



PLANNING COMMITTEE

2.00 PM - TUESDAY, 2 AUGUST 2016

COMMITTEE ROOMS 1/2 - PORT TALBOT CIVIC CENTRE

(SITE VISIT LEAVING PORT TALBOT CIVIC CENTRE AT 11AM)

PART 1

1. To receive any declarations of interest from Members.
2. To receive the Minutes of the previous meeting held on the 12 July 2016 (*Pages 5 - 8*)
3. To Request Site Visit(s) from the Applications Presented

Report of the Head of Planning

SECTION A - MATTERS FOR DECISION

Planning Application subject to Members Site Visit Leaving Port Talbot Civic Centre at 11am - Recommended for Refusal

4. **Application No: P2015/0494** - Outline application for 17 No Dwellings together with matters of access, layout and drainage. Land adjacent to Sports Centre, Tonmawr, Neath. SA12 9UR (*Pages 9 - 40*)

Planning Applications Recommended for Approval

5. **Application No: P2016/0078** - Proposed alternative restoration and aftercare scheme in respect of the former Margam Surface Mine, comprising engineering and landscaping works including: Pumping, earthworks, soil relocation, installation of an overflow drainage channel, re-introduction of rights of way across the site, agricultural (rehabilitation) works to establish vegetation and

drainage (amendment to the restoration and aftercare scheme approved under planning permission reference P2006/1727. Former Margam Surface Mine, Fford Y Gyfraith, Cefn Cribwr. CF32 0BS
(Pages 41 - 110)

6. **Application No: P2014/1122** - Outline residential development consisting of 41 dwellings including details of access and demolition of the existing buildings. Land Off Samuels Road, Cwmllynfell.
(Pages 111 - 144)

SECTION B - MATTERS FOR INFORMATION

7. Delegated Applications Determined between 4th July and 25th July 2016. (Pages 145 - 154)
8. Appeals Determined (Pages 155 - 156)
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, 27 July 2016

Committee Membership:

Chairperson: Councillor R.G.Jones

**Vice
Chairperson:** Councillor E.E.Jones

Members: Councillors Mrs.A.Chaves, D.W.Davies,
Mrs.R.Davies, S.K.Hunt, H.N.James, D.Keogh,
C.Morgan, Mrs.S.Paddison, R.Thomas,
Mrs.L.G.Williams.

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

Requesting to Speak at Planning Committee

The public have a right to attend the meeting and address the Committee in accordance with the [Council's approved procedure](#) which is available at www.npt.gov.uk/planning.

If you would like to speak at Planning Committee on an application reported to this Committee you must:

- Contact Democratic Services in writing at : Civic Centre, Port Talbot SA13 1PJ, preferably by email: democratic.services@npt.gov.uk.
- Ensure your request to speak is made no later than two working days prior to the meeting date (by 2 pm on the preceding Friday based on a usual Tuesday meeting),
- Clearly indicate the item number or application number on which you wish to speak and confirm whether you are supporting or objecting to the application.
- Give your name and address (which will be publicly available unless there are particular reasons for confidentiality)

Please note that only one person is able to speak in favour of, and one against, each application. Full details are available in the [Council's approved procedure](#).

Should you wish to discuss any aspect of public speaking, please contact the Democratic Services Team on 01639 763719.

Applicant / Agent Right of Reply

Please note that, should an objector register to speak, the Applicant/Agent will be notified by the Council of their ability to address committee (their 'right to reply'). Should the applicant/agent wish to exercise that right, it will be necessary to confirm this to the Democratic Services section before noon on the day before the meeting.

Commenting on planning applications which are to be reported to Committee

Should you wish to submit representations on an application presented to this Planning Committee, please note that these must be received by the Planning department no later than 4.30p.m. on the Friday before Committee (based on the usual Tuesday meeting). If the meeting is not on a Tuesday, these should be received no later than 4.30pm on the penultimate working day immediately preceding the Planning Committee.

Please note that representations received in accordance with the Council's protocol are summarised and, where necessary, commented upon in the form of an Amendment Sheet, which is circulated to Members of the Planning Committee by email on the evening before Committee, and presented in hard copy form at the actual meeting.

PLANNING COMMITTEE**Members Present:****12 July, 2016****Chairperson:** Councillor R.G.Jones**Vice Chairperson:** Councillor E.E.Jones**Councillors:** D.W.Davies, Mrs.R.Davies, S.K.Hunt,
H.N.James, D.Keogh, R.Thomas,
Mrs.L.G.Williams.**Local Member** Councillor A.L.Thomas**UDP/LDP Member** Councillor A.J.Taylor**Officers In Attendance** Mrs.N.Pearce, S.Ball, I.Davies, M.Fury,
Mrs.J.Woodman-Ralph and Miss.C.Davies

1. MINUTES OF THE LAST MEETING**RESOLVED:** That the Minutes of the Planning Committee held on the 21 June 2016 as circulated, be confirmed as a true record.**2. REQUEST SITE VISIT(S) FROM THE APPLICATIONS PRESENTED****RESOLVED:** That the following application recommended for refusal, as detailed in the circulated report, be deferred for a site visit by the Planning Committee.Application No: P2015 0494

Outline application for 17 No. dwellings together with matters of access, layout and drainage. Land adjacent to Sport Centre, Tonmawr, Neath.

Reason:

To allow Members the opportunity to appreciate the settlement limit and immediate context of the site and to fully appraise the impacts of the development, having regard to the high degree of public interest in support of the development.

(Note: An amendment sheet in relation to P2015/0494 was circulated prior to the meeting).

3. **APPLICATION NO: P2016 0409 - CHANGE OF USE OF PART OF COMMUNITY ENTERPRISE CENTRE (USE CLASS SUI GENERIS) TO A SEPARATE CAFE (OPERATING HOURS 08:00 TO 16:00) AND TAKEAWAY AND DELIVERY SERVICES (OPERATING UNTIL 23:30 (USE CLASS A3). CROESERW COMMUNITY ENTERPRISE CENTRE, BRYN SIRIOL, CROESERW, CYMMER, PORT TALBOT. SA13 3PN.**

The application was brought for consideration by Committee as the applicant – Mr. S.Jones, is an elected member of the Council.

RESOLVED: That in accordance with Officers recommendation subject to the Conditions as detailed in the circulated report, the Application be approved.

4. **APPLICATION NO: P2016-0471 - RETENTION OF OUTBUILDING - 47, NEATH ROAD, RHOS, PONTARDAWE, SWANSEA. SA8 3EB**

Officers made a presentation to the Planning Committee on this Application as detailed in the circulated report.

Cllr.A.LThomas, Local Ward Member addressed the Committee engaging in detailed discussion with Officers and Members.

RESOLVED: That in accordance with the Officer recommendation and subject to the Conditions as set out in the circulated report, the Application be approved.

5. **APPLICATION NO: P2016-0494-BRITON FERRY FOOTBALL CLUB**

Cllr.H.N.James addressed the Committee on behalf of Cllr.C.Morgan who was unable to attend today's meeting.

RESOLVED: That in accordance with the Officer recommendation, subject to the Conditions as set out in the circulated report, the Application be approved.

6. **APPLICATION NO: P2016 0320 - PROPOSED CHANGE OF USE FROM FORMER LORRY PARK TO CARAVAN/MOTORHOME STORAGE AND SERVICING. FORMER LORRY PARK, TATA STEEL, CEFN GWRGAN ROAD, MARGAM, PORT TALBOT. SA13 2PT**

At this point in the meeting Cllr.R.G.Jones relinquished the Chair and addressed the Committee as Local Ward Member. Cllr.E.E.Jones substituted as Chairperson.

RESOLVED: That the Application No: P2016 0320 be deferred to allow the applicant the opportunity, in consultation with Officers, to submit additional supporting information outlining their comprehensive plans for the site including the full list and extent of uses proposed, (as defined within their business plan) which will in turn demonstrate the employment potential of the site. The applicant was also requested to demonstrate their assessment of alternative sites (as required by TAN23) and as such the reason why this site was the preferred option.

7. **APPEALS RECEIVED**

RESOLVED: That the following Appeal Received, as detailed in the circulated report, be noted:

Appeal Ref: A2016/0008

Without planning permission, change of use from a residential dwelling (Class C3) to a mixed use of residential dwelling (Class C3) and commercial use for provision of music lessons (Sui Generis).
26 Rowan Tree Close, Bryncoch, Neath.

8. **APPEALS DETERMINED**

RESOLVED: That the following Appeals Determined be noted, as detailed in the circulated report:-

Appeal Ref: A2016/0002

Removal of Conditions 1 and 2 of Planning Permission P2009/0406 approved on the 21/07/2009 to allow the property to be used as a residential dwelling house. Hendre Las Farm, Pentwyn Access Road, Rhos.

Decision: Dismissed

9. **DELEGATED APPLICATIONS DETERMINED**

Members received a list of Planning Applications which had been determined between the 11 June and 3 July, 2016.

RESOLVED: That the report be noted.

CHAIRPERSON

SECTION A – MATTERS FOR DECISION

Planning Applications Recommended for Refusal Following Members Site Visit

<u>APPLICATION NO:</u> P2015/0494	<u>DATE:</u> 13/11/2015
PROPOSAL:	Outline application for 17 No dwellings together with matters of access, layout and drainage
LOCATION:	Land adjacent to Sports Centre, Tonmawr , Neath SA12 9UR
APPLICANT:	Pelenna Property Partnership Ltd.
TYPE:	Full Plans
WARD:	Pelenna

Background

This application is reported to Committee at the request of the local ward Member, Cllr Martin Ellis on the grounds that: - there has been an overlap in development plans since the application was submitted which makes consideration of the application by Members important as there is a strong community interest; that the application is arguably an extension to the settlement boundary that has coherence and would provide an important addition to the housing stock in a village with no or few vacant homes of any type, and a strong local demand by my residents and returnees to this strong community; The increased demands on services would be small and the beneficial impact on the community outweighs other considerations; and that Tonmawr is sufficiently close to main services to be a sustainable base for residents in relation to jobs, education and health.

The application was reported to the Planning Committee meeting on the 12th July 2016 where it was deferred for a site visit to enable Members the opportunity to appreciate the settlement limit and immediate context of the site and to fully appreciate the impact of the development having regard to the high degree of public interest in support of the development. The Members site visit is to be held on the morning of 2nd August 2016.

The report which follows is that which was presented to Members on 12th July 2016, albeit amended to include representations received on the Officers Report and in support of the application from Councillor

Martin Ellis, the applicant and Dan-y-Coed Community Association (previously included on an amendment sheet).

Planning History:

Application Site:

03/0331 New Foul sewer - Approved 6/5/03

Adjoining Site:

03/1086 Outline application for residential development - Approved 2/12/03

06/1432 8 Dwellings - Approved 30/1/07

Publicity and Responses if applicable:

The application was advertised on site and in the press and two individual properties were also notified.

To date the following representations have been received :-

Peter Black (formerly AM) wrote in support of the application and can be summarised as follows:

- Tonmawr is in need of new investment, having just lost its school. This development would be an important signal that the area is open for business, bring new people into the village including youngsters who want to stay in the area.
- Concern is expressed at the way the village envelope has been redrawn around Tonmawr (within the LDP), it appears that having closed the school the Council is now seeking to constrict the areas future development, by excluding land that has previously been considered suitable for housing.

Bethan Jenkins AM - Has written in support of the proposal and is summarised below:

- The development would bring employment, housing and money into an area which has lost their primary school, as well as the Fracking test drilling being approved in Pontrhydyfen. This

development would give residents hope for the growth of their village.

- Further information, drawings, plans and biodiversity studies have been provided however a decision has still not been given.

Jeremy Miles AM - Has written in support of the proposal and is summarised below:

- The development is a former asset of Tonmawr 2000, a project developed by local residents for the 'sustainability and wellbeing of the village by opportunities of employment, better health and future growth', the final phase of which was to use the adjacent parcel of land for affordable and sustainable housing
- Concerned about required submission of large volume of additional information before the plans could be registered, and subsequent requirement for extensive biodiversity / reptile surveys, consequence of which was delays, resulting in the LDP superseding the UDP.
- Concern about different approach between this site and Tonna (Planning Application Ref; P2015/0363)
- Understands that the application has support within the community, and would lead to a development in keeping with the original aims and objectives of the Tonmawr 2000 project. In a village which has recently lost facilities including the closure of the primary school and in sight of the stringent, costly surveys and assessments requested and submitted, asks that full consideration be given to this development at this time.

Councillor Martin Ellis advised that he regrettably was unable to attend the meeting on 12th July 2016 and asked that his representations in support of the application were reported to Members. These are summarised below:-

1. As local member I regularly have queries from young people looking for accommodation within Tonmawr wishing to remain in the village where they have friends and support from family, for example for childcare while working, there is a regular demand for homes that are simply unavailable. The houses proposed in this application would meet this demand and make a good contribution to housing needs, without environmental impact and with strong community support. Transport and distance from work and main centres for services are relatively good, mostly within a ten minute drive or bus journey.

2. The additional homes provided will contribute to the total housing requirements and in a practical way free up an equal number of homes elsewhere.
3. The original application was under the UDP and planning permission would have been very likely; however the delay in processing the application has made the period of consultation fall under the LDP and put the application at risk. This I believe puts us as a planning authority in a position where we should be looking at the application under the rules of the UDP and with regard to the interest of the community.
4. Under the LDP there is nevertheless some flexibility under LDP para 2.5.50 to consider supporting smaller valley communities to make them resilient and sustainable to halt decline and depopulation. In this application housing that is affordable and meets local needs should be supported. A previous application in Tonna, P2015/0363, under similar circumstances did find support earlier this year.
5. The land in the application falls naturally into the settlement area of the village, between John's Terrace, Pelenna Close and the Sports Centre. It does not form a boundary with a green "wedge" is clearly acceptable to local residents and businesses and the applicants can demonstrate strong community support.

I would ask members of the committee and officers to consider in depth the benefits of supporting this application with an open mind and due regard to community interest, the positive impact on local housing stock and local economic and social impacts.

Following review of the Officer's report, Councillor Ellis makes the following additional observations: -

1. I am not fully convinced by all the arguments, particularly with regard to the open countryside description of the site. This is very clearly part of the natural settlement of the village itself, bounded by houses and other building, and members seeing this would I am sure be able to judge this for themselves.

2. I also believe that the LDP should have a flexible approach and under 2.5.50 the case for building sustainable resilient communities to halt their decline is made, and relevant here.
3. The officer's report makes too much of the need to conform to the LDP at the expense of common-sense. Members of the committee would in my view have a better feel for the site, the village and the proposed development with a site visit. Accordingly I would be obliged if this could be put forward to the meeting as an option.
4. There is also a case for consideration under Policy Planning Wales that guided the development of the LDP. Under 4.7.8 "minor extensions to settlements may be acceptable, in particular where it meets a local need for affordable housing...". Also under 9.3.2. "infilling of small gaps ...in particular for affordable housing to meet local need may be acceptable...". In my view the site does meet the LDP criteria as a minor extension to the settlement.

The applicant has submitted a petition with 245 signatories, collected from Glan Pelenna, Efail Fach, Tonmawr Road, Curwen Close, Danycoed, Brynsiriol, MinY Coed, Maesgwyn, Railway Terrace, Abergwenffrwd Row, Johns Terrace, Blaenavon Terrace and the individual properties sited within the village. The petition offers "Support for the above development which would benefit the community and groups/businesses within" and "requests that the above application be granted planning permission by NPTCBC Planning Committee". The petition also includes a number of additional 'comments' by individual signatories, including: -

- New housing needed in village
- Good idea / good for village
- Tonmawr needs development
- No social housing around

The applicant has also provided 22 letters of support in regard to the proposed development from local properties, clubs and businesses. These letters can be summarised as follows:

- There are limited facilities within the village due to the low population. The prospect of having an increase of families will support the sustainability of the village;

- Off-springs of residents have limited opportunities to purchase suitable properties with no alternative but to move out of the village. This development would also provide the opportunity for young families to return to the village, to quality homes which would reinforce the already strong community spirit;
- High demand for previous self-build plots, with previous seven plots being bought from either existing or previous residents, all of who had been born in the village.
- due to the site's location and it offering a mix including low cost housing, feel it would again offer people the chance to stay right at the heart of the village.
- The development would provide benefits and support to local clubs, groups, facilities and local businesses.
- Increased potential of sustainability for businesses
- The development will improve the reputation and character of the village, providing a 'lift' to the village which has been subdued since the closure of the school, and give the community hope for its future.
- The construction of the dwellings would create jobs for local residents.
- The development will fit comfortably within the upper and lower villages and will not look out of place, while adding balance to the village. It would be a visible improvement to the development land.
- The proposal would improve the path, which is in a poor condition and improve pedestrian access between the upper and lower area of the village.
- due to the development land being set down and the elevated position of John's Terrace, there is no impact of loss of view being caused by the development.
- On an aesthetic aspect, the site will improve the land
- As a Construction Management Professional with over 30 years' experience, and, after looking at the proposed plans, I can comment that it is a well-designed development that will sit naturally within the structure of the existing settlements and is ideally situated next to drainage utilities etc.
- Potential of financial benefit to local firms who employ residents and also residents who are self-employed construction workers with the knock on effect of this money be kept within the village.
- The overall benefit to the village will only be good.

The applicant has offered the following (summarised) comments on the Officers report presented to Members on 12th July 2016.

- 1) The following sections from Policy Planning Wales, the guidance document for the LDP and the national planning policy:

4.7.8 Development in the countryside should be located within and adjoining those settlements where it can be best be accommodated in terms of infrastructure, access and habitat and landscape conservation. Infilling or minor extensions to existing settlements may be acceptable, in particular where it meets a local need for affordable housing, but new building in the open countryside away from existing settlements or areas allocated for development in development plans must continue to be strictly controlled. All new development should respect the character of the surrounding area and should be of appropriate scale and design.

9.3.2 Sensitive infilling of small gaps within small groups of houses, or minor extensions to groups, in particular for affordable housing to meet local need, may be acceptable, though much will depend upon the character of the surroundings and the number of such groups in the area.

We therefore feel that the site still meets the criteria of the LDP planning policy as a minor extension to the settlement area having regard to the policy criteria of infrastructure, access, habitat and landscape.

- 2) Within the LDP, section 2.5.50 - a flexible approach to development - ensure protection of vulnerable rural communities
- 3) In the conclusion the site is described as being "edge of settlement" and "represents an unsustainable and unjustified form of residential development in the countryside that would detract from the character and appearance of the surrounding area". The boundary of the site is adjacent to two settlement boundaries. It is not open countryside.
- 4) In the planning history of the site, no mention is made of the many and substantial applications involved with the Tonmawr 2000 project totalling nearly 20,000sq ft, the last application being made in 2005 for the front extension again adjacent to the site.

- 5) Raises concerns over why the Henfaes Road application was progressed under UDP when the difference in validation dates of Henfaes and Tonmawr was only 20 days.

In addition, the applicant has submitted a letter from the **Headteacher of YGG Castell Nedd**, “regarding the educational options that are currently available to the existing residents, and to any prospective residents, within the village of Tonmawr”. The Headteacher states that Ysgol Gymraeg Castell-nedd is the designated Welsh school for Tonmawr; that they have a number of children from Tonmawr already on roll at our school, and have recently seen a steady increase in those numbers since the closure of the village school. Furthermore, a daily bus is provided for these children.

One letter of support has been received from Dan-y-Coed Community Association which states that the village has been devastated by the closure of the local school and demise of Tonmawr 2000 Enterprise. The Community Centre is run by volunteers of the Association which provides a venue for 7 named local groups. As the population is getting older and fewer in number an increase in people living in the village is required to ensure its sustainability. The building of new houses would benefit the aforementioned groups and provide greater opportunities for employment and enhance the local area.

One letter of objection has also been received and can be summarised as follows:

- She has lived in her property since 1951 and had never has a problem with flooding until 2011, when the system could not cope with heavy rainfall which caused the contents of the foul sewer to mix with the storm drain water to flood her garden. She associates this problem with the development of 8 houses close to the proposed development site. She is concerned that an extra 17 dwellings up the valley from her, will only increase until Welsh Water renew/repair their pipes to incorporate extra dwellings on their drainage system. She would like an assurance that if the development was approved it would not cause her more problems than at present.

Pelenna Community Council: advises that they support in principle the outline application and see this as a positive development for Tonmawr.

Natural Resources Wales: No objection

Welsh Water: No objection, subject to the imposition of conditions.

Footpaths Officer: advises that a footpath crosses the site at its frontage.

National Grid Plant Protection: No adverse comments.

The Head of Engineering and Transport (Highways): No objection subject to conditions including need for access road to be widened / lit / drained in accordance with NPTCBC specification for the construction of roads for adoption.

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

Biodiversity Officer: No objection subject to the imposition of conditions and S106 Agreement to secure compensation for the loss of reptile habitat and habitats listed under S42 of the Natural Environment and Rural Communities Act 2006.

Land Contamination Officer: No objection subject to the imposition of conditions.

South Wales Crime Prevention Officer: Raises detailed comments in respect of security lighting, landscaping and planting, site layout and boundary identification.

Parks and Neighbourhood Services: No reply, therefore no observations to make.

Play Officer: no reply, therefore no observations to make.

Education Department: No reply, therefore no observations to make.

Description of Site and its Surroundings:

The site is irregular in shape and steeply sloping upwards from north to south and from east to west and covers an area of approximately 1 hectare. The site incorporates part of the access road which serves the existing sports hall and commercial units located immediately adjacent to the western boundary of the site. The site is flanked to the north east by a service road beyond which are the residential properties known as St John’s Terrace. To the east and elevated above the site is the recently completed Pelenna Close, a cul-de-sac of residential properties. The eastern boundary is denoted by a timber fence sited on top of a steep bank, with other boundaries remaining open.

Brief description of proposal:

Outline planning permission including access and layout is sought for 17 dwellings comprising 12 No detached dwellings, 1 No pair of semi-detached dwellings and a terrace of 3 dwellings. Matters of appearance, landscaping and scale are reserved for subsequent approval.

In line with the requirements of outline planning applications, the applicant has submitted scale parameters which are as follows:

	<u>height</u>	<u>width</u>	<u>length</u>
Maximum	12.5m	12m	11m
Minimum	8m	6m	8m

The proposed layout indicates the provision of all dwellings being served by one access point leading off the existing access road serving the sports hall, which would be centrally located within the frontage of the site. The proposed estate road and turning head dissects the site east to west, off which would be a shared drive serving 4 detached properties orientated north to south. Three properties would front the existing access road with the remainder of the dwellings each fronting the proposed estate road.

The layout plan makes provision for pedestrian access to be retained through the site linking the rear of St Johns Terrace to the sports centre. No provision for open space facilities have been included within the proposed layout. Due to the topography of the site extensive retaining works are proposed.

EIA and AA Screening:

The application site exceeds the Schedule 2 threshold for development of this type as outlined within the Environmental Impact Assessment Regulations. As such the application has been screened in accordance with the requirements of Schedule 3 of the Regulations. The findings of the screening report were that the scale and nature of the potential impacts associated with the development both alone and in combination with other developments within the area would not be of a type that would require the carrying out of an Environmental Impact Assessment or the subsequent submission of an Environmental Statement in support of the application.

The proposed development is not located within a zone of influence for any SAC, CSAC or Ramsar sites and as such it is considered that an Appropriate Assessment as set down within the Conservation of Habitats and Species Regulations 2010 is not required.

Material Considerations:

The main issues to be considered in the determination of this application concern the principle of the proposed development at this location having regard to the national planning policy and guidance and adopted development plan policies, as well as the impact upon the character and appearance of the surrounding area; residential amenity of the occupiers of the adjacent properties; highway and pedestrian safety; the effect upon biodiversity, drainage and pollution together with other issues raised by consultees.

Policy Context:

National Planning Policy:

Planning Policy Wales (Edition 8, January 2016).

- Technical Advice Note 5: Nature Conservation and Planning (2009)
- Technical Advice Note 6: Planning for Sustainable Rural Communities (2010)
- Technical Advice Note 11: Noise (1997)
- Technical Advice Note 12: Design (2016)
- Technical Advice Note 16: Sport, Recreation and Open Space (2009)
- Technical Advice Note 18: Transport (2007)

Local Planning Policy:

Local Development Plan (LDP)

In accordance with the Planning and Compulsory Purchase Act 2004, the Council prepared the Local Development Plan (2011-2026). The LDP was submitted for independent Examination to the Planning Inspectorate on 30th September 2014 and the Ministers of the Welsh Government appointed independent Inspectors to conduct the Examination to assess the soundness of the Plan. The LDP Examination officially ended on the 2nd December 2015 when the Council received the Inspectors' Report from the Planning Inspectorate. The Report was published and the recommendations contained within were 'binding', meaning that the Council had to accept the changes recommended by the Inspectors.

The Council formally adopted the LDP on 27th January 2016, and therefore the proposal must now be assessed against the following relevant Policies within the LDP: -

Strategic Policies

- Strategic Policy SP 3 Sustainable Communities
- Strategic Policy SP7 Housing Requirement
- Strategic Policy SP14 The Countryside and the Undeveloped Coast
- Strategic Policy SP16 Environmental Protection
- Strategic Policy SP10 Open Space
- Strategic Policy SP17 Minerals
- Strategic Policy SP20 Transport Network
- Strategic Policy SP 15 Biodiversity and Geodiversity

Detailed Policies

- Policy SC1 Settlement Limits
- Policy I1 Infrastructure
- Policy OS1 Open Space Provision
- Policy EN8 Pollution and Land Stability
- Policy M1 Development in Mineral Safeguarding Areas
- Policy TR2 Design and Access of New Development
- Policy BE1 Design

Principle of Development:

The application site lies outside of, albeit adjacent to, the settlement limit of Tonmawr as defined by Policy SC1 of the adopted LDP, and is therefore defined as being within the 'countryside'. Given its countryside location, and in the absence of any agricultural or forestry justification, the proposed residential development is as a matter of fact contrary to Policy SC1 of the adopted LDP.

This is supported by national policy with paragraph 9.2.22 of Planning Policy Wales (PPW) noting that:

'In order to safeguard the character and appearance of the countryside, to reduce the need to travel by car and to economise on the provision of services, new houses in the countryside, away from existing settlements recognised in the development plans or from other areas allocated for development, must be strictly controlled.'

Accordingly, the proposed residential development would represent a departure to the Development Plan, and it is therefore pertinent that Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that "*where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise*". Such material considerations are addressed below in respect of the principle of development, followed by an assessment of other impacts.

Material Considerations

The agent has made representations which seek to argue that there are 'Other Material Considerations' which should be weighed against the LDP settlement boundary. In summary, these are as follows: -

- The application in this case was first prepared and submitted in June 2012. For various reasons it was not accepted in that format and a considerable amount of additional information was requested. Because of various delays, including legal issues relating to the owning consortium, it was not until June of last year that we were in a position to submit the application once again, in its revised format. Continuing requests for further information meant that the application was not actually registered until October, and even then we have been asked for additional reptile

surveys and contamination reports. This has meant that we have been overtaken by a change in policy.

- The Council has been fully aware for at least 4 years that this site was owned by a consortium of local people who were intent on developing the site for housing purposes on the basis that it fell within the defined settlement in the UDP. Whilst it is understood that the LDP seeks to draw very tight settlement boundaries, it is most surprising that the circumstances of this site were not fully taken into account, particularly when it is virtually surrounded by built form, when there are no other opportunities for development in Tonmawr, and when the existing sports centre and adjoining business units are now also excluded from the settlement.
- The application proposes a high percentage of affordable houses at a time when there is an acknowledged shortage of such dwellings in the area.
- The latest Joint Housing Land Availability Report for Neath Port Talbot indicates that the Borough has a current supply of housing land sufficient only to meet a 2.5 year supply at current rates of demand. This is, of course, significantly below the provision required by Central Government of a 5 year supply. In such circumstances it is incumbent on any Planning Authority to give serious consideration to granting consent for any proposal that in all other respects complies with policy and where the applicants have made it clear that they are both willing and able to take up the permission and get on with the development.
- A recent permission was granted on a site in Tonna where similar circumstances applied, in other words land that was clearly intended for development had been arbitrarily excluded from the settlement by the LDP.
- They have also submitted many representations and a petition from local residents, businesses and clubs, and state that it is evident to them that the development is wanted in Tonmawr and is supported by the Community Council and the Welsh Government Member for the area.

These matters are considered in turn below.

Previous Unitary Development Plan settlement Boundary

The local Ward Member, Cllr Martin Ellis, has called this application to Committee on the grounds that there has been an overlap in development plans since the application was submitted, noting his opinion that the application would be a sustainable extension to the existing settlement boundary where there is a demand for new housing.

It is noted that an earlier application in 2012 was returned to the applicant, and the current application was submitted 3 years later in June 2015, and was not formally validated until 13th November 2015. As noted above, the LDP Examination officially ended on the 2nd December 2015 when the Council received the Inspectors' Report from the Planning Inspectorate. The Report was published and the recommendations contained within were 'binding', meaning that the Council had to accept the changes recommended by the Inspectors. The Council subsequently adopted the LDP on 27th January 2016.

In response to comments raised by the Applicant in respect of where the LDP settlement limit has been drawn within the LDP, it is noted that in drawing up the LDP, the identification of a Settlement Hierarchy was used to provide a balanced approach to managing growth, directing development to areas reflecting the attributes contained within that community and their ability to accommodate growth. As well as assessing the role and function of settlements, the Council assessed the capacity of land within settlements to accommodate development and also considered the potential opportunities for settlement expansion.

The classification of settlements in the Plan is based on a six-tier hierarchy, with the settlement of Tonmawr identified as a 'small local centre' – such settlements provide more limited potential to accommodate new development.

The independent LDP Inspectors concluded that, subject to a number of recommended changes, the Plan was 'sound' and provides an appropriate basis for the planning of the County Borough up to 2026. With specific regard to the settlement hierarchy and limits, the extract below presents the Inspectors' findings and conclusions:

“Settlement Hierarchy and Limits

The definition of a settlement hierarchy, together with boundaries around each of them determining the limits of development, are essential for the delivery of sustainable communities and, consequently, the protection of the open countryside. The evidence for both is the Settlement Review and Urban Capacity Study, undertaken in 2011, which is described in the Settlement Topic Paper. Following a review of the existing function of each settlement, the relationships between them, and their future role, a six-tier hierarchy was defined. The LDP assigns each settlement to one of the tiers which range from towns at the top through district, large local and small local centres, to villages and dormitory settlements at the bottom. In addition a settlement limit is defined around each, with the exception of dormitory settlements, taking into account the assessed capacity and potential for development.

Through Policy SC 1 this framework directs appropriate levels of development to various categories of settlement in order to contribute towards the objectives of delivering sustainable communities and maximising accessibility to a range of facilities. It will also help to conserve the countryside consistent with OB 15. The addition of a column to Table 3.1 explaining the role and function of the settlements in each tier, together with further explanation in the text, are necessary to clarify the type and scale of development that is likely to be suitable. A new paragraph will explain the approach to be taken in dormitory settlements which have insufficient facilities to be classed as sustainable locations.

Settlement limits were defined following an assessment of each settlement’s capacity to accommodate growth and consideration of a number of factors including: relevant extant planning consents; the location of small candidate sites; physical constraints to development; the functional and visual relationship between land and/or buildings; and the settlement and opportunities for large scale expansion. We are satisfied that the identification and delineation of the settlement limits in the LDP has been undertaken in a logical and consistent manner. Consequently, boundaries have been defined that strike an appropriate balance between the growth requirements of the area and the need to protect the countryside.

The overarching policies adequately reflect the central planks of the LDP strategy. They are clear, appropriate and based on up-to-date, credible and robust evidence.”

It is considered that the adopted Local Development Plan is consistent with national guidance in relation to settlement strategy. Para 4.7.4 of PPW states:-

*“Local planning authorities should assess the extent to which their development plan settlement strategies and new development are consistent with minimising the **need to travel and increasing accessibility by modes other than the private car**. A broad balance between housing and employment opportunities in both urban and rural areas should be promoted to minimise the need for long distance commuting. Local authorities should adopt policies to locate major generators of travel demand such as housing, employment, retailing, leisure and recreation, and community facilities including libraries, schools and hospitals within existing urban areas or in other locations which are, or can be, well served by public transport, or can be reached by walking or cycling.”*

Having regard to the LDP process, it is acknowledged that the initial application was received in June 2015 while the UDP remained the adopted Development Plan for the area. Nevertheless, the application was not accompanied by the required level of information necessary for it to be validated, and while the agent was aware of the impending change in Development Plan, the application was not formally validated until November 2015. The LDP Inspector's report was then published only 2 ½ weeks later, and the Plan adopted 10 ½ weeks after publication, with the application not in a position to be determined in advance of the inspector's report or adoption.

It is also pertinent that the Council was fully aware of the intention to develop this site, not least since the site was put forward as (part of a larger) Candidate Site (AV24) in July 2010 for residential development, but did not progress beyond Stage 3 of the Candidate Site Assessment. At this stage of the assessment, details of the site were sent to a wide range of external consultation bodies and also all relevant internal Departments. Based on the assessment of the responses received, coupled with the fact that the site was deemed to be not compatible with the Development Strategy of the Plan, the site was not considered deliverable or appropriate and accordingly was filtered out with no further assessment undertaken. Subsequently at the Deposit consultation stage, those promoting the site did not object to the site's exclusion from the Plan and consequently the site did not form part of the 'Alternative Site Register'. This prevented the merits of the site being considered fully by the appointed Inspectors.

Accordingly, it is emphasised that the site was robustly assessed in accordance with the Council's Candidate Site Assessment methodology, and the site proposers were on the Council's database and would have been notified at all stages of Plan preparation. Failure to progress the application to validation between July 2010 and November 2015, while regrettable, is not therefore considered to amount to a justification for allowing development of a site which was considered by the LDP to not be suitable for residential development.

Accordingly, while it is acknowledged that the site was formerly part of the UDP settlement boundary, it is considered that the application was submitted/ validated too late in the process to justify any departure from what is now adopted LDP Policy, and that if permission were granted for residential development on this site it would set an undesirable precedent that would seriously undermine the local and national objectives to safeguard the countryside for its own sake.

Housing Need:

PPW (para 9.2.3) emphasises the need for local planning authorities to ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of land for housing, and para. 6.2 of TAN 1 - Joint Housing Land Availability Studies (2015) - states that "The housing land supply figure should also be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5-year requirement ... the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies".

The appellants submit that the 2014 Joint Housing Land Availability Report for NPT indicates only a 2.5 year supply, which is below the required 5 year supply.

In response to these submissions, it is noted that while the 2014 Joint Housing Land Availability Study (Published in May 2015) identified a shortfall in the 5 year land supply, the council has since adopted its Local Development Plan, which allocates further land to ensure that a supply is made available to provide an additional 7800 new properties over the life time of the plan (until 2026).

The 2016 Joint Housing Land Availability Study (JHLAS) has also recently been agreed by the Planning Inspectorate (end June 2016), and has confirmed that the current land supply figure for Neath Port Talbot is 5.0 years.

It is therefore considered that there is no justification to approve a housing development such as that proposed, which is contrary to the adopted LDP, on the basis of insufficient land supply.

Affordable Housing Need

The applicant states that the application proposes a high percentage of affordable houses at a time when there is an acknowledged shortage of such dwellings in the area. In this respect, it is noted that the development proposes a total of 17 plots, ten of which would be 'self-build', with the remaining seven being "affordable units to be offered to a social housing provider".

Tonmawr lies within the Afan Valley, wherein Policy AH1 of the Local Development Plan does not require any provision of affordable housing, since the Council's viability study informing the LDP found the valley areas did not support the provision of affordable housing.

The submissions indicate that 7 of the 17 units (equating to 41%) would be affordable housing. While it is understood no RSL is involved in the development proposal, such provision could be secured through a section 106 agreement.

While the proposed provision of affordable housing on this site is noted, and is a material consideration, it is nevertheless considered that this does not justify the development of the site which as identified above falls outside of the newly-adopted Local Development Plan settlement limits.

In coming to this conclusion, it is also noted in particular that Policies SC1 and AH2 allow for 'affordable housing exception sites' (of up to 9 units) outside identified settlement limits where all of the following criteria, where relevant, are satisfied:

- 1 Evidence exists in the form of a local housing needs survey (or by reference to alternative housing need data) that there is a genuine demonstrable local need for such accommodation;

2. It is demonstrated that the need for affordable housing cannot be satisfactorily met within existing settlement limits and the development is located adjacent to an existing settlement;
3. The site is solely for affordable housing and there are clear and adequate arrangements to ensure that the benefits of affordable housing will be secured for initial and subsequent occupiers.

The Policy supporting text notes that “exception sites are a means of providing affordable housing in areas where there is an unmet need. Whilst preference will always be to provide housing in sustainable settlements and within defined settlement limits, there may be occasions throughout the Plan period when factors, such as the availability of land, may require affordable housing to be sought outside of settlement limits. In such circumstances, this policy will allow RSLs to provide affordable units in areas where there is an identified need that cannot be satisfied within existing settlements”.

In respect of this site, however, the proposed development both exceeds the number of units, and does not propose the 100% affordable housing necessary to fall within this Policy, nor is it in any event supported by the necessary level of information to justify such development. Accordingly, in addition to the provision of affordable housing not overcoming the ‘in principle’ objection to the development, it also cannot be considered to represent an acceptable ‘exception site’ under Policy AH2.

Precedent on other site

The agent has noted that “a recent permission was granted on a site in Tonna where similar circumstances applied, in other words land that was clearly intended for development had been arbitrarily excluded from the settlement by the LDP”.

This comment is understood to relate to land at Henfaes Road (P2015/0363) which was granted planning permission for 3 dwellings in December 2015. This site had previously formed part of a larger site with planning permission, and had been included in the settlement boundary of the UDP.

Furthermore the LDP had not yet been adopted at the time of determination of that application and it therefore fell to be considered against policies contained within the UDP which was the adopted development plan at that time. Consideration was also given to the

emerging policies contained within the LDP as they were considered to be material considerations given that the Council had received the binding Inspector's report a few weeks before determination. A decision was made that it would be unreasonable to assess the principle of development at that site based on emerging Local Development Plan Policies alone.

This site, however, is considered to be materially different insofar as it has no planning permission, had been ruled out as a housing site in the LDP candidate site assessment process and the settlement boundaries drawn accordingly, and, while validated in advance of adoption of the LDP, it is considered that for the reasons given above the proposal does not accord with the Local Development Plan. In this regard, the site referred to above is not considered to represent a precedent which would justify approval of development at this site.

Support by the Local Community

The applicant states that it is "evident to them that the development is wanted in Tonmawr and is supported by the Community Council and the Welsh Government Member for the area".

It is noted that the local Ward Member is supportive, and that Bethan Jenkins AM and Peter Black (a previous AM) have written in support of the application.

The applicant has also submitted letters "from nearly all the local businesses within the village showing their support" and received letters of support from residents overlooking the site in Johns Terrace and Pelenna Close.

To date, the Council has received 22 letters of support (summarised above) from local businesses and residents, and a petition with 245 signatories has also been submitted offering support for the proposed development.

These submissions refer, amongst other things, to the potential positive impacts of the development on the community / village and other local facilities / Clubs, in terms of supporting the sustainability of the village; providing the opportunity for young families to return to the village and reinforcing the already strong community spirit.

In response, however, while the submitted representations, and those from the local councillor and Community Council, indicates a strong degree of support from the local Community for this development, the positive community impacts referred to are not considered to outweigh the clear policy objections to development of this site for the reasons expanded upon above, and thus the harm caused by its failure to accord with the Local Development Plan.

Other Matters – Community Benefit

The applicant has submitted a letter which states that “Pelenna Property Partnership Ltd are willing to discuss with NPTCBC that in addition to the provision of an element of affordable housing within the development, a scheme whereby an amount from the sale of each plot at the site, as agreed with NPTCBC, would be contributed into a fund held by others which would be available for not for profit groups/clubs in the locality to be able to on application obtain funding to help with their running costs/ equipment etc. We, the Directors, are in agreement that this can be placed as a condition on the development and we will enter into a unilateral agreement if required”

It is noted, however, that such ‘community benefits’ (even were they submitted formally by a Unilateral agreement) cannot be considered to amount to a material planning consideration that could override the objections to the development above on valid planning grounds.

Visual Appearance of Site

It has also been suggested that the visual appearance of the site might justify development, with residents stating that the appearance will be improved and also referring to the improvements to the right of way through the site, which links the upper and lower parts of the village.

In response, however, it is considered that the site, while not necessarily attractive, does not adversely affect visual amenity to such a degree that this would warrant approval of this application. Moreover, if the condition of the site were to become worse, there are other mechanisms available to address this issue including enforcement action under both the Planning and Environmental Health legislation to secure improvements.

Improvements to the right of way through the site, while welcomed, are also not considered to justify development contrary to the Development Plan.

Principle of Development Conclusion

For the reasons given above, it is therefore concluded that the development of this site would amount to unjustified and unsustainable new development in the countryside, for which there is no agricultural or other justification. In addition, there are no material considerations of sufficient weight to override the harm caused by reason of its failure to meet adopted LDP Policy.

Other matters in respect of the development are addressed in turn below: -

Housing Density

Policy BE1 (8a) of the adopted Local Development Plan states that '*normally a minimum of 35 dwellings per hectare in the Coastal Strategy Area or a minimum of 30 per hectare in the Valleys Strategy Area*' will be required.

This site falls within the Valleys Strategy Area where a minimum of 30 dwellings per hectare in the Valleys Strategy Area' will be required.

The site is approximately one hectare in size and it is proposed to accommodate 17 dwellings. It is acknowledged that the site is steeply sloping which together with the relatively spacious layout affects the ability to achieve the required density under Policy BE1. The fact that the site can only accommodate a low density of development is therefore considered to add weight to the 'in principle' objections that this site is not suitable to accommodate new residential development.

Mineral Safeguarding:

It is also noted that the site is located within a Mineral safeguarding area under Policy M1 of the adopted LDP.

Policy M1 looks to safeguard mineral resources as they are finite and any development will need to meet criteria which ensure they are not sterilised or their extraction hindered.

Notwithstanding the above it is not considered that the development due to its scale and location will have a significant impact on the working of the mineral. Moreover, given the site's close proximity to the settlement limits, it is very unlikely that any mineral extraction would be acceptable in this location. Accordingly, there is no objection to the principle of development on mineral safeguarding / Policy M1 grounds.

Visual Amenity:

With regards to the character of the existing area, Tonmawr is characterised by traditional terraced properties and a number of newly-built properties. The application site stands at a significantly lower level than the existing frontage development on St Johns Terrace.

Whilst it is acknowledged that PPW does accept that extensions to existing small groups of dwellings in the countryside may be acceptable, this is dependent on the character of the surroundings and the number of such groups in the area. Indeed, national guidance at paragraph 5.1.1 of PPW recognises the importance of the natural heritage of Wales both for its own sake and for the health and the social and economic wellbeing of individuals and communities. In addition PPW states at paragraph 4.6.4:-

“The countryside is a dynamic and multi-purpose resource. In line with sustainability principles, it must be conserved and, where possible, enhanced for the sake of its ecological, geological, physiographic, historical, archaeological and agricultural value and for its landscape and natural resources, balancing the need to conserve these attributes against the economic, social and recreational needs of local communities and visitors. Central to this is ensuring that the countryside is resilient to the impacts of climate change and plays a role in reducing the causes of climate change through the protection of carbon sinks and as a sustainable energy source.”

As already noted PPW accepts that new house building in the countryside should be strictly controlled and paragraph 9.3.1 requires that new housing should be well integrated with and connected to the existing pattern of settlements, with the expansion of towns and villages avoiding the creation of ribbon development, the coalescence of settlements or a fragmented development pattern.

It is considered that the proposal will not follow the existing pattern of development and would represent a significant intrusion into the

landscape and serve to urbanise the area to the detriment of the existing rural character.

It is therefore considered that the proposal would give rise to a sporadic form of development to the detriment of the character and appearance of the rural area, contrary to National and Local Development Plan objectives to restrict new residential development outside designated settlement areas.

Residential Amenity:

In terms of the impact upon nearby / neighbouring properties, the accompanying information details that the proposed dwelling on Plot 5 would be sited some 10 metres below and a minimum distance of 5 metres from the nearest property No 8 Pelenna Close. The submitted plans also indicate that the proposed units will be located in excess of 21 metres from the rear elevations of the existing properties positioned in St Johns Terrace. The separation distance ensures that the proposed properties would not unacceptably overshadow or have any overbearing impact on the existing houses.

In terms of overlooking, the required separation distance of 21 metres can be achieved to ensure the future privacy of existing and future occupiers is maintained.

Adequate private amenity space to serve the development is proposed.

Having regard to the above, it is concluded that the submitted layout demonstrates that there would be no unacceptable impact on residential amenity of the occupiers of neighbouring properties.

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

The Head of Engineering and Transport (Highways) has considered the increase in vehicular traffic associated with 17 dwellings, and has concluded that the impact of the proposed development can be accommodated within the existing and proposed highway network and that the proposed development will not significantly worsen the free flow of traffic to warrant refusal of the application.

As a result there is no objection to this development on highway and pedestrian safety grounds subject to the imposition of a number of conditions which include the provision of improvements to the existing

access road serving the Sports Hall, submission of a Construction Method Statement together with a series of conditions in respect of detailed calculations of retaining structures, future maintenance of the proposed internal roads, and highway drainage.

Pollution:

The Land Contamination Officer and NRW have raised no objections to the proposal having regard to the submitted desk top study subject to the imposition of conditions in respect of a remediation strategy, submission of verification report, long term monitoring and maintenance plan, and unexpected contamination.

Drainage:

The applicant has stated that they wish to connect to the existing drainage system and have indicated as such in their application form and plans. Welsh Water has confirmed that they have no objection to the proposed development subject to the imposition of a condition that secures the submission of a scheme to secure the provision of adequate disposal of foul, surface water and land drainage from the site.

The Authority's Drainage Engineer raised no objection to the proposal subject to conditions in respect of surface water drainage works.

Ecology:

Technical Advice Note 5: Nature Conservation and Planning states that:

Biodiversity, conservation and enhancement is an integral part of planning for sustainable development. The planning system has an important part to play in nature conservation. The use and development of land can pose threats to the conservation of natural features and wildlife. Past changes have contributed to the loss of integrity of habitat networks through land-take, fragmentation, severance, disturbance, hydrological changes and adverse impacts.

But development can also present significant opportunities to enhance wildlife habitats and enjoyment and understanding of the natural heritage. The planning system needs to be watchful of the cumulative effects of a series of small, perhaps occasional, apparently insignificant losses from the natural world, which can combine to seriously deplete

the natural heritage, including essential hydrological and ecological system; small scale opportunities for habitat creation and enhancement can be significant and can build into major contributions over time.

In addition it states that the development control process is a critical stage in delivering the protection and enhancement of nature conservation by PPW. The following can help to achieve these objectives:

- Adopting the five point approach to decision-making- information, avoidance, mitigation, compensation and new benefits;
- Ensuring that planning applications are submitted with adequate information, using early negotiation, checklists, requiring ecological surveys and appropriate consultation;
- Securing necessary measures to protect, enhance, mitigate and compensate through planning conditions and obligations;
- Carrying out effective enforcement;
- Identifying ways to build nature conservation into the design of the development.

TAN 5 confirms that through the use of conditions, the delivery of a number of positive benefits to biodiversity beyond those of simply avoiding adverse effects as possible, including:

- The submission and agreement of a landscape scheme so that greater attention can be given to issues such as species composition;
- The maintenance of landscape planting for a five year period, or longer, where the need for this can be justified;
- Habitat enhancement;
- The restoration and aftercare of a site where a positive approach to restoration and after-use required by conditions can produce significant biodiversity benefits in terms of habitat creation and enhancement.

The Authority's Biodiversity Unit has considered the submitted Reptile Survey and Phase 1 Habitat Survey and advised that a S106 agreement is required to mitigate the loss of reptile habitat through the creation of a 40 sq m scrape and 6 hibernaculum sites. This compensation would be subject to a 5 year management plan. They also recommend that conditions are imposed on any consent requiring

artificial nesting sites for birds and the translocation of reptiles prior to development.

Having regard to the above, it is considered that the ecological impact of the development has been adequately considered within the submitted information. Through the imposition of conditions, the impacts of the development both during and post construction and ongoing future management and monitoring can be mitigated so that any adverse impacts can be dealt with.

Section 106 Planning Obligations:

The Community Infrastructure Levy Regulations 2010 came into force on 6th April 2010 in England and Wales. They introduced limitations on the use of planning obligations (Reg. 122 refers). As of 6th April 2010, a planning obligation may only legally constitute a reason for granting planning permission if it is:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

In this case, the proposal relates to an outline planning application for the development of the site for 17 residential units. Although this report outlines the justification for the refusal of the development, it is still necessary to examine what planning obligations would be required if the application were acceptable in all other respects. Having considered the nature and scale of the development, the local circumstances and needs arising from the development, and what it is reasonable to expect the developer to provide in light of the relevant national and local planning policies, the planning obligations referred to below are considered necessary.

The required contributions would include:-

Public Open Space (POS)

Policy OS1 of the LDP states that where there is a quantitative deficiency in outdoor sport, children's play, informal space or allotments, provision will be sought, including the requirement for

maintenance, in conjunction with all new residential developments of 3 or more dwellings.

Where it is impractical to provide open space and/or recreational facilities on site or where existing open space provision is deficient in quality in the immediate locality, the Council may be willing to accept alternative provision i.e. off-site contribution payments.

Having regard to the 'Open Space Assessment 2013, produced in support of the adopted Local Development Plan, it is noted that there are existing ward shortfalls in children's play, allotments and non-pitch sport. There are 2 children's play areas on Tonmawr Road, the one in Upper Tonmawr is within 400m of the site and meets accessibility standards, the one in Dan y Coed is over 400m metres from the site. In respect of allotments there is no formal allotment provision in the Pelenna ward and very limited provision in the spatial area. However there is a small community type garden in the open space near Dan y Coed. With regards to non-pitch sport, the only provision in the ward is a bowling green in Pontrhydyfen, however this site lies beyond the appropriate accessibility standards.

Accordingly, the existing deficiencies would be exacerbated by the increase in population arising from the proposed development, and there would be a need for the development to contribute towards addressing such deficiency.

Had a recommendation been made that planning permission should be granted, the Heads of Terms for a section 106 legal agreement would have included the requirement for a contribution of £32,922 towards this shortfall (£14,598.75 towards the provision of children's play in Tonmawr; £805.42 towards either allotment provision in the Afan Valley or improvement/enlargement of the community garden in Tonmawr; £17,518.50 has been calculated for non-pitch provision).

Subject to this Section 106 agreement, the development would have accorded with Policy OS1 of the adopted LDP.

Comments on Representations (previously circulated on amendment sheet to 12th July Committee)

Councillor Martin Ellis

Many of the issues raised by Councillor Martin Ellis have already been considered elsewhere in this report, but the following additional points are made in response: -

- The LDP does allow for exceptions to development outside of or adjacent to settlement boundaries, but this site and proposed development do not meet the criteria for such exceptions
- Whether or not the site has a countryside appearance, it is as a matter of fact outside the LDP settlement limits
- There are no conflicting development plans. The LDP is the development plan and the UDP has now been superseded.
- It is suggested that there is flexibility within the LDP to supporting smaller valley communities to make them resilient and sustainable to halt decline and depopulation. The LDP recognises (at 2.5.32) that the valley communities have a long tradition of strong cultural heritage and community identity, and that some of the valley areas have faced more challenging times.

In response, it notes that the Valleys need to become more economically resilient and provide new opportunities for growth, investment and job/wealth creation. Accordingly the LDP strategy seeks to reinvigorate the valleys principally through the identification of two growth areas, namely Pontardawe and the Upper Neath Valley. It further states that whilst the majority of large housing allocations are focussed around the growth points, in remaining areas growth will be delivered on smaller sites within the identified settlement limits.

It further states (at 2.5.53) that a flexible approach will be taken with appropriate employment and 'live-work' units being acceptable outside of, but immediately adjacent to, settlement limits.

Having regard to the above, this report makes it clear how the settlement limits have been drawn and agreed by the LDP Inspectors, and the proposed development fails to accord with the Policies or with the Strategy of the LDP for the reasons expanded upon in the Officers report.

Applicant's Additional Submissions on Report

It is considered that the above issues have largely been addressed in the Officer's report to Committee or the response to Councillor Ellis above, but the following additional points are made in response: -

- The LDP Policies allow for flexibility in development outside of settlement boundaries to reflect advice in PPW, and as noted above this site would not meet such criterion nor, for the reasons in the report, would there be material considerations of sufficient weight to override the policy objection to the development
- In policy terms the site is 'countryside', being located outside of the village settlement boundaries.
- The Tonmawr 2000 project is not considered to have any material bearing on determination of this application
- The Officers report has already noted the different circumstances between this and the Henfaes Road application.

Conclusion:

The decision to recommend refusal of 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.

Having regard to Policies SP3, SP7, SP10, SP14, SP15, SP16, SP17, SC1, I1, OS1, EN6, M1, TR2 and BE1 of the adopted Neath Port Talbot Local Development Plan; and national planning policy and guidance contained in Planning Policy Wales and in TANs 5, 6, 12, 15 and 16 it is considered that the proposal represents an unjustifiable and unsustainable form of residential development located outside the defined settlement, which would have a detrimental impact upon the character and appearance of the surrounding area for which there are no material considerations which outweigh the harm caused.

RECOMMENDATION: Refuse for the following reason

- (1) By reason of the site's edge of settlement location and the absence of an agricultural/forestry/rural enterprise need. The proposal represents an unsustainable and unjustified form of residential development in the countryside that would detract from the character and appearance of the surrounding area. The development is therefore contrary to the countryside protection objectives of national policy and guidance as contained in Planning Policy Wales, TAN 6- Planning for Sustainable Rural Communities and TAN12- Design, in addition to failing to comply with Policies SP14 and SC1 of the Local Development Plan.

SECTION A – MATTERS FOR DECISION

Proposed Amendment to Condition following resolution to grant planning permission subject to s106

<u>APPLICATION NO:</u> P2016/0078	<u>DATE:</u> 18/02/2016
PROPOSAL: Proposed alternative restoration and aftercare scheme in respect of the former Margam Surface Mine, comprising engineering and landscaping works including: Pumping, earthworks, soil relocation, installation of an overflow drainage channel, re-introduction of rights of way across the site, agricultural (rehabilitation) works to establish vegetation and drainage (amendment to the restoration and aftercare scheme approved under planning permission reference P2006/1727	
LOCATION: Former Margam Surface Mine, Fford Y Gyfraith, Cefn Cribwr CF32 0BS	
APPLICANT: Mr Robert Thompson – Celtic Energy Ltd.	
TYPE: Full Plans	
WARD: Margam	

BACKGROUND INFORMATION

Members will recall that a resolution was made at the Planning Committee on 3rd May 2016 that planning permission should be granted for the above development subject to the removal of the holding direction from the Welsh Government and subject to the listed Conditions and a revised Legal Agreement to secure an acceptable programme of prioritised works and the ring fencing of money within the restoration fund, to enable delivery of this programme and to secure its aftercare.

A copy of the officer’s report and associated Committee Minute is provided at Appendix A to this report.

Subsequent to the above resolution, the Welsh Ministers confirmed by letter dated 18th May 2016 that the application “does not raise planning issues of more than local importance” and accordingly cancelled the holding Direction dated 27 April 2016, stating that “it is now for the Council to determine the application as it sees fit”.

Since the resolution was made officers have been in regular liaison with the applicant to progress the required section 106 agreement, with a number of complex legal matters requiring resolution. These discussions have recently been concluded, such that the legal agreement is ready to be signed by all parties.

Members should note that condition 2 on the draft approval currently reads as follows: -

(2) The approved restoration shall be completed by 31st July 2017. For a period of five years from the date of completion of restoration the restored area shall be managed in accordance with the approved aftercare scheme. The planning permission shall expire following the complete restoration and aftercare of the site in accordance with the approved restoration and aftercare schemes.

Reason

Since the alternative restoration scheme is only acceptable based on the strict time limits identified within the application submission and to minimise the duration of disturbance.

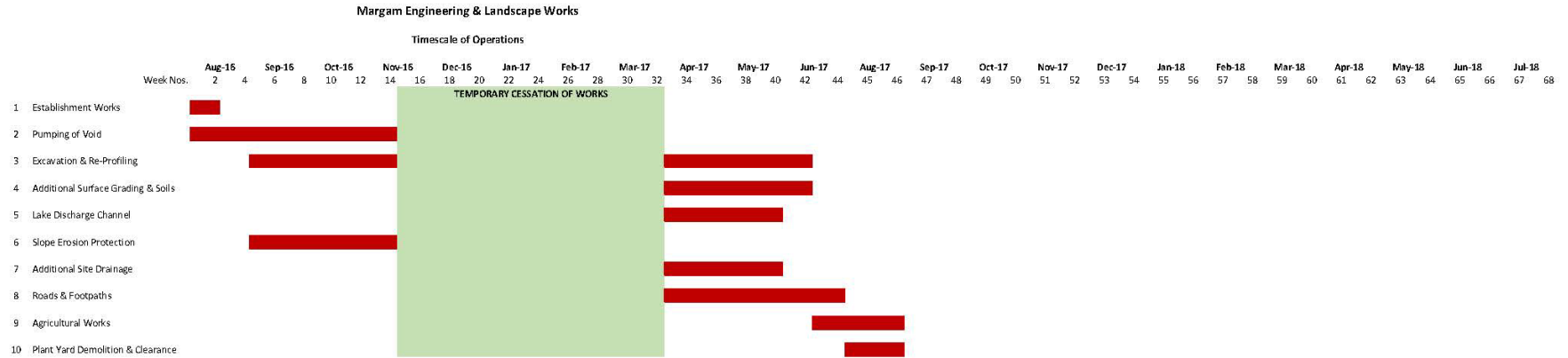
As result of the ongoing legal discussions, however, along with other complex ecological matters (referred to below), it has become evident that the previously-agreed tight timetable for implementation of the amended restoration scheme will not be met. The applicant has therefore formally requested that prior to issuing the planning permission that the Local Planning Authority amend the wording of condition 2 to extend the period of completion of the restoration works by a further one year, giving them until 31st July 2018. The applicants have cited the following reasons for the additional time request:

- For legal reasons the drafting of the section 106 agreement has experienced slippage and as such we are now 2 months behind the original programme and as such some of the originally programmed work cannot be undertaken due to seasonal restrictions.
- Following the completion of further surveys on site and following a meeting with a number of organisations including NRW, it is evident that Great Crested Newts are present across large areas of the site. These are a European Protected Species and it is necessary to obtain a License to Disturb from the Welsh Government. If this species is not dealt with correctly it can lead to a criminal

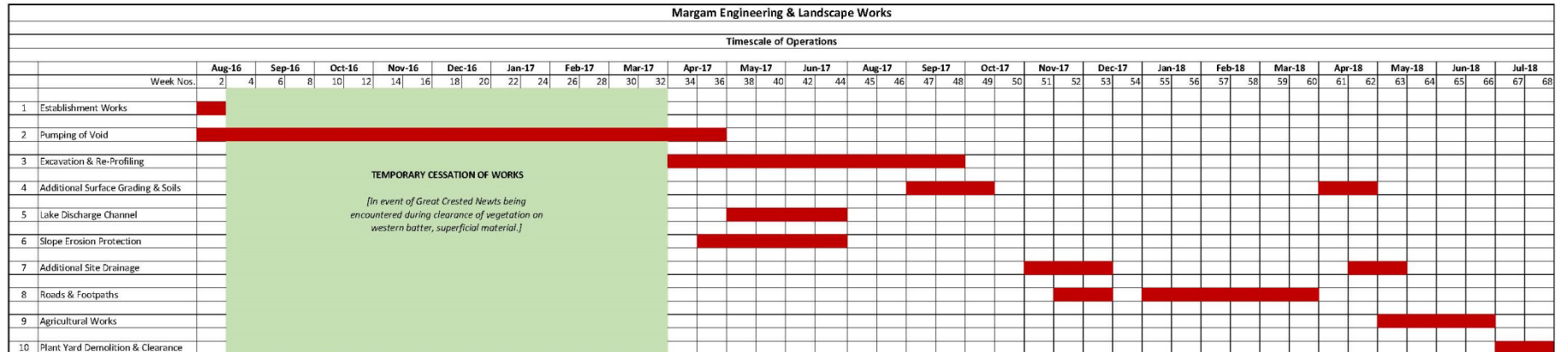
prosecution. As a consequence, the construction programme needs to be amended to reflect the restrictions on working now in place due to the larger than expected population of Great Crested Newts on site. It is anticipated that subject to agreement with NRW certain restricted works can be undertaken in relation to the construction of the buttress in the south west corner of the void together with re-profiling works on the surcharge mound. The remainder of the originally proposed works cannot be commenced until next year and such works must be completed in accordance with the above mentioned license, which they will apply for immediately.

As a consequence of the above, Celtic have submitted two proposed timescales for the completion of the works, representing both the 'best' case and 'worse' case scenarios. These are presented as follows:

BEST CASE SCENARIO



WORST CASE SCENARIO



Celtic Energy has also stated that “whilst these delays are unavoidable due to the legal protection given to these animals it will not affect the overall integrity or deliverability of the scheme just the timing of certain elements of it. Celtic continue to be committed to the delivery of the restoration scheme which is considered critical to protecting the interests of local communities, but also need to be able to comply with all relevant pieces of legislation in addition to all of the proposed conditions on the planning permissions”.

Accordingly, this report seeks to gain a further resolution to amend condition 2 to allow for an additional year (until 31st July 2018) to complete the approved amended restoration scheme.

ASSESSMENT

Main issues

There has been no material change in Policy circumstances since the previous resolution in May 2016, such that the proposals consider to be assessed against the National and Local Policy framework identified in the previous report to Committee at Appendix A.

Within this Policy context, the main issue to consider under this report concerns whether allowing a further one year to complete the amended restoration scheme would be acceptable, having regard particularly to the need to secure a timely restoration of the site given the Council’s serious concerns in relation to rising water levels in the void and the need to avoid the off-site flooding consequences of water breaching at the lowest point of the adjoining land; having regard also to any consequent impacts on matters including biodiversity and impacts on local residents.

Reasoning behind previously-agreed timescales

The previously-agreed timetable of operations requiring completion of the works by June 2017 was largely (but not solely) related to the fact that the applicant (Celtic Energy Ltd.) was only able to secure access rights to the site for a two year period which commenced in June 2015. The previous report advised that the programme of works associated with this alternative restoration scheme can be secured within this restricted timeframe on condition that works commence in May 2016.

In addition, it was concluded that the alternative restoration scheme “achieves the Councils primary objective in terms of reducing the safety risks of flooding of the void and the potential flooding of surrounding areas. More importantly, it is not only technically feasible but it is also deliverable, and within a relatively short timescale so the risk is addressed as soon as possible. Addressing the risk to the environment and to the amenity and well-being of people downstream of the site is an essential component of the scheme and one which has been prioritised by the Council”.

Accordingly the reason for condition 2 was “Since the alternative restoration scheme is only acceptable based on the strict time limits identified within the application submission and to minimise the duration of disturbance”.

Reasoning behind request for extended period for completion of restoration

As referred to above, there have been delays in completion of the required section 106 agreement, which means that the May 2016 start date could not be achieved. In addition, following the issue of planning permission, it is necessary for a number of conditions to be approved/ discharged prior to commencement.

It has also become evident in continued discussions with the applicant and Natural Resources Wales (NRW) that there are some complicated ecological issues – as referred to in the applicant’s letter - that will inevitably delay the carrying out of the works due to licensing issues / seasonal constraints.

In terms of ecological matters, Members will recall that it has always been clear that there were protected species on site in the form of Great Crested Newts and potentially dormice and, as a result, avoidance measures were designed to ensure that these species were not adversely affected by the development. Since that assessment took place it has become evident that the scale of the great crested newt population is significantly higher than first envisaged and in addition to having a resident ecologist on site, it will also be necessary to apply for a license to disturb the species from Natural Resources Wales. Discussions between Officers, the applicant and NRW are continuing on such matters.

The delays above will inevitably mean that certain tasks cannot be completed this year and will have to wait until 2017 before those works can commence due again to seasonal factors associated with the Great Crested Newts.

For the reasons set out above, the applicant has therefore formally requested an amendment to the proposed condition no. 2 to extend the 'completion date' to July 2018. This, they advise, would give ample time for the works to be completed while also allowing time to deal with any other unforeseen circumstances.

Need for Unfettered Access to the Site

As referred to above, one of the main driving forces for the July 2017 completion date was the restriction on access to the site from the owners of the site. As such both Celtic Energy and the Council were keen to see the development completed within that deadline.

As part of discussions on the legal agreement, the owners have now agreed to lift that restriction and they have also agreed to the inclusion of a new clause within the proposed new s106 giving Celtic access to the site for as long as is necessary to carry out the works associated with the planning permission along with works associated with aftercare and extended aftercare. Accordingly, on a legal basis, officers are satisfied that in the event Members agree to extend the period for completion, access to the site can be achieved and the restoration can be fully secured.

Need to secure a timely restoration of the site having regard to rising water levels in the void

The need to achieve a long-term and expeditious solution to the concerns in relation to rising water levels in the void was of primary importance in the previous officer's report.

Since the May 2016 resolution, pumping of the void has continued and the water level has now reduced to approximately 40.5m AOD (37m AOD is required to enable the works). The immediate risk is therefore reduced. Nevertheless, it remains of critical importance to the success of the restoration scheme for the buttress in the south western corner to be constructed at the earliest opportunity. As previously noted, the purpose of the buttress is to prevent water percolating from the void into the weaker glacial deposits which are located below the proposed discharge

channel. This will maintain the structural integrity of the discharge channel in the long term.

In order to achieve such early works, Officers are actively working with the developer and NRW to design a phased method of working to secure implementation of the revised restoration scheme without the need for a license in a limited area of the site. This would ensure that the Council's primary objective in terms of reducing the safety risks of flooding of the void and the potential flooding of surrounding areas at the earliest opportunity is met, while ensuring that there is no adverse impact upon European protected species.

It is also noted that the s106 legal agreement incorporates a detailed breakdown on the expected timescale for completion of each phase of the works such that there can be a degree of confidence that such works will be undertaken expeditiously. Indeed, the 'best case' scenario above would still allow for completion of the works around September 2017.

Accordingly, it is concluded that the extended period for completion would not adversely impact upon the primary need to secure a timely restoration of the site concerns in relation to rising water levels in the void.

Ecological Impacts

In respect of European Protected Species (EPS) the previous report to Committee noted as follows: -

"NRW has expressed concerns regarding the lack of information submitted in order to make an assessment on the impacts of the development on European Protected Species. Their concern appears to focus on dormice and Great Crested Newts and they consider that comprehensive protected species surveys should be submitted prior to determination of the application. However, they have indicated that in the event that further detailed assessment is not undertaken by the applicant and having considered the information available it must be assumed that dormice and Great Crested Newt are present and that conditions must be included requiring comprehensive strategies for the protection of European protected species.

The ecologists within the Council's Biodiversity Unit have confirmed that the proposed Reasonable Avoidance Measures could be applied to avoid adverse impacts. On that basis there does not seem to be any sense in

carrying out additional surveys when Reasonable Avoidance Measures are considered appropriate. In respect of dormice the applicants state that the site has low potential for supporting dormice due to the lack of suitable habitat. The Biodiversity Unit accepts that provided vegetation clearance is carried out under a watching brief by a suitably qualified ecologist between June and September, and works stop if evidence of dormouse is found, a planning condition is suitable in this particular case. Therefore, conditions can reasonably be imposed in order to address NRW's concerns."

Conditions 24 to 35 (see Appendix A) address such matters, and it is noted particularly that condition 34 requires that where any species listed under Schedules 2 or 5 of the Conservation of Habitats and Species Regulations 2010 is present on the surface land and structures of the site in respect of which permission is hereby granted, such works adversely affecting this species shall cease, unless a license to disturb any such species has been granted in accordance with the aforementioned Regulations and a copy provided to the Local Planning Authority.

The proposal to extend the period of time for completion of the aftercare relates to a large extent on the need to ensure that there would be no detrimental impact on European Protected Species at the site. Moreover, it has been noted above that the essential works to the SW corner to create the required buttress can be achieved without the need for a license. Accordingly, there are no objections to the time extension on ecological grounds.

Impact on Residential Amenity

In respect of the impact on residential amenity, the previous report to Committee noted as follows: -

"It is also important to note that the proposed works would result in shorter term disturbance in terms of dust and noise than would be the case if the approved restoration strategy was implemented. The approved restoration strategy would have resulted in restoration works for a period of just over 2 years whereas this proposal will be completed in a just over 12 months. In addition, to the extended timeframe the complete removal of the overburden mounds into the void would have significantly prolonged one of the parts of the restoration with the greatest potential for disturbance."

The proposal to extend the completion date for a further 12 months (until 31st July 2018) will, therefore, mean that in the worst case scenario above, the benefits referred to from the reduced period will no longer apply. Nevertheless, the maximum 2 year period as defined within the 'worse' case scenario would be no greater a time period than that which would have been the case had the approved restoration been implemented. It also includes periods when, for reasons associated with seasonal restrictions, no activity will take place on site and therefore no disturbance to surrounding residents is caused. Moreover and as assessed within the original report considered by Members in May 2016, the originally approved restoration scheme required the removal of the overburden and surcharge mounds, a task which would have created disturbance to surrounding residents associated with noise and dust. It remains the case that the scheme no longer requires removal of the overburden and surcharge mounds into the void. Therefore, whilst the period of disturbance may well be similar to that originally envisaged for the originally approved restoration scheme, the level of disturbance remains significantly less so.

Notwithstanding the above it must also be borne in mind that the 'best' case scenario proposes that work will be completed by September 2017 which is only 2 months longer than considered and accepted by Members in May 2016.

It will not be possible to confirm at this stage whether the programme will proceed in line with the 'best' or 'worse' case scenario as it will be reliant upon the conditions attached to the License, should such a license be granted. Nevertheless it is considered that for the reasons specified above, neither scenario would result in significant adverse impacts on residential amenity, and would accord with Policies SP16 and EN8 of the LDP.

CONCLUSION

Whilst it was always known that the delivery of this restoration scheme within the very tight timescales was going to be difficult to achieve, it is now clear that it cannot be achieved. The reasons are two-fold:

- The delays experienced in drawing up a complicated yet robust S106 agreement to secure the completion of the restoration scheme.
- The presence of a larger than expected population of Great Crested Newts over larger areas of the site has significantly

affected the ability to carry out critical tasks at the originally programmed times. Whilst these tasks can still be carried out the restrictions associated with Great Crested Newts means that the programme will slip beyond that originally anticipated.

Whilst it is unfortunate that the restoration scheme cannot be completed within the originally proposed timescales, it remains critical that this acceptable restoration scheme is completed and the site made safe and visually more acceptable as soon as is practicable. The best and worst case scenarios indicate that restoration work will either be completed in September 2017 or July 2018, neither of which will adversely affect the delivery of an acceptable restoration of the site. Its delivery is also secured via the robust S106 agreement which has been drafted and will be linked to this planning permission. As a result, the completion of the restoration scheme will not be compromised as a result of the programme changes.

It is also considered that whilst the delays to the restoration will prolong the period of time surrounding residents will be expected to live next door to an unrestored site, neither of the extended periods will prolong the restoration to an extent that would adversely affect the amenities of neighbouring residents.

Turning to the issue of ecology, an extended period for the completion of the works will ensure that the applicant does not adversely affect the large Great Crested Newt population present on site which has European Protected status. Thus the amended timescales associated with the restoration works will further safeguard interests of ecology in relation to this site.

For the above reasons it is considered that an extension of time for the completion of the restoration works until July 2018 complies with National Planning Policy and guidance contained within MTAN2 together with Policies SP2, SP16, SP20, SP21, EN2, EN6, EN8, I1, TR2 and M4 of the Neath Port Talbot Local Development Plan.

Recommendation:

That the wording of condition 2 is amended to read as follows, with all other conditions as shown within the report, attached as Appendix A, remaining unchanged:

(2) The approved restoration shall be completed by 31st July 2018. For a period of five years from the date of completion of restoration the restored area shall be managed in accordance with the approved aftercare scheme. The planning permission shall expire following the complete restoration and aftercare of the site in accordance with the approved restoration and aftercare schemes.

Reason

The alternative restoration scheme must be completed as quickly as possible but also in-accordance with a programme which does not adversely affect any European Protected Species on site, or the amenities of residents living adjacent to the site.

APPENDIX A - REPORT TO COMMITTEE 3RD MAY 2016

SECTION A – MATTERS FOR DECISION

Planning Applications Recommended for Approval Following members Site Visit

<u>APPLICATION NO:</u> P2016/0078	<u>DATE:</u> 18/02/2016
PROPOSAL:	Proposed alternative restoration and aftercare scheme in respect of the former Margam Surface Mine, comprising engineering and landscaping works including: Pumping, earthworks, soil relocation, installation of an overflow drainage channel, re-introduction of rights of way across the site, agricultural (rehabilitation) works to establish vegetation and drainage (amendment to the restoration and aftercare scheme approved under planning permission reference P2006/1727
LOCATION:	Former Margam Surface Mine, Fford Y Gyfraith, Cefn Cribwr CF32 0BS
APPLICANT:	Mr Robert Thompson – Celtic Energy Ltd.
TYPE:	Full Plans
WARD:	Margam

BACKGROUND INFORMATION

The Margam Opencast Coal Site straddles the boundary between Neath Port Talbot and Bridgend. The area within Neath Port Talbot lies on the western side of the site and contains the opencast void which is currently filling with water and the major part of the overburden surcharge mound. The eastern part of the site (within Bridgend) contains the main overburden mound, soil storage areas, water treatment areas, workshops/office area and the site access.

Planning permission for the current Margam Opencast Coal Site was granted by Neath Port Talbot County Borough Council in March 2001 for a temporary period of 5 years (Ref: P98/0541) . A similar application was approved by Bridgend County Borough Council also in March 2001 (Ref: P/98/377/MIN).

A number of subsequent applications to extend the time period for the completion of coaling were approved with the latest expiring on 11th October 2008.

Within two months of cessation of coaling in October 2008 the operators were required to commence backfilling of the void (Condition 60 of planning permission P2006/1727). They were also required to submit a restoration and aftercare scheme (Conditions 54 and 55 of planning permission P2006/1727). The filling of the void did not commence as required and no restoration has been undertaken since the cessation of coaling in October 2008. The restoration and aftercare schemes have also not been submitted.

At the time the infilling of the void was due to commence and the restoration and aftercare schemes were due to be submitted the operators were pursuing an Appeal against the refusal of planning permission for a further extension of the extraction area. Neath Port Talbot County Borough Council refused the application on 29th January 2008 (Ref: P2007/0663) and Bridgend County Borough Council refused a similar application on 18th January 2008 (Ref: P/07/569/MIN).

A Public Inquiry was held in February 2009 and the Appeal was dismissed in November 2009. A Legal Challenge to the Appeal decision was dismissed by the High Court in July 2010 and again by the Court of Appeal in October 2011. In accordance with best practice guidance, neither Neath Port Talbot County Borough Council nor Bridgend County Borough Council pursued enforcement action whilst the appeal process was ongoing.

During the appeals process the operator transferred ownership of the site to an offshore company registered in the British Virgin Islands – Beech Regeneration Inc, a subsidiary of Oak Regeneration. Following this transaction, the operator refused to discuss any matters associated with the site with officers of this authority. At the same time, it was unclear who was representing the new owners of the site given that they were registered offshore. After some time, a legal firm confirmed that they were representing Oak Regeneration and a subsidiary company 'Beech' who were responsible for the Margam OCCS. The ownership transfer has been the subject of a Serious Fraud Office investigation and a case was put before the Courts. However, the Court found that no offence had been committed.

Since late 2011, following the dismissal of the challenge in the Court of Appeal, officers have attended a number of meetings with the owner (Oak/Beech), the operator (Celtic Energy) and their agents at that time. At these meetings officers have expressed their deep concerns about the

lack of restoration and have consistently stated that the site should be reinstated in accordance with the planning permission. The owner and operator have also made it clear that they had insufficient funds available to restore the site in accordance with the approved restoration strategy. The owner also made it very clear that any enforcement action to secure compliance with the approved restoration strategy would force them into liquidation.

A number of alternative restoration proposals have been put forward by the agents, some of which involved further coaling, some involved less coaling with renewable energy as an after-use, and some involved no additional coaling but substantial residential development. All of these schemes were either dismissed by the owner/operator as being undeliverable for financial reasons or were dismissed by the Local Planning Authority as they did not address the reasons for refusal associated with the refusal of planning permission and the subsequent failed Appeal/Court Challenge.

Whilst discussions were ongoing with the owner/operator/agents, external legal advice was sought by NPT and Bridgend Councils. The legal advice required the Council in the short term to:

- serve a Planning Contravention Notice to establish ownership and interests in the site; and
- prepare a restoration scheme to append to any future enforcement notice that may be served.

Planning Contravention Notices were served on 6th February 2013 seeking information in relation to land ownership, other interests, current or last use of the site and whether a restoration scheme had been prepared. All responses to the PCN were received and established ownership by Oak Regeneration and its subsidiary Beech Regeneration Inc. Celtic Energy held the Coal Authority License but did not own any of the land.

A restoration scheme was also jointly commissioned by NPTCBC and Bridgend CBC. The scheme was provided to the owner and operator in advance of any enforcement action. They once again confirmed that there were insufficient funds available to restore the site in accordance with the scheme. The only funds available were the £5.7 million in the restoration fund. Serving an enforcement notice requiring this scheme to be complied with would have forced the site owner into liquidation and restoration would not take place.

It is important to understand why there is a significant shortfall in the restoration fund. Margam (Parc Slip) was operated by British Coal up until 1994. British Coal was not required to provide financial guarantees or bonds because British Coal was a nationalised industry effectively underwritten by the Government. Margam (Parc Slip) was transferred to Celtic Energy following the Coal Industry Act 1994, together with a number of other sites in South Wales, and as part of that transfer Celtic Energy were exempt from having to provide bonds for transferred sites at privatisation and for a period of 10 years thereafter. Notwithstanding that exemption Celtic Energy entered into a Section 106 Agreement in relation to the 2001 planning permission (Ref: P98/0541) which included a restoration fund of £5.1 million. This Bond was subsequently transferred to the 2006 permission (P2001/1243). The bond value has now risen to £5.7 million but is nowhere near enough to fund compliance with the approved restoration strategy.

Following concerns expressed by elected Members and the local communities in relation to the lack of progress in relation to restoration of the site a detailed report was presented to the Planning Control Committee on 25th November 2014. That Report advised on the history of the site, the enforcement constraints and the options going forward.

Five Options were put forward for Members consideration at the time

- Option 1 Serve an Enforcement Notice to seek full restoration of the site in accordance with the approved restoration strategy
- Option 2 Alternative restoration scheme including extraction of further coal
- Option 3 Alternative Restoration Scheme without further coaling
- Option 4 Serve an Enforcement Notice to seek phased restoration of the site
- Option 5 Do nothing

For the reasons outlined above Option 1 would result in the owner going into liquidation. The liquidator and the Crown would be likely to disclaim the property resulting in no-owner and no-one responsible for site safety and security in the short term and restoration in the long term. The cost of restoration would then fall upon the Local Authority who would have no funds available over and above the £5.7 million restoration fund. The liability of securing the approved restoration strategy would far exceed that fund and would therefore not be deliverable by the Local Authority. Members resolved that this option be pursued only as a last resort.

Option 2 was ruled out by Members due to the concerns associated with further coaling at this location. Option 5 was also ruled out as it would not address the Council's concerns which are primarily associated with site safety and security, rising water levels within the void, the risk of off-site flooding and lack of restoration. Members therefore resolved that Options 3 and 4 be pursued by officers. A cross boundary public meeting was also to be held to advise all interested parties of the current position. This meeting took place on the 24th March 2015.

An Updated Position Paper was reported to the Planning Committee on 29th September 2015 which advised Members of the action taken since November 2014 and outlined the potential options going forward having regard to legal and financial constraints.

A further series of options were put before the Committee together with an assessment of the advantages and disadvantages of each option.

- Option 1 Serve an Enforcement Notice
- Option 2 Serve an Enforcement Notice requiring an alternative restoration scheme (as per previous Option 4)
- Option 3 Advise Celtic Energy and/or Oak Regeneration/Beech Regeneration to seek planning permission for an alternative restoration scheme which proposes a new Section 106 Agreement which would supersede the existing agreement.

Members resolved that officers pursue Option 3, in accordance with strict timescales which were detailed in the report. Should the timescales not be complied with by Celtic and Oak/Beech, Option 1 should be pursued with immediate effect.

Whilst it was acknowledged in the Report that the most acceptable outcome would be to secure the full restoration of the site in accordance with the approved restoration strategy, such a position is not achievable. Pursuing enforcement action to secure this outcome would not address the short term concerns of Members and the local community, nor would it address the long term need to see this site appropriately restored. Whilst it was acknowledged at the time that there were disbenefits associated with pursuing option 3, it was also evident that the benefits associated with addressing the issues of site safety and security and the rising water level in the void outweighed the disbenefits.

The application before Members is the result of Option 3 being pursued by officers. The owner/operator was invited to submit an alternative restoration scheme which addressed the immediate site safety and security concerns and addressed the rising water levels in the void and associated concerns about flooding/inundation from a breach of the high wall.

Planning History:

Neath Port Talbot

2/4/81/3806 – Excavation of tips at Bryndu – Approved – 8th March 1982

2/4/82/4090 – Excavation of tips at Bryndu – Approved - 30th - August 1982

2/4/82/4161 – Excavation of remaining part of tip at Bryndu – Approved - 12th November 1982

2/4/82/4248 – Excavation of tip near Crown Road – Refused - 4th February 1983

2/4/89/7389 – Extension to Opencast Parc Slip West OCCS – Approved - 7th March 1991

P98/0541 – Proposed opencast extension with offices and water treatment facilities, mine surface and infrastructure, area of underground extraction and reclamation of derelict (Aberbaidan) spoil tips– Approved - 2nd March 2001

P2001/0822 - Agree scheme for the lighting of all areas, buildings, plant and machinery under condition 44 of planning application P/98/0541 – Approved – 1st October 2001

P2001/0569 - Scheme under condition 19 of planning permission P/98/0541 - scheme for the management of areas not disturbed by opencast operation – Approved 12th October 2001

P2001/0867 - Scheme to maximise the foraging potential for badgers and maintaining their movement within undisturbed land around the opencast site – Approved – 12th October 2001

P2001/1063 - The proposed scheme for the setting up of a technical working party (condition 33 of P/98/541) – Approved – 19th October 2001

P2001/1069 - Proposed scheme for the setting up, operating and regular convening of a site liaison committee under condition 32 of planning approval no P/98/0541 – Approved – 22nd October 2001

P2001/0574 - Scheme under condition 15 of planning permission 98/541 - scheme for the protection and retention of mature hedgerows within south western corner of site – Approved – 3rd December 2001

P2002/0244 - Scheme under condition 67 of planning permission P/98/0541 – Approved – 12th November 2002

P2002/0246 - Scheme under condition 9 of planning permission P/98/0541 - blasting monitoring – Approved – 4th April 2002

P2002/1138 - Proposed chemical and biological monitoring of water courses - under condition 58 of planning approval no P/98/0541 – Approved – 4th November 2002

P2002/1153 - Provision of foul drainage facilities under condition 52 of P/98/541 – Approved – 12th November 2002

P2002/1164 - Drainage & lagoon system details under condition 54 of planning permission P/98/541 – Approved – 12th November 2002

P2002/1165 - Surface water regulation system under condition 61 of planning permission 98/541 – Approved – 4th November 2002

P2003/0487 - Variation of condition 2 of planning permission P/98/0541 to allow opencast operations until 1st January 2007, the variation of condition 24 of planning permission P/98/0541 to allow submission of details of buildings landscaping and car parking no later than 12 months prior to the commencement of the deep mine and variation of condition 25 of same to allow commencement of deep mine to be deferred until four years after commencement of opencast operations – Withdrawn – 13th February 2004

P2004/0023 - Request under condition 65 of planning approval P/98/0541 to export red ash from the site – Approved – 22nd March 2004

P2001/1243 – Proposed extension of extraction (coaling area) and the temporary enlargement of proposed surcharging mound - variation of conditions 3 & 12 of planning application P98/0541– Approved – 13th November 2006

P2004/1294 – Variation of condition 2 of planning permission no 98/0541 to extend timescale for coaling operations and associated development until 1st February 2007 at Margam OCCS – Approved - 13th November 2006

P2004/1832 – Proposed extension to existing opencast coal site followed by restoration and aftercare management (additional information and plans) – Withdrawn - 16th November 2006

P2006/1727 – To extend period of coal extraction operations and associated development with the exception of back filling, restoration and aftercare requirements to 1st January 2008 under condition 1 of planning application numbers P2001/1243 and P2004/1294– Approved – 19th December 2007

P2007/0905 - Proposed restoration contours and landscaping for Aberbaidan tips under condition 50 of planning application 01/1243 and 04/1294 – Approved – 3rd September 2007

P2007/0663 - Proposed extension to existing opencast coal site to include coal extraction, the screening of coal followed by restoration and aftercare management – Refused – 29th January 2008 – Appeal Dismissed – 20th November 2009

P2007/1728 – Extension of time under condition 1 of P2006/1727 for the completion of coaling until 31st August 2008 - Approved – 19th February 2008

P2008/0252 – To amend seed mix and treatment of land and extend completion of seeding under conditions 1 and 2 of planning permission 2007/0905 by the application of biosolids and extending time for completion until 30th September 2008 – Refused - 13th May 2008.

P2008/1134 - Extension of time under condition 1 of planning permission P/2006/1727 for the completion of coaling until 11th October 2008 (amended application) – Approved – 21st October 2008

APP/Y6930/A/08/2089878 – Appeal against refusal of application to apply biosolids and extend time to complete works – Appeal Allowed - 11th March 2009.

P2009/0517 - Application to vary condition 6 of Appeal Ref: APP/Y6930/A/08/2089878 and extend period to complete the importation of biosolids and the seeding of all areas by 31st August 2009 – Approved – 23rd June 2009

P2009/0734 - Discharge of condition 3 of previous planning consent P2009/0517 (details and methods to prevent pollution during importation and spreading of biosolids) – Approved – 9th September 2009

P2009/0735 - Vary condition 6 of previous planning consent P2009/0517 to extend period to complete the importation of solids and the seeding of all areas by 2nd October 2009 – Withdrawn – 30th September 2009

P2015/1012 - Screening and Scoping Opinion for alternative restoration and aftercare scheme – EIA not required – 16th December 2015
Bridgend

P/98/377/MIN – Proposed Extension of Existing Park Slip West Opencast Coal Site and Construction of a New Drift Mine – Approved – 2nd March 2001

P/00/685/RLX – Relaxation of Condition on Opencast Application Re Overburden Mound – Approved – 25th September 2000

P/04/1736/MIN – Opencast Mining with Environmental Statement – Withdrawn – 20th November 2006

P/06/1478/RLX – Vary Condition 2 of Permission P98/377 to extend period to Extract Coal and Associated Development until 1st January 2008 – Approved 19th December 2007

P/07/569/MIN – Extract Coal, Restoration and Aftercare - Refused – 18th January 2008 – Appeal Dismissed – 20th November 2009

P/15/755/ESO – Screening and Scoping Opinion for Site Restoration Plan – EIA not required – 18th December 2015

Publicity and Responses:

The application has been publicised by the display of 10 Site Notices around the site boundary and by advertisement in the Local Press in February 2016. 305 responses have been received as a result - 9 individual letters/online comments and 296 signed standard letters (in two different formats). An online petition containing 606 signatures has also been submitted.

Grounds of objection are summarised as follows

- The flooded void is an attraction to local youngsters and is an accident waiting to happen, the void should be drained and infilled with spoil from the site and the landscape returned to the way it was before the development.
- Risk of flooding in surrounding areas.
- The lake will be a dumping ground and will result in pollution.
- The proposal does not reinstate the lost roads which are a vital community link.
- Loss of footpath links.
- Impact on the amenity, health and well-being of the residents of the area.
- The approved restoration strategy or at least the Council produced restoration scheme should be enforced.
- The plan does little to encourage biodiversity.
- The proposal is not sustainable development.
- Independent geotechnical and hydrological reports should be commissioned.

Statutory Consultees

Natural Resources Wales – has concerns regarding the lack of information submitted in order to make an assessment on the impacts of the development on European Protected Species. NRW consider that there is a reasonable likelihood of dormice and Great Crested Newts being present on the site and would advocate that comprehensive protected species surveys are undertaken for these species prior to determination of the application. In the event that further detailed assessment is not undertaken by the applicant and having considered the information available NRW advise that to overcome their concerns it should be assumed that dormice and Great Crested Newt are present and conditions must be included requiring comprehensive strategies for

the protection of European Protected Species. A Test of Likely Significant Effects is required due to the connectivity of the site to the Kenfig SAC although adverse effects are unlikely given the distance from the source to the SAC. There is no objection to the proposals on the grounds of flood risk and the justification for the design of the overspill channel is accepted. Pollution prevention measures need to be incorporated within the works. Attention is also drawn to the Reservoirs Act 1975 and the responsibility of the developer to satisfy themselves that the body of water is not a raised reservoir.

Head of Engineering & Transport (Drainage) – no objection subject to conditions restricting surface water discharge to no greater than greenfield flows, a detailed design for the spillway, detailed protection works at the junction of the spillway with the Afon Cynffig, a management and maintenance strategy and measures to prevent pollution during construction.

Biodiversity Unit – welcome the general approach to the restoration of the site. Retention of large areas of existing established habitat and the principle of allowing further habitat to naturally regenerate is likely to result in an improvement of biodiversity value in the long term. The minimal intervention works are not likely to result in significant adverse impacts upon the habitats and species provided appropriate mitigation is implemented. Marshy grassland and bird habitat loss will be offset by creation of replacement marshy grassland and suitable bird habitat. Reasonable Avoidance Measures for Great Crested Newt is accepted. A Test of Likely Significant Effects (TLSE) has been undertaken in order to comply with the Conservation of Species and Habitats Regulations 2010. No likely significant effects were identified and therefore, an appropriate assessment is not considered necessary. The TLSE has been forwarded to NRW for their consideration. A number of conditions are requested to be attached to any grant of planning permission.

Environmental Health and Trading Standards Manager – agrees that the guidance in MTAN2: Coal is the most appropriate for the assessment of potential noise impact from the development and are satisfied that the correct methodologies have been applied for the monitoring and modelling. The worst case predicted noise levels will comply with the MTAN2 derived noise limits in all phases at the Oaks and in stages 2, 3, and 4 at Aberbaidan Farm. During stage 1 the MTAN2 derived noise limit is exceeded by 1dB but the application of the short-term operation exemption for up to 8 weeks in any year set out in MTAN2 is achieved. A

condition will be required to control noise limits and the use of the exemption.

In terms of air quality, the applicant is required to develop a dust management and monitoring plan which shall identify potential dust producing sources/activates and an assessment of the potential impact and control measures. This can be secured by condition.

In terms of contaminated land, there are no objections to the proposal subject to the imposition of conditions.

Head of Engineering & Transport (Highways) – No objection subject to conditions

Dwr Cymru Welsh Water – no objections

Welsh Government Department for Natural Resources – no observations received to date

Footpaths Officer – No comments to make in relation to the application. The applicant should note the need to apply directly to the Welsh Government for the legal orders for the rights of way and highway changes.

GGAT – no observations received to date.

The Coal Authority – no observations received to date

Pyle Community Council (Bridgend) – objects to the proposal due to safety issues associated with the retention of the flooded void, stability issues associated with the excavated faces and the height of the overburden mounds, risk of flooding, the downgrading of the surfacing of Crown Road and Bedford Road. The Council considers that the void should preferably be drained and filled as originally proposed when planning permission was granted.

Bridgend County Borough Council – no observations to make as the impacts are being considered under the application made to the authority

Description of Site and its Surroundings:

The Margam Opencast Coal Site covers an area of approximately 195 hectares (86 within Neath Port Talbot and 109 within Bridgend) and is located approximately 700m north of the village of Cefn Cribwr, 300m north east of Kenfig Hill and 700m south east of Pen-y-bryn. The nearest properties are The Oaks (35m) and Aberbaidan Farm (90m) to the north of the site. The nearest property along Crown Road to the south west of the site is approximately 110m from the site.

The site is bisected by the administrative boundary between Neath Port Talbot and Bridgend, which runs in a north south direction almost centrally through the site. The area within Neath Port Talbot lies in the western part of the site and contains the opencast void which is 100m in depth. The void is currently filling with water amounting to 11 million cubic metres. This is currently at a level of 42m AOD which is approximately 11m below the lowest part of the top of the void. The top of the void is at natural ground level. A significant part of the overburden surcharge mound sits centrally within the site. The main overburden mound sits within the Bridgend area in the eastern part of the site, the majority of the soil mounds are also in the eastern part of the site together with the former administrative area, the majority of the water treatment facilities and the site access. The Nant Craig yr Aber runs north to south through the site in a diverted channel between the overburden mound and the surcharge mound.

To the west of the site lies Hafodheulog Wood and the wooded banks of the Afon Cynffig which runs southwards under the railway via a culvert. Beyond that to the west the land is largely agricultural pasture. To the north are isolated properties along New Road, which runs east-west skirting the site boundary. To the east the site is bounded by Law Street with the Parc Slip Nature Reserve beyond. To the south the site is bounded by the railway line.

The site lies within the Margam Special Landscape Area identified in the Local Development Plan although it is acknowledged in the Plan that the Special Landscape Area and the coal site overlap.

The access to the site has historically been from Fountain Road, through the Parc Slip Nature Reserve and crossing directly across Law Street. The truncated ends of Crown Road and Bedford Road are located on the southern boundary of the site and their former connection to New Road to the north.

Brief description of proposal:

The originally approved restoration strategy involved infilling the void with the overburden from the overburden and surcharge mounds and restoring the land to a similar profile to that which existed prior to works being undertaken. The sections of Bedford Road and Crown Road crossing the site were also to be reinstated. For the reasons outlined above this restoration strategy cannot be achieved as the owner and the operator do not have the funds available to deliver such a restoration. Furthermore, as outlined in previous reports to this Committee it is extremely unlikely that any funds will be made available from other sources to achieve the approved restoration strategy.

The proposal seeks an alternative restoration and aftercare scheme for the Margam Opencast Coal Site which addresses safety and security concerns and can be achieved with the £5.7 million contained within the restoration fund.

The primary element is the construction of an overflow spillway to regulate the water level in the void. The spillway is proposed in the south west corner of the site and will maintain the water level in the void at no greater than 48m AOD. In order to construct the spillway the water level will need to be temporarily reduced to 37m AOD from its current level of approximately 42m AOD. This will also facilitate the stabilisation works to the western faces where the solid strata are overlain with superficial deposits of clay, stiff clays, sand, gravel and silts. It is estimated that the reduction in the water level will take approximately 28 weeks.

Pumping of the water to maintain the water level in the void has been underway for some time. This was originally undertaken to maintain the water level commensurate with the position of the Bryndu Shaft and thus create a linkage between the void and the shaft to enable natural run off. Unfortunately the run off hasn't been at a rate to maintain safe water levels within the void, and pumping has as a consequence recently been increased. Pumping levels are limited by the existing discharge consents issued by Natural Resources Wales.

Some targeted re-profiling of the overburden mounds is to be undertaken, having regard to the biodiversity interests established on site. These re-profiled areas will be hydro-seeded to promote vegetation growth and aid slope stabilisation.

The applicants also propose to reinstate the link along Crown Road and Bedford Road on a slightly altered alignment. The road surface will take the form of a forestry type road surfaced with secondary aggregate and graded to camber to aid drainage. In order to achieve this, the relevant orders will need to be made and this process is governed by a separate legal procedure which is outside the scope of the planning process.

The remaining site infrastructure is to be removed except for the access road and car parking area which are to be retained to facilitate future public access along a reinstated, but rationalised, public rights of way network following the original routes as closely as possible where practicable.

The timetable of operations requires completion of the works by June 2017, as the applicant has only been able to secure access rights to the site for a two year period which commenced in June 2015. The programme of works associated with this alternative restoration scheme can be secured within this restricted timeframe on condition that works commence in May 2016.

Works are proposed to be undertaken between 7am and 7pm Monday to Friday and 8am to 1pm on Saturday with no working on Sundays or Public Holidays except for essential maintenance. The machinery required to carry out the works will access the site through the Parc Slip Nature Reserve rather than along Law Street.

The aftercare programme will result in a primarily nature conservation after-use which entails the retention of an extensive area that has been naturally re-vegetated to UK BAP and NERC Section 42 habitat of principle importance such as open mosaic habitat on previously developed land and the corridor of the Nant Craig yr Aber. Water treatment features are to be retained for nature conservation purposes and the regraded areas are to be re-vegetated. The links along Crown Road and Bedford Road are to be reinstated on an alternative alignment surfaced with secondary aggregate and graded to a camber to aid drainage; and the footpath network is to be reinstated in a rationalised form so that public access is restored.

Environmental Impact Assessment

The application has been 'screened' in accordance with the Town and Country Planning (Wales and England) Regulations 1999. In this

instance the 'screening opinion' concluded that an Environmental Statement is not required to accompany the application.

Material Considerations:

To consider whether the proposed restoration and aftercare scheme address the Councils serious concerns in relation to site safety and security; address the Councils concerns about rising water levels in the void and avoids the off-site flooding consequences of water breaching at the lowest point of the adjoining land; restores connectivity between the communities and has regard to biodiversity without significant adverse impacts on the local residents and the local environment having regard to national and local policies and guidance and having regard to the financial and legal constraints associated with securing a deliverable restoration of the site.

Policy Context:

National Policy

The Well-being of Future Generations Act 2015 imposes a duty on public bodies to carry out sustainable development. Well-being goals identified in the Act are:

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

A Resilient Wales: is a nation which maintains and enhances a biodiverse natural environment with healthy functioning ecosystems that support social, economic and ecological resilience and the capacity to adapt to change (for example climate change).

One Wales: One Planet defines sustainable development in Wales as enhancing the economic, social and environmental wellbeing of people and communities, achieving a better quality of life for our own and future generations in ways which promote social justice and equality of opportunity; and in ways which enhance the natural and cultural

environment and respect its limits – using only our fair share of the earth’s resources and sustaining our cultural legacy. Sustainable development is the process by which we reach the goal of sustainability.

The Welsh Government’s vision for a sustainable Wales is one where Wales

- Lives within its environmental limits, using only its fair share of the earth’s resources so that our ecological footprint is reduced to the global average availability of resources, and that we are resilient to the impacts of climate change;
- Has healthy, biologically diverse and productive ecosystems that are managed sustainably;
- Has a resilient and sustainable economy that is able to develop whilst stabilising, then reducing, its use of natural resources and reducing its contribution to climate change;
- Has communities which are safe, sustainable and attractive places for people to live and work, where people have access to services, and enjoy good health;
- Is a fair, just and bilingual nation, in which citizens of all ages and backgrounds are empowered to determine their own lives, shape their communities and achieve their full potential.

Planning Policy Wales (PPW) 8th Edition (January 2016) makes it clear that the planning system has a fundamental role in delivering sustainable development in Wales. It must help in the process of balancing and integrating the competing objectives of sustainable development in order to meet current development needs whilst safeguarding those of the future.

Chapter 14 of PPW sets out the Welsh Government’s land use planning policies for mineral extraction and related development. Paragraph 14.1.1 states: -

“Mineral working is different from other forms of development in that:

- extraction can only take place where mineral is found to occur;
- it is transitional and cannot be regarded as a permanent land use even though operations may occur over a long period of time;
- wherever possible any mineral workings should avoid any adverse environmental or amenity impact; where this is not possible working needs to be carefully controlled and monitored so that any adverse

effects on local communities and the environment are mitigated to acceptable limits;

- when operations cease land needs to be reclaimed to a high standard and to a beneficial and sustainable after-use so as to avoid dereliction and to bring discernible benefits to communities and/or wildlife”

PPW states that the planning system has a fundamental role in providing a framework within which sound and consistent decisions on mineral development proposals can be taken. Authorities should seek through their planning decisions to take account of all the costs and benefits associated with mineral working in accordance with the principles of sustainable development. The main aims as they apply to mineral development are as follows:

- social progress that recognises the need for everyone: to provide for the benefits of increased prosperity through an adequate supply of minerals that society needs now and in the future, together with protecting and improving amenity
- effective protection of the environment: to protect things that are highly cherished for their intrinsic qualities, such as wildlife, landscapes and historic features; and to protect human health and safety by ensuring that environmental impacts caused by mineral extraction and transportation are within acceptable limits; and to secure, without compromise, restoration and aftercare to provide for appropriate and beneficial after-use
- prudent use of natural resources: to help conserve non-renewable resources for future generations through efficient use’ recycling and minimisation of waste; to protect renewable resources from serious harm or pollution; and to promote the use of appropriate alternative materials
- maintenance of high levels of economic growth: to ensure an adequate supply of minerals that are needed at prices that are reasonable; and to safeguard mineral resources for future generations.

PPW states that the overriding objective is to provide a sustainable pattern of mineral extraction by adhering to five key principles that Authorities must take into account in making decisions on planning applications. These 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 high standard of restoration and beneficial after use;
- Encourage efficient and appropriate use of minerals and the re-use and recycling of suitable materials.

The Environment (Wales) Act 2016 received Royal Assent in March 2016 and has been designed to complement the Wellbeing of Future Generations (Wales) Act by applying the principles of sustainable development to the management of Wales' natural resources.

The Act puts the ecosystem approach into statute through a set of Sustainable Management of Natural Resources (SMNR) principles, which are based on the 12 principles (Ecosystem Approach principles) contained in the UN Convention on Biological Diversity (CBD).

The Environment Act enhances the current NERC Act duty to require all public authorities, when carrying out their functions in Wales, to seek to “maintain and enhance biodiversity” where it is within the proper exercise of their functions. In doing so, public authorities must also seek to “promote the resilience of ecosystems”.

This new duty under Section 6 of the Environment Act comes into force in May 2016 and replaces the biodiversity duty in the Natural Environment and Rural Communities Act 2006 (referred to as the NERC Act) which required that public authorities must have regard to conserving biodiversity.

National Guidance

MTAN (Wales) 2: Coal, was published in January 2009 and sets out detailed advice on the mechanisms for delivering the policy for coal extraction through surface and underground working. This includes advice on providing coal resources to meet society's needs, the Local Development Plan, protecting areas of importance, reducing the impact of coal extraction, underground coal working and achieving high standards of restoration, aftercare and after use. Extensive advice on best practice is also provided as a means of assessing and controlling coal operations. Following the Coal Summit in 2015 Welsh Government indicated that MTAN2 would be revised to reflect current circumstances but despite holding a consultation event no changes have as yet been forthcoming. In any event the changes to MTAN2 would only relate to future proposals and not to existing sites.

Technical Advice Note 5: Nature Conservation and Planning was published in September 2009. The TAN provides advice about how the land use planning system should contribute to protecting and enhancing biodiversity and geological conservation. The TAN brings together advice on sources of legislation relevant to various nature conservation topics which may be encountered by Local Planning Authorities. These include the key principles of planning for nature conservation; advice about the preparation and review of Local Development Plans; nature conservation in development control procedures; conservation of internationally and nationally designated sites and habitats as well as local sites; and conservation of protected and priority species.

Local Policy

Local Development Plan (LDP)

The Neath Port Talbot Local Development Plan (2011-2026) was formally adopted on 27th January 2016 and is the Development Plan for the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004. Section 38(4) requires a planning application to be determined in accordance with the content of the development plan unless material considerations indicate otherwise. The Neath Port Talbot Local Development Plan consists of a number of policies that relate directly or indirectly to the consideration of the proposals which have been summarised below.

Policy SP2 sets out the measures which will be taken in relation to the high level of poor long term health and sickness including where possible the reduction in peoples exposure to those elements that can have an adverse impact on health through consideration of environmental and safety impacts; encouraging healthier more active lifestyles and improving accessibility within and between communities.

Policy I1 seeks additional works or funding, in addition to infrastructure improvements necessary to make a development acceptable in health, safety and amenity terms. Those additional requirements will include appropriate provision for biodiversity, environmental and conservation interests as well as improving access to facilities and services including the provision of walking or cycling routes.

Policy EN2 identifies a Special Landscape Area for Margam (EN2/4). In such areas development will only be permitted where it is demonstrated

that there will be no significant adverse impacts on the features and characteristics for which it is designated. However, it is recognised on the LDP proposals map that there is an overlap with an operational coal site at Margam.

Policy EN 6 indicates that development proposals that would affect Regionally Important Geodiversity Sites (RIGS), Local Nature Reserves (LNRs), Sites of Interest for Nature Conservation (SINCs), sites meeting SINC criteria or sites supporting Local Biodiversity Action Plan (LBAP) or S42 habitats or species will only be permitted where they conserve and where possible enhance the natural heritage importance of the site; or the development could not reasonably be located elsewhere, and the benefits of the development outweigh the natural heritage importance of the site. Mitigation and/or compensation measures will need to be agreed where adverse effects are unavoidable.

Policy EN 7 seeks to protect ecologically or visually important natural features such as trees, woodlands, hedgerows / field boundaries, watercourses or ponds and indicates that development will only be permitted where full account has been taken of the relevant features in the design of the development, with measures put in place to ensure that they are retained and protected wherever possible; or the biodiversity value and role of the relevant feature has been taken into account and where removal is unavoidable, mitigation measures are agreed.

Policy SP 16 seeks to protect and where feasible improve the air, water and ground quality and the environment generally by ensuring that proposals have no significant adverse effects.

Policy EN 8 states that proposals which would be likely to have an unacceptable adverse effect on health, biodiversity and/or local amenity or would expose people to unacceptable risk due to air pollution; noise pollution; light pollution; contamination; land instability; and water (including groundwater) pollution will not be permitted.

Policy M 4 sets out the criteria for the assessment of mineral development. The relevant criteria in this case are that measures can be demonstrated to reduce, and where possible avoid, damage and disturbance to the environment and the amenity of neighbouring land-uses or individual properties to acceptable levels and appropriate and acceptable proposals are submitted for restoration and beneficial after-use and aftercare.

Policy SP20 indicates that the transport system and infrastructure will be developed in a safe, efficient and sustainable manner through the implementation of a number of measures.

Policy TR2 indicates that development proposals will only be permitted where the development does not compromise the safe, effective and efficient use of the highway network and does not have an adverse impact on highway safety or create unacceptable levels of traffic generation; appropriate levels of parking and cycling facilities are provided and the access arrangements for the site allow for the safe manoeuvring of any service vehicles associated with the planned use; the development is accessible by a range of travel means, including public transport and safe cycle and pedestrian routes; Transport Assessments and Travel Plans are provided for developments that are likely to create significant traffic generation.

Appraisal and Assessment:

Principle of Development

It is important to note that the principle of development has already been established. Planning permission has been granted and implemented for the extraction of coal and the reinstatement of the land albeit that the extraction of coal element has been completed but the site has not been reinstated in accordance with the approved restoration strategy. What the applicants are seeking is to carry out a restoration scheme which is different to the approved restoration strategy. That is the proposal before Members which must be considered on its own merits and it is the acceptability or otherwise of the proposed scheme that is to be considered.

In April 2014 Welsh Government published research into the failure to restore opencast coal sites in South Wales. The research identified that the key risk related to sites where the bond or surety held by the Local Planning Authority falls short of the level which might be required to restore the site in accordance with the planning permission should the site be abandoned or left unrestored. As a consequence one of the key recommendations of the research was that for sites at risk of not being restored in accordance with the planning permission (as is the case at Margam), other measures may need to be considered. These may involve major re-design of site restoration, or change of after-use as a means of generating value. This is exactly what is being proposed at Margam.

The complex background to this site has been set out in detail above and whilst it is acknowledged that the local community wants to see the site restored to a landform similar to its former condition prior to development taking place this is highly unlikely to be achievable given the financial and legal constraints that exist. The Council fully understands the sentiments of the local community and has accepted previously that the most acceptable restoration involves the draining and infilling of the void and the reinstatement of the land to its former profiles. Reference has been made to the Health Impact Assessment of the Proposed Extension to Margam Mine carried out by Cardiff Institute of Society, Health and Ethics and specifically to the strength of feeling expressed about the removal of their local amenity and their desperate need for it being returned and restored.

However, the Council has also had to accept that this is very unlikely to occur as there is no mechanism available to the Council to ensure that it does occur. Members will recall that previous reports to this Committee in November 2014 and again in September 2015 identified all the potential options available to this Council which included enforcing against the original planning permission to secure the originally proposed and approved restoration of the site, as sought by some members of the local community. Members will also recall that for legal reasons such action is unlikely to secure the intended outcomes, moreover it may well result in further delays in any restoration of the site which will in turn place the surrounding communities at greater risk. As stated previously, funding from the former operator of the site or the current owner is not available over and above the £5.7 million in the restoration guarantee fund. Furthermore the UK Government and the Welsh Government are highly unlikely to top up the fund (or they would have done so by now). Enforcement action would also likely send the owners, Oak Regeneration, into liquidation, while Celtic Energy only has access to the site until June 2017 to carry out remedial works.

It should also be noted that to achieve the approved restoration strategy, pumping of 11 million cubic metres of water within the void would take in excess of three years at a cost of more than £10m. This cost clearly exceeds the value of the bond and does not take into account measures necessary to prevent the void re-filling with water, nor does it allow for backfilling and the remaining restoration of the site as originally proposed.

Therefore, to hold out for what the local community refers to as ‘full’ restoration and the most acceptable restoration would be unrealistic and potentially irresponsible given the ongoing concerns. It is also contrary to one of the key recommendations of research published by Welsh Government as referred to earlier in this report.

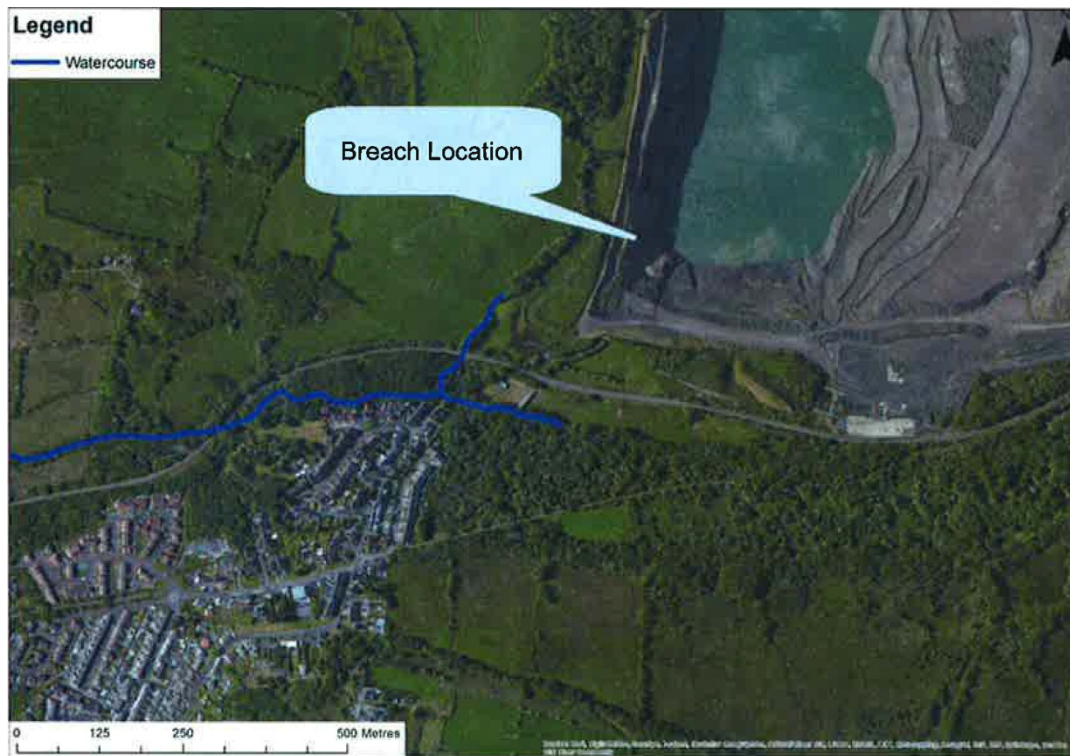
The Council’s concerns in relation to site safety and security, the rising water level in the void and its potential to result in off-site flooding, and concerns about the unnatural engineered profiles of parts of the site need to be addressed. The submitted scheme seeks to address these concerns and must be considered on its own merits. Consideration must focus on whether the submitted scheme which is the subject of this application is acceptable and whether it addresses the environmental and amenity concerns that currently exist.

Hydrology and Hydrogeology

Concerns have been expressed by this Council, together with Bridgend CBC and the local community, about the rising water level in the void and the possible implications of water rising and breaching the surrounding land at its lowest point.

Bridgend CBC commissioned JBA Consulting to model a possible breach of the opencast coal void and to model the impact of a potential breach of the void wall in regards flooding of properties downstream. To determine the worst case scenario with regards to flood risk, a scenario was simulated whereby the impounding landform fails whilst the water level is at its highest possible level.

The lowest point along the surrounding landform is approximately 53.4m AOD and two potential spill locations were identified in the south west corner of the site. Of these two locations, Location 1 in the western wall has been selected as the most likely breach location. The location is shown on the following plan.



The worst case scenario is if a breach occurred at Location 1 approximately 1.75 million cubic metres of water would be released within approximately 2 hours. This would result in

- Flooding of property at the eastern end of Crown Road which would begin at approximately 2 hours and would be at a depth of 2m within approximately 2 hours and 5 minutes. Due to the speed of inundation and the nature of the property it would cause a risk to life.
- Flooding of properties at North Cornelly occurs at 2 hours and 10 minutes with maximum depths between 2m and 4m (four properties) and up to 2m (10-15 properties) achieved by 2 hours and 50 minutes
- Flooding of Kenfig Industrial Estate occurs at 2 hours and 45 minutes and depths of between 300mm and 1m would be reached within 3 hours and 35 minutes

These flooding scenarios exceed the extent of flooding in a 0.1% extreme fluvial event.

Although pumping has been ongoing since February 2015 and is currently maintaining the water level in the void and greatly reducing the risk, this is not a long term sustainable solution, hence the need for a permanent solution to be designed in the form of the proposed spillway.

Whilst again the draining of the void and infilling with the overburden on site would be the most acceptable solution it is unlikely to happen for the reasons already explained. Therefore, a long term sustainable solution must be considered which significantly reduces the potentially catastrophic and life threatening risks associated with an unregulated water level within the void.

The applicants have submitted a Hydrological Assessment and a Hydrogeological Assessment in support of their application.

This proposal involves the construction of an overspill channel in the south western corner of the site at 48m AOD to regulate the height of the water within the void. This channel is an open channel which discharges at no greater than greenfield run-off rates into the Nant Cynffig in the south western corner of the site. The detailed design of the channel will be the subject of further submission to this Authority under the terms of a planning condition but in general terms a concrete canvas channel with a gradient of approximately 1 in 200 and a channel width of 1m has been identified as being required. The channel will connect to the Nant Cynffig at approximately 500mm above the river bed so as to enable a free discharge under normal conditions. Future maintenance of the channel will be subject to the submission of a management and maintenance strategy as requested by the Head of Engineering and Transport and funded from a residual element of the restoration fund.

When pumping in the final void ceases, groundwater levels will rise due to rainfall and inflow from the old opencast backfill areas to the east of the Nant Cynffig and mine workings of Bryndu and Mill Pit. Input from surrounding solid strata, due to the nature of the structural geology, is unlikely to be of any great significance. The strata have very poor vertical transmissivity and dip steeply towards the north. There will be slight seepage from the Bryndu Engine Shaft (40m AOD) but due to collapse the shaft is not capable of dealing with the likely recharge volumes. Hence there is a requirement for the overspill structure to control the water level. Discharges from the site are expected to have a neutral to slightly alkaline pH with low iron content and high alkalinity.

The catchment area of the Nant Cynffig will be no greater than it was prior to the development and will contain a large attenuation feature. The Nant Craig yr Aber will have a 5% reduction in its catchment as some water will drain to the void and be attenuated by the surface area of the water. This should marginally reduce the risk of flooding downstream.

The applicants submission has been independently assessed by JBA Consulting. The independent assessment indicates that the applicants submission is generally acceptable but some recommendations in relation to the detailed design of the overspill channel are proposed. These recommendations will be taken into account in the detailed design which will be secured by a planning condition.

It is therefore fair to conclude that the proposal will not have any significant downstream impact with respect of flooding and will not have a significant impact in respect of water quality and quantity. Moreover the proposal will improve the position regarding flooding of properties downstream.

Turning to the issue of the status of the body of water, NRW have indicated that it is the responsibility of the developer to establish whether the body of water is a raised reservoir under the Reservoirs Act. The JBA report which supports this application clearly indicates that the body of water is encompassed by natural ground which is at a higher level to the water. Furthermore the proposed spillway which is proposed to be constructed at 48m AOD is also within natural ground levels and will itself not be designed to store water. As a result it can be concluded that the body of water does not constitute a raised reservoir.

On the basis of the above, the proposal achieves the Councils primary objective in terms of reducing the safety risks of flooding of the void and the potential flooding of surrounding areas. More importantly, it is not only technically feasible but it is also deliverable, and within a relatively short timescale so the risk is addressed as soon as possible. Addressing the risk to the environment and to the amenity and well-being of people downstream of the site is an essential component of the scheme and one which has been prioritised by the Council.

For the reasons set out above the proposal is not considered to conflict with Policies SP2(2), EN8 and M4(3) of the LDP.

Land Stability

The applicants have submitted a Geotechnical Assessment in support of the application. The Assessment identifies the west face as the most sensitive excavation face, with no significant instability identified in the east, south or north faces. Four locations along the western face are identified as demonstrating signs of instability, some more significant

than others. Stabilisation works are identified as being required at the Mid Northern end, the southern section and in the south western corner.

The Mid Northern end is an area where an extensive area of approximately 60m x 20m has been affected whereby superficial material has slumped. Without address, the cliff face will continue to slowly degrade and migrate west but it is inconceivable that it would reach the Nant Cynffig 50m away. It is proposed to stabilise this face in the interests of safety by reducing the slope inclination to 1 in 2 with the provision of a 5m bench to be established on solid ground. An affected drainage ditch will also be realigned.

In the south western corner there is known to be a glacial deposit which overlays the coal measure strata. There have been stability problems within the Glacial Drift deposits, although the coal measures are found to be sound. The stability problems are due to low shear strength and high moisture content. The glacial deposits are estimated to have a depth of 16-20m in the southern corner although they are not evident further north along the western wall.

In order to construct the spillway in the south western corner, and to protect its integrity in the long term, it is proposed to construct a limited buttress which will sit on the solid coal measures and will be constructed in line with the proposed water level of 48m AOD. The purpose of the buttress is to prevent water percolating from the void into the weaker glacial deposits which are located below the spillway. This will maintain the structural integrity of the spillway in the long term.

At the same time as constructing the overspill channel geotechnical stability works will be undertaken in the vicinity. These works will remove superficial materials which are unstable as well as making the channel stable for the long term.

In addition, whilst there is no evidence of instability at present, the slopes of the steeper sections of the overburden mounds will also be slackened, treated with soils or soil forming materials and grassed in order to aid stabilisation in the long term.

Objectors consider that the overburden mounds would be unstable due to the backfill material they are situated upon, although no evidence has been submitted to support that view. They also consider that an independent geotechnical assessment should be carried out on the backfill but such a course of action is not considered to be necessary.

References to parallels with Aberfan in terms of the stability of the overburden mounds are considered to be scaremongering and completely unfounded. There are no parallels, the overburden mounds are not constructed on sloping ground, the ground conditions are different, the material in them is different and in the unlikely event that the outer slopes of the overburden mound becoming unstable there are no residential properties or public places that could be significantly adversely affected by a slip.

It is considered that the proposals adequately address the identified instability issues and potential risks. The proposal does not therefore conflict with Policy EN8 of the LDP.

Safety of the Water Feature

A significant number of objectors have expressed deep concern about the retention of a 108m deep water feature in close proximity to communities. They consider that it is (and would continue to be) an attraction to local youngsters with potentially tragic consequences. However, there is no significant difference between the flooded void and any other open water feature across the country. In addition, it is not the depth of the water that is the greatest risk but more the temperature of the water. Reference has been made to Police divers being limited to 50m but this appears to be of little relevance in terms of safety fears.

It is possible to exclude all but the most determined people by fencing off the void area and introducing planting which makes access difficult. Signage can also be erected explaining the dangers of open water as is the case for other areas of open water. Any reason for refusal on the basis of the safety of the water feature cannot therefore be sustained.

A condition is recommended requiring full details of the fencing, planting and signage to the boundaries of the void, in the interests of safety.

Ecology and Biodiversity

The applicants have submitted a biodiversity and ecological assessment in support of the application.

The assessment confirms that there are no statutorily protected habitats within the site. A component parcel of the Cefn Cribwr Grasslands SAC lies approximately 500m to the south. The Kenfig SAC is located

approximately 5km to the west. The Cwm Risca Meadows SSSI is also within the 2km search area to the north east of the site.

Bridgend CBC have also designated SINC's which are locally extensive and about the southern and eastern boundaries of the site. The Park Slip Nature Reserve to the east of the site and owned by the Wildlife Trust of South and West Wales is also a SINC. Neath Port Talbot CBC has not designated any SINC's but Policy EN6 of the LDP also covers sites meeting SINC criteria. The Nant Cynffig riparian corridor is a likely SINC candidate.

The land to the east of the previously diverted and retained Nant Craig yr Aber comprises largely of a complex mosaic of patches of developing woodland, scrub, grassland and ephemeral/short perennial vegetation and habitats interspersed with ponds, flushes and seasonally wet areas developed on disturbed areas. It also contains items of redundant mine infrastructure including water treatment facilities, access roads, hardstandings and buildings.

The land to the west of the diverted Nant Craig yr Aber mainly comprises of the flooded void and a partially vegetated overburden surcharge mound. The margins of the site are developing a mosaic of scrub and grassland with a number of small ponds.

The eastern half of the site and parts of the western half of the site can be categorised as UK BAP Priority Habitats and Section 42 Habitat of Principle Importance to Nature Conservation as 'open mosaic habitats on previously developed land'. The reed-beds developed on top of the overburden surcharge mound in the western half of the site also qualify.

The assessment identifies no European protected species within the site. There are records of otter and four species of bat along the riparian corridor of the Nant Cynffig to the west of the site. Otter and dormouse are also recorded along the Nant Iorwerth Goch to the south of the site and otter in the lower unaltered reaches of the Nant Craig yr Aber outside of the site. There is a record of a dead Great Crested Newt in 2006, outside of the northern boundary and to the North of New Road. The nearest records of Great Crested Newt are within the Parc Slip Nature Reserve.

There are records of four priority bird species (common bullfinch, hedge accentor, linnet and song thrush) within and surrounding the site. House sparrow and reed bunting have also been recorded around the site

boundary. Slow worm has been recorded to the north of the site, hedgehog to the east and brown trout and eel have been recorded in the Afon Cynffig to the west. The Grayling Butterfly has also been recorded in the south east corner of the site.

NRW has expressed concerns regarding the lack of information submitted in order to make an assessment on the impacts of the development on European Protected Species. Their concern appears to focus on dormice and Great Crested Newts and they consider that comprehensive protected species surveys should be submitted prior to determination of the application. However, they have indicated that in the event that further detailed assessment is not undertaken by the applicant and having considered the information available it must be assumed that dormice and Great Crested Newt are present and that conditions must be included requiring comprehensive strategies for the protection of European protected species.

The ecologists within the Council's Biodiversity Unit have confirmed that the proposed Reasonable Avoidance Measures could be applied to avoid adverse impacts. On that basis there does not seem to be any sense in carrying out additional surveys when Reasonable Avoidance Measures are considered appropriate. In respect of dormice the applicants state that the site has low potential for supporting dormice due to the lack of suitable habitat. The Biodiversity Unit accepts that provided vegetation clearance is carried out under a watching brief by a suitably qualified ecologist between June and September, and works stop if evidence of dormouse is found, a planning condition is suitable in this particular case. Therefore, conditions can reasonably be imposed in order to address NRW's concerns.

The objective of the scheme is to rehabilitate the site to a visually and environmentally acceptable landform utilising the already established flora and fauna, by limited re-contouring the engineered profiles of the overburden mounds, retention wherever possible of well-established vegetation or areas where there is significant biodiversity interest, whilst retaining the water body within the void. It is proposed to re-profile and re-vegetate approximately 49 hectares of the site and not to disturb the other 146 hectares (including the water body of approximately 28 hectares). The remaining 118 hectares is largely naturally re-vegetated to important habitat. There is no apparent benefit in removing this vegetation and carrying out minor works when the available funding could be better utilised in addressing areas such as the stability of the void, the

construction of the overspill channel and the regrading of areas where natural regeneration has not occurred.

Re-profiling is largely limited to the northern, western and southern faces of the overburden surcharge mound, the north western face of the main overburden mound, the southern section of the western part of the site (within NPT) and the former administrative area and the haul road in the eastern part of the site (Bridgend). Works are also proposed to create the overspill channel and the stabilisation of the western void wall. The overspill channel passes through largely disturbed land at the margin of the site and will enter the river corridor through a gap in the wooded riparian fringe.

The proposed works will have no direct effects upon the integrity of the SINC's within Bridgend nor on the potential SINC's within NPT and avoid disturbance of the UK BAP and Section 42 open mosaic and reed-bed habitats. There are also no predicted significant adverse impacts on protected species.

The restoration and aftercare scheme also aims to reduce the extent of invasive non-native species such as Japanese Knotweed, Himalayan Balsam and rhododendron within the site.

The assessment concludes that there are no material adverse nature conservation issues as a result of the proposed scheme. It is claimed that the scheme will provide nature conservation and biodiversity benefits on at least a regional scale. It retains a significant area of existing habitat, creates additional habitat and is well located relative to other significant nature conservation sites such as the Park Slip Nature Reserve, Cefn Cribwr Grassland SAC and the Kenfig SAC. Nature conservation is therefore considered appropriate as a beneficial after-use.

A Test of Likely Significant Effects has been undertaken and has concluded that no likely significant effects were identified for the considered elements of the Margam Mine Restoration proposals. Therefore, an appropriate assessment is not considered necessary.

For the reasons set out above the proposals are considered to protect and safeguard interests ecological interests and as such the proposal complies with Policies I1, EN6, EN7 EN8 and M4(5) of the LDP.

Highways and Transportation:

The approved restoration strategy shows Crown Road and Bedford Road restored as tarmacadam highways. The applicants propose to reinstate the link along Crown Road and Bedford Road along a slightly altered alignment, to avoid the void. This will take the form of a 4m wide forestry type road surfaced with suitably sized secondary aggregate and graded to a camber to aid drainage. In order to maximise accessibility of these routes conditions can be imposed to secure passing bays along their length. The road is not to be tarmaced as that would lead to substantial additional costs that are not fundable from the available resources. This is on the basis that the spending priorities relating to the restoration fund relate to site safety and security together with reinstating connectivity throughout the site. Whilst the realigned highways will not be to the standard of the former adopted tarmacked highways, they are deliverable and they will reinstate connectivity across the site, whilst also retaining funds to secure a safe site going forward.

The majority of the respondents have objected to the downgrading of the roads and would like to see them restored to their previous tarmacked condition, however, some respondents do not wish to see the links reinstated at all.

It is also proposed that the Public Rights of Way network be reinstated in a rationalised form. The suspended rights of way are indicated on Figure 6 of the application and amount to 18 individual footpaths and bridleways. The proposed rights of way are shown on Figure 7. The change does result in a relatively minor loss of footpaths whereby one of the original footpaths extended across the void area while the network of paths on the eastern side of the site area (within Bridgend) has been rationalised to avoid areas of land which have revegetated to create enhanced areas of nature conservation. Despite these minor alterations to the proposed footpath network the integrity of the system is maintained. Objectors claim that this results in the loss of public access but this is not accepted.

The concerns of the objectors are understood but again consideration needs to be given to the financial and legal constraints that exist. The proposal whilst not being the most acceptable solution does reinstate the links across the site and accessibility between communities which is in compliance with Policies SP2(4), I1 and SP20(3) of the LDP.

Concerns have also been expressed regarding the route to be used for the delivery of plant and machinery to carry out the works. The applicants have confirmed that access will be as it was previously, through the Parc Slip Nature Reserve and not directly from Law Street. Highway safety will therefore not be adversely affected and the proposal does not therefore conflict with policies M4(4) and TR2 of the LDP.

Visual Amenity:

It is acknowledged that the site is currently unrestored and that there is a large water filled void, large engineered overburden mounds which have to a large extent naturally re-vegetated together with former site infrastructure. The site is also clearly visible from Cefn Cribwr to the south as it is in a valley below the village. Given its location relative to the village it would be impossible to screen the site from Cefn Cribwr. It is also impossible to hide the open water feature within the void. What is possible is to plant the margins of the void to soften its appearance, re-profile the engineered slopes of the overburden mounds and to remove the site infrastructure. Such works will reinforce the natural re-vegetation that has taken place since operations ceased on the site and will also enhance the ecological interest on the site. It should be noted that whilst the body of water within the void area is significant in size, it is not unusual to see large bodies of water whether natural or man-made within rural and semi-rural areas. Indeed, the proposed planting within the site will over time soften the man-made features and thus the body of water will become further integrated into the surrounding landscape. This will in time improve the character and appearance of this former open cast coal site and will ensure that its visual link to the features within the surrounding special landscape area is improved.

Objectors consider that the site is an eyesore and that the land should be restored in accordance with the approved restoration strategy. The reasons why this is not possible have been covered at length above.

As stated above, the site is identified as falling within the Margam Special Landscape Area as defined by Policy EN2 of the LDP. Policy EN2 states that development within a Special Landscape Area will only be permitted where there is no significant adverse impact on the features and characteristics for which the SLA is designated, although it is recognised on the proposals map that there is an overlap with an operational coal site at Margam.

Paragraph 5.3.12 of the supporting justification of Policy EN2 does indicate that mineral workings will be expected to provide a restoration scheme which returns the landscape as far as practicable to its original form and appearance on completion of works. It became clear from October 2011 that the site was not going to be restored in accordance with the approved restoration strategy. At that time Policy EN2 was not in place. As the difficulties with restoration predate the Policy, it is considered that there are justifiable reasons to accept that the proposed solution in this case represents the most practicable solution. In any event for the reasons previously expressed the return of the landscape to its original form and appearance is not practicable, realistic or deliverable. It has to be accepted also that what is being proposed, whilst not returning the site to its original form, is an improvement on the current situation.

Residential Amenity:

The applicants have submitted an Air Quality Assessment in support of the application. IAQM Guidance on the assessment of dust from demolition and construction indicates that a dust assessment is required where there is a human receptor within 350m of the site, within 50m of a site access road or an ecological receptor within 50m of the site. In this case the nearest ecological receptor is the Cefn Cribwr Grasslands SAC which is located more than 50m away from the site. Therefore an assessment of dust on ecological receptors is not required. However there are a number of residential properties within 350m of the site, which has necessitated the need for an air quality assessment to ensure that the impact upon their amenities is properly considered.

The assessment identifies that dust sources will principally arise from earthworks associated with the excavation, movement and tipping of soils and overburden. The magnitude of dust emissions from such operations can be large with a medium risk of dust soiling predicted in this case based on the sensitivity of the surrounding area. Risks from all other types of operation are assessed as low in this case and the impact of all proposed activities on human health is also assessed as low.

There are no statutory or recommended dust deposit rates but a default guideline of 200 mg/m²/day is commonly accepted which is reduced to 80 mg/m²/day for high contrast dust such as coal. MTAN2 advises that the 80 mg/m²/day threshold should be utilised as a weekly average but it is not clear whether this is only the coal component of the dust.

Typically, planning permissions that involve the movement of soils, overburden and materials are subject to the requirement to submit a Dust Management and Mitigation Plan under the terms of a planning condition. A Draft Plan is submitted as part of the application but it is highly recommended that a condition be imposed requiring a Dust Management and Mitigation Plan. Subject to the imposition of such a condition the Environmental Health and Trading Standards Manager has raised no concerns regarding this development

A noise assessment has also been submitted in support of the application. Noise monitoring locations are identified at The Oaks and Aberbaidan Farm (NPT) and at 37 Crown Road and 28 Bedford Road (within Bridgend boundaries)).

Background noise levels at these locations range between 34 dB LA₉₀ and 42 dBLA₉₀. On the basis of the criteria set out in Paragraph 173 of MTAN2, setting noise limits at sensitive locations of background plus 10dB (or 55dB whichever is the lesser), the noise limits for the proposed activity would range between 44dBLA_{eq} at 28 Bedford Road to 52dBLA_{eq} at 37 Crown Road during normal daytime working hours (7am to 7pm Monday to Friday).

The predicted worst-case noise levels fall within the MTAN2 derived limits apart from at Aberbaidan Farm during Stage 1 operations (excavation of the northern batters of the overburden surcharge mounds and movement of material to the eastern slopes); and Bedford Road during Stage 2 operations (haulage of material to the southern slopes of the surcharge mound and grading the western slopes of the main overburden mound). The levels are exceeded by 1dB at Aberbaidan Farm and 3dB at Bedford Road.

Paragraph 174 of MTAN2 identifies short term operations such as soil stripping, the construction and removal of baffle mounds and soil storage mounds, construction of new permanent landforms and aspects of site road construction and maintenance that cannot easily meet normal daytime noise limits. In such cases increased noise limits of up to 67dB LA_{eq} should be considered for periods of up to 8 weeks in a year between the hours of 10am and 4pm. The applicants have confirmed that the excavation at high levels on the overburden mounds, the removal of a soil mound and the drainage channel excavation, which give rise to the worst case noise predictions above normal daytime MTAN2 derived levels, will be completed within 8 weeks and well within the 67dB LA_{eq} limit. In fact their prediction is that such works would be significantly less

than 67db. It is, however, considered appropriate to ensure that such short-term works do not exceed 55dB LAeq (based on the upper limit for long-term noise within MTAN2) at Aberbaidan Farm and 46db at The Oaks (the impact on Bedford Road being covered by BCBC) for a period of 8 weeks. MTAN2 derived levels could be applied by condition at all other times.

The Environmental Health and Trading Standards Manager has confirmed that use of the MTAN2 guidance is appropriate for the assessment of noise impacts and that the correct methodologies have been applied for the monitoring and modelling. Noise predictions at The Oaks are within MTAN 2 derived limits and noise predictions are within MTAN2 derived limits at Aberbaidan Farm apart from during Stage 1 where they are exceeded by 1dB. The use of the short-term exemption contained in MTAN2 for a 1dB increase for a period of no more than 8 weeks in any year is acceptable.

Reference has been made by objectors to the Health Impact Assessment of the Proposed Extension to Margam Opencast Mine undertaken by Cardiff Institute of Society Health and Ethics. The Report gives an insight into how the people and area have been devastated by the removal of their local amenity and their desperate need for it being returned and restored. The Report considers how severance and loss of amenity at the local area negatively affects Physical Activity. Whilst the Report serves to emphasise how the local community feels about the loss of amenity from opencast mining this proposal actively seeks to address the loss of amenity by reinstating the community links in the form of Bedford Road and Crown Road in addition to the re-instatement of the majority of public rights of way which formerly crossed the site but have since been stopped up. In the absence of this scheme these links would otherwise have to remain closed to the public for safety reasons.

It is also important to note that the proposed works would result in shorter term disturbance in terms of dust and noise than would be the case if the approved restoration strategy was implemented. The approved restoration strategy would have resulted in restoration works for a period of just over 2 years whereas this proposal will be completed in a just over 12 months. In addition, to the extended timeframe the complete removal of the overburden mounds into the void would have significantly prolonged one of the parts of the restoration with the greatest potential for disturbance.

It is important to note that none of the land within the site is classified as contaminated land however, it is recommended that a condition be attached to require remediation should any contamination be encountered during site operations.

On the basis of the above it is not considered that the proposal would result in significant adverse impacts on the amenity of the area and is therefore not contrary to policies SP16 or EN8 of the LDP.

Cultural Heritage

The applicants have submitted a cultural heritage assessment in support of the application. The assessment confirms that there are no designated historic assets within the site itself, and no designated heritage assets would therefore be physically impacted by the proposed restoration.

Designated heritage assets within the wider landscape have been the subject of a settings assessment, in accordance with industry standard guidance, with particular reference given to the Grade II listed Aberbaidan Farm. In all cases it was identified that the proposed restoration works would not result in any harm to the significance of these assets, either because the site was not found to be within their setting or because their significance was found to derive from values and associations unrelated to their setting. The proposals are therefore considered to comply with Policy SP21 of the Neath Port Talbot LDP and national planning policy/legislation in relation to the historic environment and cultural heritage.

Programme of works, proposed after use and aftercare

The programme of works will prioritise essential works required to deliver the restoration as follows: - the construction of the spillway in order to maintain the proposed water level in the void at 48m AOD. This is the most important element of the scheme. Secondly, the links along Crown Road and Bedford Road will be re-established to the standard defined in the application. Thirdly, stabilisation works along the western high wall including drainage will be addressed. Fourthly, the excavation and re-profiling of the overburden mounds will be progressed in accordance with the submitted plan. Finally, the other minor restoration works and re-profiling will be progressed.

The works and the funding (including ring fencing funds for the above essential elements) will be secured by a legal agreement which will allow

access to the restoration fund. The Coal Authority will be engaged to ensure best value for money is achieved and that only works necessary for the achievement of the Councils objectives are paid for out of the restoration fund. The release of funds will only take place in phases as specific restoration tasks are completed in the order of priority. Funds remaining following the completion of restoration will be utilised for aftercare and, where possible, ongoing maintenance. Commissioning the Coal Authority will also ensure accountability and quality assurance.

Aftercare is to a primarily nature conservation after-use which entails the retention of an extensive area that has been naturally re-vegetated to UK BAP and NERC Section 42 habitat of principle importance such as open mosaic habitat on previously developed land and the corridor of the Nant Craig yr Aber. Water treatment features are to be retained for nature conservation purposes and the re-graded areas are to be re-vegetated. The links along Crown Road and Bedford Road are to be reinstated on an alternative alignment and surfaced with suitably sized secondary aggregate and graded to a camber to aid drainage; and the footpath network is to be reinstated in a rationalised form so that public access is restored.

On completion of restoration the void area will remain fenced off, with planting also proposed to further deter access to the void area. The remainder of the land will be accessible via Crown Road, Bedford Road and the reinstated footpath network. The site access and the existing car park area will also be retained to facilitate public access.

Conclusion

There is a clear conflict between the restoration that was originally approved and which the local community would like to see and what is realistically achievable and deliverable within the financial and legal constraints outlined in the report.

In cases where there is a risk of sites not being restored in accordance with planning conditions the Research into the failure to restore opencast coal sites in South Wales, published by Welsh Government in April 2014, advocates as a key recommendation, that other measures need to be considered. The Report goes on to state that these may involve major re-design of site restoration and that a review should be undertaken of restoration and aftercare proposals to test whether potentially alternative solutions could be employed to deliver restoration at less cost.

The Authority is therefore fully justified in seeking a solution which addresses the risk of restoration not being undertaken but also in this case the far more serious risk associated with the uncontrolled water level rising within the void to an extent that it would pose a serious risk of flooding and a risk to life downstream of the site. The Section 106 Agreement signed in December 2007 in relation to the site sets out very clearly that the Councils priority is making the site safe in the first instance.

Planning Policy Wales states that Local Planning Authorities should seek through their planning decisions to take account of all the costs and benefits associated with mineral working in accordance with the principles of sustainable development.

The benefits of the proposal are clear. In addition to seeking to control the water level in the void via an overspill channel to avoid potential catastrophic flooding downstream and the stabilisation of the western high wall, the proposals also involve re-grading and planting at the periphery of the engineered slopes to create more natural profiles. This will retain and enhance areas of biodiversity and nature conservation interest which relate well with existing nature conservation sites in the vicinity and also reinstate links between communities. The proposal is also achievable and deliverable within the budget set by the restoration fund.

Whilst it is acknowledged in some respects that the preferred solution would be to seek the comprehensive restoration of the site in accordance with the originally approved strategy, this is not deliverable. If enforcement action is pursued to seek such an outcome, this is likely to result not only in expensive and potentially abortive litigation, but also the access rights to this site which are due to expire in June 2017 may prevent the former operator from constructing the spillway which is required to control the water levels. The absence of a method of controlling the water levels in the long term will place existing communities at serious risk from catastrophic flooding should a worst case scenario breach occur. This cannot be underestimated and is a material consideration in the determination of this application.

It must be considered whether such a risk should be accepted in order to pursue the filling of the void with material in the overburden mounds and surcharge mounds and the re-instatement of tarmacked roads instead of the realigned alternative as proposed under this scheme. It is considered that this is not a risk worth pursuing given that the current application will

result in the delivery of an acceptable alternative restoration of the site, which in time will sit more comfortably within the surrounding area.

The scheme proposed is both affordable and deliverable and it also addresses the key aims of the local authority of ensuring that the site is safe and poses no significant risk to the public. It also proposes a nature conservation focussed after-use which is considered to be acceptable at this location. The proposal does not raise any identified planning policy, residential amenity, visual impact, safety or ecological conflicts. Furthermore the benefits of the proposal far outweigh the costs in this case and therefore the application is recommended for approval subject to conditions and a revised Legal Agreement.

In the event of the recommendation being supported Members should be aware that the Council will engage the Coal Authority to quantify operations to be undertaken and evaluate/ring fence cost elements in a priority order starting with the spillway. Terms for such an engagement have already been negotiated and will ensure that the costs are independently assessed.

RECOMMENDATION:

Approval subject to Conditions and a revised Legal Agreement to secure an acceptable programme of prioritised works and the ring fencing of money within the restoration fund to enable the delivery of this programme and to secure its aftercare.

CONDITIONS

Time Limit Conditions

(1) The development to which this permission relates shall be begun not later than the expiration of two months beginning with the date of this permission. Written notification of the date of commencement shall be sent to the Local Planning Authority at least 2 days prior to commencement.

Reason

Since the alternative restoration scheme is only acceptable based on the strict time limits identified within the application submission.

(2) The approved restoration shall be completed by 31st July 2017. For a period of five years from the date of completion of restoration the

restored area shall be managed in accordance with the approved aftercare scheme. The planning permission shall expire following the complete restoration and aftercare of the site in accordance with the approved restoration and aftercare schemes.

Reason

Since the alternative restoration scheme is only acceptable based on the strict time limits identified within the application submission and to minimise the duration of disturbance.

Working Programme, Phasing and Direction of Working

(3) The development shall be carried out strictly in accordance with the following plans and documents

- Figure 1 – Site Location Plan
- Figure 2 – Existing Site Layout
- Figure 3 – Proposed Alternative Restoration Strategy
- Figure 4-1 – Excavation and Re-profiling of Surcharge Mound
- Figure 4-2 – Re-profiling of Existing Batter Slopes
- Figure 4-3 – Additional Minor Re-grading
- Figure 4-4 – Proposed Alternative Restoration Strategy (Sections through surcharge and overburden mounds)
- Figure 5 – West Wall Stabilisation
- Figure 6 – Suspended Rights of Way
- Figure 7 – Indicative Proposed Rights of Way
- Figure 8 – Typical Roadway Construction
- Drawing No. – 07A04567/A – Planning Application Plan
- Drawing No. – 07A04559/A – Proposed Alternative restoration Strategy
- Planning Application – Supporting Information Volume 1
- Planning Application – Supporting Information Volume 2 – Appendices 1 to 8
- Supplementary Mitigation Report (Wardell Armstrong) April 2016

Reason

To comply with Section 71ZA(2) of the Town and Country Planning Act 1990.

(4) Before commencing any development at the site, you must do the following: -

a) Notify the Local Planning Authority in writing that you intend to commence development by submitting a Formal Notice under Article 24B of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (DMPWO) in the form set out in Schedule 5A (a newly inserted Schedule) of the DMPWO (or in a form substantially to the like effect); and

b) Display a Site Notice (as required by Section 71ZB of the 1990 Act) in the form set out in Schedule 5B (a newly inserted Schedule) of the DMPWO (or in a form substantially to the like effect), such Notice to be firmly affixed and displayed in a prominent place, be legible and easily visible, and be printed on durable material. Such Notice must thereafter be displayed at all times when development is being carried out.

Reason:

To comply with procedural requirements in accordance with Article 24B of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (DMPWO) and Section 71ZB of the Town and Country Planning Act 1990.

NOTE: Templates of the required Notice and Site Notice are available to download at www.npt.gov.uk/planning

(5) From the date of commencement of operations at the site (as notified in accordance with Condition 1 above) until the completion of restoration, a copy of this permission including all documents hereby approved and any other documents / schemes subsequently approved in accordance with this permission shall be permanently maintained and be available for inspection at the site.

Reason

To ensure that the operators of the site and any site contractors are aware of the working programme and the conditions attached to carrying out the development.

Hours of Working

(6) Except in an emergency, which shall be notified to the Local Planning Authority as soon as practicable, no operations within site (other than water pumping, servicing, environmental monitoring, maintenance and

testing of plant) shall be carried out on the site except between the following times:

0700 to 1900 hours Mondays to Fridays.

0800 to 1300 hours Saturdays

There shall be no development or other activities other than those in relation to water pumping, servicing, environmental monitoring, maintenance and the testing of plant undertaken on Sundays, Bank or Public Holidays.

Reason

In the interests of the amenity of local residents

Safeguarding Adjacent Land

(7) At least one month prior to carrying out of any engineering operations along the western wall of the void, a detailed design for the stabilisation works along the western wall, in the areas identified on drawing no. 2 (Areas of Instability along the west wall), shall be submitted to the Local Planning Authority for its approval in writing. Engineering works shall not commence until such time as the design has been approved, and shall thereafter be carried out in accordance with the approved design.

Reason

To ensure the stability of the western wall of the void

Access and Parking

(8) Prior to the delivery of any plant/machinery, portable buildings or materials to the site the developer shall submit for the approval of the Local Planning Authority a Transport Plan identifying the routes to be utilised for such deliveries. Deliveries shall be made in accordance with the approved plan.

Reason

In the interests of highway safety

(9) Notwithstanding the submitted details, prior to works commencing on their construction a scheme shall be submitted to and approved in writing by the local planning authority detailing the route of the proposed Crown Road and Bedford Road Bye-way at a scale of 1.500. The scheme should include the following:

- i. The road width shall be a minimum of 7.5 m across the surface made up of a 5.5m wide running surface with a 1m wide verge either side; OR the road remaining at its current width but including details of inter-visible passing bays, which shall be a minimum of 2.5m wide and 15m long; and
- ii. Details of drainage cut off points to prevent any surface water runoff from discharging onto the public maintained highway; and
- iii. Details of a management / maintenance plan.

The road and passing bays shall be undertaken and thereafter maintained in accordance with the approved details.

Reason

In the interests of highway safety

Rights of Way

(10) The rights of way shown on Figure 7 – Indicative Proposed Rights of Way shall be re-instated prior to 31st July 2017 in accordance with a scheme which shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason

To ensure that public access through the site is available from completion of the development.

Dust

(11) Dust associated with operations at the site shall be controlled in accordance with the recommended mitigation measures in Table 8 of the Air Quality Report submitted as part of the application and in accordance with the Dust Management Action Plan (DMAP) – January 2016. The DMAP must be kept under review by the developer and, if notified by the Local Planning Authority of concerns that the DMAP is not effective in managing dust from the site, an amended DMAP shall be submitted to

the LPA for its approval in writing within one month of such request being made in writing.

Reason

In the interests of the environment and local amenity

Noise

(12) Between 0700 and 1900 hours Monday to Friday and 0800 to 1300 hours on Saturday the noise levels arising from the development shall not exceed the following levels measured as dBLAeq (1 hour) freefield under the measurement criteria of BS4142:

The Oaks – 46dB

Aberbaidan Farm – 47dB

Reason

In the interests of the amenity of the area

(13) Notwithstanding the provisions of Condition 12 above, between the hours of 1000 and 1600 hours Monday to Friday and 1000 to 1300 hours on Saturday, and for a maximum period of 8 weeks in any year, the noise levels arising from the development shall not exceed the following levels measured as dBLAeq (1 hour) freefield under the measurement criteria of BS4142:

The Oaks – 46dB

Aberbaidan Farm – 55dB

The applicant shall advise the Local Planning Authority in advance of any operations likely to fall within the scope of this condition, detailing the nature and duration of the operations.

Reason

In the interests of the amenity of the area

(14) At all other times outside of the hours specified in condition 12 above the noise levels arising from the operations at the site shall not exceed 42 dBLAeq (1 hour) freefield under the measurement criteria of BS4142 and as measured at any noise sensitive property.

Reason In the interest of the amenities of the area

(15) The best practicable measures shall be used to minimise noise from reverse warning devices fitted to mobile plant and vehicles on site.

Reason

In the interest of the amenities of the area.

(16) All vehicles, plant and machinery operated on the site shall be maintained in accordance with the manufacturer's specification at all times, and shall be fitted with and use effective silencers.

Reason

In the interest of the amenities of the area

(17) Noise shall be controlled in accordance with the mitigation measures specified in section 8 –‘Mitigation and Noise Control’ of the Noise Assessment- Appendix 6.

Reason

In the interest of the amenities of the area

(18) Prior to commencement of engineering operations at the site, a Noise Management Action Plan shall be submitted to and agreed with by the Local Planning Authority. The scheme shall be implemented as agreed.

Reason

In the interests of the environment and local amenity

Water Environment and Drainage

(19) Prior to discharging water from the site into the Afon Cynffig full details of the construction of the overflow spillway shall be submitted to and approved in writing by the Local Planning Authority. The design shall ensure that

- (a) surface water discharge shall be no greater than Greenfield levels plus a climate change allowance; and
- (b) That protection is given to the Afon Cynffig at the overflow discharge point

The overflow spillway shall be constructed as approved.

Reason

To ensure that the construction and operation of the spillway does not have significant adverse effects on the river channel and in the interests of flood prevention.

(20) Within 3 months of the date of this permission the developer shall submit a scheme for the written approval of the Local Planning Authority outlining a management and maintenance strategy for all the proposed and retained watercourses, the overspill channel, culverts and surface water management features within the site. The scheme as approved shall thereafter be complied with.

Reason

In the interests of flood prevention.

(21) Until they are no longer required for operational purposes all drainage ditches, attenuation ponds, settling ponds and lagoons shall be regularly de-silted and maintained in such a condition that they are able to perform effectively and efficiently for the purpose for which they have been provided.

Reason

To ensure that these facilities continue to function effectively and efficiently throughout the operational, restoration and after care period.

(22) Any facilities for the storage of oils, fuel or chemicals shall be on impervious bases and surround by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vent, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All points and tank overflow pipes should be detailed to discharge downwards into the bund.

Reason

To prevent pollution of watercourses.

Lighting

(23) Any lighting or floodlighting whether fixed or portable shall only be illuminated between the hours of 0700 and 1900 hours Monday to Friday and 0800 to 1300 hours on Saturday, except for security lighting activated by unauthorised entry by persons or vehicles.

Reason

The use of lighting at this location would have an adverse impact on the amenity of the area and would be detrimental to the environment unless hours of use are controlled.

Ecology and Biodiversity

(24) Prior to any building or tree being removed/demolished they shall be subject to an updated inspection survey to determine whether they are used by bats. If any evidence of bats is discovered, removal or demolition shall not commence until mitigation measures have been submitted to and approved in writing by the Local Planning Authority. Mitigation measures shall be implemented as approved.

Reason

In the interests of biodiversity and the protection of bats.

(25) Prior to any clearance of scrub/trees the vegetation shall be checked for dormouse nests by a suitably trained and licensed ecologist. Scrub/tree clearance shall then follow the phased approach set out in Section 3.3.8 of the Supplementary Mitigation Report, shall be supervised by a suitably trained ecologist and shall be limited to the period between June and September inclusive. If a nest is found works must cease until such time as details of comprehensive mitigation has been submitted to and approved by the Local Planning Authority. The approved mitigation shall be undertaken in full accordance with the approved details.

Reason

In the interest of nature conservation.

(26) The shrub/tree planting identified in 3.3.10 of the Supplementary Mitigation Report shall be implemented within the first planting season following the achievement of final contour levels in the planting location.

Reason : To minimise the fragmentation of potential dormouse habitat.

(27) Prior to commencement of development, a scheme demonstrating how ecological receptors (particularly protected species and their habitats) will be monitored throughout the restoration process, shall be submitted to and agreed in writing with the Local Planning Authority. The restoration shall be completed in accordance with the agreed scheme.

Reason

In the interests of Biodiversity

(28) The Great Crested Newt Reasonable Avoidance Measures as set out in section 3.3.24 and 3.3.25 of the Supplementary Mitigation Report shall be implemented during all vegetation clearance, restoration work and outfall construction. If Great Crested Newt are found such works which may adversely affect this species must cease until such time as details of comprehensive mitigation have been submitted to and approved in writing by the Local Planning Authority. The approved mitigation shall be undertaken in full accordance with the approved details.

Reason

To protect against the possibility of Great Crested Newts being harmed.

(29) No restoration works shall be carried out within a buffer zone 25m either side of the Craig Nant yr Aber.

Reason

In the interests of the protection of habitat which contributes to biodiversity on the site.

(30) Prior to the commencement of any works in the adjacent to the Afon Cynffig, including vegetation clearance, an updated pre-commencement otter survey shall be undertaken by a suitably qualified ecologist. If evidence of otter is found works must cease until such time as appropriate mitigation is submitted and approved by the Local Planning Authority.

Reason

To ensure that otter is not adversely affected by the development

(31) Within 3 months of the date this permission a scheme shall to be submitted to and approved in writing by the Local Planning Authority for the eradication of all invasive species listed under Section 9 of the Wildlife and Countryside Act 1981 that are located on the site. The scheme shall be implemented as approved.

Reason

In the interests of amenity, and to ensure that the treatment is carried out in accordance with recognised good practice.

(32) Prior to the removal of any vegetation on the site the operator shall check that there are no breeding birds or protected species on that part of the site. The results of the checks (which must be undertaken by a suitably qualified ecologist) shall be submitted to the Local Planning Authority, together with any mitigation proposals for approval if species are recorded. Mitigation shall be implemented as approved.

Reason

In the interests of biodiversity

(33) Where habitat suitable for reptiles is to be removed the clearance works shall follow the phased method set out in 3.4.5 and 3.4.6 of the Supplementary Mitigation Report and shall be supervised by a suitably qualified ecologist.

Reason

In the interests of the protection of reptiles.

(34) Where any species listed under Schedules 2 or 5 of the Conservation of Habitats and Species Regulations 2010 is present on the surface land and structures of the site in respect of which permission is hereby granted, such works adversely affecting this species shall cease, unless a license to disturb any such species has been granted in accordance with the aforementioned Regulations and a copy provided to the Local Planning Authority.

Reason

In the interests of ecology and biodiversity

(35) All excavation trenches shall be covered overnight or a means of escape for wildlife shall be employed.

Reason

To prevent wildlife becoming trapped inside a trench.

Landscaping

(36) Within 3 months of the date of this permission a scheme for supplementary planting of the Afon Cynffig shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved in the first planting season following such approval.

Reason

To diversify plant species, improve structural integrity and to provide additional habitat

(37) Unless shown as being removed as part of the development, all existing deciduous trees, bushes and hedgerows within and bounding the site or within the developer/operators control (including their root systems) shall be retained and protected and shall not be lopped, topped, removed or felled without the prior written approval of the Local Planning Authority. Any requests for approval to remove, lop, top or fell deciduous trees, bushes or hedgerows must be supported by an Arboricultural Method Statement.

Reason

The protection of the environment and protected species such as bats, in the interests of visual amenity and to ensure the development is adequately screened by natural vegetation.

(38) All trees and shrubs planted in accordance with an approved scheme shall be maintained and any plants which within 5 years of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

Reason

In the interests of amenity, the environment and to ensure the site is adequately restored.

Potential Land Contamination

(39) 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. Following completion 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.

Soil Stripping, Handling & Storage

(40) All topsoil and subsoil shall be stripped from any undisturbed areas which are to be utilised for the approved operations. Wherever possible these resources shall be directly placed as part of the restoration; where this is not reasonably practicable, they should be stored separately in mounds within the site until required for restoration. Topsoil mounds shall not exceed 3m in height and subsoil mounds shall not exceed 4m in height as measured from adjoining ground.

Reason

To ensure satisfactory preservation, conservation and restoration of soil and peat resources.

(41) All topsoil, subsoil, and soil forming material shall remain on site for use in the restoration of the site.

Reason

To ensure satisfactory preservation, conservation and restoration of soils and peat resources.

(42) In any calendar year, soil stripping shall not commence until any standing crop of vegetation has been cut and removed.

Reason

To avoid incorporation of concentrations of decaying vegetation in soil

(43) Topsoil, subsoil and soil making material shall only be stripped and/or used for restoration when they are in a dry and friable condition.

Reason

To ensure that the soils are not damaged during the process of their stripping and handling.

(44) All disturbed areas of the site and all topsoil and subsoil storage mounds shall be kept free of weeds.

Reason

To prevent a build-up of harmful weed seeds in soils

Restoration

(45) Prior to any seeding or hydro-seeding on the site the developer shall obtain the written agreement of the Local Planning Authority for the species mix to be used. The seeding shall be implemented as approved.

Reason

In the interests of biodiversity and visual amenity.

(46) Within 3 months of the date of this permission a scheme for the planting and fencing of all boundaries of the void, including details of the timetable for implementation and provision of warning signage to explain the dangers of open water, shall be submitted to the Local Planning Authority for its approval in writing. The approved scheme shall be implemented, and thereafter retained, in full accordance with the approved details.

Reason

To ensure reasonable measures are undertaken to prevent access to the water filled void.

(47) All plant, structures and buildings shall be removed from the site on completion of restoration

Reason

In the interests of the amenity of the local area

Aftercare

(48) The site shall be subject to aftercare from the date of completion of restoration as approved in writing by the Local Planning Authority, and in accordance with the approved aftercare details.

Reason

To ensure adequate treatment and management of the land to an appropriate timescale.

(49) Within 3 months of the date of this permission the developer shall submit an aftercare scheme for the nature conservation after-use of the site for a period of 5 years following the date of completion of restoration. The scheme shall set out how the habitat is to be favourably managed during the aftercare period, and shall be implemented as approved.

Reason

To ensure the beneficial afteruse of the site

(50) Before 1st November of every year of the aftercare period the operator shall provide the Local Planning Authority with the following

a) A record of the aftercare operations carried out on the land in the previous 12 months

b) An assessment of losses and replacements to be provided in woodland areas

c) Proposals for managing the land for the forthcoming 12 months including weed controls.

Reason

To ensure the productive after-use of the site

(51) Before 1st December of every year of the aftercare period, a site meeting shall be arranged by the developer, to which the Local Planning Authority and the landowner shall be invited, to monitor previous performance of aftercare requirements and to discuss future aftercare proposals. The meeting shall also be attended by the person(s) responsible for undertaking the aftercare steps.

Reason

To ensure the beneficial afteruse of the site

PLANNING COMMITTEE

3rd MAY 2016

AMENDMENT SHEET

ITEM 4

<u>APPLICATION NO:</u> P2016/0078	<u>DATE:</u> 18/02/2016
PROPOSAL: Proposed alternative restoration and aftercare scheme in respect of the former Margam Surface Mine, comprising engineering and landscaping works including: Pumping, earthworks, soil relocation, installation of an overflow drainage channel, re-introduction of rights of way across the site, agricultural (rehabilitation) works to establish vegetation and drainage (amendment to the restoration and aftercare scheme approved under planning permission reference P2006/1727	
LOCATION: Former Margam Surface Mine, Fford Y Gyfraith, Cefn Cribwr CF32 0BS	
APPLICANT: Mr Robert Thompson – Celtic Energy Ltd.	
TYPE: Full Plans	
WARD: Margam	

Members are advised that reference is made to the Nant Cynffig within the Committee report. This should in fact read the 'River Kenfig.'

Members are also advised that we have received a late letter from the Welsh Government which places a holding direction upon the Council under Article 18 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012. As a consequence of this, the Council has been directed not to grant planning permission for this application without the prior authorisation of the Welsh Ministers. The Council can however continue to assess and debate the merits of the application and can also refuse the application without requiring further authorisation.

Having regard to the above, the recommendation associated with this application is amended to read as follows:

Recommendation:

Approval subject to the removal of the holding direction from the Welsh Government and subject to the following Conditions and a revised Legal Agreement to secure an acceptable programme of prioritised works and the ring fencing of money within the restoration fund to enable the delivery of this programme and to secure its aftercare.

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SECTION A – MATTERS FOR DECISION

Planning Applications Recommended For Approval

<u>APPLICATION NO:</u> P2014/1122	<u>DATE:</u> 18/02/2015
PROPOSAL:	Outline residential development consisting of 41 dwellings including details of access and demolition of the existing buildings
LOCATION:	Land Off Samuels Road, Cwmllynfell,
APPLICANT:	All Sites Development Co. Ltd.
TYPE:	Outline
WARD:	Cwmllynfell

Background information

The application has been called to Committee by Councillor Kristine Lloyd (Cwmllynfell), who considers there are many reasons for bringing the application to committee, noting that she has received many objections from local residents. Problems that would be made worse by this development relate to the number of dwellings, sewerage, unsuitability of Samuels road for amount of traffic predicted etc. However the main concern is in relation to the local primary school, its playground yards and the adjoining car park. She states that facilities there are inadequate for any influx of new pupils, classroom numbers and numbers of classrooms being of particular concern.

Councillor Arwyn Woolcock (Lower Brynamman), has reiterated the concerns of the community council, and also requested the application is brought to Committee due to local concerns over the impact on the character of the village, on sewerage and traffic generation, and given that the site is not allocated for development in the development Plan,

Planning History:

The site has the following relevant planning history:

- **P2006/0448** Residential development of 40 dwellings (including demolition of 8 and 9 Ochr y Waun Road and deletion of plots 27 and 16(Outline).
'Disposed' 26/03/14

At the Planning and Development Control Committee on 13th March 2007 (and following a Members' site visit), a resolution was made that planning permission should be granted subject to conditions, upon the signing of a Section 106 legal agreement which would include the following heads of terms:

- A commuted sum of £17,000 for the maintenance, improvement, upgrading or development works at the nearby children's play area.
- The construction and occupation of 8 dwellings, as affordable housing provision and agreement on their occupation and future re-sale and re-occupation.

The application, however, was never formally determined given that the required legal agreement was never signed by the applicant, with the application subsequently 'disposed of' in March 2014.

Publicity and Responses if applicable:

The application was publicised through display of site notice and local press advertisement, with 23 neighbouring properties also consulted.

In response, to date 17 letters of objection have been received which are summarised below:

Ground and Drainage

- a) Sewerage system will not take any further capacity and Welsh water have been out several times as it keeps blocking, which then needs to be pumped out.
- b) The applicant has marked No on the application form where it asks if they are proposing to dispose of foul sewerage.
- c) Concerns have been raised with surface water and drainage of the land, there are springs that emerge at the surface at various points, water continually flows from the land via culvert and pipes, any changes or blockages may cause flooding. Furthermore more hard surfaces will result in more run off.
- d) There is a pipe linked to a drainage ditch that runs alongside and underneath the outbuildings at 3 Harris Road and runs the length of the properties off Harris Road. The entry point of this system must be recognised and included in any development plans as neglecting maintenance will result in flooding on the properties on Harris Road.
- e) The site is a boggy marsh and unsuitable to build on. Properties would need a raft foundation.

Highways and Safety

- f) The road and access are not adequate to accommodate a development of this size and raises health and pedestrian safety issues and an accident waiting to happen.
- g) It is possible the applicant would seek a supplementary access point off Harris Road which in part is a single track lane with no pedestrian provision. Harris Road as an access via ochrywaun is unacceptable and is already traversed by HGV's that have collapsed drains and damaged walls in the past.
- h) The width of Samuels Road is too narrow for the building traffic as some houses have no garages and park on the road.
- i) The junction from Samuels Road onto Gwilym Road the main road 4068 is poor as it is. An additional 41 dwellings all with probably 2 cars per house would result in additional cars travelling up and down Samuels Road. This would cause a hazard on the junction as people do not adhere to the 30mph speed limit.
- j) The applicant states the development would generate additional traffic along Samuels road and the A4068 Gwilym road, but would have little impact on the existing road network due to the small increase in traffic which the objector disagrees with.
- k) The junction has been reviewed by the developer for possible improvements however with existing houses adjacent to the junction there would appear little opportunity to improve it.
- l) A similar application was proposed in 2006 (P2006/0484) the conclusion then relating to Samuels Road was that only 5 dwellings were allowed access owing to the problem and non-suitability of the junction on Samuels Road to the A4068 Gwilym Road.
- m) Noise generated from the increase of traffic would be unacceptable.
- n) There has been a long term weight restriction on Gwilym Road before Neath and Port Talbot came into existence because there are two bridges in its short length.
- o) In relation to LDP Highways Transportation Development (HTD) Part 3, design guidance relating to new residential site Section DG2 road layout. It expresses the point, that a visibility splay should be carried out, because there is a junction, bend and vertical crest involved with Samuels road. It seems that none of this has been carried out.
- p) It also states in HTD part 3 it is advisable to run a computerised tracking assessment of appropriate vehicles such as refuse lorries, fire engines, ambulances etc. with regard to parking problems, width of road and bend radii. If this was carried out the objector is sure you would not achieve a satisfactory result.

Trees

- q) Within the proposed development there are a number of protected and no protected trees and their felling would have an unacceptable detrimental impact upon the wildlife and the character and appearance of the area and existing residents should they be removed. And could also have a detrimental impact upon house prices.

Biodiversity and Ecology

- r) Concerns have been raised about the wildlife which consists of a diverse variety of species. They are already impacted upon by the open cast working to the West of the site which pushes wildlife further East. This development would further disturb and destroy them.

Density of Development

- s) The proposed development lies within an area of low density housing, the proposed development would be high density housing and therefore would not be in keeping with the character of the area contrary to NPT policies. There is little scope for landscaping and constitutes overdevelopment.

Impact upon local Facilities

- t) The Doctors surgery can't take any additional patients. At present patients on average wait between 3 to 5 weeks for an appointment.
- u) The Local Primary school is full and cannot accommodate any more children.
- v) The Dentists within the area are full and cannot take any new patients.

Overlooking and Privacy

- w) Concerns have been raised in relation to overlooking and loss of privacy from the development.

Other General comments

- x) Not all neighbours on Samuels Road received letters relating to the proposed development.
- y) The construction phase of the development would cause a mess, odours, vibration and noise which would have an unacceptable impact on existing residents. Furthermore they have already been subject to years of disturbance from the open cast within the area.
- z) 41 new dwellings in an existing community would increase the crime rate in an area where drug use is prolific and the police already stretched.

- aa) An objector has advised that they were advised that they could only build a bungalow, and how can a large firm build houses next to a bungalow (17 Samuels Road)
- bb) A similar application was proposed in 2006 (P2006/0484) raised the above points and was part of its refusal amongst other points raised.
- cc) The villages of Rhiwfawr and Cwmllynfell and deemed a high risk fire area by the fire and rescue service because an appliance is not guaranteed to arrive at the scene of a fire in the minimum time set by the Welsh Government of 12mins.
- dd) In relation to NPTCBC LDP Vol 4 alternative sites, the present site does not fall in the LDP's strategy. The majority of large housing sites are in the coastal corridor strategy area, along with Pontardawe and the upper Neath valley as growth points. In the valleys it also states that these two valley growth areas are supported and supplemented by other settlements identified as "settlement hierarchy". Within the settlement hierarchy Cwmllynfell has been classified as a small local centre and therefore can only provide limited potential to accommodate new development.

A letter has also been received from **Gwenda Thomas AM** for Neath. The letter reiterates the concerns of one of her constituents.

Cilybebyll Community Council: Object in relation to the scale of development, sewerage and other services, traffic and the site not being allocated. These points have been raised by residents in the above section which have been addressed thorough the report.

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

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

Welsh Water: No objection subject to condition

Arboricultural Officer: No objection

Natural Resources Wales: No objection subject to conditions

Biodiversity Unit: No objection subject to mitigation

Coal Authority: No objection subject to condition

Play: Advises that the development could have a significant impact upon play facilities and requests the developer contribute to provide for play opportunities

Housing: Housing originally requested 20% contribution towards affordable housing, however the LDP has now been adopted and this is a valley strategy area and no contribution is required.

Crime Prevention Design Advisor: Raises matters of security and general crime awareness and prevention measures that should be considered in the detailed design of the development (reserved matters stage). The reserved matters application will also be inspected by the crime prevention design advisor.

Description of Site and its Surroundings:

The application site comprises an existing farm located between Harris Road and Samuels Road, Cwmllynfell, which occupies an area of approximately 1.43 Hectares.

The site is currently occupied by a farm house known as 6/7 Harris Road, a number of farm buildings and agricultural land. The site has a frontage of 56 metres onto Harris Road and an existing vehicular access off Samuels Road. The land slopes steadily from Samuels Road up to Ochr y Waun. The site is surrounded by residential properties.

Brief description of proposal:

This is an application for outline planning permission, but including details of access (with all other matters reserved) for the development of up to 41 No. residential units. The application also seeks outline permission to demolish the existing farm house.

Given that this is an outline application, it seeks to establish the principle of the proposed development on the site and as such sets out the parameters to be followed in further detailed applications (reserved matters). Therefore, the applicant, as required on all outline planning applications, has submitted scale parameters of development which include maximum and minimum length, width and heights, together with the uses and amount of development within each part of the site. These indicate that in terms of scale, the housing is largely proposed to be 2 storeys in height which is broadly in line with the local context. A mix of detached, semi-detached, and terraced dwellings

In terms of scale parameters, the dimensions of the houses will correspond to the following:

House Type	Maximum Parameters (width x length x ridge height)	Minimum Parameters (width x length x ridge height)	House Nos.
A	7.5 x 8.5 x 8.5	7.0 x 8.0 x 7.5	8, 11, 12, 15, 16, 17, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 40, 41
B	5.5 x 8.5 x 8.5	5.0 x 8.0 x 7.5	1, 7, 32, 33, 37, 38, 39
C	4.5 x 8.5 x 8.5	4.0 x 8.0 x 7.5	2, 3, 4, 5, 6, 34, 35, 36
D	8.5 x 8.5 x 8.5	8.0 x 8.0 x 7.5	9, 10, 13, 14, 18, 20

Access to the site will be off Samuels Road. The development will incorporate a loop system and a narrowing of the road at the entrance to proposed development to act as a traffic calming measure.

As this is an outline application, there are no details of external finishes or appearance and layout provided only gives an indicative indication of the larger parameters, in order for the Planning Authority to consider the potential acceptability of the proposals and the potential impacts of the scale of development having regard to the potential worst case scenarios.

EIA Screening/Scoping Opinion & Habitat Regulations:

With regards to Environmental Impact Assessment the proposal is of a type that requires a decision as to whether an Environmental Impact Assessment needs to accompany the application. This is called a 'Screening Opinion'. A screening opinion has been undertaken and it was concluded that the development was not likely to have significant effects on the environment by virtue of factors such as nature, size or location. As such, these matters can be fully assessed and considered as part of the usual application process, with the relevant supporting documentation and therefore the development was not considered to be EIA development.

Material Considerations:

The main issues in the consideration of the application are the principle of the proposed development having regard to development plan policy, along with the impact upon the character and appearance of the surrounding area, residential amenity, highway safety, drainage and ecology.

Policy Context:

National Policy - Planning Policy Wales (Edition 8 2016)

The main thrust of Planning Policy Wales is to promote sustainable development by ensuring the planning system can provide for an adequate and continuous supply of land, available and suitable for development to meet the needs of society that is consistent with the overall sustainability principles.

In particular it seeks to promote resource efficient settlement patterns that minimise land take and urban sprawl, locate developments so as to minimise the demand for travel, ensure that all communities have good quality housing for their needs, promote access to shopping, education, employment, health, community, leisure and sports facilities and open space.

Paragraph 9.3.1 states *“New housing developments should be well integrated with and connected to the existing patterns of settlements.”*

Local Planning Authorities should ensure that the proposed developments should not have an unacceptable impact upon the character and amenity of an area. Sites with higher densities can help to conserve land resources, and adverse effects can be overcome by sensitive design and good landscaping.

Further advice contained in paragraphs 9.3.3 and 9.3.4 warn that insensitive, infilling or the cumulative effects of development should not be allowed to damage an area's character and amenity. In determining applications local planning authorities should ensure that the proposed development does not damage an area's character and amenity.

National Guidance

The following Technical Advice notes are also of relevance

- Technical Advice Note 5: Nature Conservation and Planning
- Technical Advice Note 12: Design
- Technical Advice Note 18: Transport

Local Policy

The Development Plan comprises the Neath Port Talbot County Borough Council Local Development Plan (2011 – 2026) (LDP) which was adopted in January 2016 and within which the following policies are of relevance: -

Strategic Policies

Policy SP3	Sustainable communities
Policy SP4	Infrastructure
Policy SP7	Housing Requirement
Policy SP8	Affordable Housing
Policy SP10	Open Space
Policy SP15	Biodiversity and Geodiversity
Policy SP16	Environmental Protection
Policy SP20	Transport Network
Policy SP21	Built Environment and Historic Heritage
Policy SP22	Welsh language

Topic based Policies

Policy SC1	Settlement limits
Policy I1	Infrastructure
Policy H1	Housing
Policy AH1	Affordable Housing
Policy OS1	Open Space provision
Policy EN6	Important Biodiversity and Geodiversity Sites
Policy EN7	Important Natural Features
Policy EN8	Pollution and Land Stability
Policy TR2	Design and Access of New development
Policy BE1	Design
Policy WL1	Development in Language sensitive areas

Principle of Development

Strategic Policy SP 3 Sustainable Communities states *“The delivery of Sustainable healthy and cohesive communities and the conservation of the countryside will be promoted”*, with Policy SC1 - Settlement Limits – stating that *“Development within settlement limits that is proportionate in scale and form to the role and function of the settlement as set out in the settlement hierarchy will be acceptable in principle.”*

The LDP Settlement Hierarchy underpins the Development Strategy and is considered to be fundamental in addressing the issues facing the County Borough. The Council's overarching aim is to deliver strengthened communities that will make Neath Port Talbot a more vibrant, community focussed and sustainable place with better opportunities for all.

The identification of a Settlement Hierarchy has been used to provide a balanced approach to managing growth, directing development to areas reflecting the attributes contained within that community and their ability to accommodate growth. As well as assessing the role and function of settlements, the Council assessed the capacity of land within settlements to accommodate development and also considered the potential opportunities for settlement expansion. The settlement limits identified in the Deposit Plan provide clarity of where development may be directed.

The settlement of Cwmllynfell is identified as a small local centre, as the settlement offers a good range of services and facilities including a Primary School, GP surgery and shops. As a result of the range of facilities, it has been designated to allow some new development, albeit more limited development than other areas.

The proposed development at Samuels Road, is located within the residential settlement for Cwmllynfell as defined by the LDP and it is considered that it is of an appropriate scale to meet the settlement hierarchy. It therefore comprises an infill site where the general principle of a residential development within settlements on this site is generally acceptable subject to an assessment of the acceptability in terms of other policies within the LDP.

Having regard to the above, it is also noted that a resolution has previously been made at Committee in March 2007 that the principle of residential development is acceptable such resolution subject to

conditions and the signing of a Section 106 legal agreement (albeit such consent was never issued due to the legal agreement never being signed).

Finally, to meet the economic-led growth strategy of 7,800 new dwellings over the period 2011-2026 the LDP makes provision for 8,760 new homes (Policy SP7). Whilst the site is not identified as a housing allocation in Policy H1, it is anticipated that 825 of the 8,760 dwellings will be built on windfall sites, which are sites that may unexpectedly become available over the plan period. The site is therefore considered to be a windfall site that will help to meet the plan's housing requirement.

Affordable Housing Provision:

With regards to affordable housing the application site lies within Cwmllynfell which is located within the valley areas, wherein Affordable Housing **Policy AH1** includes no requirement for affordable housing. This is based on the Viability study undertaken by the Council in 2012, which found that the valley areas did not support the provision of affordable housing. As such no contribution is required for this development.

Visual Amenity:

Strategic Policy SP21 seeks to conserve and enhance the built environment and historic heritage, with Policy BE 1 - Design – expecting all development proposals to demonstrate high quality design which fully takes into account the natural, historic and built environmental context and contributes to the creation of attractive, sustainable places. The Policy then provides the following criteria which need to be met where relevant: -

- 1. It complements and enhances the character and appearance of the site, building or area in terms of siting, appearance, scale, height, massing and elevation treatment;*
- 2. It respects the context of the site and its place within the local landscape, including its impact on the important arterial gateways into the County Borough, its effects on townscape and the local historic and cultural heritage and it takes account of the site topography and prominent skylines or ridges;*
- 3. It utilises materials appropriate to its surroundings and incorporates hard and soft landscaping and screening where appropriate;*

4. *It would not have a significant adverse impact on highway safety, the amenity of occupiers of adjacent land or the community;*
5. *Important local features (including buildings, amenity areas, green spaces and green infrastructure, biodiversity and ecological connectivity) are retained and enhanced as far as possible;*
6. *It achieves and creates attractive, safe places and public spaces, taking account of 'Secured by Design' principles (including where appropriate natural surveillance, visibility, well lit environments and areas of public movement);*
7. *It plays a full role in achieving and enhancing an integrated transport and communications network promoting the interests of pedestrians, cyclists and public transport and ensures linkages with the existing surrounding community;*
8. *It uses resources, including land and energy, as efficiently as possible through:*
 - (a) *Making the best and most efficient use of the land available through being of appropriate density taking into account the character and appearance of the area, normally a minimum of 35 dwellings per hectare in the Coastal Corridor Strategy Area or a minimum of 30 dwellings per hectare in the Valleys Strategy Area;*
 - (b) *The layout and form of the development does not preclude the reasonable use of other adjacent land;*
 - (c) *Developing brownfield land in preference to greenfield land where possible;*
 - (d) *Minimising building exposure while maximising solar gain.*
9. *Its drainage systems are designed to limit surface water run-of and flood risk and prevent pollution;*
10. *The layout and design of the development achieves inclusive design by ensuring barrier free environments, allowing access by all and making full provision for people with disabilities.*

As this is an outline application, detailed plans have not been submitted in support of this application. Should outline planning permission be granted, the details associated with the design, finishes and landscaping will be submitted at reserved matters stage. Nevertheless the illustrative site plan together with the parameters indicate that the site is capable of accommodating a development which will satisfactorily safeguard the character and appearance of the surrounding area.

In relation to density, Criterion 8(a) above states that “normally a minimum of 30 dwellings per hectare in the Valleys Strategy Area” will be required. The site has an area of 1.43 hectares which equates to approximately 32.8 dwellings per hectare (gross dph) which accords with that element of the Policy. While it has been argued by objector(s) that the site lies in an area of low density housing, and that the

development would not be in keeping with the character of the area, it is considered that the development would be making best use of available land in line with Policy BE1, with the indicative layout showing plot sizes and open space which would not be out of keeping with the character and appearance of the existing surrounding area.

Residential Amenity:

The development parameters set out the scope of the proposal, and limit any future reserved matters to these limitations. The illustrative plan indicates that distances between the proposed dwellings and the side elevations 14 Samuels Road and Brindley House would be approximately 9m, between 11m and 7m to the side of 17 Samuels road, 6m to the side of 64 Heol Y Coedcae, 11m to the side of 5 Harris Road and 15m to the side of 9 Gynol Road. All of the other proposed dwellings are in excess of 20m away from any existing dwelling. In addition to this the parameters show the maximum height of any dwelling to be 8.5m.

Although plot layout and design of dwellings, including the location of any windows, would be considered in detail under any subsequent reserved matters application, it is considered that the illustrative layout indicates that the site can be developed for 41 houses without any unacceptable detrimental impact upon amenity of existing occupiers, nor would it impact upon the amenities of future residents.

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

As detailed above, the proposal is in outline and proposes the erection of 41 units, which consist of a mix of detached, semi-detached and terraced, dwellings. The proposal will be accessed off Samuels Road, which is accessed off the A4068, and the applicant has submitted a Transport Statement to assess the proposed development.

The indicative layout illustrates 41 dwellings based upon a looped road system and two cul-de-sacs. The entrance to the new development will be built out to act as a traffic calming measure.

Indicative gradients of the site show how the dwellings and road would be graded sloping from the North to South with a slope 1 on 14 (on average). The road will be 6.0m wide with a 1.8m wide footway on both sides designed to Local Highway Authority Standards. The road layout has been designed to enable refuse vehicles and emergency services

to enter and leave the site in a forward gear. The build out detail shows the road narrowing to 3.7m with a 1.7m wide footway. Bollards are also proposed either side of the reduction.

The Head of Engineering and Transport (Highways Section) has considered the impact of the development on the existing highway network and traffic generation together with the acceptability of the proposed layout of the development and offers no objection to the proposal, subject to the imposition of conditions.

In addition, it is noted that the Highways officer has considered the local highway objections, and advises as follows: -:

- It is agreed that Harris Road would be unsuitable based upon its varied width for vehicles and pedestrians. However this is not being considered at this stage, with the access to this site off Samuels road. (Point G)
- There are no objections to the width of Samuels Road to serve the development. There are 22 existing dwellings currently within Samuels Road, 21 dwellings have driveways and 12 of which have both garages and drives, therefore indicating that there is more than enough provision of off street car parking if the residents choose to park their car safely off the highway. (Point H)
- An assessment and speed survey was undertaken on the junction. Average speed (85th percentile) recorded was 28.6 mph which under manual for streets requires a visibility splay of 2.4 metres by 46 metres in both directions. A survey was undertaken on site and found that these visibility splays can be achieved. (Points I and O)
- the development has been assessed with a TRICS package which is design to assess the saturation levels of any junction. This process was undertaken for this project and included the proposed 41 dwellings and the existing 22 properties, the results for am and pm peak times traffic trips on an average day for both is as follows: AM arrivals 21, departures 54 (total 75 trip in the morning), and PM arrivals 43, departures 25 (total 68 trips in the evening at peak times). Whilst we agree there will be an increase in traffic trips the Transport Statement proves there will be no significant impact and is below saturation levels. (Point J)

- No additional works are required to the junction. (Point K),
- The 2006 application was for outline only and therefore no significant junction analysis together with a speed survey was undertaken, but having now fully assessed the junction it was found that the additional works are not required. (Point I)
- While noise is not a highways safety issue, the noise generated by traffic would not be considered to be unacceptable. The site is located within settlement limits where people would expect a certain amount of noise generated from traffic. (Point M)
- The highways Officer has advised that this is correct however would not be applicable to this application. (Point N)
- The existing highway (Samuels Road) varies in width from 5.5 metres to 6.1metres. The minimum width of a carriageway should be 5.5 metres to allow two vehicles such as refuse, emergency vehicles to pass without conflict. A survey was also undertaken where the highways authority measured the width of carriageway intermittently and again the highway was found to have sufficient width that a swept path analysis (or Auto Track Analysis) was not required. (Point P)

Taking into consideration all of the above it is considered that the proposed development would be acceptable in terms of highway and pedestrian safety.

Drainage:

The Local Authority's Drainage Officer, Welsh Water and NRW have all been consulted as part of this application and have no objection to the proposal subject to conditions as detailed in the following sections:

Foul Water

The Head of engineering and Transport (Drainage) has no objection to the proposal in terms of foul water drainage, they have made several standard recommendations which have been incorporated into suitably worded conditions

Natural Resources Wales (NRW) offers no objection to the proposal, they do however acknowledge that this is an outline application and no

details of foul drainage have been provided. They have advised that the site is within the catchment of Ystragynlais public sewer. They have advised that in accordance with circular 10/99 the development should connect to the public foul sewer. NRW have advised they would not support any proposal to utilise a private sewer in this location. As this application is outline NRW have recommended a scheme to dispose foul water is submitted. This can be imposed via a suitably worded condition to be submitted as part of the first reserved matters application.

NRW have also advised that Welsh water should be contacted to ensure there is sufficient hydraulic and biological capacity available in the system to accommodate additional flows.

Welsh Water have been consulted as part of this application and have advised that they have no objection to the proposal and have advised that they envisage no problems with the Waste Water Treatment Works for the treatment of domestic discharges from this site. They have requested standard conditions relating to drainage both foul and surface water which can be imposed via suitably worded conditions. They have also advised that a sewer runs through the site. The applicant will be made aware of this via an informative as this would affect 2 plots (30 and 41) and the applicant would need to make the necessary agreements with Welsh Water.

Surface Water

NRW have advised that to fulfil the requirements of Section 8.5 of the Welsh Government's Technical Advice Note 15 (TAN 15), the applicant should ensure surface water run-off is dealt with by way of a Sustainable Drainage System (SUDS), to attenuate flows and prevent an increased risk of flooding within the catchment. NRW have provided the applicant with details on where to get more advice on SUDS. This can be imposed via an informative

If good reason can be given why SUDS cannot be implemented within a development site, any conventional drainage system installed should provide attenuation to reduce peak rates of run-off and also demonstrate an improvement on the status quo prior to discharge to a watercourse.

They have also noted that any surface water management system implemented should be designed to ensure there is no increase in

surface water run-off from the site in all events up to and including the 1% (1:100 year) storm with an appropriate allowance for climate change. As this application is Outline no details of drainage have been submitted, as such the Local Authority's Drainage Officer, Welsh Water and NRW have recommended a condition requiring a comprehensive drainage scheme to show how surface water can be dealt with.

Although there have been a number of objections raised relating to drainage (points a – e above), having regard to the responses above, and the fact that this is an outline application, it is concluded that there are no reasons to object to the development on drainage grounds, and that the comprehensive drainage scheme would illustrate how foul and surface water will be dealt with, which will also ensure that any adjoining land is not adversely affected.

The application is therefore considered to be acceptable in terms of drainage.

Ground Conditions (including land contamination and mining)

The application is within a high risk coal area, and accordingly the applicant submitted a coal mining report followed by a coal mining risk assessment desk study report.

The Coal Authority was consulted and concurs with the recommendations of the Desk Based Study Report; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site.

The Coal Authority has therefore recommended that a Planning Condition is imposed should planning permission be granted for the proposed development requiring these site investigation works prior to commencement of development.

They have also advised that in the event that the site investigations confirm the need for remedial works to treat the areas of shallow mine workings to ensure the safety and stability of the proposed development, this should also be conditioned to ensure that any remedial works identified by the site investigation are undertaken prior

to commencement of the development. Both these recommendations have been incorporated into suitably worded conditions

NRW have also recommended that a condition in relation to a pollution prevention management plan detailing all necessary pollution prevention measures for the construction phase of the development is submitted. This can be imposed via a condition as part of the first reserved matters application. They have also advised if any unaccepted contaminants are found then work should stop. This again is imposed via a condition.

The application is therefore considered acceptable in terms of any possible ground conditions.

Waste

Policy W3 - Waste Management in New Development – requires proposals for new built development to demonstrate that provision is made for the design, layout, storage and management of the waste generated by the development both during the construction phase and occupation. This development, however, does not exceed the threshold for residential development (50 dwellings) where a Site Waste Management Plan is required to be produced.

Natural Resources Wales has provided general advice in respect of the waste hierarchy; controlled waste and the Duty of Care Regulations for any off-site movements of wastes; contaminated material; Environmental Permitting Regulations and Japanese Knotweed.

Ecology:

Policy EN 6 - Important Biodiversity and Geodiversity Sites – states that development proposals that would affect Regionally Important Geodiversity Sites (RIGS), Local Nature Reserves (LNRs), Sites of Interest for Nature Conservation (SINCs), sites meeting SINC criteria or sites supporting Local Biodiversity Action Plan (LBAP) or S42 habitats or species will only be permitted where:

1. They conserve and where possible enhance the natural heritage importance of the site; or
2. The development could not reasonably be located elsewhere, and the benefits of the development outweigh the natural heritage importance of the site.

Mitigation and/or compensation measures will need to be agreed where adverse effects are unavoidable.

As part of the application the applicant has provided an Ecological Survey and assessment, a bat and Owl survey and a mitigation statement with reptile clearance method statement and tree report. This has been assessed within each section of the following chapter

Species

Natural Resources Wales have advised that if protected species are encountered on site, development shall cease until NRW are contacted on how to proceed, this can be imposed via a suitably worded condition.

The local Authority's Biodiversity Officer has advised that the reptiles on site will be cleared in accordance with the Reptiles accordance with the Mitigation set out within the Reptile Clearance Method Statement submitted August 2015. This can be imposed via a suitably worded condition.

They have also advised that proposals will remove potential bird nesting/foraging habitats which must be mitigated for under the Habitat Regulations (amended 2012) and have recommended that all new buildings should include artificial nesting sites for birds. A condition can be imposed to ensure this is implemented

Habitat

The proposals would result in the loss of around 1 hectare of Purple Moor-grass and Rush Pasture which is a Section 42 habitat.

Having regard to the conclusions above in respect to the principle of development, it is considered that the development could not reasonably be located elsewhere, and the benefits of the development outweigh such impacts provided mitigation and compensation measures are agreed. Accordingly, agreement has been reached for the applicant to pay NPTCBC to manage land (a degraded bog habitat) within its ownership to the south east of the proposed site for 15 years. This will involve the following costs:

- Fencing supply and erect £3500 (500m length of fence)
- Gate supply and fitted £500 (2 gates)

- Annual maintenance costs of £200 pa, £3000 for whole 15 years
- 2 days of officer time per year £640 pa, £9600 for whole 15 years.

This will increase the biodiversity resource in the area. The site will be grazed by 2 Section A types (e.g. Shetland) for 2 weeks-1month in dry conditions. This is the appropriate stocking density for the bog habitat found on site. The 2 days of officer time per year will involve finding and negotiating with grazers and monitoring the site. The proposed turning area to the south east of the site will be extended by the applicant to become an access point into the NPTCBC land.

It is considered that providing the above mitigation is put in place that the application would be acceptable in principle. As such this mitigation is required as part of a s106 agreement

The biodiversity Officer has also advised that no site/vegetation clearance/demolition should take place between 1st March to 31st July inclusive to minimise the potential for nesting birds to be disturbed as they are protected by law. This can be imposed via an informative.

Trees

Policy EN 7 - Important Natural Features – states that development proposals that would adversely affect ecologically or visually important natural features such as trees, woodlands, hedgerows / field boundaries, watercourses or ponds will only be permitted where:

1. Full account has been taken of the relevant features in the design of the development, with measures put in place to ensure that they are retained and protected wherever possible; or
2. The biodiversity value and role of the relevant feature has been taken into account and where removal is unavoidable, mitigation measures are agreed.

The applicant submitted a tree survey as part of the application, which identified a number of trees on site worthy of protection. A Tree Preservation Order (2015 No. 1) has since been made on the better quality trees.

Whilst it is inevitable some trees will be lost as part of the development, the majority and better specimens will therefore be retained, while a landscaping scheme will also be imposed via a condition which will

detail new tree planting. The Local Authority's Arboriculturist has no objection to the proposal subject to the protection of these trees.

It is therefore considered that the proposed development would not have any unacceptable impact in relation to Ecology and Biodiversity

Section 106 Planning Obligations:

The Community Infrastructure Levy Regulations 2010 came into force on 6th April 2010 in England and Wales. They introduced limitations on the use of planning obligations (Reg. 122 refers). As of 6th April 2010, a planning obligation may only legally constitute a reason for granting planning permission if it is:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

LDP Policy SP4 - Infrastructure - requires developments to make efficient use of existing infrastructure and where required make adequate provision for new infrastructure, ensuring that there are no detrimental effects on the area and community. Where necessary, Planning Obligations will be sought to ensure that the effects of developments are fully addressed in order to make the development acceptable.

Policy I1 - Infrastructure Requirements - states that "In addition to infrastructure improvements necessary to make a development acceptable in health, safety and amenity terms, additional works or funding may be required to ensure that, where appropriate, the impact of new development is mitigated".

"These requirements will include consideration of and appropriate provision for:

- Affordable housing;
- Open space and recreation facilities;
- Welsh language infrastructure (in Language Sensitive Areas);
- Community facilities including community hubs;
- Biodiversity, environmental and conservation interests;

- Improving access to facilities and services including the provision of walking and
- cycling routes;
- Historic and built environment and public realm improvements;
- Community and public transport;
- Education and training.”

To support the above Policies, the Council has recently gone out to public consultation on a draft ‘Planning Obligations’ SPG, which sets out the approach and procedures the Council will apply where developers are expected to pay for, or contribute to, improvements to infrastructure that would be necessary as a result of development. At this stage, however, while the SPG informs the assessment below, the weight that may be attributed to it is limited.

Assessment:

As detailed above, the proposal relates to an outline planning application for the development of the site development of up to 41 no. residential units.

Having considered the nature and scale of the development, the local circumstances and needs arising from the development, and what it is reasonable to expect the developer to provide in light of the relevant national and local planning policies, the planning obligations referred to below are considered necessary.

The required contributions include:-

Public Open Space (POS)

In respect of the provision of open space to serve this development **Policy OS1** indicates that where there is a quantitative deficiency in outdoor sport, children’s play, informal space or allotment provision, provision will be sought, including the requirement for maintenance, in conjunction with all new residential developments of 3 or more dwellings.

Evidence from the Open Space Assessment undertaken by the Local Planning Authority shows that there is an existing shortfall in pitch sport, non-pitch sport, children’s play and allotments. The increase in population arising from the proposed development would add to the

identified shortfall within the ward, and accordingly there is a need for the development to contribute towards addressing such deficiency.

The Public Open Space requirement that the site will generate is as follows:

- Pitch sport 1080 sq.m.
- Non pitch sport 423 sq.m.
- Children’s play 235 sq.m.
- Allotments 179 sq.m.
- Informal open space 516 sq.m. *

* There is an existing overprovision in the ward, and this would remain after development, as a result there is no policy requirement for informal open space, however there will be some on site informal provision.

This breaks down to the following financial contributions:

- Pitch sport £11,671.94
 - Non pitch sport £42,250.50
 - Children’s play £35,208.75
 - Allotments £1,942.48
 - Informal open space £0.00
- Total **£91,073.67**

The applicant has been made aware of this requirement, and agreed to such financial contribution as part of the Section 106 Agreement. Open space provision is intended to be provided for on Heol y Coed Cae, with allotment provision to be determined within the wider Swansea Valley Spatial area.

Subject to the Section 106 agreement, the development would accord with Policy OS1 of the adopted LDP.

Welsh Language Impact

In respect of the impact on the Welsh language, **Policy SP22** states that the Welsh language will be safeguarded and promoted. In this regard, **Policy WL1** requires development in Language Sensitive Areas to provide a Welsh Language Action Plan (WLAP), setting out the measures to be taken to protect, promote and enhance the Welsh language.

There is therefore a need to mitigate any negative effects from new development through:

- Supporting the use of the language in the local community; and
- Helping residents of new housing and people who work in new retail, commercial and industrial developments to learn and use the language to offer a Welsh medium service to the public and to create opportunities in work to use the language.

The submitted WLAP has been reviewed by the Local Authority's Policy Section, and it is noted that as part of the measures proposed the applicant is prepared to offer a financial contribution to promote these services – be it through 'Menter Iaith CNPT' or through the activities arranged by the Welsh language organisation, 'Yr Urdd'.

In this respect, a Financial Contribution has been agreed with the Developers of £20,500 (£500 per unit to cover 3 years) towards the mitigating against the impact on the Welsh language. This would need to be agreed and would be likely to cover such things as bilingual site signage, welcome packs (placing the language in its context and setting out the local Welsh language provision) and use on Strategic projects to help increase Welsh usage in the community and protect, promote and enhance the Language.

Education

New housing can place added strain upon existing educational infrastructure and it is therefore appropriate that proposals for residential development are assessed in this context.

Planning obligations are only sought where it is expected that a proposed housing development will generate additional demand for school places and/or place added strain on existing school facilities. In this context planning obligations may be sought where it can be demonstrated that the existing infrastructure would require additional investment to upgrade a facility or facilities to adequately cater for the educational needs of additional pupils even though spare capacity may exist.

Accordingly discussion has taken place between planning and education departments to determine the existing level of educational

provision, both English and Welsh language medium education, and the potential need arising from the development proposal.

The advice received is that the local primary school, YGG Cwmllynfell (YGGC), is a Welsh-medium school serving the villages of Cwmllynfell and Rhiwfawr. YGGC is full and has no surplus accommodation; as such, a developer contribution is sought should it be necessary to provide for additional pupils. Tairgwaith Primary is an English-medium school which has been designated the catchment area school for those parents who do not wish their child to be educated through the medium of Welsh. Tairgwaith is some 5 miles away, and because of this the Council is required to provide home to school transport for pupils to attend there. Both YGGC and Tairgwaith Primary are NPT schools.

In this particular case it has been determined that the size of the development would result in a shortfall of 9 (8.61) spaces, with a financial contribution of £69,741.00 agreed, which in discussion with education would be spent on local primary school provision. The applicant has been made aware of this requirement, which will be secured as part of the S106 Agreement.

In relation to secondary education, both the 3-18 WM school (north campus at Ystalyfera) and Cwmtawe Comp would be able to accommodate the additional pupils, such that there is no requirement for a financial contribution.

Other (including objections):

While the majority of matters raised in local objections have been addressed in the above assessment, the following additional comments are made in relation to the remainder of the objectors responses:

- The doctors surgery and dentist capacity and waiting times to get a doctor's appointment is not a material planning consideration. Points (t) and (v).
- The publicity for the application was undertaken in accordance with the Local Authority's adopted procedures. In this case all adjoining neighbours were written to, site notices were erected on site and the application was advertised in the local press. Point (x)
- Any new development would have a level of noise and disturbance, however these works would only be temporary and

not have any long term unacceptable impacts in relation to residential amenity and highway safety. Whilst residents express their concerns with the disturbance they currently experience for the open cast within the area, this is not a reason to refuse a planning application. Point (y)

- The Crime Prevention Design Advisor from South Wales Police has advised that they are happy with the overall layout and have made recommendations the developer can use at the reserved matters stage which will help design out crime. In relation to the police already being stretched, this is not a material planning consideration. Point (z).
- The Local planning Authority are unable to confirm what was said at the objectors application in terms of the design of the dwelling. It should be noted that each application is determined on its own individual merits. As this application is outline the design and style of each dwelling is not being considered. However it is considered that an appropriate styled and designed dwellings could be achieved, which would be fully assessed during the reserved matters application. Point (aa)
- The time the emergency services take to arrive at a site is not a material planning consideration. point (cc)
- The site at Samuels Road was not contained within Volume 4 consultation report (Alternative Sites), as those report contained sites that were subject to objection during the Deposit Plan Consultation. No objections were received for the inclusion of the site within settlement limits. Point (dd),

Conclusion:

The proposed development is located within the residential settlement for Cwmllynfell as defined by the LDP, is of an appropriate scale to meet the LDP settlement hierarchy, and comprises an infill site where the general principle of a residential development is generally acceptable. The access to the site is considered to have no adverse impact on highway safety and, subject to detailed design at reserved matters stage, it is concluded that there would be no detrimental impact upon the character and appearance of the surrounding area, the residential amenity of the neighbouring dwellings. Accordingly, subject to the imposition of suitable conditions and a Section 106 legal

agreement covering the required contributions in respect of open space, education, welsh language impact and biodiversity mitigation, the proposed development is in accordance with Policies SP3, SP4, SP7, SP8, SP10, SP15 SP16, SP20, SP21, SP22, SC1, H1, AH1, OS1, EN6, EN7, EN8, TR2, BE1 WL1 and I1 of the Neath Port Talbot Local Development Plan.

RECOMMENDATION:

Approval subject to conditions and to the signing of a Section 106 legal agreement to seek financial contributions related to the following Heads of Terms:-

- £69,741.00 towards education provision
- £20,500 to protect, promote and enhance the Welsh language.
- £91,073.67 towards public open space provision
- £16,600 in respect of biodiversity mitigation

CONDITIONS

Time Limit Conditions

(1)Approval of the details of the layout, scale and appearance of the building(s), and the landscaping of the site (hereinafter called the reserved matters) shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason

The application was made for outline planning permission.

(2)Plans and particulars of the reserved matters referred to in Condition 1 above, relating to the layout, scale and appearance of any buildings to be erected, and the landscaping of the site, shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

Reason

The application was made for outline planning permission.

(3)Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

Reason

To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

(4) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of the approval of the last of the reserved matters to be approved, whichever is the later.

Reason

To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

Approved Plans

(5) The development shall be carried out in accordance with the following plans and documents:

CS/70327/FD/100 Location Plan.

CG/5867/03/103 Rev A Proposed site Layout.

CG/5367/03/102 Rev B Proposed road narrowing build out.

077 A-00-102 Indicative site Sections.

Email dated 1st October from Rhian Lees DPP detailing parameters of development.

Design and Access Statement by DPP dated Nov 2014.

Ecological Survey & Assessment by Barry Stewart & Associates Dated Nov 2014.

Mitigation with reptile clearance method statement by Barry Stewart dated Aug 2015.

Bat and Owl Survey by Rob Colley Dated Jul/Aug 2014.

Welsh Language Action Plan by DPP dated April 2016.

Tree Report by Cedarwood Tree Care dated Nov 2014.

Coal Authority non residential mining report dated Dec 2014.

Coal mining risk assessment desk study report by Terrafirma Dated April 2015.

Transport Assessment by Capita dated October 2014.

Reason

In the interest of clarity

Pre-Commencement Conditions

(6) As part of the first reserved matters application a scheme for the comprehensive and integrated drainage of the site showing how foul water, surface water and land drainage will be dealt with, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be informed by an assessment which shall be carried out of the site potential for disposing of surface water by means of a sustainable drainage system, with the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii) include a period for its implementation; and
- iii) provide a management and maintenance plan of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The scheme as agreed shall be fully implemented prior to the first beneficial use of the development.

Reason:

To ensure that effective drainage facilities are provided for the proposed development, and that no adverse impact occurs to the environment or the existing public sewerage system.

(7) As part of the first reserved matters a scheme for the temporary traffic management at the site entrance fronting No's 13 – 17 Samuels Road to prevent vehicular obstruction shall be submitted to and approved in writing by the Local Planning Authority. The scheme as approved shall be fully implemented prior to commencement of development on site, and retained in operation during the construction phase of the development until such time as the build out as approved on the 'Proposed Road Narrowing / Build out' Drawing No CG/5367/03/102 Rev B. has been completed.

Reason

In the interest of highway and pedestrian safety and to ensure the free flow of traffic during and post construction.

(8) No dwelling shall be occupied until such time as the build out detailed on Drawing No CG/5367/03/102 Rev B 'Proposed Road Narrowing / Build out' has been completed, and the build out shall thereafter be retained in accordance with the approved plans.

Reason

In the interest of highway and pedestrian safety

(9) No development shall commence, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the local planning Authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:

The statement shall provide for:

- a. the parking of vehicles of site operatives and visitors
- b. loading and unloading of plant and materials, and the routing of construction and delivery vehicles
- c. storage of plant and materials used in constructing the development
- d. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- e. wheel washing facilities
- f. measures to control the emission of dust and dirt during construction
- g. a scheme for recycling/disposing of waste resulting from demolition and construction works
- h. scheme for the erection of temporary/semi temporary signage warning drivers of the presence of children and speed restrictions.
- i. a demolition method statement including mitigation measures to minimise the impacts of the demolition upon noise and nuisance to adjoining properties.

The approved statement, schemes and mitigation shall be adhered to throughout the demolition and construction period of the development.

Reason

In the interest of highway and pedestrian safety

(10) As part of the first reserved matters application a scheme shall be submitted to and approved in writing to the local authority detailing the following ;

a) The submission of a scheme of intrusive site investigations to assess the potential risks from formal coal mining activity relevant to the risks associated with the proposed end use of the site.

b) The scheme of investigation, as approved by (a) shall be carried out , and the report of the findings, with full details of any remedial works to be undertaken, together with the timescales for these works, shall be submitted to the Local Planning Authority prior to the commencement of any development on the site.

c) If remedial works are identified in (b) these shall be fully carried out and completed in accordance with the timescales identified and approved.

Reason

To fully identify and implement the potential remedial works necessary from former mine workings or activity.

(11) As part of the first reserved matters application a scheme to address the impacts upon the Welsh Language shall be submitted to and approved in writing by the Local Planning Authority. The details shall be based upon the recommendations set out within Welsh language action plan submitted by DPP Planning dated April 2016. The scheme as approved shall be fully implemented prior to the first beneficial use of any dwelling, or any other timeframe as approved as part of the scheme.

Reason

To ensure Welsh language is safeguarded and promoted

(12) Prior to the commencement of development, including site clearance, the reptile mitigation shall be implemented in accordance with the methodology and timescales set out within the "Mitigation with Reptile clearance method statement by Barry Stewart and Associates dated August 2015"

Reason

In the interest of protected species, and biodiversity.

(13) As part of the first reserved matters application a scheme for landscaping, which shall contain a majority of native and/or wildlife friendly species, including indications of all existing trees and hedgerows on the land, and details of any to be retained, taking into account potential growth, together with measures for their protection in the course of development shall be submitted to and agreed in writing with the Local Planning Authority. The approved scheme shall be carried out in the first planting season after completion of the development or its occupation, whichever is the sooner and any trees or plants which within a period of five years are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and the same species, unless the local planning authority gives written consent to any variation.

Reason

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

(14) As part of the first reserved matters application a pollution prevention management plan detailing all necessary pollution prevention measures for the construction phase of the development shall be submitted to and approved in writing by the Local Planning Authority. The details of the plan shall be implemented as approved and must be efficiently communicated to all contractors and sub-contractors and any deficiencies rectified immediately.

As a minimum the plan shall include the following points:

- Identification of surrounding watercourses and potential pollution pathways from the construction site to those watercourses.
- How each of those watercourses and pathways will be protected from site run off during construction.
- How the water quality of the watercourses will be monitored and recorded.
- How surface water runoff from the site during construction will be managed/discharged. Please note that it is not acceptable for ANY pollution (e.g. sediment/silt/oils/chemicals/cement etc.) to enter the surrounding watercourses.
- storage facilities for all fuels, oils and chemicals
- construction compounds, car parks, offices etc.
- details of the nature, type and quantity of materials to be imported on to the site

- measures for dealing with any contaminated material (demolition waste or excavated waste)
- identification of any buried services, such as foul sewers, so that they are protected
- details of emergency contacts, for example Natural Resources Wales hotline 0800 807 060

Reason

To prevent pollution of controlled waters and the wider environment.

(15) Prior to first beneficial occupation of any dwelling hereby permitted, a stock proof gated access into the SINC habitat which is located to the south of the site shall be provided, in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority. The gate shall be retained in its approved form and position at all times thereafter.

Reason

In order to provide controlled access to this SINC habitat to ensure it can be grazed in line with the proposed ecology mitigation

(16) Prior to first beneficial occupation of any dwelling hereby permitted, details of a scheme to provide artificial nesting sites for birds within the site/ on the buildings shall be submitted to and approved in writing by the local planning authority (16).

Reason

In the interest of ecological mitigation, since the proposals remove potential bird nesting /foraging habitats, and to comply with Policy EN6 of the Neath Port Talbot Local Development Plan.

Regulatory Conditions

(17) 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.

(18) The means of vehicular access to the development hereby approved shall be from Samuels Road only.

Reason

In the interest of clarity and highway and pedestrian safety

(19) There must be no interference, alteration or diversion of any ditch, watercourse, stream or culvert crossing or bordering the site. Any drainage pipe, highway drain or highway run-off entering, crossing or discharging into the development site must be accommodated into the site development works by the developer. No buildings shall be erected over or within the safety zone of any culvert or watercourse

Reason

In the interest of drainage

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 proposed development by reason of the siting, design and size of the proposed dwellings would have no detrimental impact upon the character and appearance of the surrounding area, the residential amenity of the neighbouring dwellings or upon the highways safety of the existing road network. As such, subject to the imposition of suitable conditions the proposed development would be in accordance with policies SP3, SP4, SP7, SP8, SP10, SP15 SP16, SP20, SP21, SP22, SC1, H1, AH1, OS1, EN6, EN7, EN8, TR2, BE1 WL1 and I1 of the Neath Port Talbot Local Development Plan.

SECTION B – MATTERS FOR INFORMATION

DELEGATED APPLICATIONS

DETERMINED BETWEEN 4TH JULY 2016 AND 25TH JULY 2016

1	App No. P2012/0151	Type Vary Condition
Proposal Variation of condition 3 of Planning Permission P2005/1808 (Approved on the 24/3/09) to extend the period of the submission of reserved matters for three years.		
Location Eaglesbush House, The Avenue, Eaglesbush, Neath SA11 2FD		
Decision Approval with Conditions		
Ward Neath East		

2	App No. P2016/0167	Type Full Plans
Proposal Detached dwelling and detached garage with associated means of enclosure and access		
Location Land South of 104 Dulais Road, Seven Sisters, Neath SA10 9ES		
Decision Approval with Conditions		
Ward Seven Sisters		

3	App No. P2016/0189	Type Householder
Proposal Demolition of existing single storey front and side extensions and construction of 2 storey side extension, single storey garage extension, single storey front porch and new access and drive.		
Location 2A Hawthorn Avenue, Cimla, Neath SA11 3NW		
Decision Approval with Conditions		
Ward Neath South		

4	App No. P2016/0212	Type Advertisement
Proposal 1 No non illuminated fascia sign		
Location Eagle House, 2 Talbot Road, Port Talbot SA13 1DH		
Decision Approval with Conditions		
Ward Port Talbot		

5	App No. P2016/0290	Type Full Plans
Proposal Proposed change of use from Class A1 (Shop) to Class A3 (Food and Drink)		
Location 2A & 2B Brynhyfryd Road, Briton Ferry, Neath SA11 2HT		
Decision Approval with Conditions		
Ward Briton Ferry West		

6	App No. P2016/0322	Type Change of Use
Proposal Change of use of place of worship (D1) to chapel of rest (Sui Generis) and the widening of existing access way with relocation of stone pillars.		
Location Holy Cross Church, Tan Y Groes Street, Port Talbot		
Decision Approval with Conditions		
Ward Port Talbot		

7	App No. P2016/0323	Type Listed Building Consent
Proposal The widening of existing access way and pathway with relocation of stone pillars and insertion of new access gates, reuse of existing entrance gates to be re-sited across the external door of vestry, internal partition walls, and disabled toilet with associated cess pit - Listed Building Consent		
Location Holy Cross Church, Tan Y Groes Street, Port Talbot		
Decision Approval with Conditions		
Ward Port Talbot		

8	App No. P2016/0358	Type Householder
Proposal Single storey rear extension and replacement front porch.		
Location Cwrt Bychan House, Cwrt Buchan Lane, Margam, Port Talbot SA13 2PQ		
Decision Approval with Conditions		
Ward Margam		

9	App No. P2016/0362	Type Householder
Proposal Two storey side extension, raised patio forming balcony, glazed balcony screen, new steps within front curtilage, new steps and pathway to northern side of dwelling		
Location 23 Dol Las, Baglan, Port Talbot SA12 8UY		
Decision Approval with Conditions		
Ward Baglan		

10	App No. P2016/0370	Type App under TPO
Proposal Works to trees protected by Tree Preservation Order T282 - Crown Lift of 2m to 2 No. Sessile Oak (T1,T2,) and Crown Lift of 2.5m to 1 Sessile Oak (T3) Located to rear (South West) boundary of property, T283 - Crown lift to 5 Sessile Oak Trees by 2.5m (T14, T15, T16 & 17) and removal of two subtrunks to even up the main trunk (T18).		
Location 4 Cloda Avenue, Bryncoch, Neath SA10 7FH		
Decision Approval with Conditions		
Ward Bryncoch South		

11	App No. P2016/0372	Type Householder
Proposal	Detached single storey rear annex.	
Location	Bryn Farm, Bryn Troed Y Garn Farm Access Road, Bryn, Port Talbot SA13 2RP	
Decision	Approval with Conditions	
Ward	Bryn & Cwmavon	

12	App No. P2016/0375	Type Discharge of Cond.
Proposal	Details to be agreed in association with Condition 5 (External Materials) and Condition 18 (Coal Mining Risk Assessment) of P2014/0820 granted on 28/05/15 (Coal Mining Risk Assessment received 28 June 2016)	
Location	Nant Yr Allor Farm, Nant Yr Allor Farm Access Road, Glyncorrwg, Port Talbot SA13 3AY	
Decision	Approval with no Conditions	
Ward	Glyncorrwg	

13	App No. P2016/0377	Type Householder
Proposal	Retention and completion of rear dormer extension.	
Location	Britannia Inn, 18 Bethel Street, Briton Ferry, Neath SA11 2HQ	
Decision	Refusal	
Ward	Briton Ferry East	

14	App No. P2016/0384	Type Householder
Proposal	Part two storey, part first floor rear extension	
Location	3 Gron Road, Gwaun Cae Gurwen, Ammanford SA18 1HD	
Decision	Approval with Conditions	
Ward	Gwaun-Cae-Gurwen	

15	App No. P2016/0389	Type Discharge of Cond.
Proposal	Application for discharge of condition 71 (programme of archaeological works) of planning permission P/2012/1073	
Location	East Pit Revised OCCS, New Road, Gwaun Cae Gurwen, Neath SA18 1UP	
Decision	Approval with no Conditions	
Ward	Gwaun-Cae-Gurwen	

16	App No. P2016/0422	Type Householder
Proposal	Single storey rear and side conservatory extension.	
Location	1 Havard Jones Close, Penrhiwtyn, Neath SA11 2HR	
Decision	Approval with Conditions	
Ward	Neath East	

17	App No. P2016/0427	Type Householder
Proposal	Front dormer extensions plus raised platform to side elevation plus dormers to rear wing. (Bat survey received 8/7/16)	
Location	Hen-Capel-Bach, 5 Pen Pentre, Crynant, Neath SA10 8SS	
Decision	Approval with Conditions	
Ward	Crynant	

18	App No. P2016/0435	Type Discharge of Cond.
Proposal	Details to be agreed in association with condition 5 (Verification Report), condition 14 (Landscaping Scheme); and, condition 16 (Means of Enclosure) of P2014/0789 granted on 31/03/15	
Location	41-44 Crwys Road, Cwmavon, Port Talbot SA12 9NT	
Decision	Approval with no Conditions	
Ward	Bryn & Cwmavon	

19	App No. P2016/0442	Type Householder
Proposal	Two storey rear extension, plus raised decking.	
Location	6 Graig Parc, Longford, Neath SA10 7HB	
Decision	Approval with Conditions	
Ward	Dyffryn	

20	App No. P2016/0453	Type Householder
Proposal	Two storey rear extension.	
Location	45 Park Street, Tonna, Neath SA11 3JQ	
Decision	Approval with Conditions	
Ward	Tonna	

21	App No. P2016/0464	Type Non Material Amendment (S96A)
Proposal	Non-material amendment to application P2015/0133 for changes to size and position of fenestration, decrease in width and increase in depth of first and ground floor rear extensions and increase height of side extension	
Location	20 Beechwood Avenue, Neath SA11 3TE	
Decision	Approval with no Conditions	
Ward	Neath North	

22	App No. P2016/0478	Type Non Material Amendment (S96A)
Proposal	Non-material amendment to application P2014/0046 to remove condition 26 - Long term monitoring and maintenance plan in respect of contamination.	
Location	Land at, Green Park Street, Aberavon, Port Talbot SA12 6NU	
Decision	Approval with no Conditions	
Ward	Aberavon	

23	App No. P2016/0480	Type Full Plans
Proposal	Installation of 3 no. GRP electric sub station buildings, underground cables, additional cladding for electric conduits to front and rear elevations, construction of new exit to existing car park and installation of 2 no roller shutter doors to front and rear elevations.	
Location	Amazon, Ffordd Amazon, Crymlyn Burrows, Swansea SA1 8QX	
Decision	Approval with Conditions	
Ward	Coedffranc West	

24	App No. P2016/0484	Type LawfulDev.Cert-Prop.
Proposal	Single storey rear extension - Certificate of Lawfulness (Proposed)	
Location	134 Marine Drive, Sandfields, Port Talbot SA12 7NW	
Decision	Issue Lawful Dev.Cert.	
Ward	Sandfields West	

25	App No. P2016/0487	Type App under TPO
Proposal Works to tree protected by TPO along boundary with No. 10 Cromwell Avenue including 4 No. Horse Chestnut (T2, T3, T4 & T5) Remove regrowth from lower trunk. 1 No. Pine Tree (T6) Remove branches leaning across No 10 Cromwell Avenue. (TPO T44/A1)		
Location 10 Cromwell Avenue, Penywern Road , Neath SA10 7AN		
Decision Approval with Conditions		
Ward Bryncoch South		

26	App No. P2016/0488	Type Discharge of Cond.
Proposal Details pursuant to discharge conditions 3 (external lighting) 4(artificial nesting sites) 5(bat roosts) 6(Additional Bat survey info) of Planning Permission P2015/0748 (Approved on the 18/03/16) for the engineering operations to facilitate use of land for storage and parking.		
Location Unit 1, Ynysgerwn Avenue, Aberdulais, Neath SA10 8HH		
Decision Approval with no Conditions		
Ward Aberdulais		

27	App No. P2016/0490	Type Prior Notif.Eccl.
Proposal Ecclesiastic Exemption Consultation for refurbishment of pathway, installation of new gas main, relocation of the three phase electrical supply and the 240v supply inside the tower.		
Location Church Of St Mary The Virgin, Church Street, Briton Ferry, Neath		
Decision No Objections		
Ward Briton Ferry West		

28	App No. P2016/0491	Type Vary Condition
Proposal Variation of Condition 2 (approved plan detail) of Planning Permission P2015/0210 approved on the 01/05/2015 as amended by Non-Material-Amendment references P2015/0567 and P2015/0918.		
Location Pantymoch Solar Farm, Penycae, Port Talbot SA14 2UT		
Decision Approval with no Conditions		
Ward Port Talbot		

29	App No. P2016/0496	Type Householder
Proposal	Single storey rear extensions, re-roofing existing side/rear extensions and raised terrace with steps and means of enclosure	
Location	9 Parish Road, Blaengwrach, Neath SA11 5SW	
Decision	Approval with Conditions	
Ward	Blaengwrach	

30	App No. P2016/0504	Type Discharge of Cond.
Proposal	Details pursuant to the partial discharge of condition 8 (Integrated drainage scheme) of Planning Permission P2014/0973 Approved on 26/01/16	
Location	Former Coleg Cwmtawe, Alltycham Drive, Pontardawe SA8 4JT	
Decision	Approval with no Conditions	
Ward	Pontardawe	

31	App No. P2016/0509	Type Householder
Proposal	Single storey rear extension.	
Location	6 Maes Yr Ysgol, Pontardawe SA8 4JS	
Decision	Approval with Conditions	
Ward	Pontardawe	

32	App No. P2016/0512	Type Full Plans
Proposal	Amendment to application P2014/0773 to increase the size of the front extension.	
Location	Lock House, Henfaes Road, Tonna, Neath SA11 3DZ	
Decision	Approval with Conditions	
Ward	Tonna	

33	App No. P2016/0533	Type Householder
Proposal	Single storey rear extension	
Location	3 Princess Drive, Waunceirch, Neath SA10 7PZ	
Decision	Approval with Conditions	
Ward	Bryncoch South	

34	App No. P2016/0538	Type LawfulDev.Cert-Prop.
Proposal	Single storey side extension Certificate of Lawful Development Proposed	
Location	Avalon, Glyncastle, Resolven, Neath SA11 4NW	
Decision	Issue Lawful Dev.Cert.	
Ward	Resolven	

35	App No. P2016/0544	Type Prior Notif.Demol.
Proposal	Prior notification for demolition of former school buildings.	
Location	Sandfields Comprehensive School &, Traethmelyn Primary School, Southdown View , Sandfields, Port Talbot SA12 7AH	
Decision	Prior Approval Not Required	
Ward	Sandfields West	

36	App No. P2016/0549	Type LawfulDev.Cert-Prop.
Proposal	Lawful Development Certificate (proposed) single storey rear extension.	
Location	68 Glyn Meirch Road, Trebanos Pontardawe, Swansea SA8 4AP	
Decision	Issue Lawful Dev.Cert.	
Ward	Pontardawe	

37	App No. P2016/0559	Type Non Material Amendment (S96A)
Proposal	Non-material amendment to Planning Permission P2013/1010 including removal of rear projection, and replacement rear lobby, widening of front door opening.	
Location	66 Cardonnel Road, Skewen, Neath SA10 6BS	
Decision	Approval with no Conditions	
Ward	Coedffranc Cent	

38	App No. P2016/0565	Type Non Material Amendment (S96A)
Proposal	Non-material amendment to Planning Permission P2013/0084 (reserved matter application for one dwelling) to install two roof lights on rear roof plane and a side facing obscurely glazed bathroom window at attic level to facilitate the provision of accommodation of living accommodation in roof space	
Location	Plot Adjacent To, 2 Heol Y Felin, Seven Sisters, Neath SA10 9BD	
Decision	Approval with Conditions	
Ward	Seven Sisters	

39	App No. P2016/0571	Type Discharge of Cond.
Proposal	Details pursuant to discharge of condition 8 (external materials) of planning permission P2015/1090 (replacement Lidl store)	
Location	Lidl Supermarket, Ffordd Parc Ynysderw, Pontardawe, Swansea SA8 4EG	
Decision	Approval with no Conditions	
Ward	Pontardawe	

40	App No. P2016/0609	Type Non Material Amendment (S96A)
Proposal	Non material amendment to remove condition 2 (Local Authority personal permission) of P1995/10229.	
Location	Cymmer Swimming Pool, School Road, Cymmer, Port Talbot SA13 3EL	
Decision	Approval with no Conditions	
Ward	Cymmer	

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SECTION B – MATTERS FOR INFORMATION

APPEALS DETERMINED

a) Planning Appeals

Appeal Ref: A2015/0005 **Planning Ref:** P2015/1027

PINS Ref: APP/Y6930/A/16/3146314

Applicant: Mr Michael Bailey

Proposal: Change of use of part of the ground floor from Office building (use class B1) to café (use class A3), external alterations, demolition of garage and associated parking.

Site Address: Briton Ferry Police Station, 155 Neath Road, Briton Ferry, Neath, SA11 2BX

Appeal Method: Written Representations

Decision Date: 5th July 2016

Decision: Appeal Allowed

The application was refused on the basis that the proposed café would result in indiscriminate parking and have a detrimental impact on highway safety. The inspector noted that in terms of staff and customer parking that there is adequate public parking on nearby streets. Furthermore there are numerous residential properties nearby and a bus stop so there is no reason to assume that all customers and staff would arrive by car. Accordingly the inspector concluded that there is sufficient customer and staff parking near to the appeal site. The inspector noted the concerns of the highway authority but indicated that there is no substantive evidence to support the concerns and any such parking would be in breach of the existing parking restrictions.

In terms of service vehicles the appellant indicated that they would likely use a transit van style vehicle for deliveries and the Inspector concluded that there is sufficient space to the rear of the site to accommodate service vehicles.

Appeal Ref: A2016/0006 **Planning Ref:** P2016/0007

PINS Ref: APP/Y6930/A/1

Applicant: Mrs Slattery-John

Proposal: Retention of non-illuminated advertisement. Dimensions of advertisement - 1.83m (w) x 0.9m (h), Maximum height of letters 0.203m and Symbol 0.514m. Height from ground level to base of advert 1.85m.

Site Address: 70 Neath Road, Tonna, Neath

Appeal Method: Written Representations

Decision Date: 14/07/2016

Decision: Appeal Dismissed

The main issue was the impact of the proposal on visual amenity.

The Inspector found that, when approaching the appeal site from the west, the long and open nature of the street frontage along this part of Neath Road would permit a sustained view of the proposed sign. In her view, the size and elevated position of the sign coupled with the presence of mature trees and shrubs, which form a verdant backdrop for the advertisement, would result in an unduly assertive and discordant feature in a predominantly residential street scene and would be detrimental to the interests of amenity.

Conversely, when viewed from the east, the presence of mature trees and shrubs along the front boundary of the appeal site would partially screen the proposed sign and in doing so, ensure that the proposal would not be visually prominent or have an adverse effect on the amenity of this part of the street scene.

Whilst the sign would be less prominent when viewed from the east, she concluded that this does not diminish the detrimental effects and, as a consequence, the proposed sign would be contrary to the objectives of LDP Policies SC1, SP21 and BE1.