that the size of the void is not increasing, however the restoration liability is increasing due to the increased distance from the overburden mounds. The aftercare liability is also increasing as the overall size of disturbed ground is increasing albeit that soils were stripped from the current area of working prior to 30th November.

- 2.9 These operations are detectable and noticeable in the locality, although monitoring to date indicates that they are being carried out within the limits originally set out for the 2004 consent.
- 2.10 There would be added activities of coal washing and coal transportation from the void to the stocking ground and subsequently from the site. Approximately 60% of the coal is being transported by road and 40% by rail from the GCG railpad. This is also a continuation of operations carried out up to 30th November.
- 2.11 Operations at the East Pit East Revised opencast coal site have not been without complaint, particularly with regard to blasting vibration and to a lesser extent noise. Complaints regarding blasting vibration continue on a frequent basis. However, whilst recognising there is a perceptible amount of vibration experienced by some local residents, the level of vibration measured continuously at specific locations are well within the limits specified under the 2004 consent, in addition to the recommended limits within MTAN 2. With regard to noise, initial operations during the construction of an extension to the western overburden mound did generate some significant level of noise complaint. Noise complaints continue, however, they are currently infrequent and significantly less than those in relation to blasting vibration. Monitoring of noise levels has indicated that operations have not exceeded the approved limits under the 2004 consent. Dust has not been, to date, a significant source of complaint.
- 2.12 Representations have also been received, as set out in Appendix 1, supporting the taking of enforcement action. Since January, further representations have also been received in support of enforcement action and complaining about those same effects resulting from the continuation of coaling.
- 2.13 Having regard to the Welsh Government advice, and the agreement of Celtic Energy to submit a planning application as soon as practicable, it is concluded that it would not be expedient to take enforcement action at this time. However, a specific time limit should be given to Celtic Energy to submit an application.

- 2.14 The application will need to have an Environmental Assessment (EIA). As such, the 2004 consent's EIA can be re-submitted with an addendum supplementing each section where an update is necessary. In addition, a significant amount of relevant information to inform the addendum is available to Celtic Energy from the 2012 application. Nevertheless, it has to be conceded that further work will be required and that pulling together the available information into a new document in consultation with Officers within the Local Authority together with external consultees, will itself take time. Having regard to these factors it is considered that 3 months is an adequate time to prepare the documentation.
- 2.15 Members will note from the previous report in Appendix 2 that Celtic Energy have indicated that they will continue to contribute to the Escrow fund. However, the S106 agreement relates solely to the authorised development under the 2004 consent. As such, any monies paid in for coal worked without consent would be voluntary and not made under the existing Agreement. The Escrow account currently has £2.52m including interest (this includes £167k. paid in January part of which will include monies paid voluntarily). Any monies paid voluntarily should not be accepted unless made under a new S106 in relation to a further planning application to continue coaling.
- 2.16 In view of the foregoing, the following recommendations are made:
1. No enforcement action be taken in respect of East Pit Opencast Coal Site at this time, but that progress on the submission of an application be monitored and reported to the Planning and Development Control Committee on April 16th 2013;
 2. Celtic Energy be given 3 months from the date of this Committee to submit a planning application under Section 73A of the Act for the continuation of coaling at East Pit without complying with condition 3 of consent reference A-PP185-07-014.
 3. Discussions are entered into with Celtic Energy regarding the contributions to the Escrow with a view to entering into a S106 Agreement relating to the proposed application if approved, and to cover the period from 30th November 2012.

Appendix 1

Stop Notice

A.1.1 Where an Authority has served an Enforcement Notice, at any time following the service of the Notice until it comes into effect, and if it is considered expedient that an activity should cease before the period of compliance with an Enforcement Notice, a Stop Notice may be served. The Stop Notice does not take effect until three days after the service of the Stop Notice, unless the Authority considers there are special reasons to reduce this. There is no appeal against a Stop Notice but it could be challenged by way of Judicial Review.

A.1.2 Circular advice on Stop Notices states: *'The effect of serving a stop notice will usually be to halt the breach of control, or the specified activity, almost immediately. LPAs should therefore ensure that a quick but thorough assessment of the likely consequences of serving a stop notice is available to the Committee.... The assessment should examine the foreseeable costs and benefits likely to result from a stop notice'*

A.1.3 In discussions with Celtic Energy, they estimate the costs to their business of a stop notice would be up to of £22.7 million made up as follows:

- Redundancy costs (including full pay during 90 day consultation) of 125 men directly employed at East Pit, plus contractors and workers at Onllwyn Washery - £2.2m
- Additional care and maintenance - £2m (for 12 months)
- Demobilisation and remobilisation of plant - £0.5m
- Compensation to suppliers and contractors - £1.25m
- Costs to company of fuel hedging - £3m
- Contractual, operational, reputational and opportunity losses - £12m
- Depreciation of assets - £0.25m
- Associated legal and administrative costs - £1m

A.1.4 The distribution of jobs at East Pit are 55 within 5 miles, 24 5-10 miles, 19 10-15 miles and 27 beyond. At Onllwyn, the jobs lost would be 25, but the distribution is not known. Of these identified 150 jobs the estimated wages are £5.5m. However, Celtic advise that at least 200 jobs directly related to East Pit would be lost when

you take account of contractors. In relation to the workforce the direct impact on the local economy would be greater than the £5.5m identified above.

A.1.5 It is considered that some of the costs such as reputational/opportunity losses may not be relevant to the analysis which must relate to the loss or damage directly attributable to the prohibition contained in the stop notice. In addition, the costs of fuel hedging may be ameliorated as fuel will have a saleable value, and the legal costs may be exaggerated. However, taking those issues into account, it is clear that there would be a significant cost to the company running into many millions. In addition, the loss of employment would have a significant impact on the local economy through reductions in household incomes for those affected and where alternative employment could not be secured which in the current economic climate would be difficult. In this regard, Members should also note recent Welsh Government planning policy advice in Planning Policy Wales that Authorities should adopt a positive and constructive approach to applications for economic development.

A.1.6 The continued coaling will extend extraction in an easterly direction and therefore closer to properties in Ochr y Waun and Cefn Bryn Brain. All soils were stripped for this phase prior to 30th November 2012 and further soil stripping is unlikely to be required until late summer 2013. Coal extraction operations and overburden handling would continue within the void, thus extending the area of the void. This will cause some vibration, noise and dust. Overburden is being placed within the void at the proposed restoration levels with no further tipping being placed above ground at this time. The net effect is that the size of the void is not increasing. However the restoration liability is increasing due to the increased distance from the overburden mounds. The aftercare liability is also increasing as the overall size of disturbed ground is increasing albeit that soils were stripped from the current area of working prior to 30th November. As such, the risk to the environment is increasing.

A.1.7 These operations are detectable and noticeable in the locality, although monitoring to date indicates that they are being carried out within the limits originally set out for the 2004 consent.

A.1.8 There would be added activities of coal washing and coal transportation from the void to the stocking ground and

subsequently from the site. Approximately 60% of the coal is being transported by road and 40% by rail from the GCG railpad. This is also a continuation of operations carried out up to 30th November.

A.1.9 Operations at the East Pit East Revised opencast coal site have not been without complaint, particularly with regard to blasting vibration and to lesser extent noise. Complaints regarding blasting vibration continue on a frequent basis. However, whilst recognising there is a perceptible amount of vibration experienced by some local residents, the level of vibration measured continuously at specific locations are well within the limits specified under the 2004 consent. With regard to noise, initial operations during the construction of an extension to the western overburden mound did generate some significant level of noise complaint. Noise complaints continue, however, they are currently infrequent and significantly less than those in relation to blasting vibration. Monitoring of noise levels has indicated that operations have not exceeded the approved limits under the 2004 consent. Dust has not been, to date, a significant source of complaint.

A.1.10 Representations have also been received, as set out in Appendix 1, supporting the taking of enforcement action. Since January, further representations have also been received in support of enforcement action and complaining about those same effects resulting from the continuation of coaling.

A.1.11 Whilst these activities will continue to have an impact on the surrounding communities and on the environment of the area, it is considered that the cost of any suspension of operations in economic and social terms at this present time weighs heavily against the benefits of the environmental and amenity issues identified and therefore against a stop notice.

A.1.12 Given the potential financial consequences of serving a stop notice the legislation gives an entitlement to compensation in certain circumstances should the Enforcement Notice be successfully appealed against on legal or factual grounds as opposed to planning merits or where the Stop Notice or Enforcement Notice is subsequently withdrawn either by the Authority or resulting from a successful Judicial Review of a decision to serve a Stop Notice

A.1.13 One of the grounds of appeal against an Enforcement Notice is that planning permission should be granted for the unauthorised

development. If an appeal is successful solely on that ground, there is no entitlement to compensation. However, should the Enforcement Notice appeal be successful on any other ground or the Enforcement Notice or Stop Notice be withdrawn, the Authority would be liable to pay compensation to Celtic Energy for the loss or damage “directly attributable” to stopping them coaling at the site, together with interest from the date the Stop Notice was served. As indicated above in the cost/benefit analysis, this would be substantial.

Appendix 2

ENFORCEMENT REPORT

East Pit East Revised Open Cast Coal Site

Background

A.2.1 Opencast coal mining has been undertaken for some 45 years on what currently remains as the operational East Pit East Revised O.C.C.S. The current mineral site is composed of overburden mounds, ancillary water treatment areas, a coal stocking area and the advancing opencast void. Previous operations date back to the Pengosto site, worked at the end of the 1960's until 1979, the East Pit site which commenced around 1981 and the East Pit Extension site which was granted planning consent in 1986.

A.2.2 Mineral developments are always governed by a temporary consent which allows a period of time to extract the mineral. It is not uncommon to see some sites cease mineral working for temporary periods because of mitigating circumstances, normally in relation to economic activities and demand.

A.2.3 The last planning consent for the complex was granted by the Planning Decision Committee of the National Assembly for Wales on 7th December 2004 under approval Ref. A-PP185-07-014. The site is recorded to have commenced appropriate operations on 31st May 2005. However following an initial period of development, the operating company Celtic Energy Ltd decided to "mothball" the operation citing commercial reasons.

A.2.4 Coaling recommenced in earnest in September 2008.

Breach of Conditions and Unauthorised development

A.2.5 Condition 3 of the 2004 planning consent states: -

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

A.2.6 Consequently coaling and other ancillary development associated with that activity was time limited and expired on 30th November 2012.

A.2.7 It has been recorded by this authority that coaling is still continuing at the site along with coal washing, coal stocking and ancillary activities in contravention of the terms of the planning permission. This is unauthorised development. Coal is also being transported from the site by road and in part by rail from the Gwaun Cae Gurwen railhead. The Local Planning Authority have advised the applicant and their agents on numerous occasions and over a long period of time to submit a Section 73 application to extend the period of time for the completion of coaling. However the applicants have chosen not to take this course of action, but instead they have incorporated the continuation of coaling within a larger application which is referred to below. A section 73 application is no longer possible.

A.2.8 Section 172 of the Town and Country Planning Act sets out the legislation and associated procedures to secure the enforcement of planning law. It states that *“an enforcement notice may be issued where it appears to the authority that there has been a breach of planning control and that it is expedient to issue the notice having regard to the provisions of the development plan and to any other material considerations.”*

A.2.9 This is reinforced by chapter 3 of Planning Policy Wales 5th edition (2012) which sets out the Welsh Government’s policy on making and enforcing planning conditions. Paragraph 3.8.1 states

*“An effective development management process requires local planning authorities to be prepared to take **enforcement action** in appropriate circumstances. The decisive issue for the authority is whether the breach of planning control would unacceptably affect public amenity or the existing use of land and buildings meriting protection in the public interest.”*

A.2.10 Technical Advice Note Wales (9) Enforcement of Planning Control also provides guidance in relation to enforcing planning control. This states that *“the responsibility for determining and deciding on whether unauthorised development should be allowed to continue or enforced rests with the local planning authority.”* It further states that

“Whilst the fact that enforcement action is discretionary and should be used as a last resort and only when it is expedient to do so this position should not be taken as condoning the wilful breach of planning controls.”

A.2.11 The continuing coaling operations are perceptible within the locality with blasting vibration, noise associated with plant activity and coal transportation being most prominent elements that are having some impact on the amenity of the area. However to date there is no evidence that the operations are exceeding the environmental limits set out in the 2004 consent in respect of noise and blasting vibration.

A.2.12 Members will note that an application has been submitted seeking consent to continue coaling at the site, extend the site in a north easterly direction to access further coal reserves and subsequently develop a Country Park and leisure facilities which include a 120 bedroom hotel, 78 holiday lodges, a campsite and visitor centre, a dive centre with appropriate parking, recreation open space, internal access routes, footpaths, cycle routes, bridleways and associated ancillaries. That application has been registered and is currently the subject of consultation and publicity. It is expected that the application will take a considerable period of time to determine given the complexity of the proposal and its potential impacts.

Appraisal

A.2.13 Operations under the 2004 consent commenced on 31st May 2005, however as stated above, after some initial works and coaling, operations were eventually confirmed by the operators, Celtic Energy, as being suspended in April 2006 citing market conditions as the main reason. In the interim the impact of the suspended period of operations was discussed between the developer and the Authority and it was noted and recorded that in particular the projected timescale required to complete coaling was likely to exceed the remaining time left under the 2004 consent, up to 30 November 2012. The Operators were therefore aware that they would require further permission to continue coaling beyond November 2012.

A.2.14 Operations recommenced in October 2007 with coaling and the dewatering of the void being undertaken.

A.2.15 The Authority reminded the developer in subsequent Technical Working Party meetings that if coaling was planned to be undertaken after the permitted period of coaling an appropriate application would need to be made to the Authority in reasonable time before the expiry date. In October 2011, Oak Regeneration on behalf of the landowner, instructed a planning consultant to prepare a submission for an additional coaling period along with other proposals for a further extension of the coaling area and subsequent regeneration proposals, as previously referred to. This application was submitted on 28 November 2012 and was registered on 21 December 2012 after a validation appraisal and further submissions. The Authority therefore has not had a reasonable opportunity to date, to determine any proposal for continued coaling at the site. Furthermore the inclusion of the continuation of coaling as part of a much larger and very complex application is likely to take a considerable period of time to determine, far greater than if an application for the continuation of coaling had been submitted as a stand alone application, as previously requested by the Local Planning Authority.

A.2.16 If a valid planning application is submitted then it is normal practice for any associated enforcement action to be held in abeyance pending the determination of that application. This course of action is not considered appropriate in the case of the hybrid application which has been submitted, as it is applying for a much larger development than that currently being implemented.

A.2.17 Enquiries were made to Celtic Energy in early December 2012 on what their intentions were with regard to the site given that operations continued in contravention to the 2004 planning permission. The developer responded by stating that the Authority were aware of the potential need for an extension of time to complete coaling at the site and that an appropriate application had been submitted for this purpose, along with other development proposals. In particular, Celtic Energy state in a response dated 21st December 2012:

“I appreciate that the recent application is complex and understand that it will take time to assess. It is not unusual though in circumstances such as these for sites to carry on under the

existing terms of permission until the subsequent application is determined. This is especially the case in this instance given that a cessation whether temporary or otherwise would jeopardise at least 100 jobs”.

A.2.18 Celtic Energy also confirmed in the letter that they will continue to contribute to the Escrow Fund in line with the terms of the Section 106 agreement.

A.2.19 A further letter has been sent to Celtic Energy on 10 January 2013 emphasising once more that the continued coaling operations are unlawful and that the Authority has no power to enforce conditions on the 2004 consent that specifically relate to those activities and impacts that result from the coaling operations e.g. noise, dust, blasting, hours of working etc.

A.2.20 The letter also seeks assurance that should coaling operations continue that such operations would be undertaken in full accordance of the terms of the previously approved 2004 consent. A response to this letter is awaited.

A.2.21 Notwithstanding the above, even if the applicants respond confirming that they intend to continue to work the site broadly in line with the terms of the conditions on the 2004 planning permission, there is no provision within the planning legislation to enforce those conditions without a planning permission being in place, and as stated previously a planning permission is not in place on this site.

A.2.22 Of significant concern in this respect, is the fact that the restoration and aftercare conditions pursuant to the 2004 planning permission are no longer applicable in relation to works carried out since 30th November 2012, and can only be enforced in relation to work undertaken prior to that date. In addition the restoration and aftercare conditions could not in practice be complied with because those conditions only apply to the void as it existed on 30th November. The conditions do not apply to the void area unlawfully created since that date, and it would not be possible to fill part of a void nor in any event would it be acceptable in environmental terms. As a consequence this would require the Local Planning Authority to serve an enforcement notice in relation to the unauthorised development carried out after 30th November 2012.

A.2.23 It should be further noted that the continuation of coaling is resulting in the void area extending closer to the village of Cwmllynfell. Furthermore this continued eastward progression is taking the void area further away from the overburden mounds which would be the source of the backfill material required for restoration. The distance between the void and the overburden mounds will increase as the unauthorised development continues. The distance between the two is estimated to be approximately 650m. Members should note that the greater the travelling distance between the backfill material and the void area, the greater the costs associated with restoration. Given that the Authority no longer has enforceable conditions to secure restoration in relation to works undertaken after 30th November 2012, and the practicable problems associated with the conditions which could be enforced, the liability associated with this restoration is increasing hence the risk to the Environment is increasing.

A.2.24 In view of the above, the best course of action is for the operator/landowner to submit a planning application to regularise the activities undertaken to date and to apply for the continuation of coaling which should include a comprehensive restoration and aftercare scheme. Failing that, the service of an enforcement notice by the Local Planning Authority is recommended. This would need to seek the cessation of coaling, the restoration and aftercare of the area lawfully worked up to 30th November, and the restoration and aftercare of the area worked after that date.

A.2.25 In addition, whilst Celtic have indicated that they will continue to pay monies into the ESCROW account, the S106 agreement relates solely to the authorised development under the 2004 consent. As such, any monies paid in for coal worked without consent would be voluntary and not made under the existing Agreement.

A.2.26 It should be acknowledged that the application submitted on 28 November 2012 does seek continuation of coaling at the site albeit in combination with other development proposals including further coal extraction and re-development proposals. It is sometimes appropriate to seek a planning application to regularise unauthorised development which, in part, this application seeks to do. It therefore follows that there is a need to assess if the continuation of coaling at the site warrants enforcement action

prior to the determination of the planning application referred to above.

A.2.27 Planning Policy (Wales) Technical Advice Note (Wales) 9 states, “ *Unauthorised mineral working sometimes poses particular enforcement problems, both in terms of the occasionally irremediable nature of the working and the speed at which damage can be caused as well as the fact that they will have no arrangements for restoration and aftercare of the land or even an agreed afteruse.*”

A.2.28 East Pit East Revised opencast coal site (EPEROCCS) currently employs around 112 employees and a cessation of coaling would have an impact on the economic benefits that accrue from the operation. It is also recognised that ancillary activities such as employment to haulage companies and service industries, together with the Onllwyn washery would also be affected. Notwithstanding this economic benefit, it must also be recognised that there is a continuing impact on the amenity and living conditions of the local population, particularly in terms of noise, blasting, dust and associated transportation and highway impacts, together with the risk to the environment as a consequence of no longer having enforceable conditions to secure restoration and aftercare in relation to the works carried out post 30th November 2012, and the practicable problems associated with the enforceable conditions.

A.2.29 Operations at EPEROCCS have not been without complaint, particularly with regard to blasting vibration and to lesser extent noise. Complaints regarding blasting vibration continue on a frequent basis. However, whilst recognising there is a perceptible amount of vibration experienced by some local residents, the level of vibration measured continuously at specific locations are well within the limits specified under the 2004 consent. With regard to noise, initial operations during the construction of an extension to the western overburden mound did generate some significant level of noise complaint. Noise complaints continue, however, they are currently infrequent and significantly less than those in relation to blasting vibration. Monitoring of noise levels has indicated that operations have not exceeded the approved limits under the 2004 consent. Dust has not been, to date, a significant source of complaint.

A.2.30 The Planning Authority has also received representations regarding the unauthorised operations requesting that the Authority undertakes action against the development.

The following complaints were reported on the Amendment Sheet:

A letter has been received in support of the Authority taking enforcement action in respect of East Pit and a further letter expressing concern and complaint regarding the continued working at the site, the impacts of blasting, noise, and dirt which is alleged to be getting worse since 30th November 2012 and having an impact on their property and well being. It is also stated that their purchase of a property in the area was based on the potential cessation of blasting after this date.

A.2.31 The operational site is also, in part, located on registered common land, the Gwaun Cae Gurwen and Penllerfedwen Common. Representations have also been received suggesting that the Planning Authority are obliged to enforce given that any development on registered common land requires the appropriate consent of the appropriate national authority under Section 38 of the 2006 Commons Act which came into force in Wales on the 1st April 2012.

A.2.32 Consent would be needed from the Welsh Government for mineral development under the Commons Act 2006 for the period from the 1st December 2012. This is separate to the planning enforcement regime and is not a material consideration in deciding whether or not to take planning enforcement action. However Celtic would need to apply to the WG for such consent. If they did not apply or were refused consent anyone may apply to the county court for an order to stop the work and restore the land to the condition it was in before the non-consented works were carried out. This would include the commoners and the Local Authority but is not a delegated function of the Planning Committee.

A.2.33 Coaling operations are likely to continue unless the Planning Authority choose to enforce against the development. Having regard to the risks associated with not having enforceable conditions in relation to the continuing development, together with the practicability of enforcing restoration and aftercare for development undertaken up to 30th November 2012, and the resultant potential impact upon the wider environment it is

considered expedient to take enforcement action in this case. The enforcement action recommended would be to serve an enforcement notice.

A.2.34 The steps required within the enforcement notice would be to cease work within three months of the date of the notice taking effect and to restore the site. It is acknowledged that this recommended course of action will have a potential impact upon the economy which is supported by extraction of minerals from this site, however the wider impact of not taking enforcement action for the reasons specified above is even more significant. However it is appropriate to first invite the applicant to submit a planning application for the continuation of coaling at this site, which shall include a modified restoration and aftercare scheme which shall accord with the principles of the approved restoration and aftercare strategy under the 2004 consent together with associated timescales, advising that enforcement action will follow if that is not agreed.

A.2.35 It appears that the unauthorised development may constitute EIA development. Regulation 25 of the Environmental Impact Regulations 1999, requires the Local planning Authority to adopt a screening opinion in such circumstances. This has been undertaken and concludes that the unauthorised development is EIA development and requires that any enforcement notice shall be accompanied by a notice under the provisions of the above regulation.

In view of the above, the following actions are recommended:

1. Within five working days of the date of this Planning Committee, the Local Planning Authority writes to the operator/owner of the site inviting them to submit a planning application to regularise the works undertaken since the 30th November 2012 and to continue coaling at the site, up to the limits approved under application reference A-PP185-07-014. This application shall include a modified restoration and aftercare scheme which shall accord with the principles of the previously approved restoration and aftercare strategy together with associated timescales. The letter to request confirmation from the operator/owner within 10 working days of the date of the letter, of whether or not it is their intention to submit such an application, and for it to also specify that should they agree to the submission of such an application, that a valid application be

submitted to the Local Planning Authority within three months of the date of the letter.

The letter will also advise them of their responsibilities under section 38 of the 2006 Commons Act.

2. Should there be no response to the letter referred to in (1), or if the response is negative, an enforcement notice(s) is/are served requiring the following:

- (i) The cessation of coaling within three months from the date the notice comes into effect.

- (ii) The restoration of the unauthorised void on or by 31st May 2015 to its previous condition and in compliance with the principles of the restoration strategy agreed within application reference A-PP185-07-014 relating to the methods and treatment of restoration.

- (iii) Notice in accord with Regulation 25 of the Town and Country planning (Environmental Impact Assessment) (England & Wales) Regulations 1999 be served with any enforcement notice.

The reasons for serving the enforcement notice are in the interests of the amenities of nearby residents and to minimise the impact upon the surrounding environment by preventing further damage and seeking full restoration of the site in accord with Policies M8 and M10 of the Neath Port Talbot Unitary Development Plan

SECTION B – MATTERS FOR INFORMATION

3. APPEALS DETERMINED

a) Planning Appeals

Appeal Ref: A2013/0019 **Planning Ref:** P2012/1125

PINS Ref: APP/Y6930/A/13/2205277

Applicant: S A Brain Ltd

Proposal: 1no.fascia entrance sign and 6no.free standing advertisement signs.

Site Address: Twelve Knights Hotel, Margam Road, Margam

Decision Date: 24/12/2013

Decision Code: Dismissed

This appeal relates to the decision to refuse advertisement consent for the display of three of the proposed free standing signs (known as locations A, B and D), the remaining signs (C, F and E) having been granted consent on 13 August 2013.

The main issue concerned the impact of the signs on visual amenity.

The Inspector noted that Margam Road is a wide street linking the M4 and Port Talbot, whose long and open frontage permits a sustained view of the ‘imposing’ Twelve Knights building from both approaches.

The Inspector considered the height of sign D and its overall width to result in an unduly assertive feature which, located at the top of existing poles, appears discordant in regard to its position on the established structure which gives it support. Although he referred to an issue over the legitimacy of the existing lower panel sign, he nevertheless concluded that, given the long and sustained views of the site and the sign from both approaches and from Tollgate Road, he concluded that sign D due to its height and width appears incongruous in this open setting.

In relation to sign A, again disregarding the existence of the existing lower panel sign, he considered that the position, height and width of this

sign is also unduly assertive, particularly due to its position and height adjoining the footway.

Sign B would be located very close to adverts granted by the Council in locations C and F, and he considered the presence of these other signs and sign B in combination would appear cluttered in this part of the forecourt.

Stating that the signs already granted express consent on the site would provide a continued commercial presence and site legibility for the business use, for these reasons he concluded that signs A, B and D would harm visual amenity.

Appeal Ref: A2013/0022 **Planning Ref:** P2013/0689

PINS Ref: APP/Y6930/A/13/2208104

Applicant: Mr Gary Bray

Proposal: New front porch and lounge extension

Site Address: 12 Y Berllan, Cimla, Neath, SA11 3YH

Decision Date: 7/1/2014

Decision Code: Dismissed

The main issues in the determination of this appeal concerned whether the proposed extension would negatively affect the character and appearance of the appeal property and the streetscene.

With regard to the appeal property, the Inspector concluded that the proposed hipped roof would not match the main roof either in form or pitch, which would have an awkward relationship with the windows above. The proposed fenestration would also be unsympathetic to the existing building. Furthermore the materials suggested would result in a considerable loss of the buildings original character and would add to the imbalance of the overall façade that would be caused by the porch.

The Inspector noted that there are no examples similar to the proposed development within the street, and was of the opinion that as the proposal is clearly seen from the street and would be harmful to the buildings character it would also have a negative impact on the appearance and character of the streetscene.

Therefore for the above reasons the Inspector decided that the proposed development would conflict with Unitary Development Plan Policies GC1 and ENV17. The appeal was subsequently dismissed.

4. DELEGATED APPLICATIONS DETERMINED BETWEEN 30.12.2013 AND 17.1.14

1	App No. P/2013/952	Type Full Plans
Proposal	Vehicle crossover to dwelling	
Location	9 Romney Road, Sandfields, Port Talbot, SA12 6SA	
Decision	Approval with Conditions	
Ward	Sandfields East	

2	App No. P/2013/976	Type Change of Use
Proposal	Change of use of first floor flat into one no. two bedroom self contained flat and one no. one bedroom self contained flat, bike store, screened staircase and walkway and roof terrace	
Location	Dunes Hotel, Wyvern Avenue, Sandfields, Port Talbot, SA12 7ER	
Decision	Approval with Conditions	
Ward	Sandfields West	

3	App No. P/2013/984	Type Householder
Proposal	Construction of new access, detached garage and associated hard standing	
Location	3 Gwyn Street, Alltwen, Pontardawe, Swansea, SA8 3AL	
Decision	Approval with Conditions	
Ward	Alltwen	

4	App No. P/2011/345	Type Discharge of Cond.
Proposal	Details to be agreed in association with Condition 9 (Landscape Design) of Planning Permission P2010/1100 granted on 17/02/2011	
Location	Land Between Port Talbot Docks, Junction 38 Of The M4 At Margam, Port Talbot	
Decision	Approval with no Conditions	
Ward	Margam	

5	App No. P/2012/862	Type Full Plans
Proposal	One detached dwelling (Amended plans and Design and access statement received 20.11.13)	
Location	Land adjacent to, 12 Cilmaengwyn Road, Ynysmeudwy, Pontardawe, SA8 4QL	
Decision	Approval with Conditions	
Ward	Godre'rgrraig	

6	App No. P/2013/464	Type Discharge of Cond.
Proposal	Details pursuant to Condition 2 (Landscape buffer design) of Planning Permission P2012/888 (Approved on the 4/12/12)	
Location	Former BP Transit Site, Fabian Way, Jersey Marine, Neath	
Decision	Approval with Conditions	
Ward	Coedffranc West	

7	App No. P/2013/882	Type Full Plans
Proposal	Retention of vehicular crossover and driveway to property	
Location	32 Mozart Drive, Sandfields, Port Talbot, SA12 7UA	
Decision	Approval with no Conditions	
Ward	Sandfields West	

8	App No. P/2013/922	Type Full Plans
Proposal	Installation of 7 no. external air conditioning units to the east elevation	
Location	Baglan Bay Innovation Centre, Central Avenue, Baglan Energy Park, Port Talbot, SA12 7AX	
Decision	Approved with 5yr expiry only	
Ward	Baglan	

9	App No. P/2013/929	Type Householder
Proposal	Two storey side extension incorporating front and rear dormers	
Location	The Brambles, 8 Wern Olau, Cilfrew, Neath, SA10 8LX	
Decision	Approval with Conditions	
Ward	Aberdulais	

10	App No. P/2013/933	Type Full Plans
Proposal	Change of use from single dwelling to 2 x 1 bedroom flat and 1 x 2-bedroom flat plus creation of vehicle access and 2 off-street parking spaces.	
Location	65 Brynhyfryd Road, Briton Ferry, Neath, SA11 2LE	
Decision	Approval with Conditions	
Ward	Briton Ferry West	

11	App No. P/2013/948	Type Full Plans
Proposal	Cycle store, smoking shelter, 3 no. additional windows, 2 no. flue cupboard ducts, 1 no. input air ventilation louvre and 2 no. gas cylinder cages	
Location	Units 24-26 Mardon Park, Central Avenue, Baglan Energy Park, Port Talbot	
Decision	Approval with Conditions	
Ward	Baglan	

12	App No. P/2013/987	Type Householder
Proposal	Two storey side extension and single storey rear extension	
Location	78 Harvey Crescent, Sandfields, Port Talbot, SA12 6DF	
Decision	Approval with Conditions	
Ward	Sandfields East	

13	App No. P/2013/1007	Type Full Plans
Proposal	Demolition of existing modular bungalow and replacement with detached bungalow, outbuilding and associated works	
Location	1 The Bungalows, Lane Between 6 AND 7 Edwards Terrace, Abergarwed, Neath	
Decision	Approval with Conditions	
Ward	Resolven	

14	App No. P/2013/1024	Type Full Plans
Proposal	New Shopfront and Roller Sutter	
Location	Masala Tandoori, 29 Windsor Road, Neath, SA11 1NB	
Decision	Approval with Conditions	
Ward	Neath North	

15	App No. P/2013/1025	Type Advertisement
Proposal	One internally illuminated fascia sign and one internally illuminated projecting sign.	
Location	Masala Tandoori, 29 Windsor Road, Neath, SA11 1NB	
Decision	Approval with no Conditions	
Ward	Neath North	

16	App No. P/2013/1028	Type Full Plans
Proposal	Retention and completion of boundary wall	
Location	1 Alexander Road, Rhyddings, Neath, SA10 8DY	
Decision	Approval with no Conditions	
Ward	Bryncoch North	

17	App No. P/2013/1035	Type Householder
Proposal	Lawful development certificate (proposed) for a side garage extension and driveway.	
Location	56 Railway Terrace, Cwmllynfell, Swansea, SA9 2GP	
Decision	Issue Lawful Dev.Cert.	
Ward	Cwmllynfell	

18	App No. P/2013/1054	Type Householder
Proposal	Single storey rear extension and garage conversion to create granny annexe	
Location	Cefn Uchaf Farm, Lane From Iintervalley Road To Cefn Uchaf Farm, Glynneath, Neath, SA11 5TY	
Decision	Approval with Conditions	
Ward	Glynneath	

19	App No. P/2013/1058	Type Full Plans
Proposal	Replacement shop front plus roller shutters	
Location	4 Green Street, Neath, SA11 1DR	
Decision	Approval with Conditions	
Ward	Neath North	

20	App No. P/2013/1059	Type Householder
Proposal	Retention of rear conservatory, plus single storey side extension to connect garage to dwelling, and conversion of double garage into single garage and living accommodation.	
Location	20 Dyffryn Woods, Bryncoch, Neath, SA10 7QA	
Decision	Approval with Conditions	
Ward	Bryncoch South	

21	App No. P/2013/1062	Type Householder
Proposal	Single-storey rear extension.	
Location	117 Old Road, Skewen, Neath, SA10 6AT	
Decision	Approval with Conditions	
Ward	Coedffranc Central	

22	App No. P/2013/1071	Type Householder
Proposal	Retention of raised decking to rear of property.	
Location	28 Maeslan, Rhos, Pontardawe, Swansea, SA8 3HH	
Decision	Approval with no Conditions	
Ward	Rhos	

23	App No. P/2013/1074	Type Householder
Proposal	Single storey rear extension	
Location	9 Maes Y Bettws, Cwmavon, Port Talbot, SA12 9YN	
Decision	Approval with Conditions	
Ward	Bryn & Cwmavon	

24	App No. P/2013/1080	Type Discharge of Cond.
Proposal	Details to be agreed in association with condition 10 (Means of Enclosure) of planning permission ref: P2013/0857 granted on 27/11/13	
Location	Land adjacent to, 2 Tudor Grove, Taibach, Port Talbot, SA13 2ST	
Decision	Approval with no Conditions	
Ward	Margam	

25	App No. P/2013/1082	Type Discharge of Cond.
Proposal	Details to be agreed in association with condition 9 (Surface Water Drainage) of planning permission ref: P2013/0857 granted on 27/11/13	
Location	Land adjacent to, 2 Tudor Grove, Taibach, Port Talbot, SA13 2ST	
Decision	Approval with no Conditions	
Ward	Margam	

26	App No. P/2013/1095	Type Householder
Proposal	Rear ground floor extension.	
Location	123 Pantyrheol, Neath, SA11 2HB	
Decision	Approval with Conditions	
Ward	Neath East	

27	App No. P/2013/1107	Type Householder
Proposal	Two storey rear extension	
Location	Brown Oaks, 16-18 Bryn Varteg, Bryn, Port Talbot, SA13 2RJ	
Decision	Approval with Conditions	
Ward	Bryn & Cwmafon	

28	App No. P/2013/1109	Type Section 37 Elec Act
Proposal	Notification under Overhead Lines (Exemption)(England and Wales)Regulation 1990 for the erection of a stub-leg pole to support a transformer.	
Location	Longford Road, Neath Abbey, Neath	
Decision	No Objections	
Ward	Dyffryn	

29	App No. P/2013/1115	Type Householder
Proposal	Two storey rear extension	
Location	7 Laurel Avenue, Baglan, Port Talbot, SA12 8PA	
Decision	Approval with Conditions	
Ward	Baglan	

30	App No. P/2013/1125	Type Householder
Proposal	Single storey side extension	
Location	52 Pen Y Cae Road, Port Talbot, SA13 2EH`	
Decision	Approval with Conditions	
Ward	Port Talbot	