



PLANNING COMMITTEE

2.00 PM - TUESDAY, 17 MARCH 2015

COUNCIL CHAMBER - PORT TALBOT CIVIC CENTRE

PART 1

1. To receive any declarations of interest from Members.
2. To receive the Minutes of the previous meeting held on the 24th February 2015 (*Pages 1 - 6*)
3. To Request Site Visit(s) from the Applications Presented

Report of the Head of Planning

SECTION A - MATTERS FOR DECISION

Planning Applications Recommended for Approval

4. Application No: P2015/0031 (*Pages 7 - 56*)
Land within Foel Fynyddau Forest, Nr Pontryhdyfen, Cwmavon
Temporary permission for the drilling of an exploratory borehole to test the Westphalian and Namurian strata for coal bed methane and shale gases (Re-consultation on corrected information within the submitted Exploration Borehole - Method Statement and Planning Statement (in respect of traffic flows and confirmation of 10 weeks for drilling and associated operations).
5. Application No: P2014/0402 (*Pages 57 - 104*)
Mynydd Y Gwrhyd, North of Pontardawe, East of Cwmgors
Variation of condition 1 of Planning Permission P2007/1413 (Granted on Appeal on the 07.05.09) to allow for the extension of time for the commencement of development and variation of conditions 3 (reference to all works in Environmental Statement and to allow a maximum tip height of 100m and maximum blade diameter of 82m), 9 (borrow pits), 14 (highway improvement works to facilitate revised access route) and 15 (internal access tracks).

6. Application No: P2015/0127 (*Pages 105 - 112*)

50 Ascot Drive, Baglan, Port Talbot

Two storey rear and side extensions, first floor side and single storey side extensions, additional first floor windows to western and eastern side elevations, additional window to ground floor eastern elevation and replacement boundary wall and fence to a maximum height of 2.2m.

SECTION B - MATTERS FOR INFORMATION

7. Appeals Determined (*Pages 113 - 114*)
8. Delegated Applications Determined between 16th February and 8th March 2015 (*Pages 115 - 122*)
9. Any urgent items at the discretion of the Chairman pursuant to Section 100B(4)(b) of the Local Government Act 1972.

S.Phillips
Chief Executive

Civic Centre
Port Talbot

Wednesday, 11 March 2015

Committee Membership:

Chairman: Councillor R.G.Jones

Vice Chairman: Councillor E.E.Jones

Members: Councillors Mrs.A.Chaves, D.W.Davies,
Mrs.R.Davies, Mrs.J.Dudley, S.K.Hunt, D.Keogh,
Mrs.S.Paddison, Mrs.S.M.Penry, R.Thomas, and
Mrs.L.G.Williams

**Cabinet UDP/LDP
Member:** Councillor A.J.Taylor

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PLANNING COMMITTEE

(CIVIC CENTRE - PORT TALBOT)

Members Present:

24th February, 2015

Chairman: Councillor R.G.Jones

Vice Chairman: Councillor E.E.Jones

Councillors: Mrs.A.Chaves, D.W.Davies, Mrs.R.Davies,
S.K.Hunt, D.Keogh, Mrs.S.Paddison,
Mrs.S.M.Penry and R.Thomas

UDP/LDP Member: Councillor A.J.Taylor

Officers In Attendance: Mrs.N.Pearce, I.Davies, J.Griffiths, C.Davies and
Mrs.T.Davies

1. **MINUTES OF THE LAST MEETING**

RESOLVED: that the Minutes of the Planning Committee held on the 3rd February, 2015, as circulated, be confirmed as a true record.

2. **MINUTES OF THE LAST SPECIAL MEETING**

RESOLVED: that the Minutes of the Special Planning Committee held on the 17th February, 2015, as circulated, be confirmed as a true record.

Report of The Head of Planning

3. **PLANNING APPLICATION APPROVED, SUBJECT TO A SECTION 106 AGREEMENT**

Application No: P2014/0739

Application under S106A of the Town and Country Planning Act 1990 (As Amended) to vary the legal agreement associated with Planning Permission P2005/0393 (Approved on the 08/02/08) at Former Llandarcy Oil Refinery, Llandarcy, Neath.

Members requested an addition to the Officers recommendation, as highlighted in italics below.

RESOLVED: that the proposed changes to the principles within the Section 106 Legal Agreement (as detailed within the circulated report), be approved, and delegated powers be granted to The Head of Planning for any further minor amendments to the terms, subject to the agreement of the relevant consultees, on condition that the amendments do not undermine the principles/objectives as detailed within the circulated report, *and should any other substantive changes to the trigger points be proposed, they will be brought before the Planning Committee for determination.*

4. **PLANNING APPLICATION APPROVED**

An informal site visit of the Coed Darcy development would be arranged for Members in due course.

Application No: P2014/0913

Reserved matters for 79 residential dwellings plus 5 retail units (Class A1) plus associated infrastructure, public open space and landscaping, including details pursuant to the discharge of conditions 10 (Town Code Addendum for Phase 2 only) 40 and 41 (Means of Enclosure temporary/permanent), 42 (Cycle/footpaths), 49 (Retaining structures), 50 (Drainage), 54 (Lighting), 61 (Detailed road/footway/cycleway design), 75 (Highway retaining structures), 77 (Noise Assessment), 87 (Phase Landscaping) and 92 (Phase 1 Habitat Survey) of outline planning permission P2005/0393 (Approved on the 08/02/08) at Phase 2a Coed Darcy, Llandarcy, Neath.

RESOLVED: that the above-mentioned Application be approved, subject to the conditions contained within the circulated report, and upon the signing of a Legal Agreement with the following Heads of Terms:

- (1) A Highways Agreement to be technically approved, signed and legally sealed before any works to the Southern Access Road (SAR) viaduct and highway can commence. These shall include the highway network from the existing junction onto Ffordd Amazon to the boundary of the southern development area of Coed Darcy (which will allow housing to be constructed). The agreement will be signed and legally sealed with a surety/guarantor agreement for the costs of completion of the development prior to the occupation of any dwelling within this phase of development.

5. **APPEALS RECEIVED**

RESOLVED: that the following Appeal received be noted, as detailed in the circulated report.

Appeal Ref: A2015/0002 – Fell 15 trees in the garden of Swiss Cottage at Swiss Cottage, Longford Road, Neath, SA10 7AJ.

6. **APPEALS DETERMINED**

RESOLVED: that the following Appeal determined be noted as detailed in the circulated report.

Appeal Ref: A2014/0006

Installation of a Wind Farm comprising five wind turbines up to 126.5 metres to maximum blade tip height, with associated transformers, electrical substation and control building, 82 metre anemometry mast, underground cabling, access tracks, site entrance, river crossing and crane hard standings; and temporary construction compounds, storage area and two temporary 82 metre high anemometry masts, at Mynedd Marchywel,

between Rhos and Cilfrew, North of Neath.

Decision: Dismissed

7. **DELEGATED APPLICATIONS DETERMINED BETWEEN THE 24TH JANUARY AND 15TH FEBRUARY 2015**

Members received a list of planning applications which had been determined between the 24th January and 15th February 2015, as contained within the circulated report.

RESOLVED: that the report be noted.

8. **URGENT ITEM**

Because of the need to deal now with the matter contained in Minute No. 9 below, the Chairman agreed that this could be raised at today's meeting as an urgent item, pursuant to Section 100B(4)(b) of the Local Government Act 1972.

Reason

Due to the time element.

Urgent Verbal Report of the Head of The Head of Planning

9. **UPDATE ON PROGRESS IN RELATION TO MARGAM OPEN CAST COAL SITE**

In accordance with the mandate from the Planning Committee meeting on the 25th November 2014, an update was given in relation to both Margam Open Cast Coal Site and East Pit East Open Cast Coal Site. Members were updated on the decision of Members from Bridgend County Borough Council at their Planning Committee on the 8th January 2015. Following the meeting, both Celtic Energy and Oak Regeneration were invited to attend a meeting to discuss responsibilities for the sites going forward, and proposed restoration. A date for such a meeting has not yet been agreed.

Nevertheless public meetings have been arranged in relation to both sites. A meeting has been organised by Neath Port Talbot County Borough Council in relation to the East Pit Open Cast Coal Site on Thursday 12th March 2015 at 6.30 in Tairgwaith Community Centre. A separate meeting has been

arranged by Neath Port Talbot County Borough Council and Bridgend County Borough Council concerning the Margam Open Cast Mine. This will be held on Tuesday 24th March 2015 at 6.30pm in Talbot Community Centre, Kenfig Hill, Bridgend. All were welcome to attend.

CHAIRMAN

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SECTION A – MATTERS FOR DECISION

Planning Applications Recommended For Approval

<u>APPLICATION NO:</u> P2015/0031	<u>DATE:</u> 20/01/2015
PROPOSAL: Temporary permission for the drilling of an exploratory borehole to test the Westphalian and Namurian strata for coal bed methane and shale gases (Re-consultation on corrected information within the submitted Exploration Borehole - Method Statement and Planning Statement (in respect of traffic flows and confirmation of 10 weeks for drilling and associated operations))	
LOCATION: Land within, Foel Fynyddau Forest, Near Pontrhydyfen, Cwmavon	
APPLICANT: Mr Oliver Taylor, UK Methane Limited	
TYPE: Full Plans	
WARD: Bryn & Cwmavon; Pelenna	

Description of Site and its Surroundings:

The application site is located on land within Foel Fynyddau Forest, near Pontrhydyfen.

The application site is an irregular shaped parcel of land measuring approximately 0.157 hectares in area. It has an overall width of 55.6m and a depth of 35m. The site lies adjacent to a gravel forestry track some 350m to the west of the village of Pontrhydyfen, and at a level of around 170-180m AOD. The nearest residential dwellings are located at Danybont, which is at a lower level than the application site, at a distance of approximately 300m “as the crow flies”. The area of land is sparsely vegetated, and has previously been utilised as a lay down area by the Forestry Commission (now part of Natural Resources Wales). The site is surrounded by dense conifer woodland on all sides, except the adjacent forestry track. Cwm Pelenna forms the valley feature between the hillside and the village of Pontrhydyfen.

There is an existing forestry access road leading to the site, off the B4286 Pontrhydyfen to Cwmafan Road. There is a Grade II Listed Structure (Pontrhydyfen Viaduct) adjacent to the existing access point.

The site is located outside the settlement limits as defined by Policy H3 of the adopted Neath Port Talbot Unitary Development Plan (UDP) and within the open countryside.

Brief Description of Proposal:

This proposal seeks temporary planning permission for the drilling of an exploratory borehole to test the Westphalian and Namurian strata for coal bed methane and shale gases. This would be under a Petroleum Licence issued by the Department of Energy and Climate Change (DECC). The activity would also be the subject of a Coal Bed Methane Access Agreement from the Coal Authority.

Members should be aware that this application is for exploration test drilling only using conventional drilling techniques, and is **not** an application for hydraulic fracturing (otherwise known as ‘fracking’).

Furthermore, it should be noted that a very similar application (ref. P2014/0217) was refused by Planning Committee on 30th September 2014 for the following reason:

- (1) By reason of the level of noise generated from the proposed drilling operations on a 24 hour basis, and given the site-specific circumstances of this valley and the substantial perception of impact on the local community, it is considered that the impacts on the nearest noise sensitive residential receptors would be unacceptable, especially during night-time operations. The proposal is therefore contrary to Minerals Planning Policy Wales and Policy M8 of the adopted Neath Port Talbot Unitary Development Plan.

Since the above application was refused, the applicants have been working on a revised submission in order to try and overcome the above reason for refusal. In this regard, this revised application is essentially for the same development as that proposed under application P2014/0217, but with the addition of a noise management plan and supplementary information in the planning statement in respect of ground-water.

The proposed development will consist of site preparation and set up by importing 7 buildings comprising tool shed, toilet, fuel store, site laboratory, site office, crew office and generator. A drilling rig would also be erected on the site, with associated settling tanks and ancillary pipe work rack. The site would be surrounded by temporary heras fencing fitted with Echo-barrier noise control system.

The proposed portacabins would measure 6.2m in length by 2.7m in depth and reach a height of 2.5m. The drilling rig would have a maximum height of 11-12 metres.

The borehole will be constructed to comply with current legislation and will include an initial 30 cm diameter hole to cement the structure in place. After pressure testing, drilling would be undertaken at approximately 16 cm diameter into the coal bearing strata, utilising suitable well head protection and diversion systems to a suitable venting system. The borehole would be terminated at the Namurian strata at a depth of approximately 1300m. No horizontal drilling is proposed. Furthermore, it should be noted that no flaring is proposed as part of this application.

General set up and activities associated with movements into and out of the site would occur during day time 08.00 to 18.00 hours. However, drilling would be undertaken on a 24 hour basis for a period of **up to 10 weeks**. The applicant has indicated the following time-scales for the proposal:

Site establishment (and site clearance):	4 weeks.
Drilling and associated operations:	10 weeks.
Laboratory testing:	4 weeks.
Gas Testing:	36 weeks.

In respect of the actual drilling, it is to be noted that the proposed 10 weeks is approximately 4 weeks longer than the previous permission ref. P2011/0039, and the same as that proposed under application ref. P2014/0217.

All buildings, drilling rig and associated tanks would be removed at the end of the operation. The borehole would be plugged with concrete and sealed, and the surface restored by grass seeding any areas damaged during the activity (where appropriate).

Members should also note that some exploratory boreholes are normally 'Permitted Development' under Part 22 of the Town & Country Planning (General Permitted Development) Order 1995 (as amended). However, as the regulations specifically exclude boreholes for petroleum exploration, including hydrocarbon gases, planning permission is required for this proposal.

However, in practice, there is little difference in the drilling techniques with this application than those which could be done under 'permitted development'. Furthermore, it should be noted that the technical aspects of the drilling will also have to be assessed and approved in writing by the Health and Safety Executive Oil and Gas Division, The Coal Authority and the DECC before work could commence on site.

Members should also note that planning permission has already been granted for an exploratory borehole on this application site under ref: P2011/0039. The techniques used under that scheme are essentially the same as this proposal, albeit the proposed borehole would be deeper and therefore the length of time for the operation would be an additional 4 weeks.

EIA Screening/Scoping Opinion:

The proposal does not fall within any of the descriptions given in Schedule 1 of *The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999*, as amended. Whilst Schedule 2 of the same regulations includes deep drillings, the site is not in a sensitive area and the applicable thresholds and criteria refer to the area of the works exceeding 1 hectare, which would not be the case with this application. As such, a screening opinion is not required for this application. Accordingly it was concluded that the proposal is **not EIA development**.

It is noted further that the WG guidance letter (referred to in details below and included at **Appendix 1**) clarifies that “MPPW states that EIA is unlikely to be required for exploratory drilling activities. The Welsh Government continues to support this view on the basis that such exploratory drilling does not involve hydraulic fracturing, or is not located on a site that is unusually sensitive to limited disturbance occurring over the short period involved”.

Planning History:

The site has previously been the subject of a previous application for exploratory drilling as follows: -

P2011/0039 To carry out temporary exploratory borehole investigation for coal bed methane into Westphalian coal measures. Approved 25/05/2011.

P2014/0217 Temporary permission for the drilling of an exploratory borehole to test the Westphalian and Namurian strata for coal bed methane and shale gases. Refused 30/09/14.

Publicity and Responses (if applicable):

No properties were consulted directly by letter. However, site notices were displayed on site, and the application was advertised in the Local Press (Neath Port Talbot Courier).

In response the following representations have been received: -

Petition of 1233 signatures objecting on the grounds that:

- This development will adversely affect the amenities of residents as it is within 300metres of homes and schools and carries a significant risk of
 - Disturbance to residents of this normally peaceful area from noise, light and traffic movements arising from 24 hour working
 - Disturbance to local wildlife, in particular badgers and bats
 - Damage to already poorly maintained local roads from constant HGV movements
 - Pollution of water courses as a result of accidents and spillages on the site
- Any development of unconventional gas, including test drilling, is incompatible with our commitment to reduce greenhouse gases in order to mitigate the impact of Climate Change

Online petition of 316 names objecting to the development.

In addition, to date in the region of 105 letters of objection have been received. Given the number of letters received, it is not possible to explicitly detail all objections, but the nature of objections are broadly summarised as follows:

- (1) Concerns that there are no clear cut guidelines on this type of development from WG in respect of safety and impact.
- (2) Concerns over the impact of 24 hour drilling in term of noise and disturbance. The application does not fully explain this, as noise does echo around the valley, and this is much worse since removal of trees on the Foel.
- (3) Echo Barrier Review. The submitted detail is purely an advertisement. Has actual testing of echo been carried out? Oakwood and Pontrhydyfen have recently been subjected to continuous noise from tree felling operations and just the sound of a chain-saw has echoed around and across the valley. New sound tests should be carried out as a lot more trees have been felled since the last test was carried out, so sound would travel further.

- (4) The proposed sound barrier is only 2m high and sound would travel over so it will not make any impact, as the drill rig is a lot taller than 2m.
- (5) The site is in a delightfully scenic area used by walkers and bikers and other tourists. This proposal could impact upon existing and new tourism in the area.
- (6) Concerns over highway and pedestrian safety, including damage to local roads and forestry road, and access issues with large vehicles negotiating bends in the roads. Perhaps a set of traffic lights or a crossing control person will need to be employed to alleviate the potential dangers.
- (7) Potential detrimental impacts upon biodiversity and local wildlife, including badgers, bats and honey buzzards. Concerns that the submitted surveys are out of date.
- (8) Detrimental impact on the morale of the community.
- (9) Potential unacceptable impacts upon the ground conditions, including seismic disturbance or subsidence as a result of the proposal, due to old mine workings in the area, some of which are un-recorded.
- (10) Potential impact on groundwater which drains into the Rivers Pelenna and Afan. Unless it has been proven that there is no risk to groundwater, the precautionary approach should be followed and the application refused
- (11) Concerns over the neighbours consulted. Also, a fortnight for concerned residents to raise any points is by no means long enough considering the amount of objections the last time. Some people may see this as a deliberate attempt to sneak this through, before locals have had a chance to demonstrate their resistance in writing.
- (12) Potential negative impacts upon the property values in the local area, and potential difficulties getting house insurance cover.
- (13) A £1,000,000 bond guarantee should be required from the applicant - as has been done for applications to create landfill sites in the past - so that any remedial work resulting from the applicant's activities on site can be funded without resorting to public funds.
- (14) Potential unacceptable impacts upon the environment, including climate change.
- (15) Failure to assess the impact upon fish and fishing rights. The River Afan is a spawning site for fish including salmonids, brown trout and sea trout (some of which are protected species). 24 hour lighting could also affect nocturnal migration by fish. Errors/accidents could occur during the operation which could result in devastating losses of fish from both the Pelenna and Afan rivers. Furthermore, potentially toxic waste may enter the river either from the surface or underground, as the drilling site is in close proximity to the water table, or methane could escape and released and then enter the river system directly below the drilling site.

- (16) If this development is allowed, it could pave the way for ‘fracking’ and the industrialisation of the countryside.
- (17) There may an increased likelihood of earthquake activity.
- (18) Potential impact upon the school in the local area.
- (19) Impact on wildlife on Foel Mountain which has already been disturbed by deforestation
- (20) Any development of unconventional gas, including test drilling, is incompatible with the Welsh Assembly commitment to reduce greenhouse gases in order to mitigate the impact of Climate Change.
- (21) On Wednesday 4th February the Wales Assembly voted in favour of a Moratorium on Fracking and the Wales Government indicated they supported the motion. This is not a desirable time to consider this application
- (22) An application to test drill is part and parcel of the whole plan to ‘frack’. Shale rock is impermeable and will result in ‘fracking’.
- (23) The valley has now become green again following the industrial pollution that costs so much to the health of residents.
- (24) The developer has not engaged with local residents as required by the UK Onshore Oil and Gas Guidelines.
- (25) There should be a buffer zone of 500m around the nearby settlements where no drilling activities take place.
- (26) Potential impacts on local residents from noise and light pollution.
- (27) Concerns that an EIA has not been undertaken and submitted in support of the application.
- (28) Potential detrimental health impacts on local residents.

Peter Hain MP objects to the application on the grounds of potential noise to local houses and leisure park, concerns over the access and highway safety, potential impacts on unrecorded mines and untold dangers in terms of water, gas release and subsidence, potential impact on biodiversity and tourism and felling of trees on the site, despite no permission being granted.

Peter Black AM objects to the development, and raises concerns that the impacts of ‘fracking’ are unknown, and given the problems encountered near Blackpool where an earthquake occurred, a precautionary approach should be taken until further research has been undertaken. He also noted that the test drilling could have an impact on the wider community and result in damage to property and life.

Bethan Jenkins AM objects to the development, and raises concerns with relations to highway safety, seismic disturbance, pollution of watercourses, disturbance to local residents and wildlife, impacts on tourism and climate change and concerns with future monitoring of the well.

Cllr M Ellis objects to the application on the grounds of potential detrimental impacts on ecology (including badgers), noise, and the lack of consultation with the public by the developer. Also, raises queries whether two borehole have been undertaken in NPT without any incidents/complaints.

Cllr J Warman objects to this application on environmental grounds and possible pollution of water courses.

Pelenna Community Council: Objection, on the grounds that there will be an impact on the Pelenna Community in terms of noise and water table pollution.

Natural Resources Wales: “notes that the proposed development is for the drilling of a single vertical exploration borehole only, to collect rock samples from the Westphalian Coal Measures and Numurian Strata to enable lab testing for coal bed methane and shale gases. The proposed development does not involve any hydraulic fracturing”. They offer no objection to the application, provided that a number of conditions are imposed in respect of a construction method statement, surface water drainage and site restoration.

The Coal Authority: No objection.

Air Pollution Unit: No objection, subject to conditions.

Biodiversity Unit: No objection, subject to conditions.

Head of Business Strategy & Public Protection (Environmental Health - Noise): No objection, subject to conditions.

Head of Engineering & Transport (Highways): No objection.

Head of Engineering & Transport (Drainage): No objection.

CADW: No reply, therefore no observations to make.

Welsh Water: No objection.

Material Considerations:

The main issues for consideration with this application are as follows:

- The planning policy and principle of development at this site.
- The potential impact of the proposal upon visual amenity.
- The potential impacts on residential amenity, including noise, dust and vibration.
- Any potential highway and pedestrian safety issues, including access.
- Potential impacts upon ecology and biodiversity, including protected species.
- The potential impact upon the water environment, hydrology and drainage.
- The potential impact upon Cultural Heritage and Archaeology.
- Any potential requirements for Restoration and Aftercare.

These are addressed in detail in the report below.

Policy Context:

National Planning Policy:

Planning Policy Wales (Edition 7, July 2014).

Minerals Planning Policy Wales (MPPW) (2001) sets out the five key principles that LPAs must take into account when making development management decisions. These principles are to:

- Provide mineral resources to meet society's needs and to safeguard resources from sterilisation
- Protect areas of importance to natural or built heritage
- Limit the environmental impact of mineral extraction
- Achieve a high standard of restoration and beneficial after-use
- Encourage efficient and appropriate use of minerals and the re-use and recycling of suitable materials.

Technical Advice Note (Wales) 11, Noise (October 1997)

The Welsh Government's "*Energy Wales: A Low Carbon Transition*" states that gas will be a key transitional fuel because green house gas emissions from gas are significantly less than coal subject to the method of extraction. It goes

on to note that gas is a flexible, responsive and reliable source of energy which can play a key role in the transition to a genuinely low carbon energy system.

Likewise, the Department of Energy and Climate Change's *Overarching National Policy Statement for Energy EN-1* indicates that fossil fuel power stations will continue to play an important role in our energy mix as the UK makes the transition to a low carbon economy.

In addition to the above, Members should note that on the 8th July 2014 the Welsh Government issued a clarification letter on national planning policies that apply for onshore unconventional gas and oil development (CL- 04-14). The WG letter, attached in full at **Appendix 1**, is largely based on the Department for Communities and Local Government document "*Planning practice guidance for onshore oil and gas*" which explains the separate process that runs alongside planning with regard to authorising exploration and extraction of gas.

The letter advises that the Welsh Government has been working with the Office for Unconventional Gas and Oil on the production of the **Regulatory Roadmap** (Onshore oil and gas exploration in the UK: regulation and best practice (December 2013)), which identifies all the regulatory processes that an operator will need to satisfy before drilling for unconventional gas and oil.

Specifically, it advises that the following issues will be addressed by other regulators:

- Seismic risk – the Department of Energy and Climate Change (DECC) is responsible for controls to mitigate seismic risks.
- Well design and construction – the Health and Safety Executive is responsible for enforcement of legislation concerning well design and construction.
- Operation of surface equipment on the Well Pad – these are controlled by Natural Resources Wales and the Health and Safety Executive.
- Mining Waste – Natural Resources Wales is responsible for ensuring that extractive waste is appropriately controlled through issuing an environmental permit.
- Chemical content of fracking fluid (if it is to be used) – Operators are obliged to inform Natural Resources Wales of all chemicals that they propose to use to hydraulically fracture in order to obtain an environmental permit.
- Flaring or venting of any gas – is subject to DECC controls and is regulated by Natural Resources Wales. However planning authorities

may still need to consider any issues of noise and visual impact that this process may create.

- Final disposal of water – Natural Resources Wales is responsible for issuing permits for flowback water, which may contain naturally occurring radioactive materials (NORM). This responsibility extends to ensuring that the final treatment/disposal of flowback water at suitable water treatment facilities is acceptable. Depending on the phase of development and the scale of production there may be significant volumes of water that will require transporting to and from the site. Therefore local planning authorities will need to consider access, traffic generation, and the visual impact of on site storage facilities.

Having regard to the above, it is emphasised that MPPW identifies that the planning system should not conflict with or attempt to duplicate the controls better regulated by other bodies under different consent regimes, a view reinforced in the WG letter of July 2014.

The letter reinforces that in Wales the relevant national planning policies for mineral development are set out in Minerals Planning Policy Wales (MPPW), which provides general guidance which is applicable to all applications for unconventional gas or oil whether it is at the exploratory, appraisal, or production (extraction) phase of development. In terms of limiting the environmental impact of mineral extraction, it emphasises that MPPW identifies that the following issues must be addressed to ensure that minerals proposals do not have an unacceptably adverse impact on the environment and the amenity of nearby residents.

- Access and traffic generation (including the routes to be used for minerals transportation)
- Noise (in terms of limits, type, and location)
- The control of dust, smoke and fumes
- Disposal of mineral waste
- Blasting controls (if relevant to shale or coal bed methane applications)
- Land drainage, impact on groundwater resources and the prevention of pollution of water supplies
- Visual intrusion and general landscaping
- Impact on sites of nature conservation, historic and cultural importance
- Land instability
- Promotion of the use and treatment of unstable, derelict or contaminated land
- Cumulative impact

- Restoration, aftercare, and after-use.

These matters (where relevant) are addressed within the report below.

Welsh Government Direction – February 2015

Members should be aware that the Welsh Government wrote to all Local Planning Authorities in Wales on 13th February 2015, and issued “ The Town And Country Planning (Notification) (Unconventional Oil And Gas) (Wales) Direction 2015” regarding applications for unconventional oil and gas development in Wales.

This Direction and guidance explains that any planning application *registered* from the 16th February 2015 for the exploration, appraisal, or extraction of unconventional oil and gas which would utilise unconventional techniques (including hydraulic fracturing) must be referred to the Welsh Ministers, where Local Planning Authorities are minded to approve them.

As confirmed by Carl Sargeant AM, this essentially imposes a moratorium on ‘fracking’ in Wales.

It is notable, however, that while the Direction defines ‘unconventional oil and gas development’ as development involving the onshore exploration, appraisal or production of coal bed methane or shale oil or gas using unconventional extraction techniques, including hydraulic fracturing, the Direction states that it does not apply to “..the making of exploratory boreholes which do not involve the carrying out of such unconventional extraction techniques)”.

While Members are advised that the Direction cannot, in any event, apply to this current application, which was registered in advance of the 16th February 2015, nevertheless the applicants have confirmed that their proposals do not “utilise unconventional techniques (including hydraulic fracturing), or involve the carrying out of such unconventional extraction techniques)”. Accordingly, this is not an application of the type which must be referred to the Welsh Ministers under the new Direction.

Purpose of the Application:

Having regard to the strength of local feeling, and notably the local fears that this development is the precursor to further exploratory mining for shale gas extraction, it is emphasised that the proposal relates purely to a borehole to test the geological strata in this area. It does not include extraction, whether by hydraulic fracturing or otherwise (although this is testing for both conventional gas and shale gas), and any such extraction proposals would require a further application. Furthermore, it does not include any flaring of gas.

In this respect, Members are advised of a relevant appeal decision for similar exploratory drilling in Llandow, Vale of Glamorgan, where the decision of the Council to refuse permission was overturned at appeal by the Planning Inspectorate. In his appeal decision (included in full at **Appendix 2**) the Inspector emphasised that the Vale of Glamorgan UDP makes it clear that the grant of planning permission for mineral exploration will not indicate a presumption in favour of future exploitation of any minerals found. In this regard, Policy M1 of the Neath Port Talbot UDP similarly emphasises that “A planning permission to carry out any search or exploration will not in itself create a presumption that planning consent will be granted for the extraction or working of the mineral or fossil fuel”.

The July 2014 WG letter also emphasises that “each stage will involve slightly different processes, timescales, equipment, and vehicle movements. Therefore it is necessary to consider all these matters afresh for each planning application. Consequently, it does not mean that just because it has been appropriate to grant planning permission to explore for the resource it would necessarily be appropriate to allow commercial extraction and hydraulic fracturing in the same location. Each planning application should be determined on its own merits”.

Having regard to the above, it is reiterated that any concerns over the impact of future mineral extraction cannot, therefore, be considered under this application.

Local Planning Policy:

The Adopted Development Plan comprises the Neath Port Talbot Unitary Development Plan, within which the following Policies are of relevance: -

- GC2 Engineering Works and Operations (including Minerals and waste)
- ENV17 Design

- T1 Location, Layout and Accessibility of New Proposals
- ENV1 Development in the Countryside
- ENV5 Nature Conservation
- ENV12 Proposals affecting Water Resources
- ENV15 Air Quality
- ENV19 Proposals within Conservation Areas or which would affect the setting of a Listed Building
- ENV29 Environmental Quality
- M1 Mineral Prospecting And Exploration
- M8 Criteria for Assessment of Coal Mineral and Gas Applications

The site is located outside the settlement limits defined by Policy H3 and within the open countryside. However, due to the temporary nature of the proposed works and the fact that the borehole would be decommissioned, abandoned and the site restored once testing has completed, there would be no objection to the principle of such development in the countryside.

The primary policies to assess the proposals against are Policies GC2, M1 and M8.

In summary, Policy GC2 requires proposals to have no unacceptable impact on matters including biodiversity, habitats, local communities and their amenity and health (including noise, pollution, blasting, grit, dust, smoke, smell, vibration, illumination, views and cumulative impacts), water supply, water quality or quantity, land drainage and flooding; highways/ rights of way, including movement of materials. It also requires that proposals indicate satisfactorily how the work will be undertaken including: (i) the method, planning and duration; (ii) the control of environmental and other impacts; and (iii) restoration and/or aftercare.

Policy M1 is especially pertinent in relating to Mineral Prospecting and Exploration. It notes that, where planning permission is required for the exploration, search and prospecting of any mineral or fossil fuel, consent will only be granted when the development or temporary activity does not have an unacceptable impact on the site the surrounding environment or residential amenity. It also emphasises that “A planning permission to carry out any search or exploration will not in itself create a presumption that planning consent will be granted for the extraction or working of the mineral or fossil fuel”.

The supporting justification to Policy M1 advises that the criteria set out in Policy M7 (which should state M8) will guide the appraisal of such activity. Policy M8 is a criteria-based policy governing the need to ensure no

unacceptable impacts on matters including, but not limited to, pollution or disturbance to ground or surface water supply or drainage; landscape; biodiversity; ground stability; contamination; noise, dust, blast, vibration arising from the methods of working; health; traffic generated to and from the site. It also requires that “measures are provided to reduce damage, harm or disturbance to individuals, communities and land uses caused by those issues to acceptable levels”.

Having regard to the above Policy context, it is considered that the principle of the proposed development would be acceptable, having particular regard also to its temporary nature, subject to an assessment against the above issues, and there being no unacceptable impacts identified. Such matters are considered in details in the remainder of the report.

Impact on Visual Amenity:

The proposed drilling compound and application site is in a secluded area of Foel Fynyddau Forest above Pontrhydyfen. The site is a gently sloping area devoid of trees, as it has been used as a log storage area, and is completely surrounded by deciduous trees on its boundary and by a mature conifer plantation to the north east and west and a forestry track and hillside covered with conifer trees to the south. The nature and size of the drilling rig, and associated ancillary buildings and facilities, will be totally screened, and will ensure they are not visible from adjacent settlement areas.

Whilst it is noted that Natural Resources Wales are currently undertaking works in the area to fell diseased trees, they have provided clarification that the trees around the application are not earmarked for felling. This is shown in Figure 1 below. The site would, therefore, remain screened from the local area.

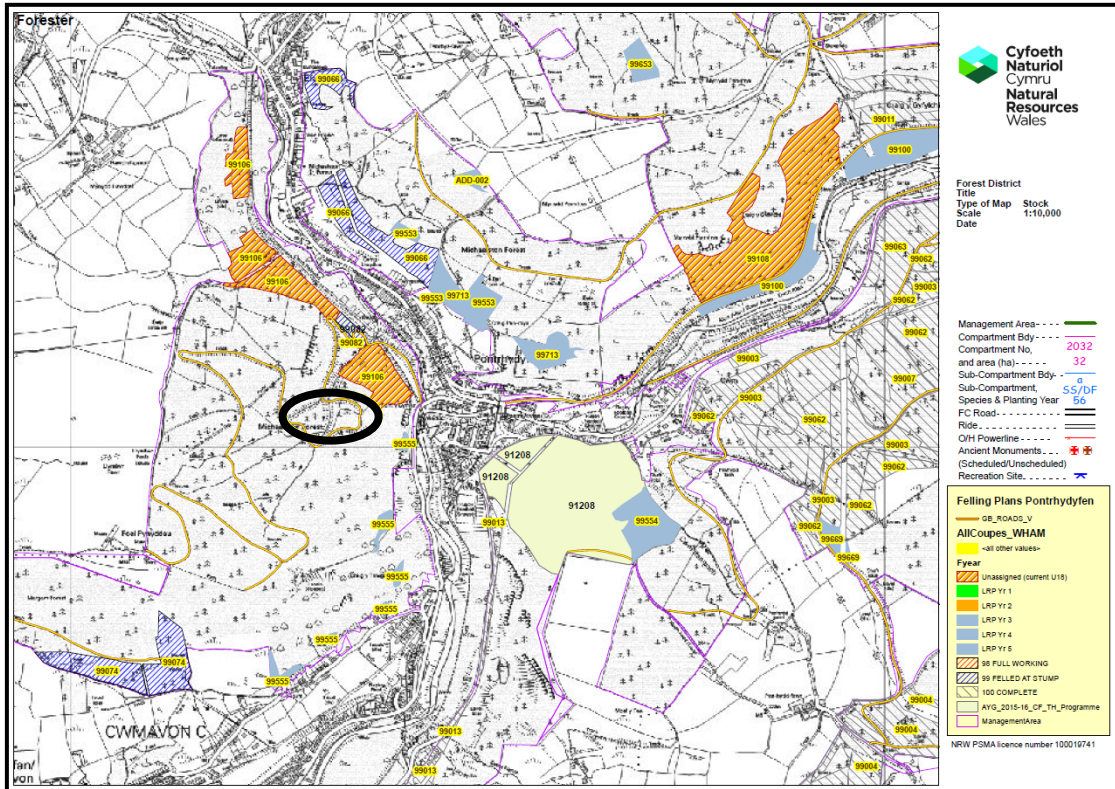


Figure 1 - NRW Plan of Tree Felling. The approximate position of the application site is circled in black.

In respect of lighting, it is noted that temporary lighting is proposed on stands up to 3m in height. However, they will be hooded and pointed downwards so that there is no light-spillage, matters which can be controlled by condition. It is considered that the type of lighting proposed and separation distance, including existing tree cover, would ensure there is no unacceptable impact from the development in terms of light pollution.

Having regard to the above, and especially the temporary nature of the works and the requirement to remove all works/operations at the end of the testing process, it is concluded that the temporary siting of the drilling rig and associated equipment/operations would have no unacceptable visual impacts for the duration of the works. Finally, it must be noted that there will be no remaining effect on the appearance or character of the countryside once the site is restored in accordance with the required condition.

Impacts on Residential Amenity (including noise, dust and vibration):

The application site is located some 350m to the west of the village of Ponthrydyfen, and at a level of around 170-180m AOD. The nearest residential dwellings are located at Danybont, which is at a lower level than the application site, at a distance of approximately 300m. As such, there would be

no physical impacts on nearby residential properties, with the only issues of note to assess relating to the impacts of the drilling and associated activities on residential amenity.

Noise and Disturbance

A Noise Impact Assessment has been undertaken and submitted in support of the application to measure and consider if the proposed 24 hour working is likely to have an adverse affect on the amenities of the area and, in particular, local residents.

The submissions identify the nearest noise sensitive residential properties as follows:

- Houses on B4286 – 300m to southeast, 120m lower in elevation
- Queen Street – 350m to the northeast, 100m lower in elevation
- Oakwood Avenue – 360m to the southeast, 130m lower in elevation

In terms of equipment to be used at the site, the submissions indicate that the proposed drill rig has a typical noise level of 79 dB(A) at 1m, with details also provided for the diesel generator, telehandler and shaker/cyclone. The noise report then predicts combined noise levels (from stationary and mobile plant) at the nearest noise sensitive residential property (300m) of 44.0 dB L_{Aeq} .

As detailed above, the proposed works include drilling, which would be undertaken on a 24-hour basis for 10 weeks. While the daytime levels would be acceptable, MTAN2 (aggregates) refers to the need for night-time working limits to not exceed 42 dB(A) at noise sensitive properties. Accordingly, without additional screening of plant the night time limits would be marginally exceeded at the nearest residential properties.

Having regard to these levels, in order to reduce the site noise to a minimum, additional screening around the noise sensitive equipment will be implemented. This will take the form of soft noise absorbent matting attached to the site fencing and around the main sources of noise - Echo Barriers - with the submissions indicating an acoustic performance with a 15-20dB noise reduction. As a consequence, noise levels at the nearest houses are predicted to fall to around 38.2 dB L_{Aeq} , which, allowing for a 15DB loss through a partially open window, would fall to below the 30dB(A) World Health Organisation threshold for sleep disturbance.

As part of the previous planning application, the Environmental Health Section considered the noise assessment and was satisfied that the assessment

methodologies and noise impact standards had been correctly applied. The noise impacts at the nearest residential receptors were assessed against limits set out in Mineral Technical Advice Note (Wales) 1: Aggregates, and the report demonstrated that, without noise abatement, the development could achieve the daytime limits, but there was a marginal exceedence of the night time limit. The report recommended a specification for a noise attenuation barrier to reduce noise levels to below the night-time noise limits, and the applicant subsequently submitted details of noise barriers which would achieve greater level of noise attenuation than was required by the noise assessment report. Consequently, the Environmental Health Section were satisfied that significant adverse impacts were not likely and therefore had no objections to the development. To provide additional protection to residential receptors and ensure that noise impacts from the operation of the development were controlled further, a recommendation was made for a condition requiring the applicant to submit a noise management plan.

Notwithstanding the above, the original application P2014/0217 was heard by Members at Planning Committee and was subsequently refused on noise impact grounds. Members expressed concerns that the noise attenuation barrier was lower than the height of the drilling rig; that Mineral Technical Advice Note (Wales) 2: Coal contained the correct noise limits standards for this development; and that the valley containing the application site and the village of Ponrhydyfen suffered from an echo effect that Members believed could amplify noise impacts. It was this last concern that was cited as the primary reason for refusal by Members.

In this new application, the applicant has submitted the same noise assessment report and Noise Barrier specification as the previous application, as the Environmental Health Section were satisfied that this information was still relevant, and as previously, the Environmental Health Section is satisfied that the report demonstrates how Mineral Technical Advice Note (Wales) 1: Aggregates noise limits can be achieved.

With regards to concerns that Mineral Technical Advice Note (Wales) 2: Coal is the more appropriate guidance document, it should be noted that the noise limits contained in the two guidance documents are essentially the same in technical terms, although the wording of the relevant paragraphs does differ slightly. Members should note that all mineral exploration and extraction activities will have an adverse impact on the local noise environment to some degree. Mineral Technical Advice Note (Wales) 1 and 2 acknowledge this, and the noise limits contained within this guidance are set at a level of noise disturbance that is considered acceptable. The Environmental Health Section

is therefore satisfied that the proposed noise limits contained in the noise assessment report are appropriate to this development.

The current application has now been accompanied by a detailed Noise Management Plan (which previously would have been required by condition), which seeks to overcome the reason for refusal of the previous application (P2014/0217). This document contains extracts of the noise impact assessment, together with information on the placement of the noise barriers and management procedures to minimise noise from the drilling operations. The noise management plan states that all the significant noise generating equipment is at a lower height than the noise barrier, and notes that from the drilling rig mast noise is unlikely, with proper maintenance, but does suggest what could be done in the event of a noise issue from the drilling rig.

The noise management plan also addresses the potential for noise echo in the valley. The document correctly notes that a reflecting surface is required to create an echo, and the topography of the valley relative to the application site limits line of sight noise propagation directly to residential properties in Pontrhydyfen, as well as noise propagation to a reflecting surface that could echo back to the village. The noise management plan also details what steps the applicant will take in the event that noise complaints are received, such as additional noise mitigation measures, and instructing an independent noise consultant to investigate potential breach of noise limits.

It should be noted that the Environmental Health Section is satisfied that the Noise Management Plan addresses the issues of concern previously raised by Members in Planning Committee. As such, and as per the previous application, they offer no objection to the proposed development, subject to a condition in respect of the full implementation of the submitted Noise Management Plan.

On this basis, and subject to compliance with the Noise Management Plan through an appropriate condition, it is concluded that the operation of the drill rig on a 24 hour basis will not unacceptably impact upon the overall amenity of residents, including night time conditions, and that there are no reasonable grounds on which an objection could be sustained on noise impact grounds.

Dust

The operations proposed include the use of fluids which should, in all reasonable circumstances, reduce and mitigate the potential for any dust emissions from the site. The Air Quality Section has been consulted on the application and offers no objection to the proposal, but notes that there may be some potential track-out of dust into the public highway, which the developer

should make provision for. In response the applicant has confirmed that, in the event of any dust issues from use of the track, a suitable clean water bowser would be kept on site to damp down the access track. Given that the track is already used by forestry vehicles, it is considered that the dust impacts arising from this development would be minimal. Nevertheless, a condition is recommended which requires a bowser to be available on site in order to address any potential issues arising from the development.

Vibration

While it is acknowledged that drilling can generate vibration, given the distance to any sensitive properties, it is considered that vibration from the proposed drilling operation is highly unlikely.

It should be noted that gas controls and monitoring would be undertaken under the provisions of the licence.

It is considered that the overall development would be acceptable in terms of residential amenity, and should not affect the local amenity of residents within the surrounding area to an extent that would warrant refusal in terms of noise, dust or disturbance.

Impact on highway and pedestrian safety issues, including access

The application site is accessed via an existing forestry track that has an access point west of Pontrhydyfen and off the B4286 Cwmafan to Pontrhydyfen Road.

All deliveries, including the drilling rig, are proposed to utilise a route along the A4107 from junction 40 of the M4 and then along the B4287 at Pontrhydyfen and onto the B4286. The route is illustrated on Figure 2 below.

The applicant has provided detailed information in support of the application in respect of the drilling rig, indicating that the size of the drilling rig will be very similar to that shown in Figure 3 below, but the engine and mounting on the truck will be changed to make the truck lighter. However, the truck and mast will be the same overall size. The length of the rig will be 12.8m, the width would be 2.50m and the height would be around the 4.65m. They have also indicated that the drill pipe will be delivered on flat bed trailers and off-loaded by crane. These would have a maximum total weight (including load) of 40 tons and measure 10m long by 2.50m wide.

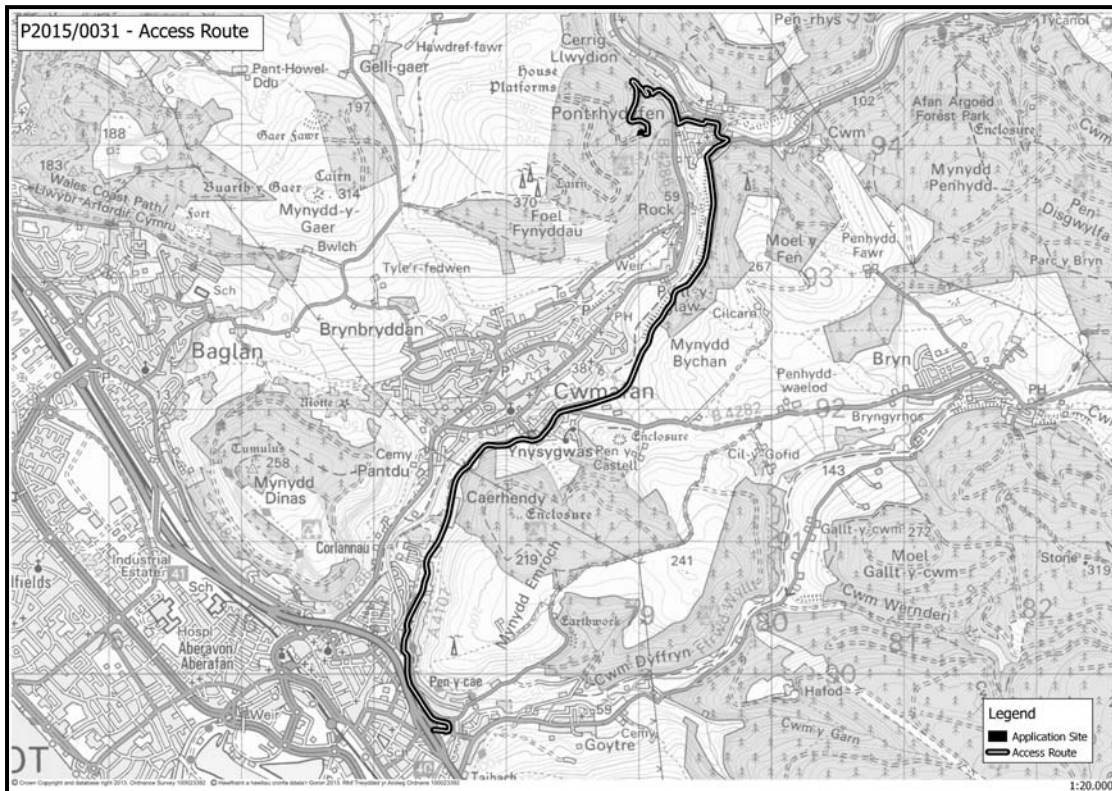


Figure 2 - Proposed Access Route to the Application Site from M4 Jct 40.

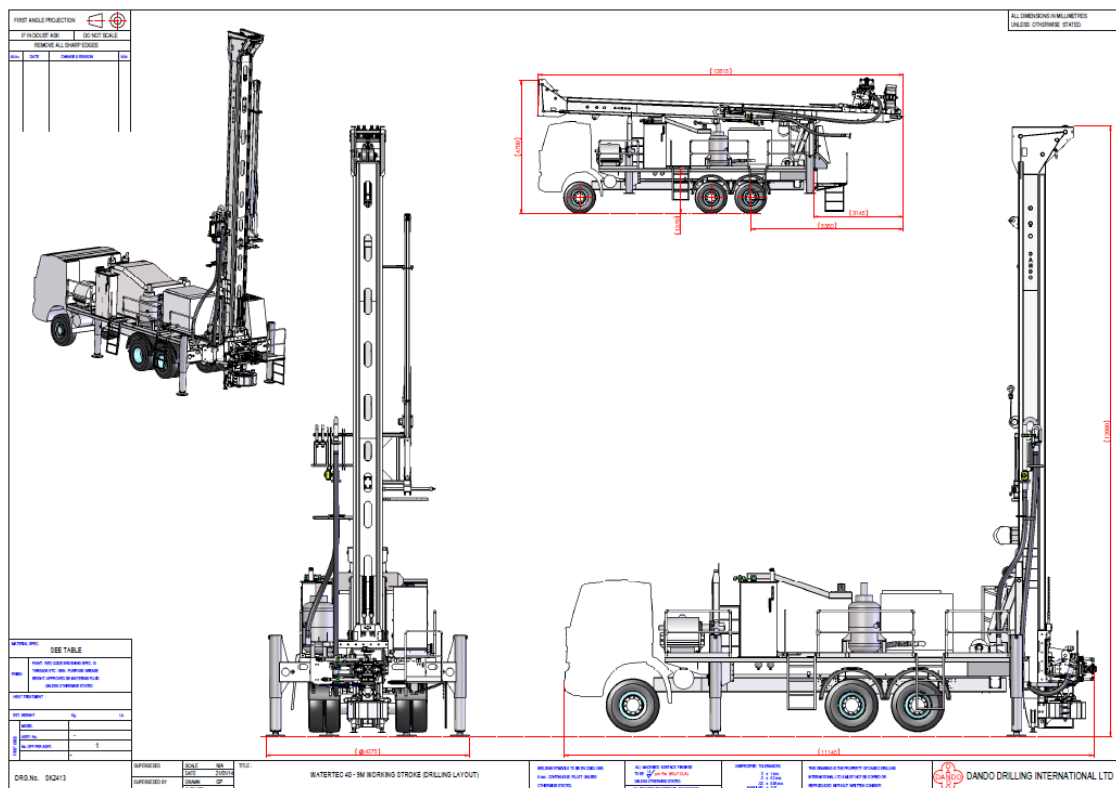


Figure 3 - Plan of proposed rig.

Figure 4 is a photograph of a similar rig to that proposed under this application.



Figure 4 - Photograph of rig vehicle

The applicant has stated that two drilling rigs would be utilised, to make the overall drilling process more efficient. They have indicated that the vehicle movements into the site (which should be doubled to take account of overall vehicular movements into and out of the site) would be as follows:

- Drilling Rigs = 2
- Drilling Pipe Vehicles = 4
- Casing vehicles = 5
- Tank vehicles and other equipment = 5
- Survey equipment vehicles = 2
- Cabin vehicles = 5
- Water tankers for used water = 7
- Steel lining vehicles = 2
- Foul sewage tanker = 1 per week
- Tankers to remove excess drilling fluids = 2/3 per week.
- Skips = 4 per week
- Drilling supplies (transit size) = 3 per week
- Personnel vehicles (cars or vans) = 2/3 per 12 hour shift.

Due to the nature of the proposed drilling operations, they have indicated that 24 hour access would be required. However, night time traffic movements would be on an emergency basis only.

Members should note that the Head of Engineering and Transport (Highways Section) has assessed the submitted documents, including access routes and access points. They have also undertaken swept-path analysis (auto-tracking) for the proposed route, and a potential alternative route through Cwmafan village, and have confirmed that they are satisfied with the identified access route for this equipment and associated HGV movements based on the largest vehicle. A detailed site inspection of the access point has also been undertaken by the Highways Officer, who has confirmed they are satisfied that the proposed vehicles can adequately and safely enter and exit the site.

As detailed above, the number of vehicle movements using the access would also be relatively small in comparative terms, noting also that the access is already used by larger HGV's used for the forestry clearance operations.

It is also noted that planning permission ref. P2011/0039 has already been granted for this site for borehole drilling, which includes the use of this access by the same drilling rig, such that it would be difficult to sustain any objection to the scheme on highway safety grounds. It is therefore concluded that the proposal would be acceptable in terms of highway and pedestrian safety.

Impacts upon ecology and biodiversity, including protected species.

Members should note that an ecology survey, including badgers and protected species, has been undertaken and submitted in support of this application. This has been fully assessed by both the Authority's Biodiversity Unit and Natural Resources Wales.

It should be noted that there are no statutorily designated sites within 2km of the site. The application site is primarily composed of a cleared area within the conifer plantation and has been utilised as a lay down area in the recent past by the Forestry Commission (now NRW). As such, vegetation is sparse and does not constitute a significant local resource and any temporary damage or loss is not considered to be significant.

It is proposed to cover most of the site area with terram sheeting, to protect the underlying vegetation store that is anticipated to recover after the removal of the buildings. However, some surface damage may be experienced around the drilling rig and adjacent tank areas.

In respect of trees, the applicant has confirmed that there are no trees on the application site, and no trees are proposed to be felled as part of the development. As such, no impacts are anticipated in terms of the loss of trees.

Although the submissions state that bat flight line surveys are needed, the Council's Biodiversity Unit is satisfied that there is no need for these surveys as the site is very small and isolated within sub-optimal habitat, no trees are to be removed/worked on and the lighting will be directional, therefore, any effect on bats will be minimal and will not need licensing. NRW are similarly satisfied that there would be no adverse impact on bats, subject to a suitable condition covering the lighting on the site in accordance with the submitted ecology report's recommendations.

In respect of Honey Buzzards specifically, the biodiversity officer has confirmed that due to the temporary nature of the proposed works no adverse impacts are anticipated on Honey Buzzards and/or any conditions required in respect of them. Any requests for a full Honey Buzzard survey would be considered disproportionate to the scale and nature of the proposed operations, and therefore would not meet the 'tests' for a condition.

As both the Biodiversity Unit and Natural Resources Wales offer no objection to the proposed development, subject to conditions, it is considered that the proposed development is acceptable in terms of biodiversity and protected species.

Water Environment, Hydrology and Drainage:

As previously stated, the development consists of a single exploratory borehole at a diameter of approximately 16 cm diameter into the Westphalian and Namurian strata to test for coal bed methane and shale gases.

During such drilling operations, there is some potential to affect the hydrology and water environment, unless adequate provisions are undertaken. Information submitted in support of the application, and provided to Natural Resources Wales, indicates that a secure closed loop system (which can be easily monitored for leaks) and specific holding tanks will be provided for waste, together with appropriate secure facilities for storage of oil and fuels. A cut-off ditch will also be provided around the perimeter of the site with an interceptor tank to control any surface water run-off. Measures will also be implemented to protect private water supplies with the installation of steel casings, to prevent any ground water entering the borehole or drilling fluids

leaving the borehole. This demonstrates that any potential discharges into the water environment should be prevented, and there should be little or no surface area disturbance.

Information has also been provided in respect of ground water sources. The applicant has confirmed that there are no publicly listed boreholes in the area used for water extraction, but it is known that farms use the local streams for feeding livestock. In respect of groundwater protection zones, the applicant has confirmed that the Environment Agency's database (now NRW) has been checked. The nearest groundwater source protection zone is 18.4km to the south-east of the site.

The applicant states that there will be no impact on the bedrock groundwater. Furthermore, they state that the selected drilling fluids will break down harmlessly over time. They state that the drilling fluid has been accredited by the Centre for Environment, Fisheries and Aquaculture Science (CEFAS) (part of DEFRA) for use in the marine environment. Furthermore, Purebore has been classified as PLONR (Pose Little or No Risk to the Environment) and achieves the best possible environmental rating (gold).

Paragraph 30 of MPPW identifies that the need to protect the quantity and quality of surface and groundwater supplies should be taken into account by Local Planning Authorities. In doing so the Local Planning Authority must consult Natural Resources Wales on these complex issues, and where doubt exists, should adopt the precautionary principle in taking planning decisions.

Natural Resources Wales has responded on the application in respect of the drilling method statement and note that the "method statement includes information on how the borehole will be drilled and cased to protect groundwater. It also includes information on the drilling fluid being used, the methods to be used to minimise the risk of loss of drilling fluid during the drilling process as well as measures for the collection and disposal of drilling fluid". NRW state that they "**agree with the measures included** and request a condition to be included to ensure that the measures are implemented as detailed in the Method Statement for Drilling".

Members should also note that the technical aspects of the proposed operation would also be subject to detailed assessment by Natural Resources Wales as part of a permit application.

It is also notable that in considering such matters at the Llandow appeal in the Vale of Glamorgan (**Appendix 2**), the inspector stated that:

- “The monitoring would ensure that, if any fluid were to be lost, its volume would be extremely limited with high rates of dilution taking place within a limited radius of the borehole such that the risk to private water supplies would be minimal.
- The borehole would be sealed in accordance with guidelines published by the EA in *Decommissioning Redundant Boreholes and Wells* and I have no reason to believe that this would pose a threat to groundwater supplies. The density of the drilling fluid and the blow out preventer required to satisfy HSE guidance would provide adequate safeguards against gas escaping to the surface.”

NRW has also advised that “Our Geoscience team (which includes Groundwater specialists) have reviewed the new information. Providing our recommended conditions and advice are followed and the relevant environmental permits are acquired, we have no concern over groundwater at the site”.

For these reasons, and in light of the absence of any concerns or objections from NRW, it is considered that, subject to the imposition of a condition requiring that the pollution prevention measures are undertaken in accordance with the additional information submitted, the development would not have any adverse or detrimental effect on the hydrology or water environment of the area, including fish in the local watercourses.

Cultural Heritage and Archaeology:

Members should note that there is a Grade II Listed Structure (Pontrhydyfen Viaduct) adjacent to the existing access point. However, as the B4286 already runs underneath this viaduct, and the forestry access onto the B4286 is existing and already used by forestry vehicles, it is considered that this temporary development would not adversely impact upon the setting of the Listed Building/Structure.

CADW were consulted on the previous application (P2014/0217) and noted that no scheduled ancient monuments, historic parks and gardens or historic landscapes were affected by this proposal. As such, they therefore offered no objections.

Finally, it should be noted that under the previous application (P2011/0039), Glamorgan Gwent Archaeological Trust confirmed that there were no archaeological restraints to the development.

It is therefore considered that the proposed development would be acceptable in terms of cultural heritage and archaeology.

Restoration and Aftercare:

During the operational phase of the site little or no surface damage is to occur, with terram being provided as a protective layer to the majority of the site.

However, it is necessary to ensure that the whole of the site is adequately restored to a condition suitable for natural colonisation and regeneration. Given the nature of the temporary operations, it is considered the site can be adequately restored, and a suitably worded condition requiring a restoration scheme can be conditioned as part of the application.

Others (including objections):

While the report above has addressed the main issues relating to the application, in response to matters raised in the significant number of representations received, the following additional comments are made:

- In respect of the concerns that there are no clear cut guidelines on this type of development from WG in respect of safety and impact, it should be noted that there is no specific Technical Advice Note (TAN) from WG. However, they have issued the letter in **Appendix 1**. As stated in the main report though, it is considered that the proposed development would comply with the relevant National and Local Planning Policies, and if planning permission is granted, the developer would also be required to comply with all other relevant legislation (such as permits or licenses).
- Turning to the concerns over the impact of 24 hour drilling in terms of noise and disturbance, it should be noted that this has been addressed previously in the report. The submitted details, including Echo barrier specification, noise assessment and noise management plan have been assessed in detail by the Environmental Health Section. As they offer no objection, subject to conditions, it is considered that this temporary development would not have a detrimental impact in terms of noise sufficient to warrant refusal of the

application, or subsequently justify at appeal stage (if necessary). The issue of light pollution has also been addressed in the main report.

- In respect of the concerns over highway and pedestrian safety, including damage to local roads, and access issues with large vehicles negotiating bends in the roads, it should be noted that this has been addressed previously in the report. The Head of Engineering and Transport (Highways Section) offers no objection, subject to conditions. Traffic light controls or a crossing control person is not considered necessary as part of this temporary permission.
- The potential detrimental impacts upon biodiversity and local wildlife, including badgers and bats has been addressed previously in the ecology section. It should be noted that Natural Resources Wales and the Authority's Biodiversity officer both offer no objection to the development, subject to conditions. It is therefore considered that there would be no detrimental impact upon biodiversity or protected species (including badgers, badgers or honey buzzards), and that the submitted surveys are appropriate given the scale and temporary nature of the proposal. The ecological assessment undertaken in June 2014 would still be considered relevant and not out of date.
- Turning to the potential unacceptable impacts upon the ground conditions, including seismic disturbance or subsidence as a result of the proposal, due to old mine workings in the area, some of which are un-recorded. It should be noted that detailed information in respect of the mining legacy have been submitted in support of the application. The Coal Authority also offers no objection to the proposed application. As there are no proposals for induced 'fracking' operations, it is considered that the scale and nature of the drilling operation would be unlikely to create any issues in terms of seismic disturbance, earthquakes or subsidence.
- Turning to the concerns regarding potential pollution to local watercourses/groundwater and impact upon angling and fish, it should be noted that Natural Resources Wales have confirmed that all contaminated waste and water will be contained and removed from site pending treatment at a suitably authorised waste facility, and that fuels and other polluting substances will be appropriately stored and secured. They accept that there are always a residual pollution incident risks from activities such as this, however best practice procedures on site by the drilling contractors should help to minimise any such risk. As stated in the report above, the proposed development will involve a closed loop system with steel casings, to prevent any ground water entering the borehole or drilling fluids leaving the

borehole. It is therefore considered that the proposal would not have a detrimental impact upon the aquatic environment. As previously stated, the technical aspects of the proposed drilling would also be subject to a permit issued by NRW. Nevertheless, they offer no objection to the proposed development, subject to conditions, and are “satisfied that the advised conditions in our response letter will ensure that fish are protected at the site during and post development”. It is therefore considered that the proposed development would be acceptable in terms of potential pollution.

- Turning to the concerns with the proximity of the site to a Primary School. It should be noted that the current Policy guidance and Regulations do not specify the need for a buffer zone. As such, it would be unjustified to impose a buffer zone under this application, especially as it for a test borehole only and it not ‘fracking’.
- Turning to the potential negative impacts upon the property values in the local area, and potential difficulties getting house insurance cover, it should be noted that these are not material planning considerations so cannot be taken into consideration when determining the application. It should be noted that the Local Planning Authority would not cover the cost of any reasonable damages that occur to people or property, or de-valuation in property prices and any home insurance exclusions or increases in premiums.
- In respect of the comments that this development, if allowed, could pave the way for ‘fracking’ and the industrialisation of the countryside, it should be clear that this application relates to borehole test drilling only, and does **not** relate to ‘fracking’. If such an application were submitted in the future, it would be treated on its individual merits at the time of its submission, including the relevant policies in force at that time. It should also be noted that if this test drilling application is approved, it does not necessarily mean that an application for ‘fracking’ would be approved in the future or set a precedent. Furthermore, as detailed above, it would need to be sent to the Welsh Government for determination if the LPA were minded to grant consent.
- Turning to the concerns over potential unacceptable impacts upon the environment, including climate change, and whether this proposal is contrary to Planning Policy Wales, these are addressed within the main report, together with the Welsh Government Guidance letter in **Appendix 1**.
- In respect of the concerns that the proposal would affect the existing forestry, which is used by walkers, bikers and local tourists. It should be

noted that the proposed development is temporary in nature and once the monitoring has been completed the borehole would be capped and the site restored. As such, it is considered that it would not prejudice the long-term use or future of the area for tourism and other recreational activities. Notwithstanding the above, it should be noted that the public right of way within the area of woodland does not extend into or lie adjacent to the application site.

- In respect of the concerns that there would be a detrimental impact on the morale of the community, this is acknowledged. However, this is not a material planning consideration, and would not constitute a reason for refusal of the application.
- With regards to the concerns regarding the neighbours consulted and the publicity of the application, the Council has met the requirements for statutory publicity with the application advertised by site notices at various locations in Pontrhydyfen, Oakwood and Cwmafan, and in the Neath Port Talbot Courier newspaper. While no specific neighbours were consulted by letter, this is because there are no residential properties immediately adjacent to the application site edged in red. The ‘neighbours’ shown on the system/website relate to the objection letters received only. The statutory consultation period for a planning application is 21 days, which runs from the latest date of the site or press notice. In this case, the press notice was dated 29th January 2015, which expires on 19th February 2015. A re-consultation was also undertaken for 14 days which ran from 16th February 2015 to 2nd March 2015. Members will be aware that there has been no attempt to ‘rush’ the application through for determination.
- Turning to the comments that a £1,000,000 bond guarantee should be required from the applicant. It should be noted that financial bonds are only required from developers for large scale operations like opencast quarries. Given the temporary nature and small scale of the proposal, it would not be reasonable for the Local Authority to require a bond in this instance.
- In relation to the comments that the ‘precautionary principle’ should be used with this application, and that the LPA is not applying a precautionary approach in this case, it should be noted that the LPA is satisfied that the proposed development would be acceptable in terms of the relevant planning legislation and policies. Whilst there may be some unknown information or questions, these matters would be outside of the remit of the LPA, as they would be controlled and regulated by other bodies, as detailed in the letter in Appendix 1.

- In relation to the comments that trees are being felled in the area, which means the drilling site will be visible, it should be noted that this has been addressed in the report. The felling being undertaken is by NRW to remove diseased trees. It should be noted that there are no trees on the application site.
- In terms of the comments that the operator should inform people who could be affected and undertake a public consultation as part of the UK Onshore Operators Group (of which the applicant is a member), this is a matter for the developer. In terms of the planning application, the LPA has fulfilled its obligations in respect of publicity, as detailed previously.
- In relation to the comments that two other boreholes have been undertaken without any complaints. The Planning Enforcement Section and Environmental Health Sections have confirmed that no complaints have been received for the exploratory borehole undertaken in Banwen. There are no records of any other borehole from UK Methane or Coastal Oil and Gas.
- In respect of the concerns that an EIA should be undertaken on the application and it should not be granted without one, this has been addressed previously in the report.
- With regards to the future monitoring of the borehole, it should be noted that this would not be material planning consideration, as this would be dealt with under the DECC Licence.
- In respect of the concerns relating to residential amenity and health of local residents in terms of noise, dust and disturbance from 24-hour working and vehicle movements, and toxic chemicals used in the drilling process, it should be noted that this has been covered previously in the report. Due to separation distance, both horizontally and vertically, from residential properties (over 300m and 100m respectively as a minimum), together with the mitigation measures proposed in terms of noise and light, it is considered that this temporary development would not have a detrimental impact sufficient to warrant refusal of the application or subsequently justify at appeal stage if necessary.
- Finally, the comments that shale rock is impermeable and ‘fracking’ would be required. As previously stated above, the developer has categorically confirmed that the drilling operations would use conventional techniques and would not involve ‘fracking’. If it is required in the future, this would

require the submission of a new application and may need to be referred to Welsh Government under the 2015 directive.

Conclusion:

The proposal seeks a temporary consent to undertake an exploratory borehole to establish the potential of coal bed methane and shale gas resources as part of a wider exercise in the region. There will be no unacceptable harm to the local environment to warrant refusal of the application. It is also considered that the proposed access and route would be acceptable in terms of highway and pedestrian safety.

It is also considered that refusal of the application could not be substantiated at appeal, in light of the Welsh Government Guidance letter of July 2014, and given that planning permission has already been granted for a test borehole on this site. Finally, Natural Resources Wales continues to raise no objections or concerns with the application, and the applicant has addressed the reason of refusal on the previous application (P2014/0217) with the submission of a Noise Management Plan which has been assessed in detail by the Environmental Health Section, and concluded to mitigate the impacts of the development to an acceptable degree. As such, it is considered that refusal could not be substantiated at appeal on this ground.

By virtue of this relatively secluded location and short period of operation, it is therefore considered that the development can be operated in an environmentally acceptable manner, subject to conditions, and in accordance with Policies GC2, ENV17, T1, ENV1, ENV5, ENV12, ENV15, ENV19, ENV29, M1 and M8 of the Neath Port Talbot Unitary Development Plan, together with the Welsh Government Policy Guidance.

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) At least 48 hours prior to the commencement of drilling operations on site, the Local Planning Authority shall be notified in writing of the intended date of commencement.

Reason

To allow the Local Planning Authority an opportunity to check that requirements relating to matters to be dealt with prior to the commencement of drilling operations have been complied with and to arrange for the inspection and monitoring of the initial stages of the development.

(3) The drilling operations hereby approved shall be restricted to a maximum period of 10 weeks following the commencement of drilling operations on the site, as notified to the Local Planning Authority under Condition 2 of this consent.

Reason

In the interests of amenity.

(4) Notwithstanding the submitted details, all lighting installed on site shall be in line with plan PEDL215/PLANNING/CWMAVON/LIGHTLAYOUT080114 to a maximum height of 3m, hooded and pointing downwards and inwards to the site only, in accordance with the recommendations within Section 7 of the Acer Ecology Report (June 2014).

Reason

In the interests of biodiversity.

(5) Prior to any other development on the site, terram sheeting or other similar covering shall be laid on all areas not subject to disturbance or excavation to prevent soil removal and damage and the preservation of underlying vegetation, and retained as such throughout the operational phase of the development.

Reason

In the interest of local biodiversity.

(6) The application site shall be fenced in heras mesh fencing at all times throughout the operational phase of the approved development.

Reason

To ensure that the site is secured and to prevent badgers or any other mammals entering the site.

(7) Prior to the commencement of any development on site, a further check and consideration for the presence of badgers within or immediately adjacent to the site shall be undertaken by a suitably qualified ecologist.

Reason

To ensure that badgers are not present when development commences.

(8) No development shall take place until a construction method statement /construction environmental management plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strictly in accordance with the approved construction method statement /construction environmental management plan only.

Reason

The construction phase of any proposed development poses potential risks to controlled waters, specifically diffuse pollution to the water environment arising from ground works.

(9) All works on site shall be undertaken strictly in accordance with the approved Method Statement for Drilling and Planning Statement received on 9th February 2015 only.

Reason

In the interests of the amenity of the area and pollution of the environment.

(10) Notwithstanding the submitted details, prior to any works commencing on site a detailed scheme for the disposal of surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented on site throughout the course of the development, including site preparation.

Reason

To prevent pollution to the water environment.

(11) Vehicular access to the site shall only be made in accordance with Section 7.6 of the submitted Planning Statement (January 2015) and, in particular heavy traffic (such as the rig, drill pipe and cabins) shall approach and leave the site only from / to the east via Queen Street / Dan-Y-Bont.

Reason

In the interests of highway safety.

(12) The development hereby approved shall be undertaken strictly in accordance with the submitted Noise Management Plan only, including the noise complaint investigation procedures, and this shall be fully implemented throughout the course of the approved development.

Reason

In the interest of adequate noise mitigation and residential amenity.

(13) A water bowser shall be available at all times throughout the duration of the development hereby approved, and shall be used to deal with any dust issues arising from the development.

Reason

In the interests of local amenity.

(14) Within three months of the completion of drilling and testing operations, all plant, machinery, buildings and the bund compound shall be removed from the site and the site shall be restored in accordance with a detailed scheme to be first submitted to and agreed in writing by the Local Planning Authority.

Reason

To ensure the site is restored to the a suitable condition.

(15) No part of the development hereby approved shall be undertaken on site between 1st March and 31st July in any calendar year.

Reason

In the interest of biodiversity and in order to prevent disturbance to nesting birds.

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.

The proposal seeks a temporary consent to undertake an exploratory borehole to establish the potential of coal bed methane and shale gas resources as part of a wider exercise in the region. There will be no unacceptable harm to the local environment to warrant refusal of the application. It is also considered that the proposed access and route would be acceptable in terms of highway and pedestrian safety.

It is also considered that refusal of the application could not be substantiated at appeal, in light of the Welsh Government Guidance letter of July 2014, and given that planning permission has already been granted for a test borehole on this site. Finally, Natural Resources Wales continues to raise no objections or concerns with the application, and the applicant has addressed the reason of refusal on the previous application (P2014/0217) with the submission of a Noise Management Plan which has been assessed in detail by the Environmental Health Section, and concluded to mitigate the impacts of the development to an acceptable degree. As such, it is considered that refusal could not be substantiated at appeal on this ground.

By virtue of this relatively secluded location and short period of operation, it is therefore considered that the development can be operated in an environmentally acceptable manner, subject to conditions, and in accordance with Policies GC2, ENV17, T1, ENV1, ENV5, ENV12, ENV15, ENV19, ENV29, M1 and M8 of the Neath Port Talbot Unitary Development Plan, together with the Welsh Government Policy Guidance.

Department for Housing and Regeneration
Adran Tai ac Adfywio



Llywodraeth Cymru
Welsh Government

Our ref:

To all Chief Planning Officers

8th July 2014

Dear Colleague,

CL- 04-14 – Clarification on the national planning policies that apply for onshore unconventional gas and oil development

The extraction of gas and oil, whether by conventional or unconventional (i.e. hydraulic fracturing) methods, is classed as mineral development.

In Wales the relevant national planning policies for mineral development are set out in Minerals Planning Policy Wales (MPPW). Part one of MPPW provides general guidance which is applicable to all applications for unconventional gas or oil whether it is at the exploratory, appraisal, or production (extraction) phase of development.

Stages of onshore unconventional gas and oil development

Exploration is the use of seismic surveys to provide information about geological structures and exploratory drilling to verify the presence or absence of oil or gas reserves.

Appraisal is the assessment of exploration prospects using extended well tests and additional drilling to determine if reservoir development is economically feasible.

Development and production cover the development of field infrastructure and the production of hydrocarbons from the reservoir until economically feasible reserves are depleted.

Decommissioning, restoration and aftercare refer to operations for the abandonment of wells, the removal of surface installations and the restoration of the site.

Each stage will involve slightly different processes, timescales, equipment, and vehicle movements. Therefore it is necessary to consider all these matters afresh for each planning application. Consequently it does not mean that just because it has been appropriate to grant planning permission to explore for the resource it would necessarily be appropriate to allow commercial extraction and hydraulic fracturing in the same location. Each planning application should be determined on its own merits.

Minerals Planning Policy Wales

Part One of MPPW sets out the five key principles that local planning authorities must take into account when making development management decisions. These principles are to:

- Provide mineral resources to meet society's needs and to safeguard resources from sterilisation
- Protect areas of importance to natural or built heritage
- Limit the environmental impact of mineral extraction
- Achieve a high standard of restoration and beneficial after-use
- Encourage efficient and appropriate use of minerals and the re-use and recycling of suitable materials.

Providing mineral resources to meet society's needs

MPPW identifies that the contribution that a resource could make to regional and UK demand must be taken into account, and policies which seek to meet only local needs or which rule out all forms of mineral working in an area will only rarely be acceptable.

MPPW identifies that in respect of energy minerals there is limited information about the resources that are likely to be commercially viable for extraction, and that planning authorities should therefore consider all available information on the extent of energy mineral resources.

Protect areas of importance to the natural and built heritage from inappropriate mineral development

Minerals development should not take place in National Parks and Areas of Outstanding Natural Beauty, save in exceptional circumstances. Paragraph 21 of MPPW identifies what assessment would need to take place in order to demonstrate that the development would be in the public interest.

Paragraphs 23 – 29 of MPPW provide guidance on mineral proposals within, or likely to affect Special Areas of Conservation (SACs), Special Protection Areas (SPAs), Ramsars, SSSI's, and locally designated sites.

Paragraph 30 identifies that the need to protect the quantity and quality of surface and groundwater supplies should be taken into account by local planning authorities. In doing so the local planning authority must consult Natural Resources Wales on

these complex issues, and where doubt exists, should adopt the precautionary principle in taking planning decisions.

Paragraph 31 provides guidance to local planning authorities in respect of historic buildings, landscapes, parks and gardens, conservation areas, and ancient monuments.

Paragraph 32 provides guidance in respect of consideration of agricultural land, farm water supply, surface water, and field drainage. MPPW identifies that the objective should be, wherever possible, to minimise any adverse effects on agriculture occurring as a result of mineral development.

Limit the environmental impact of mineral extraction

MPPW identifies that the following issues must be addressed to ensure that minerals proposals do not have an unacceptably adverse impact on the environment and the amenity of nearby residents.

- Access and traffic generation (including the routes to be used for minerals transportation)
- Noise (in terms of limits, type, and location)
- The control of dust, smoke and fumes
- Disposal of mineral waste
- Blasting controls (if relevant to shale or coal bed methane applications)
- Land drainage, impact on groundwater resources and the prevention of pollution of water supplies
- Visual intrusion and general landscaping
- Impact on sites of nature conservation, historic and cultural importance
- Land instability
- Promotion of the use and treatment of unstable, derelict or contaminated land
- Cumulative impact
- Restoration, aftercare, and after-use.

MPPW identifies that the planning system should not conflict with or attempt to duplicate the controls better regulated by other bodies under different consent regimes.

The Welsh Government has been working with the Office for Unconventional Gas and Oil on the production of the Regulatory Roadmap, which identifies all the regulatory processes that an operator will need to satisfy before drilling for unconventional gas and oil. The roadmap can be downloaded from the following address:

<https://www.gov.uk/government/publications/regulatory-roadmap-onshore-oil-and-gas-exploration-in-the-uk-regulation-and-best-practice>

Consequently the following issues will be addressed by other regulators:

- Seismic risk – the Department of Energy and Climate Change (DECC) is responsible for controls to mitigate seismic risks.
- Well design and construction – the Health and Safety Executive is responsible for enforcement of legislation concerning well design and construction.
- Operation of surface equipment on the Well Pad – these are controlled by Natural Resources Wales and the Health and Safety Executive.
- Mining Waste – Natural Resources Wales is responsible for ensuring that extractive waste is appropriately controlled through issuing an environmental permit.
- Chemical content of fracking fluid (if it is to be used) – Operators are obliged to inform Natural Resources Wales of all chemicals that they propose to use to hydraulically fracture in order to obtain an environmental permit.
- Flaring or venting of any gas – is subject to DECC controls and is regulated by Natural Resources Wales. However planning authorities may still need to consider any issues of noise and visual impact that this process may create.
- Final disposal of water – Natural Resources Wales is responsible for issuing permits for flowback water, which may contain naturally occurring radioactive materials (NORM). This responsibility extends to ensuring that the final treatment/disposal of flowback water at suitable water treatment facilities is acceptable. Depending on the phase of development and the scale of production there may be significant volumes of water that will require transporting to and from the site. Therefore local planning authorities will need to consider access, traffic generation, and the visual impact of on site storage facilities.

Environmental Impact Assessment

Paragraph 38 of MPPW states that planning authorities must consider whether proposed development requires EIA, including development which would otherwise be permitted in accordance with the General Permitted Development Order. The Regulatory Roadmap states that applications for the exploratory and appraisal phase for unconventional gas development will fall under Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 1999 if they exceed the applicable threshold, or if any part of the development is to be carried out in a sensitive area. An EIA is only required if the project is likely to have significant environmental effects. Schedule 3 of the 1999 regulations identifies the selection criteria for screening Schedule 2 development.

MPPW states that EIA is unlikely to be required for exploratory drilling activities. The Welsh Government continues to support this view on the basis that such exploratory drilling does not involve hydraulic fracturing, or is not located on a site that is unusually sensitive to limited disturbance occurring over the short period involved. The Regulatory Roadmap states that where an Environmental Statement is not required operators may still need to submit technical reports including ecology, noise, and archaeology.

Where it is determined that an EIA is required the Regulatory Roadmap identifies that the EIA must cover the geographical area where the impact occurs, both above and below ground. Therefore this is likely to be a larger area than just the surface development site, especially if horizontal drilling is to be used.

Achieve a high standard of restoration and beneficial after-use

MPPW states that unless mineral extraction provides satisfactory and suitable restoration planning permission should be refused. Properly worded and relevant planning conditions should be able to secure the restoration, aftercare, and after use of sites for unconventional gas development, whether this is for exploration, appraisal or production phases.

In conclusion paragraph 64 of MPPW states that where oil and gas operations can be carried out in an environmentally acceptable way and consistent with the principles of sustainable development, there is no case in land use planning terms for placing more restrictions on the development than are necessary to ensure the protection of the environment.

The guidance provided in MPPW, in conjunction with this clarification letter, should be taken into account by local planning authorities in Wales when making decisions on applications for unconventional oil and gas proposals.

Yours sincerely,



Carl Sargeant AC/AM
Y Gweinidog Tai ac Adfywio
Minister for Housing and Regeneration

APPENDIX 2 – LLANDOW APPEAL STATEMENT

Penderfyniad ar yr Apêl

Ymchwiliad a gynhaliwyd ar 22&23/05/12
Ymweliad â safle a wnaed ar 11/06/12

gan Emyr Jones BSc(Hons) CEng
MICE MCMI

Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 06/07/12

Appeal Decision

Inquiry held on 22&23/05/12
Site visit made on 11/06/12

by Emyr Jones BSc(Hons) CEng MICE
MCMI

an Inspector appointed by the Welsh Ministers
Date: 06/07/12

Appeal Ref: APP/Z6950/A/11/2167112

Site address: Unit 1 Llandow Industrial Estate, Cowbridge CF71 7PF

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Coastal Oil and Gas Limited against the decision of The Vale of Glamorgan Council.
 - The application Ref 2011/00812/FUL, dated 13 August 2011, was refused by notice dated 21 October 2011.
 - The development proposed is to drill and test the insitu lower limestone and associated strata for the presence of gas.
-

Decision

1. The appeal is allowed and planning permission is granted to drill and test the insitu lower limestone and associated strata for the presence of gas at Unit 1 Llandow Industrial Estate, Cowbridge in accordance with the terms of the application, Ref 2011/00812/FUL, dated 13 August 2011, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than five years from the date of this decision.
 - 2) No operations authorised by this permission, with the exception of the site restoration works set out in Section 7.10 of the supporting statement submitted with the application, shall take place after a period of 10 weeks following the commencement of drilling operations on the site, unless otherwise agreed in writing with the local planning authority.
 - 3) The drill rig and all other items of plant and equipment to be used in the drilling operations hereby approved shall each have a typical noise level at 1 metre not exceeding 74 dB(A).
 - 4) No operations authorised by this permission shall take place until details of a scheme to mitigate noise impacts at the nearest residential and commercial properties, as well as the bat roost to the west of the site, has been submitted to and approved in writing by the local planning authority. All operations shall subsequently be carried out in accordance with the approved details.
 - 5) Notwithstanding the submitted documents, prior to any drilling taking place, a detailed working method statement for the drilling operation, to include methods

- to minimise the risk of the loss of drilling fluid to ground water resources during the drilling process and monitoring for any loss of drilling fluid, as well as measures for the collection and disposal of spilt drilling fluid, shall be submitted to and approved in writing by the local planning authority. All operations shall thereafter be carried out in accordance with the approved details.
- 6) Monitoring and assessment of vibration from the operations shall be carried out in accordance with the vibration methodology below unless otherwise agreed in writing with the local planning authority.
 - i) An acceptable datum level of vibration will be agreed with the local planning authority prior to drilling commencing.
 - ii) The inherent vibration of the drill rig will be monitored before transporting to site.
 - iii) Normal prevailing vibration over the drilling area will be measured at the nearest residential and commercial properties before drilling commences.
 - iv) From the commencement of the drilling operation, vibration will initially be continuously monitored without interruption; at times when the drill is both in use and not in use. Monitoring will take place at both the nearest residential and commercial properties. The duration of continuous monitoring will be agreed with the local planning authority once representative vibration data has been compiled and assessed.
 - v) Once the recorded vibration level approaches 10% below the agreed datum level, drilling will cease.
 - 7) Any facilities for the storage of oils, fuels and chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The size of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank plus 10%. All filling points, vents and sight glasses shall be located within the bund. There shall be no drain through the bund floor or walls.
 - 8) Full details of a scheme for the disposal of foul and surface water drainage shall be submitted to and approved in writing by the local planning authority and the approved scheme shall be fully implemented prior to any drilling operations or site preparation taking place. The submitted scheme shall include proposals for the treatment and disposal of suspended solids from surface water runoff and shall include emergency procedures to be implemented where any failure results in the pollution of controlled waters.
 - 9) Within three months of the completion of drilling and testing operations, all plant, machinery, buildings and the bund compound shall be removed from the site and the site shall be restored in accordance with the details set out in Section 7.10 of the statement entitled Accompanying information submitted with the application or any alternative scheme that may first be agreed in writing with the local planning authority.
 - 10) The works to prepare the site for drilling, construct and dismantle the drill and equipment, and restore the site shall not take place outside the hours of 08:00 to 18:00.
 - 11) Any lighting shall be in accordance with details previously submitted to and approved in writing by the local planning authority.
 - 12) Any drilling shall only be carried out between the months of October to March inclusive.

Application for costs

2. At the Inquiry an application for costs was made by Coastal Oil and Gas Limited against The Vale of Glamorgan Council. This application is the subject of a separate Decision.

Main Issue

3. I consider the main issue in this case to be the effect of the proposal on the quantity and quality of groundwater supplies in the vicinity of the site.

Preliminary matters

4. A significant number of objectors raise concerns as to possible future proposals for gas extraction and the process known as hydraulic fracturing in particular. Whilst I understand these concerns, the proposal before me does not include extraction, whether by hydraulic fracturing or otherwise. Any extraction proposals would require a further application and the *Vale of Glamorgan Unitary Development Plan* (UDP) makes it clear that the grant of planning permission for mineral exploration will not indicate a presumption in favour of future exploitation of any minerals found. I cannot, therefore, take these concerns into account in my determination of the appeal.
5. It was suggested that UDP mineral policies do not apply to gas as no reference is made to it. However, the UDP notes that surveys for hydrocarbon resources were carried out over much of the western Vale in the early 1990's and one of its objectives is to encourage the best and most efficient use of all available resources. It acknowledges that, in the event of renewed exploration activity, it will clearly be necessary to address the policy issues raised in a review of the plan. In the meantime, it recognises that the existing policies will provide an adequate framework for decision-making.
6. The UDP safeguards land at the Llandow Trading Estate for uses falling within Use Classes B1, B2 and B8. Nonetheless, the proposal relates to a temporary development lasting no more than 10 weeks, including contingencies, such that there would be no real conflict with the underlying objective of securing adequate provision of employment land. Interested persons draw attention to lease clauses which may preclude exploratory drilling on the site, but this is essentially a private matter between the appellants and the landlord.
7. Some objectors questioned the need to explore for gas reserves at all. Nevertheless, the Welsh Government's *Energy Wales: A Low Carbon Transition* states that gas will be a key transitional fuel because green house gas emissions from gas are significantly less than coal subject to the method of extraction. It goes on to note that gas is a flexible, responsive and reliable source of energy which can play a key role in the transition to a genuinely low carbon energy system. Likewise, the Department of Energy and Climate Change's *Overarching National Policy Statement for Energy EN-1* indicates that fossil fuel power stations will continue to play an important role in our energy mix as the UK makes the transition to a low carbon economy.
8. It has also been suggested that the proposal should have been subject to Environmental Impact Assessment (EIA), but it was screened by the Council and it was determined that EIA was not required. The proposal does not fall within any of the descriptions given in Schedule 1 of *The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999*, as amended. Whilst Schedule 2 of the same regulations includes deep drillings, the site is not in a sensitive area and the applicable thresholds and criteria refer to the area of the works exceeding 1 hectare which would not be the case here.

9. Schedule 3 of the Regulations refers to the need to consider the characteristics of the development having regard in particular to, amongst others, the cumulation with other development. However, it is only when development meets the threshold within Schedule 2 that one should go on to consider Schedule 3. The assessment of whether an application relates to a Schedule 2 application or not is to be decided by reference to the application for development consent applied for and not any development contemplated beyond that. I, therefore, conclude that the proposal is not EIA development.

Reasons

Groundwater

10. The application was refused planning permission on the basis of Dŵr Cymru/Welsh Water's (DCWW) belief at the time that there would be a very small risk of contamination of their reserve groundwater sites in the Vale of Glamorgan from the proposed exploratory drilling. They also indicated that, if there was an excessive loss of drilling fluid to the aquifer during the drilling procedure due to unforeseen geological features being met, then this level of risk would increase. However, DCWW have subsequently confirmed that they did not object to the planning application and, following further discussions with the appellants, now believe that there would be an insignificant risk of pollution of their sources given the nature of the drilling operation.
11. It is also of particular significance that DCWW indicated that they would expect the Environment Agency (EA) to consider the vulnerability of their groundwater sources and wider impact upon the water environment as part of the permitting process. The EA is the relevant regulatory authority insofar as groundwater pollution is concerned. The supporting text to UDP policy ENV 29 notes that advice will be sought from the relevant regulatory authorities, including the EA, and *Minerals Planning Policy Wales* emphasises the need to consult the EA. In this particular case, the EA did not object to the proposals, subject to the imposition of appropriate planning conditions.
12. The abstraction points for the reserve groundwater resource are some 7.8km and 8.6km from the appeal site and the nearest point of the resource's catchment is located over 3.7km away. Over this distance, the geology generally dips to the south (away from the resource) and then up and over a large anticline. Any drilling fluid lost would have to rise over the anticline, flow against the hydraulic gradient, and cross a series of faults with throws of at least 20-30m and around 1.5m of broken material between the fault planes, to reach the reserve groundwater resource. The most significant aquifer in the resource is the carboniferous limestone. This is known to have a low primary porosity with the flow being dominated by fracture/fissure flow and, because of overburden pressure, only the uppermost 100m or so is likely to be effective in transmitting water. As a result, I am satisfied that the risk of drilling fluid being transported towards the reserve groundwater sources, should there be any losses, would be negligible.
13. Furthermore, the risk of drilling fluid being lost to the formation in the first place would be minimised by using fluid of an appropriate density/viscosity and steel casing cemented in place in the carboniferous limestone forming the main aquifer. The use of a closed loop system would facilitate monitoring for any loss of drilling fluid through observation of the levels in the tanks, with excessive losses being addressed by the addition of materials that would swell and block the fractures where water was being lost.

14. The anticipated drilling fluid is a proprietary product known as 'Pure-Bore'. This is a biopolymer which biodegrades naturally within 8 to 52 weeks and is commonly used to drill water wells without contamination problems arising. It has been accredited by the Centre for Environment, Fisheries and Aquaculture Science (part of DEFRA) for use in the marine environment.
15. I have no reason to believe that bacteria, which would treat the product as a food source, are not found in the aquifer, particularly the uppermost layer which is likely to be effective in transmitting water. In any event, the manufacturer reports that it is still capable of breaking down in connate water (water trapped in sediment or rock at the time of deposition). Assessment using juvenile *Daphnia Magna* shows a minimal toxicity indistinguishable from the degree of error involved in the test at a 1:10,000 dilution. Whilst 42% of the organisms were immobile after 48 hours at a 1:1,000 dilution, this is likely to be due to the product's oxygen demand rather than any chemical toxicity.
16. Although not recorded on any public registers, there are private boreholes much nearer the site than DCWW's which are used to extract drinking water for consumption by humans and farm animals. Nevertheless, the process would be comparable to that used in the drilling of an additional water abstraction borehole. The monitoring would ensure that, if any fluid were to be lost, its volume would be extremely limited with high rates of dilution taking place within a limited radius of the borehole such that the risk to private water supplies would be minimal.
17. The site has a long history of military aviation and industrial use such that it is possible that some of the land is contaminated. Nevertheless, the top section of the borehole would be sealed after a day or so and before drilling progressed into the underlying limestone thereby preventing any contaminated groundwater near the surface from migrating downwards. I note that the concrete slab on the site is broken in places such that additional measures may be required to ensure that spilled drilling fluid can be collected and disposed of. Nonetheless, that is a matter of detail which could be adequately addressed by modifying the agreed condition relating to a detailed working method statement for the drilling operation.
18. The borehole would be sealed in accordance with guidelines published by the EA in *Decommissioning Redundant Boreholes and Wells* and I have no reason to believe that this would pose a threat to groundwater supplies. The density of the drilling fluid and the blow out preventer required to satisfy HSE guidance would provide adequate safeguards against gas escaping to the surface.
19. For the above reasons, I conclude that the proposal would not harm the quantity and quality of groundwater supplies in the vicinity of the site.

Other matters

Noise and vibration

20. The application proposes 24 hour working during the drilling, testing and restoration phases, but no justification was given for this. At the Inquiry, the appellants' geologist explained that the need arose from the significant extension in drilling time that would result from having to carry out additional operations at the start and end of each shift and the need not to compromise the structural integrity of the borehole.
21. The application was accompanied by a Noise Assessment which shows that the night time background noise level at the nearest dwelling (Six Wells Cottage) approximately

260m away is 20 dB(A) L_{90} . This is well below the level at which it would be appropriate to use BS4142:1997 'Method for Rating Industrial Noise Affecting Mixed Residential and Industrial Areas' for assessment purposes. It also predicts that, taking account of distance and screening losses, the noise at Six Wells Cottage from the drilling rig would have an equivalent continuous level of 25 dB(A) L_{Aeq} and, taking account of the characteristic features of the noise, a rating level of 30 dB(A) $L_{Ar,Tr}$. Allowing for a 15dB loss through a partially open window, noise levels would, therefore, be well below the 30 dB(A) $L_{Aeq,8hr}$ limit for sleep disturbance given in World Health Organisation (WHO) 'Guidelines for Community Noise – 1999'.

22. However, the Noise Assessment only considers the drilling rig whilst the operation would also require such items as a shaker screen, pump and generator. Nonetheless, I have no reason to doubt the evidence of the appellants' geologist that the drilling rig is by far the noisiest item of equipment. The drill rig used in the assessment generates a typical noise level of 74 dB(A) at 1m and an unshielded 30Kva generator has a rating of around 65 dB(A). Even if the shaker screen and pump were individually as noisy as the rig, overall noise levels at the site would only be a few dB(A)'s higher, and could be controlled by the good practice suggested in the assessment. Given that the predicted levels from the rig inside bedrooms with windows partially open are well below the WHO guidance figure for sleep disturbance, I am satisfied that the overall level would also be below the limit such that residential living conditions would not be materially harmed.
23. The nearest offices are around 60m away and the appellants' noise consultants predict that the noise from the drilling rig would be some 48 dB(A) outside the nearest office, with a 15dB reduction through a partially open window giving 33 dB(A) inside. This can be compared with the 40-50 dB(A) quoted for offices in *BS8233 Sound Insulation and Noise Reduction for Buildings*. For the same reasons as given for Six Wells Cottage above, I consider that overall levels would also be below the lowest figure quoted in BS8233 and there would not be an unacceptable impact on businesses on the business park/industrial estate. It has been suggested that some businesses would relocate if the appeal was allowed but, given that I have not identified an unacceptable impact, there would be no reason for such action.
24. I recognise that tents and caravans would not achieve the 15dB reduction through a partially open window previously referred to and that customers are attracted to the neighbouring Caravan Park by the relatively quiet night time environment. Nevertheless, the Caravan Park is in the region of 800m away with the Noise Assessment predicting an equivalent continuous level of 15 dB(A) L_{Aeq} (which is lower than the minimum consistent L_{A90} background noise levels measured) and a rating level of 20 dB(A) $L_{Ar,Tr}$. Even allowing for a slight increase to reflect the contribution from other plant and equipment, overall levels would still be relatively low such that there would be no material impact on the Caravan Park or tourism in general.
25. An interested person raised the issue of noise impacts on persons with brain and central nervous system conditions. Although they may well be more susceptible to noise, I have no evidence that would lead me to conclude that the noise generated would be sufficient to significantly harm the living conditions of any such persons living in the immediate vicinity of the site. I also note that the Council's Environmental Health Officer offered no objection on noise grounds.
26. Concerns were also raised as to vibration, but the appellants' geologist has never experienced any problems in that regard. In view of the intention to use rotary rather than percussive drilling methods and the existence of up to 5m of made ground and

glacial till which would absorb surface vibrations, I have no reason to believe that vibration levels would pose any particular problems. The agreed condition would provide further safeguards in this respect.

Protected species

27. The Countryside Council for Wales notes that the site is within 800m of a known lesser horseshoe bat maternity roost site and in an area where great crested newts are known to occur. It indicates that the nature of the proposals and resultant effects such as noise, vibration and lighting have the potential to affect both species. The appellants Ecological Assessment demonstrates that the site has negligible potential as dispersal, foraging and hibernating grounds for great crested newts, and offers very low potential for supporting commuting and foraging bats - as confirmed by the results of the single night's survey undertaken. It is also noted that the high level of existing lighting on the industrial park is a contraindicative factor for foraging and commuting lesser horseshoe bats.
28. It states that the effect of noise on bats is very complicated and difficult to predict with numerous studies showing that noise levels decrease foraging efficiency and in some situations even very low changes in noise levels can lead to roost abandonment. Conversely, provided background levels are consistent, lesser horseshoe bats have been found roosting in large numbers beneath motorway bridges and in the middle of industrial complexes. There does not appear to be any published literature suggesting that great crested newts are particularly sensitive to increased noise levels and there is very limited published information documenting vibration impacts on bats or great crested newts.
29. The Noise Assessment predicts an equivalent continuous level of 15 dB(A) L_{Aeq} (which is lower than the minimum consistent L_{A90} background noise levels measured) and a rating level of 20 dB(A) $L_{Ar,Tr}$ from the rig at the lesser horseshoe bat roost and great crested newt ponds. Even allowing for a slight increase to reflect the contribution from other plant and equipment, noise impacts would still be low, and vibration levels at these locations would not be significantly higher than background levels.
30. On the basis of the evidence before me, I am satisfied that the proposal would not harm protected species.

Traffic, visual impact, and dust

31. Interested persons are concerned as to the volume of traffic that would be generated. However, the site is on a business park/industrial estate which is likely to generate a substantial volume of traffic including HGVs, which would be further increased if all the plots/units were occupied. In contrast, the proposal would involve around 18 HGV movements to bring plant and equipment to the site at the start, a similar number to take them away at the end, together with around 8 regular HGV servicing movements per week. This is unlikely to be significant in the context of overall HGV movements to the business park/industrial estate.
32. The site is in relatively poor condition and is largely surrounded by industrial/commercial buildings. In such circumstances, the temporary siting of a 12m high rig and associated equipment would not have an unacceptable visual impact. Given the intention to use a drilling fluid, I have no reason to doubt the Council's view that there are no objections to the scheme on the basis of dust.

Conditions

33. The Statement of Common Ground includes a list of conditions with reasons agreed between the Council and appellants. Subject to the specific matters addressed below and minor modifications in the interests of clarity and precision; I am satisfied that these are necessary and should be imposed for the reasons given.
34. *Minerals Planning Guidance Note: The Control of Noise at Surface Mineral Workings* (MPG 11) advocates setting limits at noise sensitive properties. However, given the very discrete area of the proposed operations, as compared to most mineral extraction sites, the Council's Environmental Health Officer favours setting limits on individual items of plant in this case. I accept his reasoning and agree that the limit should be set at that of the drilling rig used in the Noise Assessment.
35. I have already referred to good practice recommended in the Noise Assessment and adherence thereto, as well as measures such as acoustic enclosures, could be secured by an additional condition requiring a noise mitigation scheme to be subject to prior approval and thereafter complied with. I have also referred to the need to modify the agreed condition requiring the detailed working method statement for the drilling operation to incorporate measures to collect and dispose of spilt drilling fluid.
36. The agreed condition on transporting the rig, drill pipes, cabins and other equipment to the site conflicts with guidance in Circular 35/95 on *The Use of Conditions in Planning Permissions* to the effect that planning conditions are not an appropriate means of controlling the right of passage over public highways. Furthermore, the business park/industrial estate is likely to attract a substantial number of HGV movements throughout the day. Those associated with the proposal would be unlikely to result in a significant increase such that I see no reason to restrict these movements to night time.
37. The submitted Ecological Assessment includes a number of recommendations to mitigate the potential impacts on protected species. Those relating to lighting could be addressed by requiring lighting to be subject to prior approval, which would also control light pollution in general. Limiting drilling operations to the period between October and March to coincide with the period of lowest bat activity should be conditioned. This would also ensure that drilling operations would not coincide with the holding of the National Eisteddfod in the vicinity during August of this year and that they would take place when there is less likelihood of bedroom windows being left open at night and the Caravan Park being at its busiest. The six recommendations on operational procedures could be covered by the noise mitigation scheme previously referred to.
38. The suggested monitoring at the bat roost would require the agreement of the appropriate landowner and there is no guarantee that this could be obtained. In any event, the predictions are that noise levels at the bat roost would be very low with vibration not being significantly above background levels. Subject to limiting drilling to certain months and the noise mitigation scheme, monitoring is not necessary.
39. Because the proposed drilling fluid is a standard one accredited by DERFRA, the EA sees no need for it to be subject to an ecological assessment. As spent drilling fluid is to be treated as controlled waste and disposed of accordingly, the EA does not consider it necessary for it to be tested to see if mobilisation of hazardous substances from underlying strata has taken place. I accept the advice of the Agency and will not impose conditions relating to these matters.

Overall conclusion

40. For the reasons given above, I conclude that the proposal does not conflict with UDP policies MIN 1 and ENV 29 and that the appeal should be allowed.

E Jones

Inspector

SECTION A – MATTERS FOR DECISION

Planning Applications Recommended For Approval

<u>APPLICATION NO:</u> P2014/0402	<u>DATE:</u> 05/05/2014
PROPOSAL: Variation of condition 1 of Planning Permission P2007/1413 (Granted on Appeal on the 07.05.09) to allow for the extension of time for the commencement of development and variation of conditions 3 (reference to all works in Environmental Statement and to allow a maximum tip height of 100m and maximum blade diameter of 82m), 9 (borrow pits), 14 (highway improvement works to facilitate revised access route) and 15 (internal access tracks)	
LOCATION: Mynydd Y Gwrhyd, North of Pontardawe, East of Cwmgors	
APPLICANT: Dan McCallum	
TYPE: Full Plans	
WARD: Gwaun-Cae-Gurwen	

BRIEF DESCRIPTION OF PROPOSAL

This planning application was originally presented to the 21st October Planning and Development Control Committee at the request of Councillor Arwyn Woolcock.

Members resolved that the application be approved subject to conditions and the signing of a section 106 agreement (subject to an amendment to the wording of Condition No.16 in respect of the required Traffic Management Scheme (TMS) to clarify the need for the TMS to incorporate details of all delivery routes (including abnormal loads and stone deliveries)).

However, following a request by the applicant to amend the wording of condition 26, the application is brought back to the committee for re-consideration. There is scope to do this as the application remains undetermined as the section 106 agreement has not yet been completed.

Consultations, representations, policy and guidance and this site's planning history remain largely as detailed in the officer's report presented to the 21st October 2014 planning committee which is appended to this report. However, the authority's highways section has commented on the re-worded condition 26.

ASSESSMENT

The recommended wording of Condition 26, as presented within the previous report to committee, required that a condition survey of the existing highway network along the proposed access route for deliveries be carried out prior to the commencement of any work on the wind farm.

Condition 26 read as follows:

Unless otherwise agreed in writing, prior to the commencement of any work on the wind farm development, a condition survey of the existing highway network along the proposed access route for deliveries, shall include the condition of the carriageway and footway shall be undertaken. The survey shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of work on site. Within one month of the completion of the associated wind farm a further condition survey of the same highway network, shall be undertaken, which shall include the condition of the carriageway and footway and shall be submitted to the Local Planning Authority. Any damage to the highway identified as a result of the increased volume of construction vehicles shall be repaired within 6 months of the completion of the associated wind farm in accordance with a scheme to be first submitted and agreed in writing with the Local Planning Authority.

Reason:

In the interest of highway safety

Therefore the condition as previously agreed by planning committee required the applicant to carry out a survey of the entire access routes for all deliveries.

The wording of this condition would make the project liable for highway damage from the point where the A4067 enters Neath Port Talbot at Ynys y Mond (in respect of the AIL movements), and given that the application proposes to source stone from Blaenhonddan Farm quarry (also known as Gilfach Quarry), the route along the A474 from the quarry to the application site.

However, the applicant considers that this is unreasonable, particularly given the high volume of HGV traffic accessing Pwllfa Watkin tip which already uses the A474 as far as the point where the proposed construction traffic will leave it.

As such, the applicant requests that the condition is amended to refer to lengths of lane used to access the application site, specifically the exit and junction off the A474 to Nant y Gaseg Uchaf farm access, and then the road between access tracks to Perthigwinion Farm and Blean Egel farms only.

The Head of Engineering and Transport (Highways Section) has considered the request by the applicant to reduce the extent of the road condition survey and has no objection to the extent of the amended road lengths or the wording of the revised condition as set out below:

26. *Prior to the commencement of any work on the wind farm development, a condition survey of the existing highway network (including the condition of the carriageway and footway) shall be undertaken only along the following lengths of the proposed access route for deliveries:*

1. *100m to the north and the south (200m in total) of the centreline of the junction with the lane on the east side of the A474 leading to Nant y Gaseg Uchaf and the Gwrhyd Common (ie the cross roads at the Pwllfawatkin tip junction). Length marked 'A' on the attached plan reference 13040/050 Rev 0*
2. *The length of the same lane continuing to the east side of the access leading to Nant y Gaseg Uchaf (approximately 180m). Length marked 'B' on the attached plan reference 13040/050 Rev 0*
3. *The Gwrhyd Common road from 50m to the south of Perthigwynion farm access northwards to the sharp turn to the west at Ordnance Survey grid reference SN717095 and continuing 50m to the west. Length marked 'C' on the attached plan reference 13040/050 Rev 0.*

The survey shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of work on site. Within one month of the completion of the associated wind farm a further condition survey of the same highway network, shall be undertaken, which shall include the condition of the carriageway and footway and shall be submitted to the Local Planning Authority for approval in writing. Any damage to the highway identified as a result of the increased volume of construction vehicles shall be repaired within 6 months of the completion of the associated wind farm in accordance with a scheme to be first submitted and agreed in writing with the Local Planning Authority.

While the revised condition represents a reduction in the length of road to be assessed by the condition survey, it is accepted that the requirements of the original condition were unnecessarily onerous on the applicant. This is particularly the case as it would be difficult to attribute any highway damage solely to the Mynydd y Gwrhyd project given the existing high volume of HGV traffic accessing Pwllfa Watkin tip via the A474.

Furthermore, a separate condition is to be attached relating to the route for abnormal loads and the reinstatement of any alterations required to accommodate these type of deliveries.

Conclusion

The minor alterations to condition 26 will not result in any unacceptable detrimental effects on highway and pedestrian safety over and above those previously identified within the report originally presented to committee. The development therefore accords with Planning Policy Wales, TAN 8, Policy GC1, ENV1, ENV3, Policy ENV17, Policy IE4 and Policy M6.

Recommendation

APPROVAL subject to a section 106 agreement to secure a community benefit payment of £6,000 per MW per year for the life time of the project and securing of a bond of £65,000 to cover the scenario that the applicant cannot fulfil its obligation for the decommissioning of the scheme, and subject to the conditions as set out in the original officer's report at Appendix A (as amended by the approved amendment to the wording of Condition No.16 in respect of the required Traffic Management Scheme as identified in the Minutes at Appendix B) with amendment to condition 26 to read as follows: -

26. Prior to the commencement of any work on the wind farm development, a condition survey of the existing highway network (including the condition of the carriageway and footway) shall be undertaken only along the following lengths of the proposed access route for deliveries:

1. 100m to the north and the south (200m in total) of the centreline of the junction with the lane on the east side of the A474 leading to Nant y Gaseg Uchaf and the Gwrhyd Common (i.e. the cross roads at the Pwllfawatkin tip junction). Length marked 'A' on the attached plan reference 13040/050 Rev 0
2. The length of the same lane continuing to the east side of the access leading to Nant y Gaseg Uchaf (approximately 180m). Length marked 'B' on the attached plan reference 13040/050 Rev 0
3. The Gwrhyd Common road from 50m to the south of Perthigwynion farm access northwards to the sharp turn to the west at Ordnance Survey grid reference SN717095 and continuing 50m to the west. Length marked 'C' on the attached plan reference 13040/050 Rev 0.

The survey shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of work on site. Within one month of the completion of the associated wind farm a further condition survey of the same highway network, shall be undertaken, which shall include the condition of the carriageway and footway and shall be submitted to the Local Planning Authority for approval in writing. Any damage to the highway identified as a result of the increased volume of construction vehicles shall be repaired within 6 months of the completion of the associated wind farm in accordance with a scheme to be first submitted and agreed in writing with the Local Planning Authority.

PLANNING AND DEVELOPMENT CONTROL COMMITTEE

REPORT OF THE HEAD OF PLANNING – N.PEARCE

21ST OCTOBER 2014

SECTION A – MATTERS FOR DECISION

**1. Planning Applications
Recommended for Approval**

<u>ITEM 1.1</u>	
<u>APPLICATION NO:</u> P2014/0402	<u>DATE:</u> 05/05/2014
PROPOSAL: Variation of condition 1 of Planning Permission P2007/1413 (Granted on Appeal on the 07.05.09) to allow for the extension of time for the commencement of development and variation of conditions 3 (reference to all works in Environmental Statement and to allow a maximum tip height of 100m and maximum blade diameter of 82m), 9 (borrow pits), 14 (highway improvement works to facilitate revised access route) and 15 (internal access tracks)	
LOCATION:	MYNYDD Y GWRHYD, North of Pontardawe, East of Cwmgors
APPLICANT:	DAN McCALLUM
TYPE:	Full Plans
WARD:	Gwaun-Cae-Gurwe

Background information

Members should note that this application is reported to the Planning and Development Control Committee at the request of Councillor Arwyn Woolcock on the grounds that the application includes significant changes to the approved scheme allowed at appeal.

Relevant Planning History

04/1381	Community wind farm consisting of 4 turbines (as opposed to 5 previously), sub station, met mast and access road and additional works including borrow	Refused	01/09/05
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	<p>pits. Planning permission refused September 2005.</p> <p>-Appeal dismissed September 2006</p> <p>-Judicial Review draft judgement October 2007, which held that the appeal be dismissed.</p>		
07/1059	Revised scheme screening opinion for 2 wind turbines 100m to tip (60m tower, 40m blade)	Disposed under article 29	12/12/08
07/1413	<p>Community wind farm consisting of 2 turbines, substation met mast and access tracks also additional temporary works including borrow pits</p> <p>- Appeal allowed May 2009</p>	Refused	17/08/08
10/0921	Erection of an anemometry mast up to 60.0m in height for a temporary period of 18 months	Approved	15/10/10
10/1225	Lawful development certificate for the proposed construction of two wind turbines with hub height of 59 metres and tip height of 100 metres	Lawful development certificate issued (proposed)	03/03/11
13/0893	Details to be agreed in association with condition 5 (scheme of archaeological investigation) and Condition 6 (archaeological sites) of planning permission ref: P2007/1413 (APP/Y6930/A/08/2092727) granted on 07/05/2009	Approved	23/01/14
13/0905	Details to be agreed in association with condition 21 (facilities for storage of oils, fuels or chemicals) of planning permission ref: P2007/1413 (APP/Y6930/A/08/2092727) granted on 07/05/2009	Approved	06/05/14
13/0914	Details to be agreed in association with condition 13 (siting of substation), of planning permission	Approved	23/01/14

	ref: P2007/1413 (APP/Y6930/A/08/2092727) granted on 07/05/2009		
13/0916	Details to be agreed in association with condition 8 (construction method statement) of planning permission ref: P2007/1413 APP/Y6930/A/08/2092727 granted on 07/05/2009	Approved	13/02/14
14/0078	Details to be agreed in association with condition 10 (Ecological management and mitigation monitoring plan) of planning permission Ref P2007/1413 (APP/Y6930/A/08/2092727) granted on 07/05/09	Approved	06/05/14

Publicity and Responses (if applicable):

A total of 6 site notices were posted and the proposal was advertised in the press.

In response, to date 53 letters of objection have been received which includes 4 letters received from West Glamorgan Commoners Association (WGCA), Caegurwen and Panlle'rfedwen Commoners Association, The Gower Society and Rhiwfawr Action Group.

The issues raised can be summarised as follows:

- (1) Applicants have not consulted WGCA surely this is a breach of planning law as our graziers have legal grazing rights on the land and the proposal will impact upon this and their business. Only one member of WGCA supports the proposals who has an interest in the scheme
- (2) Impact on property prices
- (3) Creation of roads and tracks will lead to increased use of motorbikes on the common, dog worrying and fly tipping. Route goes through and disturbs Common Land, concerned as the movement of large lorries may cause damage. Proposal would create massive disturbance to the common. Land Transfer as compensation for Commoners has not been agreed.
- (4) Site falls within the area of consideration by Natural Resources Wales as an extension of the Gower Area of Outstanding Natural Beauty

- (5) Environmental conditions should not be removed as they protect the area.
- (6) Additional works required as part of the common land consent should be included in this application.
- (7) Questions over whether the scheme can be delivered by the applicants given the unresolved issues including planning conditions. Applicants do not have the capacity or the capability that they claim to have to take this forward.
- (8) Debatable whether any bank or lender would be prepared to risk funding such an enterprise
- (9) Changes to scheme are substantial, at odds with original application and should be considered by a new planning application and not an extension of time
- (10) Applicant makes threats that a larger developer will take over the proposal. The applicant's commitments to the community suddenly seem quite remote. If this happens, the local community would miss out on a large proportion of the benefits, which will instead be returned to a developer. If this happens shouldn't any assets be passed onto a company with similar objectives.
- (11) Community does not support proposal as applicant implies
- (12) Traffic route has been significantly revised. Plans for Mynydd y Betws wind farm have been known for a considerable time, why did the applicant not consider this 'southern' route long before the recent application.
- (13) Change to condition 14 suggests the applicants inability to align their plans with current conditions.
- (14) Locality of stone to be used has been changed causing more traffic issues
- (15) Environment study may not be valid and the area contains wildlife
- (16) Application should be refused under Section 73 (b) of the 1990 Act as there has been a material change in circumstances, changes in policy and failure to begin development

- (17) Welsh Ministers should call in this application for their own consideration
- (18) Community benefits should be managed by the Local Authority rather than AAT. Applicants have continually promised that they would supply things to the community all of which they have failed to deliver. Applicant confirmed possibility that the application could be 'sold on'.
- (19) Now borrow pits are removed no farm diversification / benefit to farms will result from the scheme as previously Perthigwynion farm quarry was to be used. Failure to check the quality, quantity and suitability of stone available at Perthigwynion Farm shows lack of competence.
- (20) Ground is unstable
- (21) Insufficient time for interested parties to comment on the application especially given holiday period, consultation period should be extended. Why have letters not been sent out to local community. Insufficient site notices posted.
- (22) The area is plagued with other turbines including on the Betws Mountain which are so intrusive from the Black Mountain (an area of outstanding beauty) that if turbines are erected on Mynydd Y Gwrhyd the whole area will be surrounded. No more an area of outstanding beauty.
- (23) The area that AAT propose to contaminate has exceptional uninterrupted panoramic views and is a truly marvellous place to walk and to watch wildlife. Visitors come to enjoy the common for these reasons.
- (24) Is the Blaenhonddan Farm Quarry the same quarry that Western Power have just submitted a planning application P2014/0722 for consultation for overhead lines
- (25) The application is a ploy to get more turbines granted in the future
- (26) The site is not within the designated government area for such development.
- (27) No details of how wheel wash is to operate and sources of water. Further wheelwash facility required where the access track joins the highway at Perthigwynion Farm and Blaenegel Farm.

(28) Applicant has offered money to each commoner if they would write to support the wind farm.

Gwaun Cae Gurwen Community Council: No response therefore no observations to make.

Cwmllynfell Community Council: No response therefore no observations to make.

Pontardawe Town Council: No objection

Brecon Beacons National Park: No objection

Natural Resources Wales: No objection

R.S.P.B: No response

Ministry of Defence (Wind): No objection subject to conditions

Glamorgan Gwent Archaeological Trust: No objection

Swansea Airport: No response

BBC (Research Department): No response

OFCOM (Windfarm Site Clearances – operation Licensing): No objection

Civil Aviation Authority (Director of Airspace Policy): No response

National Grid Plant Protection: No response

The Coal Authority: No objection

Joint Radio Company: No objection

Head of Engineering and Transport (Highways Section): No objection subject to conditions

Head of Engineering and Transport (Drainage Section): No objection subject to conditions

Pollution Control (Noise): No objection - previous conditions fit for purpose

Contaminated Land: No objection, subject to condition

Footpaths: No objection subject to condition

Arboricultural Officer: No response

Biodiversity Unit: No objection

Description of Site and its Surroundings

The application site comprises an area of approximately 10 hectares located on Mynydd y Gwrhyd to the east of Cwmgors and Gwaun Cae Gurwen, to the south of Tairgwaith and to the west of Rhiwfawr. It lies to the east of the A474 which is the principal route from Neath to Ammanford.

Access to the site will be gained via an existing access off the A474 (Pontardawe to Cwmgors) at a point opposite the entrance road to Pwllfawatkin Landfill Site.

The site occupies a prominent, elevated and isolated position on Mynydd y Gwrhyd just off the ridgeline on Mynydd Uchaf at about 350m Above Ordnance Datum (AOD) and from which there are panoramic and extensive views across the surrounding countryside and settlements and which extend to the Brecon Beacons National Park to the north, the southern boundary of which is some 2.8km from the nearest proposed wind turbine.

There are a number of farms in the locality together with the remains of previous mineral workings. Planted woodland has been undertaken in the locality, primarily with evergreen species. The site lies adjacent to the 33kv and 11kv local electricity distribution networks.

The existing closest residential properties in Cwmgors and Gwaun Cae Gurwen are some 1.8km from the nearest turbine, with those in Tairgwaith being some 1.3km away and the closest properties in Rhiwfawr some 1.1 km away. There are also individual properties located adjacent to the access road and farms located close to the site.

The site area comprises part private land and part Common Land and is not allocated for any purpose in the Unitary Development Plan. It lies outside Strategic Area E identified in Technical Advice Note 8.

Brief description of proposal

Members will be aware that planning permission (P2007/1413) has previously

been granted at appeal (May 2009) for two no. wind turbines at this location, including substation met mast and access tracks and additional temporary works including borrow pits.

This submission relates to a Section 73 application to vary and remove conditions attached to this planning permission. This type of application allows the Local Authority the power to remove or amend planning conditions. The approval of such an application would result in a new planning permission for the development being granted.

The application is supported by a Design and Access Statement, together with copies of the previous Environmental Statement with updated addendum, Transport Assessment, Coal Mining Report, and an updated Ecology Assessment.

Details of the conditions to be varied / removed are summarised as follows:

Condition 1:

The development hereby permitted shall begin not later than five years from the date of this decision.

The application seeks to vary the condition to extend the time for commencement of development until 7th May 2019.

Condition 3:

This permission relates solely to the erection of two, 3 bladed wind turbines and associated works as described in the application plan and accompanying ES, with a maximum height to the blade tip of 100 metres from the original ground level.

The application seeks to vary the condition to remove reference for works to be in accordance with the original Environmental Statement (ES), given that this document refers to the use of borrow pits (It is now proposed to use an off site quarry – see below) (i.e. tighten reference to the ES so there is no reference to sections referring to borrow pits or original traffic calculations in the original ES and ES Addendum). In addition it seeks consent for minor alterations to the approved wind turbine design with the wind turbine maximum height remaining the same, but the hub height would reduce by 1m and blade radius increase from 40m to 41m. In addition, the construction traffic route was previously approved to access the site from the north (Ammanford direction) but it is now proposed from the south (Pontardawe direction).

Condition 9:

No development shall commence until a scheme has been submitted to and approved by the local planning authority indicating the location of the borrow pits, their size, the prevailing ground conditions including the level of the water table, the nature of the material to be excavated and the use of the material, the nature and origin of any backfilling material, any pollution control measures necessary to protect controlled waters from suspended solids and the potential impacts on the hydro-geological regime as a result of the excavation and back-filling.

The applicant seeks to remove this condition given that details of borrow pits are no longer required as they propose to use an off site quarry rather than on site borrow pits as a source of stone.

Condition 14

No construction works shall commence at the site of the turbines, until the highway improvement works as detailed on Figure 14 at 1:500 dated August 2004 have been implemented, unless otherwise agreed in writing by the Local Planning Authority.

The approved delivery route for turbine components was via the M4 and the A474 through the town of Ammanford (the northern route). This application instead proposes that construction vehicles will access the site from the south (southern route) from Pontardawe at a point opposite the entrance road to Pwllfawatkin Landfill Site. The change in direction of construction traffic necessitates a change in design of the junction with the A474 when compared to the previously agreed scheme. It is proposed to widen the bellmouth at the junction and to widen the adopted highway for a length of some 160m by removing existing vegetation and trees.

Condition 15

The permanent running widths of the internal access tracks shall be no greater than 5 metres wide (10 metres on bends) unless agreed in writing by the local planning authority. All new tracks shall be surfaced with stone from the approved borrow pit(s) or excavations for the turbine bases, unless otherwise

agreed in writing by the local planning authority.

The applicants seek to vary the above condition to remove the second sentence, which currently states that new tracks will be surfaced with stone from the borrow pits (which are now not proposed). They also seek to vary the condition to allow wider sections of track to provide passing places along the access track and a wheel wash facility. The passing places/ wheel washing are identified as areas between 6m and 9m.

ASSESSMENT

Members should note that the principle of locating 2 turbines at this location has previously been accepted by the granting of the original appeal in May 2009. Accordingly, having regard to the approval of planning permission ref. P2007/1413 for two wind turbines and associated infrastructure, the main issues for consideration in the determination of the application relate to whether there has been any material change in site or policy circumstances since that approval, together with an assessment of the impact of the proposed amendments to the consent (through changes in the wording of the conditions) having regard to matters including safety, noise; socio-economic and cultural issues.

This report therefore concentrates on those areas where there are significant changes in the likely impacts arising from the proposals to vary / remove conditions whilst noting those relevant material considerations where the judgement is that there will be no change arising from the amendments proposed.

In summary therefore the issue is whether the proposed changes raise sufficient new material issues such as to make the current proposals unacceptable.

The key issues to be assessed within this report are set out below:

- **Landscape and visual effects**
- **Ecology and archaeology**
- **Ground Stability & Hydrology**
- **Traffic and Transport**
- **Shadow Flicker**

- **Electromagnetic Interference, Aviation, Public Access, Recreation, Safety and Shadow Flicker Assessment**
- **Noise and disturbance**

Environmental Impact Assessment

Under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, as the original full planning application for this site was EIA development, this application for the variation of conditions is also regarded as an EIA application.

The local planning authority considers that the Environmental Statement (ES) accompanying the original full planning permission adequately addresses the environmental effects of the proposals. However, given the alterations proposed to the approved scheme, the local authority requested that the original ES was updated via an addendum to take account of the revisions to the proposed scheme together with any potential material change in circumstances that have occurred in the intervening years.

As such, the environmental information submitted with this application ie the Environmental Statement submitted with the original application and the updated information in the form of the addendum, is considered adequate to assess the environmental effects of the development. As a result, this information will be taken into account and considered in the assessment of this application, the officer recommendation and therefore the determination.

Policy Context:

Development Plan Policies and Planning Guidance

The following policies were considered relevant to this proposal at the time of the original decision and remain in force.

The Unitary Development Plan

Policy ENV1 – Development in the Countryside

Policy ENV3 – Impacts On The Landscape

Policy ENV17 – General Considerations

Policy IE4 – Renewable Energy

Policy M6 – Borrow Pits

Draft Interim Planning Guidance: Wind Turbine Development

The draft Interim Planning Guidance (IPG) was prepared in accordance with the Ministerial Interim Planning Policy Statement (MIPPS) 01/2005 and Technical Advice Note (TAN) 8 (2005). It states that the Council will have regard to the IPG when making planning decisions with immediate effect.

National Planning Policy

Planning Policy Wales

Technical Advice Note 8 (TAN 8)

The appeal inspector noted the following:

‘TAN 8 provides a National framework within which wind energy developments are considered. Its thrust is to concentrate large scale onshore wind energy developments, defined as projects producing 25MW or more, into identified Strategic Search Areas (SSAs). One such SSA (Pontawdawe SSA[E]) lies about 500 metres to the south of the appeal site, but a note on the map within the TAN states that boundaries may be slightly refined and that there was scope to increase the area to the north-west. Annex D of the TAN provides guidance to local planning authorities on dealing with SSAs, including that minor adjustments could be made to the ‘broad brush’ boundaries when translating these into the locally generated planning documents such as the UDP or the IPG.

‘In this regard, I note that the IPG provides a refined SSA boundary, although it makes little difference in terms of the application site and the broad area covered. The application site lies beyond the areas identified for large scale developments where the TAN makes clear at paragraph 2.13 that such areas should remain free of large wind energy developments. However, it is clear from paragraph 2.2 of Annex D of the TAN that areas within 5 kilometres of the SSA are recognised as having an association with the identified areas in terms of possible sites. Thus the site can be regarded as being close to the SSA. Nevertheless as made clear in paragraph 2.13, outside the SSA, a balance has to be struck between the desirability of renewable energy and landscape protection, although that balance should not result in a severe restriction on the development of wind power capacity.’

‘The proposal however is made as a community based scheme with an output of 4MW. The submitted ES provides adequate evidence that the proposal would fall within this definition. Paragraph 12.8.11 of the MIPPS and paragraph 2.12 of TAN 8 notes that *smaller (generally less than 5MW) domestic or community-based wind turbine developments may be suitable within or without SSAs subject to material planning considerations*. In this regard, I note that the MIPPS does not define ‘smaller’ in physical terms such as the height/radius of the turbines and blades, although the Inspector considering the proposal for 4 turbines did make comment in this regard.’

‘Outside the SSA, smaller scale schemes could be appropriate. I consider that having regard to paragraph 2.13 of TAN 8 in full, there is a clear inference that whereas wind energy developments larger than 5MW outside the SSA and urban/industrial brownfield sites would probably lead to the refusal of planning permission, smaller schemes should be generally supported.’

The Appeal Inspectors concludes these matters by stating:

‘Having an output of no more than 4 MW, the proposal would fall within the parameters of small community based schemes set out in TAN 8 of up to 5MW and also within the more restricted maximum set out in the Council’s IPG. Whilst recognising that the height of the turbines and blades would be substantial and that comment in this regard was made by the last inspector, I find insufficient grounds for departing from the policy standpoint that the proposal must now be regarded as being ‘small scale’.

As such it is clear the Planning Inspector considered the location to be appropriate for a two turbine community scale scheme and the key policies in TAN8 remain the same as they were in 2009.

Furthermore, the key development plan policies referred to above are still relevant to the scheme and generally remain the same in 2014 as they were in 2009.

The below is an overview of the additional / new guidance that has come into effect since the original approval in 2009:

Environment Minister, John Griffiths, in his letter to Chief Planning Officers (July 2011) emphasised the Welsh Government’s ongoing commitment to limiting the development of large scale wind farms to seven specially selected areas, increased the maximum capacities for the Strategic Search Areas (SSAs) and called on decision makers to respect maximum installation capacities for onshore wind.

The Minister for Housing and Regeneration, Carl Sergeant, in his letter to Chief Planning Officers in December 2013, emphasised that the Welsh Government is seeking to promote and support community driven renewable energy projects where benefits from the projects are returned to the host community, and recognised that the planning system plays a crucial role and is fundamental to the deployment of community energy projects in Wales.

His letter advised that *‘Planning decisions should be based on an assessment of the impacts of any proposed development irrespective of who the applicant is. However, by recognising the particular needs of community groups and organisations, and offering the opportunity for early engagement in the planning process, I hope that we will be able to realise our ambitions to see community owned renewable energy projects flourishing across Wales’*.

“A Low Carbon Revolution” – (The Welsh Government Energy Policy Statement (2010))

In this policy statement, the Welsh Government sets out its ambitions for low carbon energy in Wales. It recognises the challenge of climate change and the aim is to renewably generate up to twice as much electricity annually by 2025 compared to output in 2010.

UK National Renewable Energy Action Plan (2010)

The National Renewable Energy Action Plan provides details on a set of measures that would enable the UK to meet its 2020 target for renewable energy. It also seeks to secure UK energy supplies through 2020 and beyond and provides a sound framework for business to develop in the new industries, providing jobs and cutting harmful greenhouse gases.

The action plan recognises the role of the planning system to deliver the infrastructure required to reduce carbon emission. It also equally recognises the need for the planning system in

“safeguarding our landscape and natural heritage and allowing communities and individuals the opportunity to shape where they live and work.”

UK Renewable Energy Road Map (July 2011)

This document sets out the shared approach to unlocking the UK renewable energy potential and ensures that 15% of the UK energy demand is met from renewable sources by 2020 in the most cost effective way.

The role of the planning system is also recognised within the document.

Paragraph 3.20 states

“The planning system plays a central role in delivering the infrastructure we need to reduce our carbon emissions, to ensure continued security of energy supply and help our economy to grow. It has a vital role in safeguarding our landscape and natural heritage and allowing individual communities the opportunity to shape their environment.”

Planning Policy Wales Edition 7, July 2014) sets out the strategic framework for the effective operation of the planning system in Wales.

Biodiversity and landscape considerations must be taken into account in determining individual applications contributing to the implementation of specific projects. The effect of a development proposal on the wildlife or landscape of any area can be a material consideration. In such instances and in the interests of achieving sustainable development, it is important to balance conservation objectives with the wider economic needs of local businesses and communities. Where development does occur it is important to ensure that all reasonable steps are taken to safeguard or enhance the environmental quality of land.

Conclusion in respect of the principle of the proposed development

As emphasised above, the erection of two wind turbines in this location has previously been deemed to be acceptable by an independent Planning Inspector. Since that date, there has been no material change in local policy, while national policy has only reinforced the Government’s commitment both to the SSAs and especially to small-scale community-based wind projects.

Accordingly, there remains a general presumption in favour of developing wind farms subject to there being no resultant adverse impacts, and there are no reasonable or sustainable grounds on which to object to this development in respect of the principle of development.

ASSESSMENT

Landscape and visual effects

The table below sets out a comparison between the details of the previously approved turbines and those proposed under this application, from which it will be noted that the change to the turbine design is minimal.

	Overall height	Hub Height	Blade radius
Approved	100m	60m	40m

scheme 2009			
Current proposal	100m	59m	41m

The Appeal Inspector in 2009 dealt with and summarised the question of the visual and landscape impact of the proposed turbines as follows:

- *'the impact upon part of the area's landscape character would be significant but not unacceptably harmful' and 'the proposal would not result in significant change to the landscape's overall appearance and its appreciation.'*
- *'upper parts of the turbines may be seen and may result in some significant changes to the views, I consider that the area's key visual characteristics would not be significantly changed.'*

Bringing these two issues together the Appeal Inspector noted the following:

- *'it is clear that the proposed turbines would have an effect upon the landscape character and visual appearance of the area. Those impacts would be largely contained by the existing topography within a 10km radius that encloses the appeal site and separates it from the wider landscape.'*

The Appeal Inspector also referred to and assessed the potential cumulative impact stating

- *'I have also had regard to the possible cumulative impact of similar developments within and adjoining the Council's area and note in particular those developments within the defined SSA's. However, taking into account the level of exposure of and to those developments as illustrated in the ES and noted during my site inspection, together with the reduced scale of the current proposal, I conclude that the proposal would not result in significant change to the landscape's overall appearance and its appreciation.'*

The original planning application was supported by landscape and visual assessment. The approach taken to the landscape assessment was based upon the LANDMAP methodology and data. This methodology accorded with Best Industry Practice. The studies concluded that the turbines would have a very limited zone of visual influence.

The requested variation to condition 3 will result in the proposed turbines

potentially having a greater swept area of 1m by virtue of the increased blade radius. However, this is to a degree offset by the reduction in hub height which results in the overall tip height remaining the same as that previously approved.

As stated, in terms of the overall height, the maximum tip height will remain the same at 100m, but clearly there is an increase in blade length and as a result whilst in motion, particularly from closer views, one may be more aware of the turning of the turbines when in operation. On balance however and given the limited increase in blade radius, it is considered that there would be no materially greater impact in landscape and visual terms to the extent that it would justify refusing consent.

Notwithstanding the above, it is necessary to consider cumulative impact, and notably whether there are any changes since the appeal decision in terms of other approvals which would materially affect the overall conclusions in terms of landscape impact. In this regard, the following planning applications for developments in close proximity to the site have been granted / become operational, and are analysed below:

Mynydd y Betws Wind Farm - Although the scheme at Mynydd y Betws was consented after the Mynydd y Gwrhyd scheme, the two schemes were determined at a very similar time and cumulative impacts were considered at the appeals for both proposals. Neither scheme was refused on grounds of cumulative impact.

Summary: Cumulative impact assessed at time of original application Mynydd y Gwrhyd.

Mynydd y Gwair –When the original application for the Mynydd y Gwrhyd scheme was considered, this application was under consideration and although not being part of the baseline, the cumulative impacts were considered at the Mynydd y Gwrhyd appeal. The Mynydd y Gwair application for 19 turbines was refused and dismissed at appeal. A revised scheme consisting of 16 turbines was approved by the City of Swansea County Borough Council in February 2013. The revised scheme has fewer turbines than the proposal considered for cumulative impacts at the Mynydd y Gwrhyd appeal.

Summary: Cumulative impact assessed at time of original Mynydd y Gwrhyd application when it was considered there was no unacceptable impact. 2013 scheme for fewer turbines approved, and therefore no unacceptable impact

Ffynnon Oer Wind Farm - wind farm located 16.2 km southeast of Mynydd y Gwrhyd. The Ffynnon Oer Wind Farm wind farm was operational at the time of the planning application for the Mynydd y Gwrhyd scheme. A cumulative ZTV was presented in the ES Addendum submitted in 2007 (ES Addendum Figure 18, Dulas 2007) and concluded that there would be no significant cumulative effects arising from the Ffynnon Oer Wind Farm when considered alongside the Mynydd y Gwrhyd scheme.

Summary: Cumulative impact assessed at time of original Mynydd y Gwrhyd application

Mynydd Marchywel – Five wind turbines of up to 126.5 m are proposed at Mynydd Marchywel, approximately 6.7km to the south east of Mynydd y Gwrhyd. The application was submitted in October 2012 and therefore was not considered in the cumulative impact assessment for Mynydd y Gwrhyd. The application was refused in February 2014 and therefore is not part of the baseline situation under which this Section 73 application is considered. However, given that the applicant has submitted an appeal, the project is considered here.

The Mynydd y Gwrhyd scheme had an extant consent when the application was submitted. Therefore, cumulative impacts of the Mynydd Marchywel wind farm alongside the Mynydd y Gwrhyd scheme were considered throughout the planning process for the Mynydd Marchywel scheme

The LVIA for Mynydd Marchywel concludes that:

‘The assessment of cumulative effects indicates that the proposed wind farm would introduce negligible new areas of visibility, where wind energy development is currently not seen, into the study area. Whilst the proposed wind farm would be seen in combination with other cumulative development across most of the LCT and LCA in the study area, the addition of the proposed wind farm would not add significantly to existing and proposed cumulative development and would have a relatively limited effect which would not be significant on any LCT or LCA’ (page 129).

As stated the Mynydd Marchywel planning application was refused, however, the reasons did not relate to cumulative impacts.

Summary: Not considered at time of original Cumulative Mynydd y Gwrhyd application. However, Mynydd Marchywel application considered cumulative impact and concluded there would be no unacceptable impact.

As such, analysis of the above schemes demonstrates that the Mynydd y Gwair

and Mynydd Marchywel wind farms that have been approved since the original Mynydd y Gwrhyd appeal decision. However, both of these schemes included cumulative impact assessments examining their impact alongside the impact of this proposed development at Mynydd y Gwhryd.

Having regard to the above, it is considered that all proposals considered since 2009 have assessed cumulative impacts alongside the Mynydd y Gwrhyd scheme, and no proposals have been refused due to unacceptable cumulative impacts. In any respect, it is concluded that the changes proposed as part of this application are minor and there are no reasonable grounds to object to the development on landscape grounds, including in respect of cumulative impact.

The other changes proposed under this application, namely the decision not to use on site borrow pits, to change the route of construction traffic and make amendments to internal access roads, would have negligible impacts upon the landscape over and above those identified in the previous application. Indeed, the Appeal Inspector does not relate to these individual aspect elements in his assessment on visual impact and almost solely refers to the impact of the turbines only.

Ecology

Within the original planning application it was assessed that there was no significant habitat change and there was no objection from CCW or the Council's Biodiversity Unit to the development. Similarly the appeal inspector did not raise any objection or issues in respect of ecology but recommended the following condition:

No development shall commence until an ecological management, mitigation and monitoring plan has been submitted to and approved in writing by the local planning authority: the plan shall be implemented as approved.

Several ecology surveys have been carried out since 2009 as part of work to discharge the above condition and to secure Section 194 Common Land consent including surveys in June 2011. They include a Discharge of Ecology Planning Condition report produced by Barry Stewart & Associates in September 2013 and an Ecological Mitigation Method Statement produced by Amber Environmental Consultancy in February 2014. The above have been submitted to NPTCBC and have been reviewed by the Biodiversity Unit. The Biodiversity Unit has confirmed that they were satisfied with the information submitted and the condition was discharged in June 2014 under planning reference P2014/0078.

There is also no evidence that there will be any increased impact upon local wildlife arising from the proposals as opposed to that within the originally approved scheme. There are therefore, no outstanding matters relating to Ecology.

Archaeology

The archaeological impacts of the scheme were previously assessed within the ES concluding that no unacceptable impacts would result. The Planning Inspector accepted this approach and recommended the following conditions:

'No development shall commence until a scheme to ensure the implementation of archaeological work in accordance with a written scheme of investigation has been submitted to and approved in writing by the local planning authority.'

'No development shall commence until all identified archaeological sites within the application site area have been fenced in accordance with details to be submitted and approved by the local planning authority: throughout the development, no works shall be undertaken within the fenced area without written consent of the local planning authority.'

The above conditions were discharged on 23rd January 2014 under Planning reference P2013/0893. The relationship between the proposed wind turbines and archeological assets has not changed. As such, the alterations subject of this application would not result in any significant additional impact. Glamorgan Gwent Archeological Trust also raised no concerns to the amendments which are proposed within this application and have confirmed that they have no objection to the proposed scheme. As such, conditions are recommended which refer to implementation of the aforementioned agreed schemes.

Ground Stability & Hydrology

With regard to ground conditions that exist and its suitability to accommodate the foundations for the proposed turbines, it is noted that investigations have previously been undertaken by Consultants commissioned during the submission of the original application for four wind turbines. The Appeal Inspector does not refer to this issue in any detail in respect of the appeal allowed in 2009 in respect of the 2 turbine scheme. However, no evidence was presented at this time to suggest that the erection of the turbines would cause ground stability problems.

However, the Coal authority have reviewed the proposals put forward under

the current application and confirm that the application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.

The Coal Authority records show that the site contains a number of mine entries (shafts / adits); with further mine entries within 20 metres of the application boundary. The site is also within an area of recorded past shallow workings and is likely to have been subject to historic unrecorded shallow workings. The Coal Authority records also indicate that the site has been subject to past surface mining operations.

The Coal Authority state that the applicant has obtained appropriate and up-to-date coal mining information for the proposed development site; including Coal Authority Mine Abandonment Plans, BGS geological mapping and information from a recent site investigation, permission of which was obtained from The Coal Authority records. This information has been used to inform the Coal Mining Risk Assessment Report (April 2014, prepared by The Natural Power Consultants Limited).

Based on this review of existing mining information, and on the basis that all of the mine entries are remote from where the turbines are proposed, Section 6 of the report confirms that it is highly unlikely that there are any workings or disturbed ground in the vicinity of the locations that would have an adverse effect on the proposed development. Consequently, the report concludes that the risk is assessed as extremely low. Accordingly, no specific remedial measures or further investigation are considered necessary.

The Coal Authority advise that the results of the site investigations, an analysis of which is provided in the submitted Coal Mining Risk Assessment Report, are broadly sufficient for the purposes of the planning system and meet the requirements of Planning Policy Wales (PPW) in demonstrating that the application site is safe and stable for the proposed development. The Coal Authority therefore has raised no objection to the proposed development. However, it is stated that further more detailed considerations of ground conditions and/or foundation design may be required as part of any subsequent Building Regulations application.

It is therefore considered that material circumstances therefore remain broadly unchanged since 2009, when the Appeal Inspector judged the proposal to be acceptable in terms of ground stability.

A Hydrology report was also commissioned by the applicants during the submission of the original application, which acknowledged that some

dwelling in the area are served by natural water supplies. The conclusions reached in the report were that the development should not have an impact on natural water supplies and licensed abstractions but recommends that the situation be monitored.

Natural Resources Wales have provided further confirmation in respect of the current application that they have no objection to the development in principle. Given that the amended application still consists of only two turbines it is not considered that the proposed development would have any additional impact over and above that previously considered.

Traffic and Transport

The access road on the site (defined as the area within the red line boundary) was consented in 2009 and the route from the A474 has not changed since this date. A detailed design for the access road has however been produced that includes minor amendments to the track widths at certain locations.

Traffic route

Access arrangements to the site have changed since those assessed in the original ES. The original ES described the access for Abnormal Indivisible Loads (AILs) to the site as along the A474 from the north. The original route described in the ES was along the A483 towards Ammanford from the west and then went onto the High Street through the centre of Ammanford. At the time of the original ES preparation, the High Street was the A474. In 2006, a bypass was constructed in Ammanford which significantly changed the road layout. The A474 now follows the bypass. The route as assessed in the original ES no longer exists due to these changes.

In terms of the original route proposed via Ammanford, the High Street has been substantially modified to discourage through traffic from using it. Traffic calming measures have been installed along the full length of the road. In addition to necessary street furniture and signage modifications.

The route now proposed is from the south and has been adopted following changes to the highway network from the north described above. In addition, this seeks to take advantage of the enabling works now in place following the successful delivery of the Mynydd y Betws project.

The proposed route for AILs comprising the Wind Energy Converters or Wind Turbines (WEC) components is therefore now expected to begin with importation to Swansea dock from where they will be transported to the site via A483 Fabian Way to the M4 at Junction 42. The route continues north west

along the M4 to junction 45 where it leaves to join the A4067 north to Pontardawe, and then along the A474 north to a minor junction opposite the Pwllfawatkin tip at OS reference SN 703 086.

The route from the south has been assessed by the local authority as an acceptable route for the Mynydd y Betws project (which was implemented without unacceptable impact) and as the proposed development is smaller, in both size and number of turbines, it is considered that there will be no significant impact from using this route.

The only part of the Mynydd y Gwrhyd route that is not coincident with the Mynydd y Betws route is about 800m of lane/access track leading from the Pwllfawatkin cross roads to the Gwrhyd Common. Nevertheless there are no highway objections to this part of the route.

Traffic Movements

This application also requests the removal of condition 9 that requires details of on site borrow pits to be submitted to the local planning authority. This is on the grounds that the original application proposed the inclusion and use of borrow pits for the extraction of stone to construct the access track. However, although the borrow pits were discussed in the original ES and planning conditions, the borrow pits were not within the red line boundary for the application. This Section 73 application therefore applies to vary conditions to enable AAT to use stone from a local quarry as opposed to the originally proposed (but not previously approved) borrow pits.

The applicant originally considered three options for obtaining stone for construction, including use of materials excavated as part of development (e.g. turbine foundations), use of borrow pits near the turbines and purchasing stone from off site. The two borrow pits considered were located at Perthigwynion Farm and to the north of Bryn Melyn Farm.

However, it has since been concluded that the quality of stone from the two aforementioned farms is inadequate and the quantity available is insufficient from Perthigwynion farm. Furthermore, the site to the north of Bryn Melyn is also unavailable as it is located on common land and was withdrawn from the Section 194 application by the applicant in order to reduce the impact of the scheme on the Gwrhyd Common, an area of open public access.

The applicant therefore now proposes to source stone from Blaenhonddan Farm quarry (also known as Gilfach Quarry). This quarry is located about 5.5 miles from the site to the south of Pontardawe. The route to site will be along a short length of minor road onto the A474 to the east of Bryncoch then north

along the A474 to the Pwllfawatkin crossroad. It is of note that this quarry recently supplied 60,000 tonnes of stone to the nearby Mynydd y Betws wind farm development.

It should be noted that the original ES estimated that with the borrow pits, in excess of 85% of the required stone for the project could be won on site. It is not clear what proportion of this 85% would be sourced from excavations associated with the turbine and ancillary development as the assessment also considers this as an option.

As such, it is clear that by sourcing stone from off site, there will be a resultant increase in construction vehicular movements over and above that which was previously anticipated. However, a Traffic Management Plan was not produced as part of the application consented in 2009, and details of the exact number of vehicular movements was not provided. As such, a condition was placed on the consent by the Appeal Inspector to enable preparation of additional information on traffic movements and mitigation of any impacts.

The proposed scheme estimates that 1,727 deliveries will be required over a six month construction period, creating an average of 12 deliveries (24 movements) per day. However, the number of vehicles per day will generally be less than 12, but may rise to about 50 HGV vehicles (100 movements) per day during periods of intense activity, typically during concrete foundation pours (which will normally take one day for each of the two bases). These figures exclude the site personnel and visitors travelling to and from the site which will be about 8-10 cars or light vans per day.

The bulk of the 1,727 figure referred to above relates to the importation of stone (1,397 loads - 2794 vehicle movements). The applicant has confirmed that the construction will last for approximately 6 to 7 months and that for the first one and a half months of the construction, HGVs will be delivering the stone on a 10 hour working day. The deliveries would however be restricted to Monday to Friday and Saturday mornings, so effectively 5 ½ days per week.

As such the Local Planning Authority has assessed the number of movements related to stone on the basis of a seven week period (38.5 days). This assessment indicates that there will be an average of 36.3 HGV loads (72.6 HGV movements) per day which equates to 3.63 (7.26 movements) per hour.

If the stone deliveries were more intense (over a 6 week (33 day) period) this would increase the vehicles to an average of 42.3 HGV loads (84.6 HGV movements) per day, which equates to 4.23 per hour (8.46 movements)

As stated above, the calculated proposed vehicle movements relating to stone

would represent an increase over and above those that were originally envisaged under the previous approval. Nevertheless, the Head of Engineering and Transport has assessed the proposed development and considered the above calculations and advised that there is sufficient capacity within the highway network serving this site to accommodate these movements without impacting upon highway safety. As such there is no highways objection to the proposed development.

Accordingly, provided an appropriate Traffic Management Scheme is conditioned and implemented, along with other appropriate conditions, it is considered that the impacts of the proposed development during the construction phase of the wind farm would not result in any unacceptable impact upon highways and pedestrian safety.

Shadow Flicker

Guidance on shadow flicker at the time of the original approval stated that the effects only occur at distances of up to, and no more than, 10 rotor diameters from the turbine.

Both the original ES and the Appeal Inspector stated that given the distance from any dwellings, shadow flicker is not an issue for the proposed scheme. Following the appeal decision, Parsons Brinckerhoff in 2011 reviewed the evidence base for Shadow Flicker on behalf of the Department for Energy and Climate Change. The study concluded that the rotor diameter approach is widely used by different organisations in different parts of the UK and still deemed to be an appropriate assessment area. This approach is still used to guide shadow flicker assessments in 2014 and therefore remains appropriate to this application.

The closest property is Bryn Melyn, which is located 750m south of the nearest turbine. However, as previously assessed, properties to the south of a turbine cannot be affected by shadow flicker. Impacts only occur within 130 degrees either side of north from a turbine. As such, despite the increased rotor diameter distance it is still the case that no residential properties fall within the affected zone.

It is therefore considered that material circumstances remain broadly unchanged since 2009, when the Appeal Inspector judged the proposal to be acceptable in terms of shadow flicker impact.

Electromagnetic Interference, Aviation, Public Access, Recreation, Safety and Shadow Flicker Assessment

The original ES (2004) included a section assessing the impacts of the five turbine Mynydd y Gwrhyd scheme on microwave and electromagnetic signals, television reception and aviation. The ES Addendum (2007) did not update the 2004 assessment.

Microwave and other electromagnetic signals are transmitted throughout the country by a wide range of operators, including both statutory agencies and commercial companies. As part of the original ES (2004) all bodies controlling communication links were contacted including Home Office, Orange, Crown Castle UK Ltd, BBC, ITC, NTL, Radio Communications Agency, Cable and Wireless and Radio Safety Branch. With the exception of NTL, none of these organisations voiced any concerns.

The ES reported that NTL stated that no Super High Frequency links would be affected, but that there could be an impact on an NTL operated UHF Re-Broadcast link between Carmel and Ystalyfera.

As such, while there were no significant impacts identified in the original ES, a condition was placed on the consent requiring a scheme to be submitted and approved in writing to alleviate any interference with electro-magnetic signals (condition 27). Should this application be approved this condition can be re-imposed.

In respect of aviation, the Appeal Inspector did not include any planning conditions on the consent relating to aviation. However, the MOD have responded by stating that the principal safeguarding concern of the MOD with respect to the development of wind turbines relates to their potential to create a physical obstruction to air traffic movements and cause interference to Air Traffic Control and Air Defence radar installations.

As such, the MOD, in the interests of air safety request that the turbines should be fitted with aviation safety lighting.

Defence Infrastructure Organisation Safeguarding also wishes to be consulted and notified of the progression of planning applications and submissions relating to this proposal to verify that it will not adversely affect defence interests. If planning permission is granted the MOD state that they would like to be advised of the following;

- the date construction starts and ends;
- the maximum height of construction equipment;
- the latitude and longitude of every turbine.

It is stated that this information is vital as it will be plotted on flying charts to make sure that military aircraft avoid this area.

Subject to conditions securing the above, given the nature of the proposed alterations, it is considered that there will be no additional impact over and above that previously identified.

In terms of public access, recreation and safety, the limited alteration to this proposal which primarily relates an increased blade diameter, will ensure that there would be no further impact over and above that assessed under the previous permission.

Noise and disturbance

Noise issues relating to the potential noise impact of this Wind Farm scheme have been previously assessed in the Environmental Statement, and the Addendum to the Environmental Statement. The Environmental Health Officer and the Appeal Inspector also raised no objection to the previous proposal regarding noise implications.

The previous noise assessment followed the guidance contained within the report by the DTI Working Group on Noise from Wind Turbines and which is detailed in ETSU-R-97. ETSU-R-97. This remains the key guidance for wind turbine noise assessments in 2014.

Planning conditions were however placed on the previous consent to ensure that noise levels will be acceptable and outlining the remedial action that can be taken if complaints are received. The Environmental Health Officer has not raised any objection to this revised scheme.

Furthermore the extraction of stone from an existing quarry at some distance from the site will result in less noise and disturbance during the construction phase of the development, when compared to the potential use of borrow pits adjacent to the site. Therefore, use of stone from a commercial quarry could be considered to have a minor positive impact by reducing noise levels associated with new quarrying activities and also reducing the impact upon the existing landscape. Furthermore, the applicant has confirmed that during negotiations on the Common land consent, it was explicitly requested that the borrow pit on the Common was removed from the scheme.

As such, it is considered that subject to the inclusion of conditions in respect of noise the proposed scheme would not lead to any additional unacceptable impact over and above that which was previously identified.

Comments on the Grounds of Objection raised by the Public

In response to the objections raised mainly by local residents, it is considered that the concerns relating to planning policy, visual amenity, ground stability, site stability, ecology, traffic implications, cumulative impact and planning policy have been addressed in the report.

In respect of the other matters:

In response to the above issues concerning the consultation process and the fact that WGCA were not consulted by the applicant. Site notices were posted at the site and other locations in close proximity to the site and the application was advertised in the press. The consultation was considered as sufficient and was carried out in accordance with statutory requirements associated with publicity for a Planning Application as set out within the Town and Country Planning (General Development Management Procedure) (Wales) Order 2012.

It is a private matter between WGCA and the applicant as to whether consultations should have been sent to this organisation rather than a legislative requirement.

In respect of the issues concerning impact on property prices. There is no justifiable evidence that the windfarm would devalue property and notwithstanding this, the impact a planning application may have on property value is not a material planning consideration.

In respect of the issues raised concerning the impact upon the Common and the land transfer issue. Issues such as fly tipping would be dealt with under separate legislation. However, there is no evidence presented to suggest that the proposals would have an unacceptable impact upon the Common and the local authority is of the view that any impact would in any case not be to an unacceptable level. Matters of grazing rights over the common are the issue of the land transfer and are not material to the consideration of this application as they were dealt with under a separate application under the Common Land Act which has already been granted.

In response to the issue of the proposed alteration works required as part of the common land consent. Some of these works will require planning permission. However the applicant is not required to submit these details as part of this current planning application and can apply for planning permission at a later date for these works.

While it is accepted that the applicant has not progressed matters quickly in line with the previous approvals at this site, questions relating to whether the applicant is able to deliver this scheme are not material to this decision.

Regarding the issues raised highlighting the extent of the changes to the application, the legality of the submission and that a new full application should be submitted, an applicant can apply for consent under section 73 of the Act, to remove or vary a planning condition any time prior to the expiry of the host planning permission. Officers were of the view that a variation of condition application, provided it was made as a formal planning application, was the appropriate procedure given that it allows for all interested parties to be consulted and for appropriate publicity to be given to the revised proposals. Furthermore, while objectors state that the application should be refused under section 73 (b) of the act, it is considered that this is the applicants first attempt at renewing this permission and as such to refuse the application on failure to begin / implement the development would be unreasonable.

In response to the allegations that the applicant has threatened that larger developers could take over the scheme and issues of community benefit, the contribution towards a community fund would be the responsibility of the applicant or any successor. As such it is considered that community benefit for the purposes of the planning application would be maintained even if other developers took over the scheme. It should be noted however that Community Benefit is not a material planning consideration.

Turning to the statement that the community does not support the proposal as the applicant implies. It is understood that there are varied reasons why the members of the local community do not support the proposed development. However it is the local planning authority's role to consider all material planning considerations in making their decision, as part of this the local community have provided their views on the proposal which are assessed in this report.

Responding to the issues raised concerning the change in route for construction traffic, the applicant had previously chosen an alternative route that the Appeal Inspector allowed. However, for the reasons already set out in this report, this route is no longer as viable as previously assessed.

In respect to the issues raised concerning condition 14 of the Appeal Inspectors decision that requests highway improvements to the junction, the applicant has requested amendments to this arrangement given the altered route of construction traffic and the fact that the previous junction arrangement cannot

adequately accommodate vehicles entering the application site from the south as currently proposed.

In respect of the issues raised concerning the potential for there to be more vehicular movements. The Head of Engineering and Transport has assessed the proposed development and has no objection to the proposals.

An objector suggests that this application should be 'called in' by Welsh Ministers. However, this application is not a type that falls under The Town and Country Planning (Notification) (Wales) Direction 2012 and as such does not need to be referred to Welsh Government. Nevertheless any interested party is able to request that an application be called in by the Welsh Government prior to its determination (They must make that request direct to the Planning Division of the Welsh Government). However the Welsh Government will only agree to 'call in the application' if it is of more than local importance. It is not considered that this application is of more than local importance. Nor have we been advised by the Welsh Government that they intend to 'call it in'.

In respect of the issue relating to the loss of potential for agricultural diversification / benefit as a result of the alteration to use on site borrow pits, the Appeal Inspector did not cite this as justification for allowing the appeal and in any case it is considered that the loss of the on site borrow pits would not lead to any unacceptable impact that would merit refusal of this application.

In response to the enquiry as to whether Blaenhonddan Farm Quarry is the same quarry that Western Power have just submitted a planning application P2014/0722 for consultation for overhead lines. The site subject to Planning application P2014/0722 is Gwrhyd Special Stone Quarry not Blaenhonddan Farm Quarry.

In respect of the issue raised concerning the potential for there to be more wind turbines at this location in the future, any future application will be considered on its own merits and should this application be approved, it will not set a precedent for future wind turbines at this site.

In respect of the allegations relating to money being offered, scare tactics and lack of bank funding, there is no evidence to back up these allegations nevertheless they are not material planning considerations.

In respect of the amendments requested to condition 3, this will not result in any Environmental conditions being removed.

The comments are noted that indicate that the site falls within the area of consideration by Natural Resources Wales as an extension of the Gower Area of Outstanding Natural Beauty. However, Natural Resources Wales have raised no concerns in this respect and have no objection to the proposed development.

In respect of the issues raised concerning wheel wash facilities, the final detail for these arrangements will be agreed as part of a condition requiring a Traffic Management scheme. Notwithstanding this, it is considered that an option could be to utilise a wheel washing bowser at the site so no mains or other sources of water would be required.

Community Benefit

Developers, in consultation with local planning authorities, should take an active role in engaging with the local community on renewable energy proposals.

Experience has shown that there are opportunities to achieve community benefits through major wind farm development. Local Planning Authorities, where reasonably practical, should facilitate and encourage such proposals. However, such contributions should not enable permission to be given to a proposal that otherwise would be unacceptable in planning terms.

TAN 8 Renewable Energy (2005) considers “Community Involvement and Benefits” and recognises the opportunities that large developments provide in making contributions that benefit the community, and experience has shown that there are opportunities to achieve community benefits through major renewable energy developments including solar”.

These include where developers offer benefits not directly related to the planning process. However such contributions should not impact on the decision making process, and as stated above should not enable permission to be given to a proposal that otherwise would be unacceptable in planning terms.

Having regard to the above, and to the Authority’s recent success in ensuring other such large-scale renewable energy proposals directly benefit the community from hosting such development, the applicant has offered to provide a community benefit contribution of £6,000 per MW. This reflects the sum offered under the previous approval which was for the same amount.

The applicant has indicated that a further contribution of £4,000 per MW has been agreed as part of the legal agreement for the Common Land Consent.

As stated above, community benefit is not put forward as mitigation and must not be taken into consideration in the decision of the planning application.

Conclusion

As with the original proposal a range of issues have been raised during the assessment of this application. National policy continues to support renewable energy projects such as this and as such the key issue for Members is whether the revised proposals raise new material issues that have such an adverse impact that the overarching policy support for renewable energy should be set aside in this particular case.

Key issues relate to whether it would be appropriate to extend the date for commencement of development, landscape and visual impacts together with the revised access route and potential for additional vehicular movements. It is not considered that there has been a material change in circumstances since the previous grant of planning permission and the proposal continues to broadly accord with national policy. It is therefore considered that it would be unreasonable to refuse to allow the extension to the time period proposed for commencement of development. In terms of visual impact it is concluded that there will be no greater impact than the earlier proposals. Furthermore, the suitability of the local road network has been assessed and it has been confirmed by the Highway Authority that they have no objections to the revisions, subject to conditions.

All environmental information submitted within the ES and the Supplementary Environmental information along with the comments of statutory consultees on the information supplied, and the comments, observations and representations provided by members of the public have been taken into consideration in this recommendation.

As such it is considered that the submitted scheme demonstrates that there are no unacceptable detrimental effects over and above those previously identified. The development therefore accords with Planning Policy Wales, TAN 8, Policy GC1, ENV1, ENV3, Policy ENV17, Policy IE4 and Policy M6

Recommendation

APPROVAL subject to a section 106 agreement to secure a community benefit payment of £6,000 per MW per year for the life time of the project and securing of a bond of £65,000 to cover the scenario that the applicant can not fulfil its obligation for the decommissioning of the scheme.

CONDITIONS

(1) The development hereby permitted shall be begun before the expiration of 5 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) This permission relates solely to the erection of two, 3 bladed wind turbines and associated works as described in the application plan and accompanying updated ES, with a maximum height to the blade tip of 100 metres from the original ground level and shall be restricted to the maximum generation of 4 MW of electricity only.

Reason

In the interest of clarity

(3) The permission hereby granted shall endure for a period of 25 years from the date when electricity is first exported from any wind turbine to the electricity grid network (First Export Date). Written confirmation of the First Export date shall be notified in writing by the developer to the Local Planning Authority within one month of the First Export Date.

Reason

In the interests of visual amenity

(4) Not later than 24 years after the First Export Date a decommissioning and site restoration scheme shall be submitted to and agreed in writing with the Local Planning Authority. Such a scheme will include:

-the removal of all surface elements of the development and one metre of the turbine bases below ground level;

-confirmation of the management and timing of works;

-a traffic management plan to address highway issues during the period of the decommissioning works;

-any other works of restoration and aftercare

The scheme shall be implemented as approved.

Reason

In the interests of visual amenity

(5) Notwithstanding the requirements of condition 4, if any wind turbine fails to produce electricity to the grid for a continuous period of 12 months, that turbine and its associated ancillary surface equipment shall be removed from the site in accordance with a scheme that shall have been submitted to and agreed in writing with the Local Planning Authority within 28 days of the end of such 12 month period. The scheme shall include provisions for the decommissioning of the turbine and associated equipment and the restoration and aftercare of the relevant land (herein referred to as the restoration scheme). The submission shall also include a timetable for the aforementioned and the works shall be completed in accordance with the approved restoration scheme.

Reason

In the interests of visual amenity

(6) The blades of the wind turbines shall rotate in the same direction.

Reason

In the interests of visual amenity

(7) No development shall take place until full details of the following have been submitted to, and approved in writing by the Local Planning Authority:

-The external finish and colour of the proposed turbines;

-The materials to be used for any external unit transformer housing;

The development shall be carried out in accordance with the approved details.

Reason

In the interests of visual amenity

(8) All electricity and control cables between the turbines and the switch room shall be laid underground and alongside tracks which are to be constructed as part of the development.

Reason

In the interests of visual amenity

(9) No construction work shall be undertaken outside the hours of 0730 - 1800 hours on weekdays (Monday - Friday) and 0730 - 1200 hours on Saturdays and at no time on bank holidays and Sundays.

Reason

In the interests of residential amenity

(10) The temporary construction compounds and other temporary construction works as set out in the submitted application details shall be removed no later than three months from the First Export Date and the ground restored in accordance with the proposed restoration of the site within 6 months of such removal.

Reason

In the interests of residential amenity

(11) Variations of the position of any turbine(s) and their associated infrastructure shall be permitted by up to 30 metres in any direction within the application site. Such variations shall be notified to the Local Planning Authority prior to their erection on site via the submission of a plan showing the approved siting and proposed micro siting, together with a reasoned justification for the proposed micro siting. The turbine(s) shall be completed in accordance with the submitted plan. A plan showing the approved siting of the turbines shall be submitted within one month of their construction on site.

Reason

In the interests of visual amenity

(12) Prior to the commencement of development written confirmation shall be submitted to the Local Planning Authority confirming that the Ministry of Defence has been given written notice of the proposed date of commencement and completion of the development, the maximum height of construction equipment, the latitude and longitude of every turbine and the maximum extension of height of any construction equipment, turbines or structures.

Reason

In the interests of Aviation safety to ensure that there is no obstruction to air traffic movements and interference to Air Traffic Control and Air Defence radar installations.

(13) The implementation of the archaeological work and protection of archaeological sites within the application site area shall be carried out in accordance with Archaeology Wales Limited, Written Scheme of Investigation (WSI) (dated September 2013) and QuadConsult Limited Construction Method Statement (dated September 2013), as agreed under planning permission P2013/0893 approved on 23.01.14.

Reason

In the interests of archaeology

(14) The implementation of the ecological mitigation work shall be carried out in accordance with Amber Environmental Consultancy, Ecological Mitigation Method Statement (dated February 2014), as agreed under planning permission P2014/0078 approved on 06.05.14.

Reason

In the interests of ecology

(15) No trees, other than those within a 200 metre radius of the proposed turbines and those required for the new track and the widening of the existing track (as detailed in the Amber Environmental Consultancy Ecological Mitigation Method Statement (February 2014)) shall be felled within the application area.

Reason

In the interests of ecology

(16) Notwithstanding the submitted information, no development shall take place until a Traffic Management scheme (TMS) has been submitted to and approved in writing by the Local Planning Authority. The TMS shall set out the timings of works and include details of any alterations/amendments to the existing A474 on route through Pontardawe and up to the site location. This shall include temporary speed reduction measures (if applicable), give way markings, times of operation, removal of existing street furniture, roundabouts, kerb alignments etc. that allows safe delivery of the wind turbines. The development shall be carried out in accordance with the approved Traffic Management Scheme including the reinstatement / restoration of

temporary works necessary to allow for the deliveries associated with this development.

Reason

In the interest of highways safety

(17) There shall be no Abnormal Indivisible Load deliveries to the site before the implementation of the highway junction improvement works (with the A474) as detailed in QuadConsult Limited Construction Method Statement (dated September 2013) paragraph 3.3 and Drawing 13040 100 Rev 5 (submitted 07/10/14).

Reason

In the interests of highway safety.

(18) No part of the development shall display any name, logo, sign or advertisement or means of illumination (save for that required for aviation safety purposes).

Reason

In the interests of visual amenity.

(19) The development hereby permitted shall be carried out in accordance with QuadConsult Limited Construction Method Statement (dated September 2013), as agreed under planning permission P2013/0916 approved on 13.02.14.

Reason

In the interests of highway safety.

(20) The tonal noise emitted from any of the turbines shall not exceed the levels

recommended in guidance in the BERR ETSU-R-97 at any residential property. In particular, the level of noise emissions from the wind farm, measured as described

below, at any dwelling lawfully existing at the date of this permission shall not exceed:

(i) between 0700 and 2300 hours on any day the greater of 40dB LA90 (10 mins) or 5dB(A) above the Quiet Waking Hours Background Noise Level at that property;

or

(ii) between 2300 hours on any day and 0700 hours on the following day the greater of 43dB LA90 (10 mins) or 5dB(A) above the Night Hours Background Noise Level at that property.

The following definitions shall apply:

(i) “ETSU” means “The Assessment and Rating of Noise from Wind Farms” published by the Energy Technology Support Unit for the DTI in 1996.

(ii) “Background Noise Level” means the derived prevailing background noise as reported in the Environmental Statement 2007 at Table 5.1.

(iii) “Tonal Noise” has the meaning given on page 95 of ETSU.

(iv) “Quiet Waking Hours” “Night Hours” have the meaning given on page 95 of ETSU.

Reason

In the interest of the environment and residential amenity

(21) At the request of the Local Planning Authority following a complaint to it, the developer shall measure the level of noise emissions, including tonal noise, resulting from the operation of the wind farm in accordance with the methods recommended in Section 2.0 of ETSU at pages 102-109. Wind speed shall be measured on the wind farm site and referenced to a height of 10 metres. Where it is necessary to convert between measured wind speeds and the wind speed at 10 metres height this conversion shall be undertaken using a methodology approved by the Local Planning Authority.

Reason

In the interest of the environment and residential amenity

(22) If the noise and / or tonal noise measured for the site following a complaint as referred to under conditions 21 exceeds the limits specified within condition 21, a noise management plan shall be submitted to and agreed in writing with the Local Planning Authority within one month of the exceedence being identified and the proposed mitigation measures shall be fully implemented in accordance with the timescales as set out within the agreed Noise Management Plan.

Reason

In the interest of the environment and residential amenity

(23) No development shall take place until an aviation safety lighting scheme for the wind turbines has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to erection of either wind turbine.

Reason

In the interests of Aviation safety to ensure that there is no obstruction to air traffic movements and interference to Air Traffic Control and Air Defence radar installations.

(24) In the event that contamination is found at any time when carrying out the approved development that was not previously identified, work on site shall cease immediately and shall be reported in writing to the Local Planning Authority. A Desk Study, Site Investigation, Risk Assessment and where necessary a Remediation Strategy must be undertaken in accordance with the following document:- Land Contamination: A Guide for Developers (WLGA, WAG & EAW, July 2006). This document shall be submitted to and agreed in writing with the Local Planning Authority. Prior to occupation of the development, a verification report which demonstrates the effectiveness of the agreed remediation, shall be submitted to and agreed in writing with the Local Planning Authority.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off site receptors.

(25) Notwithstanding the submitted information, Unless otherwise agreed in writing with the local planning authority, 2.4m x 160m visibility splays in each direction along the A474 at the entrance of the proposed access track, clear of any obstruction over 600mm shall be constructed prior to commencement of any work on site. These splays shall be retained and maintained as such thereafter.

Reason

In the interest of highway and pedestrian safety

(26) Unless otherwise agreed in writing, prior to the commencement of any work on the Wind farm development, a condition survey of the existing highway network along the proposed access route for deliveries, which shall include the condition of the carriageway and footway shall be undertaken. The survey shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of work on site. Within 1 month of the completion of the associated wind farm a further condition survey of the same highway network, shall be undertaken, which shall include the condition of the carriageway and footway and shall be submitted to the Local Planning Authority. Any damage to the highway identified as a result of the increased volume of construction vehicles shall be repaired within 6 months of the completion of the associated wind farm in accordance with a scheme to be first submitted and agreed in writing with the Local Planning Authority.

Reason:

In the interest of highway safety

(27) Notwithstanding the submitted information, no development shall commence until such time as a Drainage Strategy to provide evidence of how the surface water along the proposed new access tracks is to be disposed of, together with an associated programme of works, has been submitted to and approved in writing by the local planning authority. The proposed drainage works shall be completed in accordance with the approved scheme.

Reason

In the interest of highway and pedestrian safety and to ensure the provision of a satisfactory means of surface water disposal for the development.

(28) Notwithstanding the submitted information, unless otherwise agreed in writing by The Local Planning Authority, prior to commencement of development on site, a maintenance and management strategy for all existing watercourses, culverts (new or existing) and associated structures sited within and adjoining the application site and effected by the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme as approved shall be implemented and maintained during the lifetime of the consent.

Reason

To ensure drainage system is satisfactorily maintained and to ensure ongoing optimal performance of system

(29) The running widths of the internal access tracks shall be no greater than 5 metres wide, 10 metres on bends and 9 metres at passing places / wheel washing areas.

Reason

In the interest of visual amenity

(30) The location of the substation shall be as agreed under planning permission P2013/0914 as approved on 23.01.14.

Reason

In the interests of ecology

(31) Facilities for the storage of oils, fuels or chemicals shall be as agreed under planning permission P2013/0905 as approved on 06.05.14.

Reason

In the interests of ecology

(32) Prior to the commencement of the construction of any turbine, a scheme which shall include a programme of mitigation shall be submitted and approved in writing by the local planning authority to alleviate any interference with electro-magnetic signals: the scheme shall detail any necessary mitigation measures should interference attributable to the development occur: Any necessary mitigation measures shall be implemented in accordance with the agreed details and the associated programme of works.

Reason

In the interests of residential amenity

(33) The construction compound shall be constructed as set out in the approved construction method statement (September 2013) and drawing numbers 007 and 008.

Reason

In the interests of ecology, visual amenity and the environment

PLANNING AND DEVELOPMENT CONTROL COMMITTEE

(COUNCIL CHAMBER - PORT TALBOT CIVIC CENTRE)

Members Present:

21 October 2014

Chairman: Councillor R.G.Jones

Councillors: Mrs.A.Chaves, D.W.Davies, Mrs.R.Davies,
Mrs.J.Dudley, M.Ellis, J.S.Evans, S.K.Hunt,
A.Jenkins, Mrs.D.Jones, E.E.Jones, S.Jones,
D.Keogh, J.D.Morgan, Mrs.S.Paddison,
Mrs.S.M.Penry, H.G.Rawlings, C.E.Richards,
R.Thomas, D.Whitelock and Mrs.L.G.Williams

UDP/LDP Member: Councillor A.J.Taylor

Invited Members: Councillors A.N.Woolcock and P.A.Rees

Officers In Attendance: Mrs.N.Pearce, S.Ball, K.Davies, G.Sterio,
J.Griffiths, Mrs.D.Thomas and Miss.G.Cirillo

1. **MEMBER'S DECLARATIONS**

The following Member made a declaration at the commencement of the meeting:-

Councillor S.Jones	Report of the Head of Planning Item No:1.2 – Planning Applications Recommended for Approval – Application No: P2014/0713 – as he is an Agent for the application and also an employee of the Company
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2. **MINUTES OF THE LAST MEETING**

RESOLVED: That the Minutes of the Planning and
Development Control Committee held on the
30th September 2014, be confirmed as a
correct record.

3. **MINUTES OF THE PLANNING (SITE VISITS) SUB COMMITTEE - 9TH OCTOBER 2014**

RESOLVED: That the Minutes of the Planning (Site Visits) Sub Committee held on the 9th October, 2014, be confirmed as a correct record.

Report of the Head of Planning

(Note: An Amendment Sheet, attached and agreed, was circulated at the commencement of the meeting, as detailed in Appendix A hereto).

Planning Applications Recommended for Approval

4. **APPLICATION NO: P2014/0402**

Variation of Condition 1 of Planning Permission P2007/1413 (Granted on Appeal on the 07.05.09) to allow for the extension of time for the commencement of development and variation of conditions 3 (reference to all works in Environmental Statement and to allow a maximum tip height of 100m and maximum blade diameter of 82m), 9 (borrow pits), 14 (highway improvement works to facilitate revised access route) and 15 (internal access tracks) at MYNYDD Y GWRHYD, North of Pontardawe, East of Cwmgors.

RESOLVED: that the application be approved in accordance with the Officer's recommendation, as detailed in the circulated report, and subject to the following amendment to the wording of Condition No.16 in respect of the required Traffic Management Scheme (TMS) to clarify the need for the TMS to incorporate details of all delivery routes (including abnormal loads and stone deliveries), as stated in the circulated amendment sheet:-

(16) Notwithstanding the submitted information, no development shall take place until a Traffic Management Scheme (TMS) has been submitted to and approved in writing by the Local Planning Authority. The TMS shall set out all proposed delivery routes, timings of works and include details of any alterations/amendments to the existing A474 on route through Pontardawe and up to the site location. This shall include temporary

speed reduction measures (if applicable), give way markings, times of operation, removal of existing street furniture, roundabouts, kerb alignments etc. that allows safe delivery of the wind turbines. The development shall be carried out in accordance with the approved Traffic Management Scheme including the reinstatement / restoration of temporary works necessary to allow for the deliveries associated with this development.

Reason: In the interest of highways safety

5. **APPLICATION NO: P2014/0713**

(Councillor S. Jones re-affirmed his interest in this item and withdrew from the meeting during the discussion and voting thereon).

Change of Use from Sports Club (Sui Generis) to Public House (A3)
Croeserw Working Mens Club, Brynheulog Road, Croeserw, Cymmer,
SA13 3RS

RESOLVED:

That the above application be approved, in accordance with the Officer recommendation, as detailed in the circulated report, and subject to the following amended Condition, in respect of opening hours, as stated in the circulated amendment sheet:-

2) The operating hours of the Public House hereby approved shall be between 08:00 and 00:30 only.

Reason

In the interest of residential amenity.

SECTION A – MATTERS FOR DECISION

Planning Applications Recommended For Approval

<u>APPLICATION NO:</u> P2015/0127	<u>DATE:</u> 18/02/2015
PROPOSAL:	Two storey rear and side extensions, first floor side and single storey side extensions, additional first floor windows to western and eastern side elevations, additional window to ground floor eastern elevation and replacement boundary wall and fence to a maximum height of 2.2m.
LOCATION:	50 ASCOT DRIVE BAGLAN PORT TALBOT
APPLICANT:	Mr Russell Borthwick
TYPE:	Full
WARD:	Baglan

The application is reported to Planning Committee because the applicant is an employee of the Council who works in the Development Management team.

Planning History:

97/1253 – Outline permission for residential development – Approved with conditions 30/01/98

01/0020 – Renewal of outline consent 97/1253 for residential development – Approved with conditions 19/12/02

03/021 – Residential development – Approved with conditions 25/03/03

03/961 – New residential development – Approved with conditions 09/09/03

05/0846 – Amendment to planning application 03/961 including the addition of one new house type to plots 17, 19, & 20 plus, house type change at plot 21 & reposition of house on plot 18 – Reserved Matters Approved 21-Jul-2005

Publicity and Responses if applicable:

Baglan Ward Members. No response therefore no observations to make.

2 Neighbouring properties were notified. To date no representations have been received.

Description of Site and its Surroundings:

The detached dwelling house with integral garage is sited in a residential estate of similar properties. The property is sited at the entrance to the cul de sac and is bounded to the eastern side and southern rear boundaries by dwelling houses. Due to the topography of the site, the adjacent property to the eastern side no. 52 Ascot Drive is sited approximately 0.8 metres higher than the application property within the street scene. The application property has a front driveway which can accommodate two parking spaces, a rear garden and pedestrian access to the eastern side of the dwelling. The side and rear gardens are enclosed by boundary walls and fencing of varying heights whilst the front curtilage is open plan.

Brief description of proposal:

Full planning permission is sought for two storey rear and side extensions, first floor side and single storey side extensions, additional first floor windows to western and eastern side elevations, additional window to ground floor eastern elevation and replacement boundary wall and fence to a maximum height of 2.2m.

The two storey side/rear extension will have a maximum projection of 4 metres from the main back wall of the dwelling, a 2.7 metres projection from the eastern side elevation; have a width of 8.745m, an eaves height of 4.9 metres with a maximum height under a rear gabled roof of 7.8 metres. Bifold doors and a window will be sited in the ground floor rear elevation; two windows will be sited in the first floor rear elevation and a window will be sited in the first floor western side elevation. The extension will be sited at an approximate distance of between 1 - 1.2 metres from the eastern side boundary and 15 metres to the rear boundary and 3.7 metres at first floor level from the western side boundary.

The first floor side extension will be sited above the integral garage/utility and will not project forward of the main front elevation of the first floor of the dwelling; will have a width of 2.7 metres, an eaves height of 4.9 metres and a maximum height ridge height of 7.9 metres to match the existing dwelling. A window will be sited in the first floor front elevation and a window will be sited in the eastern side elevation which will serve a bathroom and have obscure glazing, the extension will be sited at an approximate distance of between 0.8 - 1 metres from the eastern side boundary.

The single storey extension to the western side of the dwelling will form part of the ground floor element of the two storey rear extension. It will have a length of 4.275 metres, a projection from the ground floor western side elevation of 1.5 metres, an eaves height of 2.8 metres and a maximum height under a mono pitch roof of 3.4 metres. A window will be sited in the western side elevation and two velux roof lights will be sited in the mono pitch roof. It will be sited at an angle to the western side boundary at a distance of 1.1 metres at its closest part and 2.3 metres at its farthest part.

Additional windows are proposed to the existing property, a first floor window in the western side elevation serving an en-suite and a window to the ground floor eastern side elevation serving the utility room, both of which will be obscurely glazed.

A 13 metre long replacement brick wall and fence is proposed along part of the eastern side boundary between the application property and no. 52 Ascot Drive. Due to the topography of the site, this neighbouring property and its garden are sited approximately 0.8 metres higher than the application property and garden. An existing 2.6 metre high boundary wall with fence above is sited to part of this eastern boundary and the proposed wall/fence will be sited along side the existing fence and will have a maximum height from the ground level of no. 50 of 2.2 metres.

Material Considerations:

The main issues to be considered in the determination of this application are the impact upon the amenity of residents within neighbouring properties, the impact upon the character and appearance of the surrounding area, and the impact upon the highway safety of the existing road network and pedestrian safety.

Policy Context:

Neath Port Talbot Unitary Development Plan:

Policy GC1 – New buildings/structures and changes of use;
Policy ENV17 – Design;

SPG - ‘A guide to household extensions’.

Visual Amenity:

In terms of visual amenity, whilst the proposed extension does not have a subordinate design, as the main dwelling is detached it has been sensitively designed to be in keeping with the host dwelling. The use of matching external materials, the ridged roof design and similar fenestration will ensure that the extension will integrate with that of the existing dwelling and will not be out of character with dwellings in the surrounding area. Although the first floor element will close the gap between the application property and no. 52 Ascot Drive, the adjacent property, it should be noted that there are other dwellings within the street which have a similar gap between dwellings at first floor level.

The proposed two storey extension will project 4 metres from the main back wall of the dwelling and be to the full extended width of the property. Given its corner location, the extension(s) would form a noticeable element in the streetscene, but it is considered that the overall scale of the dwelling as extended would not be out of context with that of nearby properties.

The proposed wall and fence will be in keeping with the existing boundary treatment.

It is therefore considered that the proposed developments would not adversely affect the visual amenity of the street-scene in which the site is located, or the character and appearance of the surrounding area.

Residential Amenity:

Turning to matters of residential amenity, firstly with regards to any overlooking issues, a window is proposed in the first floor side elevation of the two storey rear extension and a window is proposed in the front elevation of the first floor side extension the outlook of which will be over the adjacent highways and residential properties beyond. These two windows respectively, will be a minimum distance of 21 metres from the front windows of neighbouring properties and as such will comply with the distance required between habitable room windows in the Authority's Household Extension Design Guide. Therefore, the outlook from these windows will not be over any private amenity space and as such are not considered to have an adverse impact on these neighbouring properties.

The two new windows proposed in the first floor western side elevation will serve en-suites and a secondary window to the master bedroom, but will face onto the adjacent highway, with appropriate distances to the houses beyond to ensure there would be no unacceptable impact on their amenity.

The two windows proposed in the eastern side elevation of the application property and extension will face onto the side elevation of no. 52. These two windows will serve non-habitable rooms (bathroom at first floor, utility at ground floor), with the first floor window being conditioned to be obscurely glazed. There are two windows and a door in the side elevation of no. 52 which serve non-habitable rooms and are obscurely glazed.

The property to the rear, no. 48 Ascot Drive is sited at right angles to the application property and the outlook from the rear windows of the two storey rear extension will be to the side gable elevation of this property at a distance of approximately 15 metres to the rear boundary.

A single window and bi-fold doors are proposed in the ground floor rear elevation of the two storey rear extension, which will be screened for the most part by existing boundary treatment. The outlook from these rear windows will be predominantly over the rear garden of the application dwelling with oblique views over the neighbouring gardens. However, the proposed rear windows are not considered to have an adverse impact from overlooking more than that which exists from the existing windows in the rear of the dwelling. Notwithstanding this, a condition is recommended withdrawing permitted development rights for the insertion of any additional windows on the side elevation in order to protect the future privacy of the occupiers of the neighbouring dwelling.

As such taking into consideration the above details, it is considered that the proposed extensions will not have an adverse impact on the residential amenity of the neighbouring properties' with regard to overlooking issues.

With regard to overshadowing and overbearing issues the proposed two storey side/rear extensions will project 4 metres from the main back wall of the dwelling and will be a distance of approximately 1 metre – 1.2 metres from the eastern side boundary, 15 metres to the rear boundary and 3.7 metres at first floor level from the western side boundary. It should be noted that no. 52, the adjacent property is sited approximately 1 metre farther back to the rear than the application property and is also sited at a higher level than the application property by approximately 0.8 metres. Due to the limited projection of the proposed two storey extension in relation to no.52, and its siting in a large rear garden, similar in size to the neighbouring gardens, which will retain the open aspect beyond, it is considered that the proposed extension will not have an unacceptable adverse impact with regard to overbearing or overshadowing issues in relation to the adjacent neighbouring properties.

The proposed extension complies with the 45 degree angle as advised in the Authority's Household Extension Design Guide in relation to the habitable room windows of the neighbouring property, no. 52 Ascot Drive. Furthermore, the properties also have large rear gardens and the open aspect of these gardens areas will be retained. As such, it is considered that due to its size, siting and design, it will not have an adverse impact with regard to overbearing and overshadowing issues to no. 52 Ascot Drive.

With regard to the property to the rear, no. 48 Ascot Drive, the proposed extensions will be sited at a distance of approximately 15 metres to the rear boundary. As such it is considered that the proposals will not have an adverse impact to this property from overbearing and overshadowing issues.

The replacement wall and fence would have a maximum height from the ground level of the application property of 2.2 metres, however, as the topography of no. 52, the neighbours property, is approximately 0.8 metres higher than the application property the proposal would have a height of approx. 1.4 metres when viewed from this property. As such the proposed boundary treatment is not considered to have an adverse impact on no. 52.

In view of the above, it is considered that the proposals are acceptable in residential amenity terms and would accord with Policies GC1, ENV17 of the Neath Port Talbot Unitary Development Plan and the Authority's Household Extension Design Guide.

Highway Safety (e.g. Parking and Access):

The property has parking for three vehicles, one in the integral garage and two on the front driveway which are to be retained and which comply with the Highway Authority guidelines. As such it is considered that the proposals will not have an adverse impact on Highway and pedestrian safety.

Conclusion:

It is considered that the proposed developments, due to their size, siting and design, would not have a detrimental impact upon the amenities of residents within the adjoining dwellings or upon the character or appearance of the surrounding area, and there would be no adverse impact upon highway and pedestrian safety. The proposed developments would therefore be in accordance with Policies GC1 and ENV17 of the Neath Port Talbot Unitary Development Plan and the Policy document entitled "A Guide to Household Extensions".

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)The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Reason

In the interests of visual amenity.

(3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 (or any order revoking and re-enacting that Order with or without modification), no doors, windows or dormer windows (other than those expressly authorised by this permission) shall be constructed.

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 additional windows, having regard to the particular layout and design of the estate.

(4) Before the extension hereby permitted is brought into use, the first floor bathroom window in the east elevation shall be fitted with obscured glazing, and any part of the window that is less than 1.7m above the floor of the room in which it is installed shall be non-opening. The windows shall be permanently retained in that condition thereafter.

Reason:

To protect the amenity of adjoining properties

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 developments, due to their size, siting and design, would not have a detrimental impact upon the amenities of residents within the adjoining dwellings or upon the character or appearance of the surrounding area, and there would be no adverse impact upon highway and pedestrian safety. The proposed developments would therefore be in accordance with Policies GC1 and ENV17 of the Neath Port Talbot Unitary Development Plan and the Policy document entitled 'A Guide to Household Extensions'.

SECTION B – MATTERS FOR INFORMATION

APPEALS DETERMINED

a) Planning Appeals

Appeal Ref: A2014/0011 **Planning Ref:** P2014/0771

PINS Ref: APP/Y6930/A/14/2229042

Applicant: Mrs Pauline Tilbrook

Proposal: Variation of condition 1 (to allow a further 5 years for the commencement of development) of planning permission P2008/1547 (approved on 21/08/09)

Note: The appeal was against condition 7 of the planning permission

Site Address: 161a New Road, Skewen, Neath SA10 6HD

Appeal Method: Written Reps

Decision Date: 25/02/2015

Decision Code: The appeal was ALLOWED (condition 7 deleted)

The property subject to this appeal lies adjacent to an approved scheme for a block of two-storey flats to which the disputed condition was attached. It has two bedroom windows pertaining to separate flats positioned on the side elevation which would be in close proximity to the side wall of the neighbouring development. To try and address issues relating to light to these windows the planning department imposed a condition as follows:

Condition 7: “Prior to any development taking place the two windows on the side elevation of no. 161b which serve the bedroom of each flat shall be replaced with oriel style windows which shall be retained as such thereafter”

The Inspector stated that proximity and scale of the latter development would undoubtedly have an impact on the light and outlook for the occupiers of the existing flats, however the inspector stated there is no evidence to suggest that 'oriel' style windows would make any significant difference in relation to light. In addition to this the Inspector stated that windows would only have oblique opportunities for natural light to penetrate due to the neighbouring development lying forward and to the rear of the windows. Furthermore the Inspector stated that an 'oriel' style window on the ground floor would project out onto a pathway causing an obstruction to anyone requiring rear access to the property which would result in an unsatisfactory form of development.

The Inspector concluded that 'oriel' style windows would not result in any significant additional light reaching the bedrooms and that condition 7 was unreasonable and unnecessary. The appeal was therefore allowed, and the disputed condition deleted.

SECTION B – MATTERS FOR INFORMATION

DELEGATED APPLICATIONS

DETERMINED BETWEEN 16TH FEBRUARY AND 8TH MARCH 2015

1 App No. P2014/0323	Type Discharge of Cond.
Proposal Details to be agreed in association with condition 4 (drainage) of planning permission ref P2007/1280 granted on 25-3-2008	
Location Former Royal Oak Site, 66 Commercial Road, Rhydyfro Pontardawe, Swansea, SA8 4SL	
Decision Approval with no Conditions	
Ward Pontardawe	

2 App No. P2014/0763	Type Full Plans
Proposal Construction of detached residential dwelling	
Location Land Adjacent, 32 Newell Road, Skewen, Neath, SA10 6SU	
Decision Approval with Conditions	
Ward Coedffranc North	

3 App No. P2014/0766	Type App under TPO
Proposal Works to two trees covered by Tree Preservation Order T285 - (Ta) Oak Tree, crown reduction and removal of decayed and crossing over branches and removing the epicormic growth - (Tb) Sycamore tree, crown reduction and removal of decayed and crossing over branches.	
Location 35 Nant Celyn, Crynant, Neath, SA10 8PZ	
Decision Refusal	
Ward Crynant	

4 App No. P2014/0976	Type Householder
Proposal Detached garage.	
Location Bwthyn Felgaws, Gelli Felgaws Farm, Tyllwyd Road, Bryncoch, Neath, SA10 7DX	
Decision Approval with Conditions	
Ward Bryncoch North	

5	App No. P2014/1046	Type Full Plans
Proposal	Retention and completion of stable block, hay store and hardstanding plus means of enclosure and gates	
Location	Land To The Rear Of, Gwrhyd Road, Rhydyfro, Pontardawe, SA8 4SS	
Decision	Approval with Conditions	
Ward	Pontardawe	

6	App No. P2014/1109	Type Full Plans
Proposal	Residential Development consisting 15 units (10 Houses 3 Bungalows and 2 flats), car parking and associated engineering works	
Location	Land At, Evans Road, Melin, Neath, SA11 2OB	
Decision	Approved subject to s.106	
Ward	Neath East	

7	App No. P2014/1121	Type Discharge of Cond.
Proposal	Details to be agreed in association with conditions 2, 3 4 - (Land contamination) of Planning Application P2014/0233 granted on 18/11/14. [Amended Plans]	
Location	33 Parish Road, Blaengwrach, Neath, SA11 5SW	
Decision	Approval with no Conditions	
Ward	Blaengwrach	

8	App No. P2014/1133	Type Full Plans
Proposal	Replacement ATM machine	
Location	3 Windsor Road, Neath, SA11 1LN	
Decision	Approval with Conditions	
Ward	Neath North	

9	App No. P2014/1134	Type Full Plans
Proposal	Extension to existing sub-station compound to include new switch room building, 2.4m high palisade fencing and access gates plus 3.6m high electrified fence within compound and formation of 2 no. new vehicular accesses and hard surfacing.	
Location	Electricity Sub Station, Lane From Brunel Way To Sewage Pumping Station, Baglan Energy Park, Port Talbot	
Decision	Approval with Conditions	
Ward	Briton Ferry West	

10	App No. P2014/1173	Type Householder
Proposal	Two storey front and side extension	
Location	88 Morfa Glas, Glynneath, Neath, SA11 5RW	
Decision	Approval with Conditions	
Ward	Glynneath	

11	App No. P2014/1179	Type Householder
Proposal	Retention of two existing first floor gable extensions to front and rear elevations, two no. dormers to front and rear, four pane roof light to front roof plane, 2 roof lights, single storey rear lobby extension, conversion of garage to living accommodation and proposed two storey side extension with 4 rooflights, two Juliet balconies and raised patio	
Location	Willowbrook, Lane From Heol Y Glo To Willowbrook, Pyle, Bridgend, CF33 6PU	
Decision	Approval with Conditions	
Ward	Margam	

12	App No. P2014/1181	Type Householder
Proposal	Replacement of existing garage doors with window to facilitate conversion of garage to living accommodation.	
Location	96 Parc Gilbertson, Rhydyfro, Pontardawe, Swansea, SA8 4PU	
Decision	Issue Lawful Dev.Cert.	
Ward	Pontardawe	

13	App No. P2014/1194	Type Full Plans
Proposal	Extension to private car park serving the adjacent Trem Y Mor Respite Care Centre, with associated engineering operations and earth bund.	
Location	Trem Y Mor Respite Centre, Scarlet Avenue, Aberavon, Port Talbot, SA12 7PH	
Decision	Approval with Conditions	
Ward	Sandfields West	

14	App No. P2014/1202	Type Householder
Proposal	Retention and completion of boundary fence and steps to upper garden level.	
Location	65 Lewis Road, Neath, SA11 1DJ	
Decision	Approval with Conditions	
Ward	Neath South	

15	App No. P2014/1209	Type Vary Condition
Proposal	Variation of Condition 3 (Relating to the areas of the site that can be used for caravan storage) of Planning Permission P2013/0286	
Location	Portacover Machinery Movements, Llandarcy, Neath SA10 6JY	
Decision	Approval with Conditions	
Ward	Coedffranc West	

16	App No. P2015/0005	Type Householder
Proposal	Single storey side extension, incorporating dormer.	
Location	4 Primrose Bank, Bryncoch, Neath, SA10 7BX	
Decision	Approval with Conditions	
Ward	Bryncoch North	

17	App No. P2015/0016	Type Discharge of Cond.
Proposal	Details to be agreed in association with Condition 2 (Risk Assessment) and Condition 3 (Remediation Strategy)P2014/0375 granted on 2/6/14	
Location	Mollart Engineering, Neathvale Supplier Park, Resolven, Neath, SA11 4SR	
Decision	Approval with no Conditions	
Ward	Resolven	

18	App No. P2015/0025	Type Vary Condition
Proposal	Variation of condition 3 of planning application P2012/0048 (granted on 28th February 2012) to allow a further 3 years for the submission of reserved matters.	
Location	42 Hill Road, Neath Abbey, Neath, SA10 7NR	
Decision	Approval with Conditions	
Ward	Dyffryn	

19	App No. P2015/0035	Type Full Plans
Proposal	Replacement shop front	
Location	45 Station Road, Port Talbot, SA13 1NW	
Decision	Approval with Conditions	
Ward	Port Talbot	

20	App No. P2015/0036	Type LawfulDev.Cert-Prop.
Proposal	Lawful Development Certificate (Proposed) for a single storey side extension and associated works.	
Location	6 Twynrefail Place, Gwaun Cae Gurwen, Ammanford, SA18 1HY	
Decision	Issue Lawful Dev.Cert.	
Ward	Gwaun-Cae-Gurwen	

21	App No. P2015/0041	Type Neigh.Auth/Nat.Park
Proposal	Consultation from Rhondda Cynon Taf for three wind turbines (maximum height to tip 146.5m) and construction of associated infrastructure. (Revised consultation due to an addendum to the ES.)	
Location	Craig Yr Aber, Land To The North East Of Forch-Orky, Treorchy, CF42 6TF	
Decision	No Objections	
Ward	Outside Borough	

22	App No. P2015/0045	Type Change of Use
Proposal	Change of use of ground floor Shop/Post Office (Class A1) to a self contained two bedroom flat.	
Location	26 Cilmaengwyn Road, Cilmaengwyn Pontardawe, Swansea, SA8 4QL	
Decision	Approval with Conditions	
Ward	Godre'rgraig	

23	App No. P2015/0051	Type LawfulDev.Cert-Prop.
Proposal	Lawful development certificate (Proposed) for the conversion of a garage to associated living accommodation	
Location	218 Tyn Y Cae, Alltwn Pontardawe, Swansea, SA8 3DN	
Decision	Issue Lawful Dev.Cert.	
Ward	Alltwn	

24	App No. P2015/0057	Type Householder
Proposal	Replacement single storey side extension and construction of a set of raised steps to provide access from the rear of the existing garage to the lower garden area.	
Location	55 Birch Road, Baglan, Port Talbot, SA12 8PN	
Decision	Approval with Conditions	
Ward	Baglan	

25	App No. P2015/0061	Type LawfulDev.Cert-Prop.
Proposal	Lawful development certificate for two proposed side dormer extensions.	
Location	4 Firwood Close, Bryncoch, Neath, SA10 7UR	
Decision	Issue Lawful Dev.Cert.	
Ward	Bryncoch North	

26	App No. P2015/0064	Type Householder
Proposal	Demolition of existing garage and construction of single storey rear and side extension.	
Location	113 Cimla Road, Cimla, Neath, SA11 3UE	
Decision	Approval with Conditions	
Ward	Neath South	

27	App No. P2015/0068	Type Change of Use
Proposal	Change of use of grass verge to garden area, erection of means of enclosure to rear and sides and raised platform	
Location	28 Cunard Terrace, Salem Road, Cwmavon, Port Talbot, SA12 9EB	
Decision	Approval with Conditions	
Ward	Bryn & Cwmavon	

28	App No. P2015/0076	Type Screening Opinion
Proposal	Screening Opinion under the EIA Regs for the erection of a single wind turbine with a hub height of 50m and a tip height of 77m.	
Location	Onllwyn Coal Washery, Land to the north of Dyffryn Cellwen,	
Decision	EIA Not Required	
Ward	Onllwyn	

29	App No. P2015/0082	Type LawfulDev.Cert-Exist
Proposal	Certificate of Lawful Development (Existing) for a single storey rear extension.	
Location	58 Long Vue Road, Sandfields, Port Talbot, SA12 7EH	
Decision	Issue Lawful Dev.Cert.	
Ward	Sandfields West	

30	App No. P2015/0099	Type Discharge of Cond.
Proposal	Partial Detail to be submitted in association with Condition 2 (materials) of P2014/ 0501 granted on 2/10/14	
Location	Western Avenue Playing Fields, Adjacent To Seaway Parade, Sandfields, Port Talbot	
Decision	Approval with no Conditions	
Ward	Sandfields West	

31	App No. P2015/0104	Type LawfulDev.Cert-Prop.
Proposal	Certificate of Lawful Development (Proposed) for a single storey rear extension.	
Location	44 Abbots Close, Margam, Port Talbot, SA13 2NE	
Decision	Issue Lawful Dev.Cert.	
Ward	Margam	

32	App No. P2015/0107	Type Non Material Amendment (S96A)
Proposal	Application for a non-material amendment to application P2013/0687 to allow a change of materials.	
Location	46 Victoria Street, Briton Ferry, Neath, SA11 2RB	
Decision	Approval with no Conditions	
Ward	Briton Ferry West	

33	App No. P2015/0108	Type Discharge of Cond.
Proposal	Details to be agreed in association with condition 1 (relocation of fence and landscaping scheme) application P2013/1044 granted on 04/08/14.	
Location	78 Windsor Village, Aberavon, Port Talbot, SA12 7EY	
Decision	Approval with no Conditions	
Ward	Aberavon	

34	App No. P2015/0115	Type Non Material Amendment (S96A)
Proposal	Non-material amendment to application P2014/0104 to remove Conditions 7, 8 and 9 in relation to Code for Sustainable Homes.	
Location	Former Briton Ferry School, Heol Ynysymaerdy, Llansawel, Castell Nedd, SA11 2TL	
Decision	Approval with no Conditions	
Ward	Briton Ferry East	

35	App No. P2015/0121	Type Discharge of Cond.
Proposal	Amended details to be agreed in association with condition 2 (external materials) of application P2013/1043 granted on 13 June 2014.	
Location	Ty Afan Secondary Centre, Aberavon, Port Talbot, SA12 6DX	
Decision	Approval with no Conditions	
Ward	Aberavon	

36	App No. P2015/0129	Type LawfulDev.Cert-Prop.
Proposal	Certificate of Lawful Development (Proposed) for a single storey rear extension	
Location	7 Heol Croeserw, Croeserw Cymmer, Port Talbot, SA13 3NU	
Decision	Issue Lawful Dev.Cert.	
Ward	Cymmer	

37	App No. P2015/0134	Type LawfulDev.Cert-Prop.
Proposal	Lawful Development Certificate for a proposed single storey rear extension and a detached garage.	
Location	76 Church Road, Seven Sisters, Neath, SA10 9DT	
Decision	Not to Issue Lawful Dev.Cert.	
Ward	Seven Sisters	