



## ***PLANNING COMMITTEE***

***10.00 AM - TUESDAY, 15 DECEMBER 2020***

**REMOTELY VIA TEAMS**

**ALL MOBILE TELEPHONES TO BE SWITCHED TO SILENT FOR THE DURATION OF THE MEETING**

### **PART 1**

1. Declarations of Interest
2. Minutes of the Previous Meeting (*Pages 5 - 8*)
3. To Request Site Visit(s) from the Applications Presented

### **Report/s of the Head of Planning and Public Protection**

#### **Section A - Matters for Decision**

#### **Planning Applications Recommended for Approval**

4. Application No. P2018/0512 - Tip 890, Pwllawatkin (*Pages 9 - 50*)  
The REMOVAL of planning conditions 1 (commencement) 8, 12, 17, 18, 19, 37, 42, 49, 54, 61 (duplicated by other conditions) 21 (move to notes section) 24, 32, 36, 44, 45, 46, 53, 59 (relating to required works that have already been completed) 34 & 39 (superseded by subsequent permissions) 38 (Tip 891 has been restored). The VARIATION of planning conditions 2 (to extend the operational lifetime of the site until 2023, followed by a year for restoration works) 3, 5, 7, 22, 23, 28, 35, 41, 43, 48, 50, 51, 55, 60 (update conditions to allow for updated plans/information submitted) attached to planning permission P2002/1016, at Pwllfa Watkin Farm, Pontardawe Link Road To Baran Road, Pontardawe SA8 4RX.

5. Application No. P2018/0511 - Tip 871, Pwllawatkin (*Pages 51 - 76*)  
The variation of Condition 1 (to extend the operational lifetime of the site until 2025, followed by a year for restoration works) 2, 5, 6, 8, 15, 19 & 21 (to reflect the submitted updated plans and statements) attached to planning permission P2014/069 at Pwllfa Watkin Refuse Tip (Tip 871), Pontardawe Link Road to Baran Road, Pontardawe SA8 4RX.
6. Proposed Amendments to Planning Delegated Arrangements (*Pages 77 - 90*)

**Section B - Matters for Information**

7. Appeals Determined 2020 (*Pages 91 - 92*)
8. Delegated Decisions - 28 January to 7 December 2020 (*To Follow*)
9. Urgent Items  
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, 9 December 2020**

## **Committee Membership:**

**Chairperson:** Councillor S.Paddison

**Vice  
Chairperson:** Councillor S.Pursey

**Members:** Councillors C.J.Jones, D.Keogh, R.Mizen,  
S.Bamsey, R.Davies, S.K.Hunt, A.N.Woolcock,  
C.Williams, S.Renkes and M.Protheroe

**Cabinet  
UDP/LDP  
Member:** Councillor A.Wingrave

## **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](http://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](mailto: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 for each 'category' (objector; supporter; applicant/agent; Town/Community Council for each application. Full details are available in the [Council's approved procedure](#).

In addition, if an objector registers to speak, the Applicant/Agent will be notified by the Council.

Should you wish to discuss any aspect of public speaking, please contact the Democratic Services Team on 01639 763713.

### **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 2.00p.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 2.00pm 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 re-distributed prior to the commencement of the meeting.

## PLANNING COMMITTEE

(REMOTELY VIA TEAMS)

**Members Present:**

**10 November 2020**

**Chairperson:** Councillor S.Paddison

**Vice Chairperson:** Councillor S.Pursey

**Councillors:** C.J.Jones, D.Keogh, R.Mizen, R.Davies, S.K.Hunt, A.N.Woolcock, C.Williams, S.Renkes and M.Protheroe

**UDP/LDP Member:** Councillor A.Wingrave

**Officers In Attendance:** S.Ball, M.Shaw, R.MacGregor, T.Davies, C.Mewburn, B.Stark, M.Thomas and T.Davies

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### 1. **DECLARATIONS OF INTEREST**

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

Councillor R.Davies - Report of the Head of Planning and Public Protection, Application No. P2020/0752, as she is a Governor at Ysgol Gymraeg Ystalyfera. Councillor Davies considered her declaration as prejudicial, so left the meeting for this item, and took no part in the discussion and voting thereon.

### 2. **MINUTES OF THE PREVIOUS MEETING**

**RESOLVED:** That the minutes of the previous meeting held on 2 October, 2020 be approved.

3. **TO REQUEST SITE VISIT(S) FROM THE APPLICATIONS PRESENTED**

**RESOLVED:** That no site visits be held on the applications before Committee today.

4. **AMENDMENT SHEET**

Note: An amendment sheet in relation to Application Number: P2020/0752 was circulated prior to the meeting, on which the Chairperson had allowed sufficient time for Members to read, in respect of the application item on the published agenda, the Chairperson had permitted urgent circulation/consideration thereof at today's meeting, the particular reasons and circumstances being not wanting to defer any applications and to ensure that Members take all extra relevant information into account before coming to any decision at the meeting.

5. **APPLICATION NO. P2020/0752 - LAND AT YSGOL YSTALYFERA**

(At this item, Councillor R.Davies left the meeting for the discussion and voting thereon.)

Officers made a presentation to the Planning Committee on this Application (Construction of 2G sports pitch with associated floodlighting (8no. 15m high mounted columns), and pitch enclosures and associated works at land at Ysgol Gymraeg Ystalyfera, SA9 2JJ) as detailed in the circulated report.

**RESOLVED:** That in accordance with Officers' recommendations, taking into account the amendment to Condition 3, as detailed in the circulated Amendment Sheet, and subject to the conditions detailed in the circulated report, Application No. P2020/0752 be approved.

6. **APPLICATION NO. P2020/0758 - 21 BROAD STREET, PORT TALBOT**

(Councillor R.Davies re-joined the meeting.)

Officers made a presentation to the Planning Committee on this Application (Change of use of existing domestic garage to Beauty Treatment Room and storage at 21 Broad Street, Port Talbot, SA13 1EW) as detailed in the circulated report.

In accordance with the Council's approved Public Speaking Protocol, a registered speaker (the applicant) addressed the Planning Committee. One of the local ward members (Planning Committee member Councillor D.Keogh) gave his representations, and withdrew his objections.

**RESOLVED:** That in accordance with Officers' recommendations, and subject to the conditions detailed in the circulated report, Application No. P2020/0758 be approved.

7. **APPLICATION NO. P2020/0858 - CILPENTAN FARM, LLWYNCELYN ROAD**

Officers made a presentation to the Planning Committee on this Application (Replacement and re-siting of existing septic tank / grey water treatment system at Cilpentan Farm, Llwyncelyn Road, Tairgwaith, SA18 1UU) as detailed in the circulated report.

**RESOLVED:** That in accordance with Officers' recommendations, and subject to the conditions detailed in the circulated report, Application No. P2020/0858 be approved.

**CHAIRPERSON**

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## SECTION A – MATTERS FOR DECISION

### Planning Applications Recommended For Approval

<b><u>APPLICATION NO:</u> P2018/0512</b>	<b><u>DATE:</u> 20/06/2018</b>
<b>PROPOSAL:</b>	The REMOVAL of planning conditions 1 (commencement) 8, 12, 17, 18, 19, 37, 42, 49, 54, 61 (duplicated by other conditions) 21 (move to notes section) 24, 32, 36, 44, 45, 46, 53, 59 (relating to required works that have already been completed) 34 & 39 (superseded by subsequent permissions) 38 (Tip 891 has been restored). The VARIATION of planning conditions 2 (to extend the operational lifetime of the site until 2023, followed by a year for restoration works) 3, 5, 7, 22, 23, 28, 35, 41, 43, 48, 50, 51, 55, 60 (update conditions to allow for updated plans/information submitted) attached to planning permission P2002/1016.
<b>LOCATION:</b>	Pwllfa Watkin Farm, Pontardawe Link Road To Baran Road, Pontardawe SA8 4RX
<b>APPLICANT:</b>	FCC ENVIRONMENT
<b>TYPE:</b>	Section 73 – Variation of Condition
<b>WARD:</b>	Pontardawe

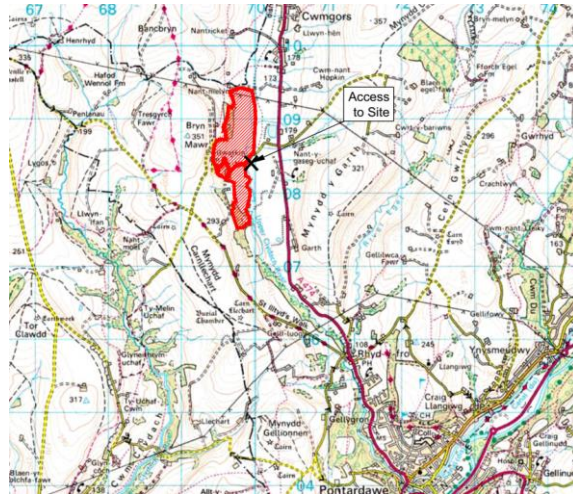
### BACKGROUND

Although Officers had determined that this would be an appropriate matter to be brought before the Planning Committee for a decision, Members should note that the local ward Members for Pontardawe and Gwaen-Cae-Gurwen have made requests that the application (and the concurrent application ref. P2018/0511) should be determined at Planning Committee.

Members are also advised that on 24<sup>th</sup> June 2020, the Welsh Ministers – having been requested to call in the applications (P2018/0511 and 0512) for their own determination – issued a Holding Direction under Article 18 of the Town and Country Planning (Development Management Procedure)(Wales) Order 2012. This precludes the Council from granting planning permission without the prior authorisation of the Welsh Minister. It does not, however, preclude the matter being reported to members for a resolution, after which The Welsh Ministers will have the opportunity to call the application or lift their holding direction.

### SITE AND CONTEXT

The Pwllfawatkin Landfill site is located in the north-western part of Neath Port Talbot, approximately 500m south west of Cwmgors and 3.4km north west of Rhydyfro.



The landfill site comprises two separate sections. The area known as Tip 891 is the completed southern section of the landfill. The northern section, which is currently being landfilled, is known as tip 890.

The northern section has been landfilled in a series of cells working from north to south, with progressive restoration as each cell is completed. The site is in a valley with land rising steeply to Bryn Mawr to the west and Mynydd Y Garth (a special landscape area) to the east.

Access to the site is gained via the minor road (known as Baran Road) which also affords access to the Site Offices further up the hillside to the west. Baran Road connects with the A474 approximately 350m east of the site entrance.

The area to the south of the Baran Road, known as tip 871, is part of the site but is not used for landfill. The tip material has permission to be used for capping on the active landfill site. Activities here are sporadic and infrequent and no material from tip 871 has been used in the landfill site in recent years.

The closest property to the north is Nantmelyn approximately 275m distant (with the partially restored landfill phase 1 forming much of the intervening landscape) to the east there is a small cluster of properties approximately 350m distant, fronting the A474. To the west the closest property is Nant-y-gafaelau, located on the hillside overlooking the site, approximately 250m distant. To the south-east is a small industrial/commercial complex, Abernant Rental Units, approximately 400m distant.

The current landfilling area is bounded by trees and shrubs to the north, east and west and bounded to the south by the restored Tip891. The surrounding area is largely made up of upland grassland and agricultural pastureland. There are wind turbines located on the higher land approximately 1.2km to the north-east of the landfill.

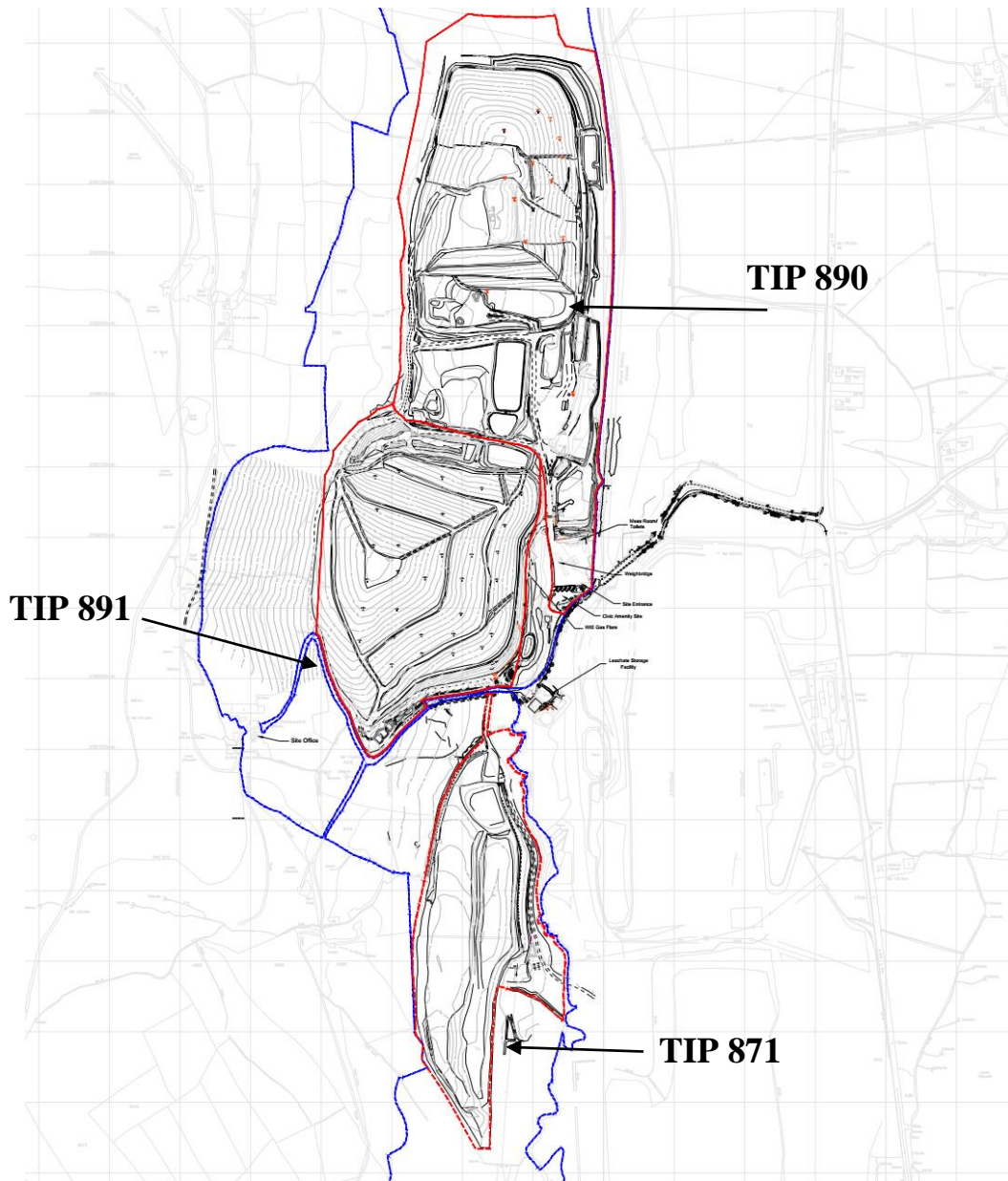


Figure 2.1: Aerial Image of Tips 890 and 891 looking North



**Figure 2.2: View of Tip 890 from Tip 891**



## DESCRIPTION OF DEVELOPMENT

This application relates to the current, active landfill area at Pwllfawatkin, Tip 890 (Tip 891 having been restored).

The applicant is seeking to extend the lifetime of the operations until 2023 – with a year for restoration taking operations up until 2024. The current permission expired in September 2018 for tipping, and September 2019 for restoration works.

While landfill operations have continued at the site (following expiry of the planning permission) up until the present day, the Council has continued to monitor operations at the site and has not considered it expedient to take any formal enforcement action whilst it has been considering the merits of this application.

The previous permission (reference: P2002/1016) was for 5 tipping cells working from north to south. This application seeks to stop at the sidewall of cell 4 - the current cell, with some localised re-profiling of Cells 3 and 4. Cell 5 will not be developed under these proposals and this will result in a different restoration profile to that currently approved. The application also proposes an amended phasing and amended scheme of landscaping.

The application also seeks to 'tidy up' the existing decision notice, deleting conditions which duplicate other conditions and deleting conditions relating to schemes that have already been approved.

## PLANNING HISTORY

There is an extensive history of waste related planning applications at the Pwllawatkin Site, as below: -

- L1980/0351 Extension to existing refuse tip, approved, 28th October 1980

- L1992/0442 Continuation of existing use as a refuse disposal site and civic amenity site with the deletion of condition 1 on consent 2/2/80/0351/03, approved, 3rd December 1992
- L1994/0505 Proposed landfill site reception area and civic amenity facility
- L1995/0502 diversion of upper Clydach river to nationalise landfill operation and to secure agreed restoration scheme, approved, 14th March 1996
- P1999/0725 restoration scheme – phase 2 of tip 890, approved, 27th September 1999
- P1999/0726 aftercare scheme – phase 2 of tip 890, approved, 13th September 1999
- P2001/0797 change of use from residential to office, approved, 22nd August 2001
- P2002/1016 extension to existing landfill site, continued reception of waste, continued removal of engineering material and restoration, approved, 11th January 2005
- P2005/0213 construction of a landfill gas utilisation compound to control and convert landfill gas into electricity, approved, 11th August 2005
- P2005/0601 scheme for the restriction of highly malodourous waste to be imported under condition 51 of pp P2002/1016, approved, 13th September 2005
- P2005/0610 scheme for noise monitoring and suppression under condition 41 of pp P2002/1016, approved, 13th September 2005
- P2005/0607 scheme for the periodic review of settlement rates under condition 9 of previous planning consent P2002/1016, approved, 13th September 2005
- P2005/0604 scheme for lighting of site under condition 50 of previous planning consent P2002/1016, approved, 13th September 2005
- P2005/0704 scheme under condition 46 of planning application P2002/1016 for the provision of a traffic regulation order, at Swansea road, Pontardawe, approved, 13th September 2005
- P2005/0605 scheme for the setting up and operation of a site liaison committee under condition 48 of previous planning consent P2002/1016, approved, 22nd September 2005
- P2005/0606 scheme for the setting up and operation of a technical working party under condition 49 of previous planning consent P2002/1016, approved, 22nd September 2005
- P2005/0603 scheme for surface water treatment facilities under condition 55 of pp P2002/1016, approved, 2nd November 2005

- P2005/0596 pre-settlement contour plan for current landfill under condition 54 of pp P2002/1016, approved, 2nd November 2005
- P2005/0608 scheme for dust monitoring and suppression under condition 23 of previous planning consent P2002/1016, approved, 2nd November 2005
- P2005/0713 scheme for signage for junction of unclassified road with a474 under condition 45 of planning application P2002/1016, approved, 16th December 2005
- P2005/0706 scheme under condition 43 of planning application P2002/1016 for the provision of signage, road markings and drainage at access points, approved, 16th December 2005
- P2005/1758 scheme under condition 32 (otter survey) of planning permission P2002/1016, approved, 16th December 2005
- P2005/0707 scheme for the widening and improvement of existing access road from A474 to site entrance under condition 44 of planning application P2002/1016, approved, 16th December 2005
- P2005/0609 scheme for ecological management plan under condition 33 and landscaping under condition 28 of previous planning consent P2002/1016, approved, 10th January 2006
- P2006/0173 amendment to site liaison committee Pwllfawatkin as approved under previous planning consent P2005/0605 to allow 3 county borough council members onto the committee, approved, 13th March 2006
- P2006/1029 minor amendment under condition 5 of previous planning P2002/1016 - detailed layout of weighbridge and office arrangements, approved, 25th August 2006
- P2006/1124 scheme under condition 2 of planning permission P2005/0213 for the monitoring of noise and emissions at the landfill gas utilisation compound, approved, 5th October 2006
- P2006/1743 request under condition 22 of planning permission no: P2002/1016 to allow site operations and importation of waste between 08:00 and 13:00 hours on Sunday 31st December 2006, approved, 21st December 2006
- P2005/0715 scheme under condition 53 of planning application P2002/1016 for visibility improvements or traffic signals, approved, 14th March 2007
- P2007/1009 proposed temporary relaxation of hours of working to complete capping of original landfill area, approved, 20th August 2007
- P2007/1669 to amend condition 22 of planning consent P2002/1016 to allow the site to accept waste on Sunday 30th December 2007 and 6th January 2008 between the hours of 7:30 a.m. and 2:00 p.m., approved, 14th December 2007

- P2007/1717 construction of internal haul road under condition 31 of planning consent P2002/1016, approved, 25th January 2008
- P2008/0054 proposed postponement of completion of restoration works on phase 1 (completed landfill tip area) until 30th September 2008 under condition 38 of previous planning consent P2002/1016, approved, 3rd March 2008
- P2008/0169 proposed relaxation of operating hours to allow operations to be extended to 19.00 hours on Mondays to Fridays and to 16.00 hours on Saturdays and between 08.00 and 16.00 hours on Sunday, such extended periods of operation to cease on 31st August 2008, approved 21st April 2008
- P2008/1325 proposed relaxation of operating hours to allow operation to be extended to 19:00 Monday to Friday and 16:00 on Saturdays for the construction of phase 3 until 30th November 2008, **withdrawn**, 3rd November 2008
- P2009/0573 to extend time for completion of restoration of the original landfill area under condition 38 of planning permission 02/1016 until 31/10/09, approved, 9th July 2009
- P2009/1178 regulation 5 request for a screening opinion - for the continued operation of engineering operations at tip 871, EIA not required, 20th December 2010
- P2011/0471 screening opinion for a proposed anaerobic digestion facility, EIA required, 5th July 2011
- P2011/0537 retrospective planning application for continued operation of engineering operations and final restoration approved, 22nd December 2011
- P2011/0659 scoping report for anaerobic digestion facility scoping opinion, 19th September 2011
- P2012/0072 scheme under conditions 36 & 60 of planning permission P2002/1016 for the restoration and aftercare of the old (current) landfill and phase 1 & 2 of the extension area, approved, 21st May 2012
- P2011/1063 proposed anaerobic digestion facility with ancillary infrastructure and the restoration of tip 871 [additional information received -ecological information and landscaping plan (received 29-5-12) and policy response (received 30-5-12), **withdrawn**, 10th September 2012
- P2014/0694 concrete haul road and associated surface water drainage improvements, **withdrawn**, 15th July 2015
- P2015/0929 variation of condition 20 and 22c attached to planning permission P2002/1016 to allow extended working hours of 7am to 7pm Monday to Saturday and 8am to 4pm on Sundays until the end of October 2015, **withdrawn**, 10th November 2015

## CONSULTATIONS

**Cllr Linet Purcell and Cllr Anthony Richards (Pontardawe Ward)** have responded jointly as follows: -

As ward councillors representing Pontardawe, and particularly those residents living in the village of Rhydyfro, our prime concern is to protect the community from the problems with odour which is sufficiently bad to have necessitated NPT's Environmental Health Officers serving an abatement notice.

We are willing to be guided by the officers' expert opinion as to the best way to improve this situation going forward. Can officers inform us as to what controls, if any, the Council would be able to apply should the application be refused and give us some idea as to the likely future of the tip should permission to extend be refused?

If the officers advise that the best way to protect the residents from this ongoing nuisance is to give permission for the extension and to apply strict conditions to that permission, then we would be minded to support that proposal.

However we look forward to reading the officers' report and receiving information as to the possible future for the tip should the application be refused.

**Cllr S H Reynolds (Gwaen Cae Gurwen Ward)** – Has expressed concerns related to odour and the impact on amenity, the need for a landfill site and the effectiveness of the monitoring procedures in place. Requested that the application be called in to be considered by committee, mainly due to the high number of complaints from residents relating to odour, highways impacts and impacts relating to visual amenity and the local economy.

**Pontardawe Town Council**            No objection

**Natural Resources Wales** - Initially raised issues in relation to surveys for Great Crested Newts, otter, water vole and dormouse. Additional information was submitted by the applicant and NRW subsequently withdrew their objections/concerns.

**The Coal Authority**            No objections

**Head of Engineering & Transport (Highways)** –The concerns of the highways officer are closely linked to drainage The officer raised initial concerns with regard to the long term drainage strategy for the site and raised concerns regarding the potential flooding issues at Baran road between the two tips. Required further details regarding the overall drainage plan for the site utilising a gravity system, without having to rely on pumps. Conditions are suggested which the officer has confirmed address these concerns

**Head of Engineering & Transport (Drainage)** – Initial concerns raised over drainage as per Highways response. Requested further details relating to lagoon construction and flow routes, storage capacity etc. Agreed that conditions (detailed in the report), including requiring a full site drainage plan 12 months prior to the cessation of landfilling, adequately addressed these concerns.



**Environmental Health (Noise)** – no objection

**Environmental Health (Odour)** – Requested a condition requiring the submission of an up-to-date odour management plan

**Environmental Health (Air Quality)** – no objection

**Biodiversity Unit** – initial response raised concerns with the application, chiefly, relating to:

- Inaccuracies and inconsistencies in the ecological survey report
- Inadequate restoration plan which did not meet the requirements of the environment act
- Loss/gain for different habitats needed to be undertaken
- Further information on restoration works already carried out at the site
- Grassland and woodland species mix were not considered acceptable
- Further clarification of post-restoration management required

The applicant responded to the queries submitting additional ecological appraisals and amended the design of the scheme. In a final response the ecologist confirmed that there would be no objection to the amendments, so long as her requested conditions were applied.

## REPRESENTATIONS

There was an initial period of consultation on 21st June 2018, and following the submission of amended plans (to allow for a side well extension of cell 4 at Tip 890), re-consultations were carried out on 23/09/2019.

The application was also re-advertised in the press on 16<sup>th</sup> January 2020 and new site notices displayed on 13<sup>th</sup> January 2020.

In response, to date 19 no. representations have been received, with the issues raised summarised as follows: -

- Strong odour coming from the site
- Health concerns associated with the site and potential emissions
- The viability/need of the site given a move towards recycling
- Number of HGV's entering/leaving the site exceeding the limit
- Debris falling from lorries onto the road network
- The distance the waste travels and the importation of waste from areas outside of the county

## REPORT

### Legislation and Policy Context:

#### European Directives

The revised EU Waste Framework Directive (2008) seeks to minimise the negative effects of the generation and management of waste on human health and the environment. Article 13 specifically requires Member States to take the necessary measures to ensure that waste management is carried out without endangering human health and without harming the environment. This duty was transposed into UK law by The Waste (England & Wales) Regulations 2011 – Paragraph 18.

The Directive states that waste policy should also aim at reducing the use of resources and favour the practical application of the waste hierarchy. Furthermore, the recovery of waste and the use of recovered materials should be encouraged in order to conserve natural resources.

The Directive seeks to ensure that wastes are managed in a sustainable way and introduces a waste hierarchy as a priority order in waste prevention and management, sets a target of separate collections for at least paper and card, metal, plastic and glass by 2015 and a target for preparing at least 50% more of these materials for re-use and recycling by 2020. At the top of the hierarchy is prevention and re-use followed by preparation for re-use, recycling, other recovery and finally disposal. The Directive encourages Member States to take measures to support outcomes which deliver the best overall environmental outcome. This may require specific waste streams to depart from the waste hierarchy where this is justified by life cycle thinking on the overall impacts of the generation and management of such waste.

The Directive also introduces the principles of proximity and self-sufficiency for mixed municipal waste. This requires Member States to establish an integrated and adequate network of waste disposal installations and installations for the recovery of mixed municipal waste. It also introduces the Nearest Appropriate Installation principle where mixed municipal waste should be disposed of or recovered in one of the nearest appropriate installations whilst ensuring a high level of protection for the environment and human health. This means taking into account environmental, economic, and social factors, to ensure the right waste management facilities are located in the right place at the right time. The proximity of a waste disposal or mixed municipal waste recovery installation will depend upon the quantities and types of arisings at local, regional, and national level. However, planning authorities should not attempt to restrict waste management developments within their boundaries to deal only with the arisings of that area. The provision of an integrated and adequate network will allow movement towards the aim of self-sufficiency.

Article 13 of the Directive states that planning authorities should ensure that all types of waste facilities are located where a high level of protection for the environment and public health can be ensured. In particular, waste management should be undertaken

- Without risk to water, air, soil, plants, or animals

- Without causing nuisance through noise or odour and
- Without adversely affecting the countryside or places of special interest.

The EU Landfill Directive (1999) requires a substantial reduction in the amount of biodegradable waste (BMW) sent to landfill and the treatment of all wastes prior to landfill. The required reductions are:

- to reduce BMW to 75% of that produced in 1995 by 2010
- to reduce BMW to 50% of that produced in 1995 by 2013
- to reduce BMW to 35% of that produced in 1995 by 2020

This includes all waste from households, and all wastes of a similar nature and composition to wastes from households, whoever collects it. As a result, the definition covers most commercial waste.

### National Legislation

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

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

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

Acting in accordance with the sustainable development principle means that a body must act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

To act in that manner, a public body must take account of the following things—

- (a) the importance of balancing short-term needs with the need to safeguard the ability to meet long term needs.
- (b) the need to take an integrated approach, by considering how the body's well-being objectives may impact upon each of the well-being goals or objectives
- (c) the importance of involving other persons with an interest in achieving the wellbeing goals and of ensuring those persons reflect the diversity of the population of the area which the body serves
- (d) how acting in collaboration with any other person (or how different parts of the body) could assist the body to meet its well-being objectives
- (e) how acting to prevent problems occurring or getting worse may help public bodies achieve their objectives.

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; and
- A globally responsible Wales

The Environment (Wales) Act 2016 has been designed to complement the Wellbeing of Future Generations (Wales) Act 2015 by applying the principles of sustainable development to the management of Wales’ natural resources. It also imposes a duty to require all public authorities, when carrying out their functions in Wales, to seek to “maintain and enhance biodiversity” where it is within the proper exercise of their functions. In doing so, public authorities must also seek to “promote the resilience of ecosystems”.

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

### National Policy

Planning Policy Wales (PPW10) 10<sup>th</sup> Edition (December 2018) confirms that the Welsh Government policy for waste management is contained in Towards Zero Waste – One Wales: One Planet (2010) and the associated sector plans.

PPW10 advocates aiming to create a circular economy, one which aims to keep materials, products, and components in use for as long as possible. There are environmental, social, and economic benefits of taking such an approach, most notably the increased value and productivity of materials, financial savings for the construction sector and the prevention of waste.

PPW10 states that planning authorities must support the provision and suitable location of a wide ranging and diverse waste infrastructure which includes facilities for the recovery of mixed municipal waste and may include disposal facilities for any residual waste which cannot be dealt with higher up the waste hierarchy.

The waste hierarchy provides the key starting point for all types of waste management proposals. However, consideration of the hierarchy should be set against the wider social, economic, environmental, and cultural factors which are relevant in any given case.

The extent to which a proposal demonstrates a contribution to the waste management objectives, policy, targets, and assessments contained in national waste policy will be a material planning consideration.

Towards Zero Waste :One Wales One Planet (2010) (and the accompanying Sector Plans) is the overarching waste strategy document for Wales. It sets out a long-term framework for resource efficiency and waste management between now and 2050.

The aim of the strategy is for Wales to be a high recycling nation by 2025 and a zero-waste nation by 2050. The document sets out a number of aspirations and targets in order to meet the overall objective of zero waste by 2050. The key aims are:

- By 2025, a significant reduction in waste of around 27% based on 2007 levels.
- Residual waste will decrease to a maximum of 30% by 2025 and residual waste to landfill will be phased out and it will be sent instead to high efficiency energy from waste plants in order to deliver the best sustainable outcomes for this waste fraction.
- By 2050, achieving zero waste and 'living within our environmental limits'; and
- In achieving zero waste by 2050, a need to reduce waste arising by around 1.5% of the 2007 baseline each year across all sectors.

In achieving the above, the document states that Towards Zero Waste means:

- Waste will be reduced significantly.
- There will be a strong economy in resource management.
- Residual waste will be minimised.
- Landfill will be eliminated as far as possible; and
- Legacy wastes will be tackled.

The Sector plans are the key delivery documents that identify specific objectives and actions for each sector in order to make the necessary contribution towards the delivery of Towards Zero Waste. Sector Plans have been produced for the following:

- Collections, Infrastructure and Markets (CIM) Sector Plan
- Construction and Demolition Sector Plan
- Municipal Sector Plan
- Industrial and Commercial Sector Plan
- Food manufacture, Service and Retail Sector Plan

### National Guidance

Technical Advice Note 21: Waste (TAN21) (February 2014) provides advice on how the land use planning system should contribute towards sustainable waste management and resource efficiency, reflecting the new waste management drivers at an EU and Wales level

TAN21 states that with specific reference to waste management, land use planning should help to

- Drive the management of waste up the waste hierarchy and facilitate the provision of an adequate network of appropriate facilities
- Minimise the impact of waste management on the environment (natural and man-made) and human health through the appropriate location and type of facilities

- Recognise and support the economic and social benefits that can be realised from the management of waste as a resource within Wales.

The general principles are that when considering development proposals for all types of waste management facilities, planning authorities should take account of their potential contribution to the objectives, principles and strategic waste assessments set out in *Towards Zero Waste* and the relevant waste sector plans and the relevant development plan for the area. The extent to which a proposal demonstrates this contribution, in environmental, economic, and social terms, will be a material planning consideration. The aim being to ensure that the right facilities are located in the right place to meet environmental, social, and economic needs. At both a strategic and a site level this means accepting that waste will need to be managed in all areas of Wales.

TAN21 expects that the recycling and reuse targets set by *Towards Zero Waste* and the Collections, Infrastructure and Markets Sector Plan will, over time, result in a reduction in the volume of waste requiring disposal. As a result, landfill has an ever-decreasing role to play in waste management. Nevertheless, it is recognised that it still has a role (albeit a diminishing role) in the short to medium term (to 2024/25) while the necessary waste treatment infrastructure comes on stream. Landfill void space will therefore continue to be required in the short to medium term.

TAN21 requires each of the three identified regions in Wales (North, South West, South East) to produce an Annual Waste Monitoring Report. Using the information collected in the monitoring report each regional grouping of local planning authorities should identify where landfill capacity falls below both a 7 and 5-year void in a region.

The identification of a 7-year void represents the level at which sufficient capacity is likely to exist in a region to meet future disposal needs and as such this is the level at which void capacity should ideally be maintained. A period of 7 years should provide sufficient time for the market to come forward with a solution, bearing in mind the political sensitivities surrounding landfill provision and the costs and time involved in set up.

The 5-year level should be identified as a trigger for pursuing any action which may be necessary to facilitate future provision. In general terms once action is deemed to be necessary a site search and selection process should be undertaken at the regional level. The purpose of the exercise will be to identify a list of preferred suitable sites or locations for landfill which could appropriately fulfil the identified need in the region.

The Waste Planning Monitoring Report for South West Wales 2019/20 (based on 2018 data) identified that there was **6.1 years** of landfill void space capacity with planning permission remaining in South West Wales. As an indication of how quickly things can change in the waste sector the figure for the previous year was 11.2 years. The reasons for this significant reduction in landfill capacity are twofold,

- the expiry of the planning permission at Pwllfawatkin;
- a significant increase in the amount of material landfilled in 2018.

This figure of 6.1 years landfill capacity is below the 7-year threshold set out in TAN21 whereby the market is expected to come forward with a solution.

## Local Policy

### Local Development Plan (LDP)

The Neath Port Talbot Local Development Plan (2011-2026) was formally adopted on 27<sup>th</sup> 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.

### *Strategic Policies*

**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 SP14** seeks to protect, and where feasible enhance, the countryside through the protection of the countryside from inappropriate development outside settlement limits, the designation of Special Landscape Areas and the designation of Green Wedges

**Policy SP16** 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 SP19** seeks to make provision for an integrated network of waste management facilities including (3) “continuation of the disposal of residual non-hazardous waste and inert waste at Pwllfawatkin landfill site;

**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.

### *Topic based Policies*

**Policy SC1** allows for development outside settlement limits where (9) it is associated with the provision of public utilities, infrastructure and waste management facilities that cannot reasonably be located elsewhere; or

**Policy EN2** identifies a Special Landscape Area for Mynydd Y Garth (EN2/1). In such area’s 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.

**Policy EN7** indicates that 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 full account has been taken of the relevant features in the design of the development 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 EN8** 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. The LPA has also produced Supplementary Planning Guidance on Pollution in October 2016.

**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.

#### EIA and AA Screening

The application site exceeds the Schedule 2 (part 13(b)) 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 screening exercise showed that the proposed extension of time would result in the continuation of potential and existing impacts relating to, for the most part, dust, noise, odour and highways impacts. The proposed operations would also result in a change in the final restoration landform, which would be smaller scale compared to the previously approved final landform. Considering the information submitted by the Applicant and the existing and proposed mitigation measures relating to the potential impacts it is considered that these impacts would not be significant enough to require further examination by Environmental Statement. When planning permission was first granted for the landfill, and the extension to the landfill, an ES was submitted. Given that there are no proposed changes in operational activities at the site a further ES study, for the extension of time, is not considered necessary as the impacts relating to the landfill have already been subject to an ES study. The nature of any impacts, and the proposed operations on site have not changed enough to justify the submission of another ES.

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 2017 is not required.



## Issues

Having regard to the above, the main issues to consider in this application relate to

- The principle of extending the end date of the planning permission for landfilling;
- whether the surface water management plan is adequate enough to deal with surface water drainage at the site without polluting the River Clydach or flooding the Baran Road;
- Visual impact (including potential impact on cultural/archaeological features) relating to the amended restoration profile;
- The impact on biodiversity and ecology (relating to the restoration of the site); and
- Any issues relating to noise, dust, odour, and health, and impacts on highways within the context of the increase in the duration of these potential impacts.

## Policy Principle / Need for the Development

Local Development Plan Policy SP19 seeks to make provision for an integrated network of waste management facilities within NPT, including the ‘continuation of the disposal of residual non-hazardous waste and inert waste at Pwllfawatkin landfill site’. The supporting justification emphasises that Pwllfawatkin is identified on the Proposals Map, and that the remaining capacity at the site is sufficient to cater for both current and anticipated future demand over the Plan period and beyond. The development of further landfill will therefore be resisted.

*Towards Zero Waste* commits Welsh Government to the aim of eliminating landfill as far as possible by 2024-25, but recognises that in the short term at least, there will still be a requirement for landfill, as other means of dealing with waste are being developed. TAN21 advises that as a result, landfill has an ever-decreasing role to play in waste management. Nevertheless, it is recognised that it still has a role (albeit a diminishing role) in the short to medium term (to 2024/25) while the necessary waste treatment infrastructure comes on stream.

This application would result in an extension of time for a reduced amount of landfill until 2023 (with a year for restoration operations) which is clearly within the short-term window envisaged by TAN21. It is also on a site which, while its consent has expired, is allocated in the LDP for landfill to meet the needs in the plan period.

A 7-year void capacity is identified in TAN21 as the level at which there is sufficient capacity within each region to meet future disposal needs and this is the level at which the landfill void space should be maintained if possible. As noted above, the most recent waste monitoring data is available in the Annual Waste Monitoring Report (March 2020) which indicates that there is circa 6.1 years of landfill void space left within the South West Wales Region, this being based on a relatively simple calculation using permitted void space for the 4 landfill sites in the region and the most up to date information with regard to waste depositions.

A reduction in void capacity below 7 years is considered by TAN21, as the ‘trigger’ for the market to come forward with alternative sites/solutions to deal with landfill need within the region. This application is an example of the market coming forward with a solution to the reduction in void capacity below 7 years.

If the landfill void capacity was to fall below 5 years, this would trigger the need to pursue ‘*any action which may be necessary to facilitate future provision*’. This would involve a site search and selection process, undertaken at a regional level in order to identify a list of preferred suitable sites for landfill which could fulfil the identified need in the region. It is not unreasonable to predict that without additional landfill capacity being permitted or a significant reduction in the amount of material landfilled, the Annual Monitoring Report in March 2021 might indicate a landfill void capacity within the region very close to or even below the 5 year ‘trigger’.

However, this is a relatively simplistic calculation. Whilst permitted void space exists at Nant Y Caws landfill in Carmarthenshire, landfilling has currently ceased at that site due to concerns about the commercial viability of engineering a new landfill cell. The situation at Tir John landfill in Swansea may also be subject to review in 2022. Therefore, whilst permitted void space exists, the provision of permitted landfill void space on the ground is therefore a volatile situation and is subject to commercial decisions outside the control of the LPA. However, it is the LPA’s within the region that will have to identify sites for landfill within their LDP’s if the void capacity drops below 5 years and given that there are existing permitted sites in Pembrokeshire and Carmarthenshire it is likely that new sites/extensions to existing sites would be needed in the East of the region, close to the major centres of population.

Having regard to the above, it is emphasised that approving the extension of this site to 2023 (on a site which has been long-standing, is allocated, and was formerly part of the landfill void capacity prior to the expiry of its permission in 2018) would allow for an ‘additional’ *permitted* void capacity of approximately 309,000 tonnes which would add approximately 1.1 years, returning the void capacity to just over 7 years.

Whilst Welsh Government policy seeks to phase out landfill as a waste management option by 2024-25 it is recognised that landfill void space will still be required in the interim. Given that the current level of landfill void space is below the 7-year trigger in TAN21 at which the industry is required to provide a solution, this proposal, which is a reduction in the landfill capacity previously approved, would provide an appropriate interim position to address the short term needs of the region in the lead-up to 2024-25, without compromising the long-term need for an appropriate solution which pushes the treatment of residual waste up the waste hierarchy.

Accordingly, the need for the development is a material consideration of significant weight, with the principle of the development thus complying with Policies SP19 and SC1, Planning Policy Wales (PPW10) 10<sup>th</sup> Edition and guidance in Towards Zero Waste – One Wales: One Planet (2010) and the associated sector plans. This is providing appropriate controls can be put in place to address any identified impacts arising from the development. Such matters are addressed below.

## Drainage and Flooding

The surface water arrangements at the site currently consist of a gravity drainage system which includes a ditch collection system excavated into the re-profiled tip, feeding under gravity into attenuation and settlement ponds prior to discharging to the Upper Clydach River. The proposed variation of condition does not seek to change the current drainage arrangements (the discharge point also being subject to a permit) and surface water control arrangements will largely remain the same, but would be relied upon for a longer period of time than originally anticipated.

There have been no pollution incidents relating to the site that NRW have reported to the Authority. The drainage officer for the Council has raised his own concerns with regard to surface water run-off (potentially contaminated from the site) running onto Baran Road – between the current landfill and tip 871. This could in turn have an impact on highways safety and cause general drainage problems on the public highway. He also expressed concerns regarding the long-term drainage at the site, and the current use of a pump to pump water from the crossing point on the Baran Road back into the site drainage system. It was suggested that the use of pumps is not a sustainable long-term solution. This is a situation which will need to be addressed prior to the cessation of operations so that a satisfactory solution can be designed and agreed. Following a site visit and further discussion between the agent and the drainage officer, conditions relating to drainage have been recommended, which would require as follows:

*The crossroads on Barran Road, between Tip 871 and the current landfill site shall be monitored daily, from the date of this permission, (to include a daily photographic record) for a 6 month period, to ensure surface water drainage is not leaving the landfill site and flowing onto the public highway. The results of this monitoring shall be submitted to the Local Authority on a monthly basis.*

*Should surface water run off leave the site and flow onto the public highway then the applicant shall submit details, for the approval of the Local Authority (within 1 month of any incident being identified) to include remedial measures to be put in place to clear the highway of any deleterious material and any additional drainage measures to ensure on site drainage does not continue to flow onto the public highway. The additional works shall be carried out as agreed for the operational lifetime of the site.*

The two conditions above will ensure that adequate monitoring of the area of concern on Baran Road will take place. Should any issues become evident then there would be recourse to enable further mitigation measures to be put in place to ensure that any problem would not continue (and that any detritus from the site would be cleared from the highway). The long-term drainage of the site and to avoid any reliance on a pump the following condition is suggested:

*At least 12 months prior to the cessation of landfilling operations on site the applicant shall submit a drainage scheme (covering the landfill site north of Barran Road) for the approval of the Local Planning Authority, this scheme shall include, inter alia:*

- *Details for the disposal of water from the site using gravity connections*

- *Detailed plans showing contours and flow routes*
- *Engineering plans showing drainage pipes, manholes, hydro brakes (if applicable)*
- *Discharge rates and storage attenuation*
- *Storage capacity for any lagoons and discharge rates*
- *Measures to prevent or mitigate any potential exceedance of water*

*The scheme shall be implemented as approved*

In summary, whilst there have been initial concerns with regard to the surface water management regime at the site, these concerns have been addressed by the addition of conditions to any planning permission. NRW have been consulted on the application and have not raised any objections with regard to drainage. In light of this it is considered that the proposals would not have any adverse impacts with regard to the surface water regime at the site. There would be no increase in the risk of pollution incidents with regard to the proposed operations.

### Visual Amenity

When considering the visual and landscape impact of the proposed amendments to the approved restoration scheme it is important to note that as the current landform of the landfill is established, the main landscape and visual impacts of the development (and restoration of the central tip) are already present to local receptors. Therefore, when considering any potential impacts of the proposed amendments these need to be weighed against any potential impacts resulting from the currently approved scheme.

The recent proposals include provision for a sidewall extension to the existing cell 4. This sidewall would not progress as far south as cell 5 (as approved under P2002/1016). The pre and post settlement contours would have a post-settlement maximum of 192 metres above ordnance datum.

In accordance with pre-application advice provided to the applicant a full Landscape and Visual Impact Assessment (LVIA) has been submitted with the application. This assessment identifies the base line of the landscape characteristics in the area, taking into account a ZTV (zone of theoretical visibility) of 2.5 kilometres from the site. This has identified a number of landscape features and characteristics in the vicinity of the site:

At the national level, the National Landscape Character Areas (NCLA) guidance has been used to identify landscape characteristics at a more strategic level. The NCLA that covers the area within which the site is located is NCLA 37 South Wales Valley (one of the largest NCLA's), the applicant has identified the following landscape characteristics from NCLA as being relevant to this proposal

- ***Extensive Upland plateaux*** – *typically wild and windswept, often with unenclosed tracts, running roughly north-south as 'fingers' parallel between intervening deep valleys.*
- ***Numerous steep-sided valleys*** - *typically aligned in parallel, flowing in southerly directions, shaped by southward flowing glaciers, leaving behind*

*distinctive corrie ('cwm') and crag features.*

- **Extensive remains of heavy industry** – with a mix of derelict, preserved and largely redeveloped areas, notably for coal mining. Preserved as heritage (World heritage Site) at Blaenafon this typically includes old railway alignments, buildings, and former tips.
- **Contrast of urban valley activity next to quiet uplands** – e.g. busy roads, new developments, traffic noise, night lighting, versus the adjacent wilder, remoter, quieter uplands.
- **Large blocks of coniferous plantation and deciduous woodland fringes** – covering many steep hillsides and hilltops, most notably in the middle to western portion of the area, providing a softer contemporary landscape where there was once industry.
- **Heather, rough grassland and steep bracken slopes** – dominate many plateaux and are grazed mainly by sheep. Much is common land.
- **Transport routes restricted to valleys** – the intervening topography makes valley to valley travel difficult, except at heads and bottoms of valleys. Occasionally there are roads that climb steeply over passes with dramatic views and 'hair pin' bends.

At the local level the applicant has utilised LANDMAP (in accordance with best practice) to provide a more localised appraisal of landscape characteristics, the LANDMAP search revealed the following main 'aspect areas' relevant to the site.

- Visual and Sensory: VS575 Cwm Gors Open/Wooded Mosaic Upland Valleys (Evaluation: Moderate)
- Cultural Landscape: CL044 Western High Ridge: Mynydd y Garth, Cefn Sense of Place (Evaluation: High)
- Geological: GL010 Upper Clydach valley Upland plateau (Evaluation: High)
- Historic Landscape: HL041 Clydach Cwm Du Other fieldscapes (Evaluation: High)
- Landscape Habitats: LH007 Mosaic (Evaluation: Low) & LH009 River Corridors (Evaluation: High) & LH013 Mosaic (Evaluation: High)

The Local Development Plan has also identified numerous landscape features, and sites of importance. This includes the landscape Character Area (LCA) 32 Cwm Gors/Gwaun Cae Gurwen/Abernant – characterised by upland valley features. The Special Landscape Area of Mynydd Y Garth is also identified as an upland area.

In addition to this the applicant has identified a number of key receptors including people (in settlements and residential properties), users of the Public Rights of Way network, users of the transport network and potential for impacts on heritage assets. The nearest designated heritage asset is the Bancbryn Cairn Cemetery Scheduled Monument located approximately 1km to the north-west of the site. There are no Listed Buildings within 1km of the site.

The application is accompanied by plans showing both the pre-settlement contours and the post settlement contours. The pre-settlement contours show a maximum height of approximately 204 metres a.o.d. The post settlement contours allow for a settlement of 12 metres, (previously approved schemes also allowed for approx. 11-

12 metres settlement across the site) and the final profile reflecting this projected settlement. The currently approved restoration contours show a maximum height of approximately 192 metres above ordnance datum (a.o.d).

Under the permitted scheme, Cell 5 would span the southern flank of tip 890 to the northern flank of the restored tip 891. It is now proposed that cell 5 of the permitted scheme will no longer be completed, meaning cell 4 will be the final cell at the landfill site. Consequently, the proposed final landform will not extend as far south as the currently approved restoration scheme, the central area in between the two tips will be larger. There will also be a very slight increase in height (in the region of 0.5 – 1 metre) in some areas of the proposed profile of tip 890, but the maximum height would not exceed the previously approved maximum of 192 metres a.o.d. Restoration of the site would largely be carried out as previously approved, albeit with a larger central area between the two tips and some minor amendments to the seed mixes (to allow for better establishment of vegetation.)

The proposed changes reflect the reduction of the southern extent of tip 890 with amendments to the southern sidewall. The overall restored landform, as proposed, would be a reduction in the size of the previously permitted tip landform. In particular certain residential properties (as identified in the LVIA) would experience a reduced impact associated with the proposed restoration landform. It is also considered that there would be no negative impacts on features of archaeological or cultural significance due to the reduction in the landform mass and the separation distances. For many of the other receptors included in the LVIA the impact would be classed as minor or neutral (with some being minor beneficial). Whilst the proposal would result in a longer operational period compared to the currently approved development it is considered that the minor nature of any potential visual impacts, in combination with the potential for minor benefits, would outweigh the fact that the site operations would be operating for a longer period.

Taking the above into account and in the context of the proposals it is considered that the amended proposals are not in conflict with the relevant policies of the Local Plan, namely, Policy SP 14 The countryside and the undeveloped coast and Policy EN2 Special Landscape Areas (specifically EN2/1 Mynydd Y Garth).

### Residential Amenity

Whilst there are no significant operational changes proposed in this application, consideration needs to be given for the potential impacts on residential amenity (with regard to dust, noise and odour) and the longer time period that any existing or potential impacts would be felt by any receptors.

### Dust

With regard to dust the site has been operating for some considerable time and as part of planning permission P2002/1016 the applicant submitted a scheme for the management of dust. This scheme was approved by the authority and will continue to be implemented for the remaining lifetime of the site. Most of the approved measures are relatively common best practice measures (such as minimising drop heights, speed limits, watering of any stockpiles/haul roads in dry weather) and it is

reasonable to assume that these can continue to be achieved at the site. There are no changes proposed to the working methods at the site so it is unlikely that a continuation of the operations on site would result in an increase in dust emissions from the site.

The Environmental Health (Air Quality) Officer has not raised any objections to the proposals, and compliance with the approved scheme will be conditioned which will ensure that the Council would have the power to pursue any necessary action should any future operations not comply with the approved scheme, for example through service of a Breach of Condition Notice. In addition to the conditions mentioned above, should dust emissions become an issue for neighbouring properties then it is possible for the Local Authority to carry out their own investigations to establish if the site would constitute a statutory nuisance. Should operations from the site be considered to be a nuisance then the Authority could issue an abatement notice which will include the necessary measures to try and avoid operations continuing to be a nuisance

Having regard to the above it is considered that the proposals would accord with Policy EN8 of the Local Development Plan.

### Noise

As with dust emissions above, there is no significant change to the working arrangements on site and it is unlikely that the variation of conditions on site would result in an increase in noise, over and above any existing noise emitted from site. The applicant has identified a number of best practice measures that are currently employed on site and will continue to be implemented on site in order to keep noise emissions to a minimum, some of these measures are as follows.

- Maintenance of the surface of the site to ensure a smoother running surface and reduce body rattle from vehicles
- Speed limits of 10 mph enforces throughout the site
- Use of reversing beepers to be minimised, where possible.
- Plant and vehicles to be regularly maintained and fitted with properly lined acoustic covers with panels to remain closed during operation
- Proper operations of machines, no over revving of engines, any machines that are used intermittently will be shut down during interim periods, or throttled back to the minimum

These are mostly industry standard best practice measures and are already employed at the site to help minimise noise emissions. There are numerous conditions on the existing permission (P2002/1016) some relating to specific noise levels and others relating to the working hours of the site. It is not proposed to amend any of these conditions and these would be carried forward onto any new permission granted. To date these conditions have proved adequate to ensure noise does not have significant adverse impacts. If noise were to be an issue, the imposition of these conditions would ensure that the Authority would have an avenue to take the necessary action to ensure that noise levels are at recognised acceptable levels.

In addition to the conditions mentioned above, should noise emissions become an issue for neighbouring properties then it is possible for the Local Authority to carry out their own investigations to establish if the site would constitute a statutory nuisance. Should operations from the site be considered to be a nuisance then the Authority could issue an abatement notice which will include the necessary measures to try and avoid operations continuing to be a nuisance. In addition to this, the Environmental Health team have been consulted on the application and have not raised any objections in relation to noise emissions from the site. In light of this it is considered that the proposals would accord with policy EN8 of the LDP.

### Odour

The need to ensure that there is no adverse impact from odour as a result of the extended period of operation has been highlighted by the receipt of a number of objections that cite odour as a significant issue, including from local Councillors.

These objections were received at a time when an odour problem occurred. The drilling of new gas wells at the site and the change in climatic conditions, between October and December 2019, resulted in a significant number of odour complaints being received by the Authority and NRW.

Such odour management matters are predominantly regulated by Natural Resources Wales under their Permit. However, both Carmarthenshire CC (as minerals advisors to the Authority) and our Environmental Health team became involved due to the scale of the complaints at that time. This led to the service of an abatement notice, with the applicant required to carry out remedial measures to try and reduce odour, primarily in accordance with their environmental permit, issued by NRW. These measures included maximising the use of temporary cover on site, keeping the size of the tipping face to a minimum and the increased checking of waste content prior to its deposition. This together with the completion of the construction of the gas wells and their commissioning, the number of complaints fell away (but see below).

Notwithstanding this, the applicant has submitted further information in the form of an odour management plan, which is the same plan that the applicant has to provide to NRW in order to obtain an environmental permit to operate the site.

It is noted, however, that in recent weeks while this report was being prepared further odour complaints have been received. And it is noted that to report an environmental incident to NRW residents can call on 0300 065 3000 24 hours day, or email on [icc@naturalresourceswales.gov.uk](mailto:icc@naturalresourceswales.gov.uk).

The Environmental Health Officer has expressed concern about the ongoing odour issues at the site, but is appreciative of the arguments in favour of the continued provision of landfill at the site, and had regard to the fact that the deposition of waste will cease by the end of 2023. In this context they have advised that they are satisfied that granting a new permission for the site will ensure that there are a set of new, robust and enforceable conditions covering odour management, which will provide the Authority with the appropriate level of control, and notably the ability to take formal action through planning should odour issues arise and not be handled expeditiously. Moreover, the requirement (by condition) for the operator to



continuously review the OMP and (when requested) produce an Action Plan in response to justified complaints, allows the Environmental Health Officer the opportunity to ensure the adoption of best practicable means at the site to address any odour issues that may arise in the future.

Following detailed consideration, these recommended odour management conditions would require as follows: -

1. That all operations at the site shall be carried out in full accordance with the approved Odour Management Plan (as approved or following review under the additional condition below) until landfilling and restoration have been completed.

NOTE: Failure to comply with the approved OMP would amount to a breach of planning for which a Breach of Condition Notice (BCN) could be served. In addition, in the case of a serious odour issue arising from such a breach, the option is also available to issue a Temporary Stop Notice alongside such a BCN.

2. That no later than twelve months after the date of this consent (and every twelve months thereafter) the operator shall undertake a review of the Odour Management Plan. Such review shall consider the effectiveness of measures within the OMP, include details all complaints received and actions taken, and make recommendations for any necessary improvements. The review and any necessary amendments to the Odour Management Plan shall be submitted for the written approval of the LPA no later than one month of the review date. In the event that the operator fails to undertake and submit the required review within the above timescales, or the Local Planning Authority refuses to accept the recommendations within the review, all operations at the site shall cease until such time as the Local Planning Authority has confirmed in writing their agreement of a revised Odour Management Plan.
3. Within one week of the Local Planning Authority making a request in writing following receipt of a justified complaint, the operator shall conduct a full investigation into the causes of the odour and report in writing to the Local Planning Authority the results of its investigation along with an Action Plan to address any identified issues. In the event that the operator fails to undertake and submit the required investigation within the above timescales, (without having first agreed, in writing, an extension of time with the LPA to provide this information) or the Local Planning Authority notifies the operator in writing that they have failed to accord with the agreed Action Plan, all operations at the site shall cease until such time as an action plan has been approved and implemented and a revised Odour Management Plan has been submitted to and approved in writing by the Local Planning Authority.

The above set of conditions, individually and cumulatively, will ensure the most robust odour management possible, and are considered strictly necessary to ensure that operations at the site do not have an unacceptable local impact. Taking into account the nature of the proposals and the additional regulatory mechanisms already in place through the permitting process, it is therefore considered that the

proposals would not have any unacceptable impact on residential amenity in relation to odour.

However, should odour become an issue, it is considered that there are adequate measures in place (including planning condition and the requirements of the various permits required) to ensure that any potential odour problems are dealt with as quickly and effectively as possible.

### Impact on Ecology & Biodiversity

Part of this application seeks to vary a number of conditions, including those relating to the final restoration profile of the site (and the restoration master plan) as well as the length of time for current landfill operations on the site. There is a current restoration and aftercare plan for the site, approved under planning permission P2012/0072. The approved plan provides the overall restoration concept for the whole of the site and shows a mixture of the following habitats,

- Existing Native woodland and proposed native woodland
- Scrubland restoration
- Hedgerows
- Species rich grasslands
- Rough Grass lands and:
- Pasture/agricultural grasslands

The written information provided in application P2012/0072 provided numerous seed mixes for the various types of habitat proposed for the site restoration. The current application proposes to alter the restoration profile of the site and has provided updated information with regard to the proposed habitat types to be created during/following restoration. This application is also supported by an ecological survey to establish the baseline conditions existing at the site. The restoration plan submitted with this application shows a restoration of the tip to similar habitats as previously approved (but no allocation for rough grasslands or pasture) but with the addition of a pond feature (in the unfilled space between tip 890 and tip 891).

The supporting information in the ecological assessment has provided up dated seed mixes and planting schedules for the site, which are, for the most part, similar to those that have already been approved for the site. Both the Ecologist for the Council and NRW had numerous queries regarding the supporting information, in particular

- The loss of S7 habitat and the loss/gain balance of S7/LBAP/SINC habitat
- The use/retention of colliery spoil as this is becoming more important as a habitat
- The proposed seed mixes were not considered adequate
- Confirmation of post restoration management
- specific queries regarding bat surveys, bird, and reptile surveys
- specific queries with regard to the potential for otter holts/activity within proximity of the site, and the potential for loss of potential habitat for Dormice due to scrub clearance etc.

The applicant has attempted to address these queries through the submission of additional information regarding these points. The Applicant has clarified the position of restoration and habitats at the site and whilst the restoration would result in the loss of one water feature, there would still be an overall gain in terms of habitat through the restoration of the current landfill. The Applicant has also confirmed the technical points regarding the bat, bird and reptile surveys and has amended the seed mix to remove beech and replace it with Alder. Following the submission of this additional information NRW have confirmed that they no longer have any objections to the proposals. The Ecologist for the Council has confirmed that with the imposition of numerous conditions there would be no objections.

Taking all of the above into account it is considered that the proposals would not have any adverse impacts on the ecology of the area, subject to the imposition of the conditions suggested by the Ecologist for the council. The proposed restoration and aftercare of the site are based around previously approved schemes and will deliver satisfactory restoration of the site. Whilst also providing opportunities for habitat creation and the enhancement of ecology over and above present site conditions, the development would not be in conflict with policies SP16 & EN7.

#### Impact on Highways

As highlighted in the application, the current permission allows for up to 250 vehicle movements (in and out) Monday to Friday and a maximum of 120 movements on a Saturday. Recent data from the site show that the actual figure is much lower than the permitted figure (an average of 56 HGV movements daily – although this could vary day to day). The applicant has not proposed any change in vehicle numbers or any changes to access points, from the A474 or the access point between tip871 and the current landfill site. Site operating hours will also remain as currently permitted so there would no changes with regard to times relating to HGV movements. There have been some concerns raised with regard to highways safety and the potential for flooding at Baran Road. This has been discussed previously in the report and conditions have been suggested in order to help monitor, and if required, put mitigation measures into place should flooding on Baran road become an issue. With the inclusion of these conditions the Highways officer withdrew previous objections to the application.

As part of the restoration of the site it is proposed that materials will be excavated from tip 871 to the south, where it will then be hauled to tip 890 where it will be used as capping or other engineering material. This would have the potential for highways impacts on users of Baran road. The vehicles would have to cross Baran road to get into tip 871 and then to carry out the muck shift to tip 890. However, this has been considered when planning permission was previously granted, there have been no proposed changes and material from the tip 871 was proposed as capping material in previously approved applications.

As there are no proposed changes to the operations on site it is considered that there would be no adverse highways impacts resulting from the proposal and the proposals would not be in conflict with policy SP20 and TR2.

## Other Matters

The Local Ward Members have sought clarification on what would happen in the event the application(s) are refused.

In response, it is noted that the applicant would, of course, have a right of appeal against such a refusal and (unless enforcement action were instigated) could continue to operate while such an appeal were considered. Such an appeal would have appropriate regard to the 'need' for landfill (as emphasised in this report) and within that context a decision would need to be made on when (and how) to enforce against the operator.

Following a refusal, the Council would need to require updated surveys from the applicant covering the whole site, and the operator would need to formulate the best restoration plan possible based on no further waste being imported to site. It is most likely that imports from tip 871 would still need to continue (as this would be the engineering/capping material) and would be the best source of material rather than importing capping material along the main road network.

Given that the site would not be at its finished profiles the restored landform would, in all likelihood, be unlikely to look as well landscaped as it would if the restoration were carried out as per the plans. In this respect it is noted that restoring landfill sites is a pretty complex process, including consideration of drainage, leachate management and gas wells so all this has to be taken into account when drawing up the restoration profiles.

It is also reiterated that refusal would mean that the overall void space for the region would then fall below the required threshold (as outlined in the report) and most likely NPT, in discussion with other members of the South West Wales region, would need to start to look for some candidate sites and /or alternative arrangements to deal with the shortfall in capacity resulting from the loss of voidspace.

## CONCLUSION

The decision to recommend 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 Development Plan comprises the Neath Port Talbot Local Development Plan (2011–2026) adopted January 2016.

The current level of landfill void space is below the 7-year trigger in TAN21 at which the industry is required to provide a solution. Whilst Welsh Government policy seeks to phase out landfill as a waste management option by 2024-25 it is recognised that landfill void space will still be required in the interim. This proposal, which is a reduction in the landfill capacity previously approved but on an existing site which is allocated in the Local Development Plan, would provide an appropriate interim position to address the short term needs of the region in the lead-up to 2024-25, without compromising the long-term need for an appropriate solution which pushes the treatment of residual waste up the waste hierarchy.

The application does not seek to make any alterations to the way the site is operated so it is unlikely there would be any significant increase in potential impacts on residential amenity as a result of the proposals. The difference in the restored landform is minor and, in some cases, visual receptors considered in the LVIA would experience a slight benefit from the proposed scheme, as opposed to the previously approved restoration landform. Potential issues with regard to drainage and highways have been discussed in more detail and it is considered that, with the addition of the suggested conditions any potential risks would be limited, and the conditions would ensure that any risks that did occur could be adequately controlled by the conditions. Whilst both the NRW and the Ecologist for the council had initial concerns with regard to the proposals and the potential for impact on biodiversity, following numerous additional ecological reports NRW have withdrawn their previous objections. The proposed restoration and aftercare scheme is similar to that previously proposed and it is considered that the schemes would maintain and enhance the resilience of ecosystems. Taking into account the previously approved schemes (these would be the schemes that would be implemented if this application were to be refused) the proposed scheme is a more up to date scheme in comparison, and can be seen as a positive addition with regard to the requirements of the Environment Act (Wales) 2016. Notwithstanding this, a condition has also been added that will require a further detailed, restoration and aftercare plan for the site, 12 months prior to the cessation of operations on the site. In light of the above it is considered that the proposal would not have any adverse impacts on the surrounding area.

Accordingly, the proposed development is in accordance with Policies SP 19 Waste Management, Policy SP 16 (Environmental Protection), Policy SP 20 (Transport Network), Policy SC1 (Settlement Limits), Policy EN 2 (Special Landscape Areas), Policy EN 7 (Important Natural Features), Policy EN 8 (Pollution and Land Stability) and Policy TR 2 (Design and Access of New Development) of the Neath Port Talbot Local Development Plan, as well as Planning Policy Wales (PPW10) 10<sup>th</sup> Edition and guidance in Towards Zero Waste – One Wales: One Planet (2010).

**RECOMMENDATION** That, subject to Welsh Ministers' withdrawing their Holding Direction under Article 18 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012, planning permission is granted subject to conditions.

### Conditions

- 1) The deposit of waste at the site (Tip 890) shall cease by no later than 31<sup>st</sup> December 2023. Restoration shall be completed no later than the 31<sup>st</sup> December 2024.

#### Reason

To provide a period which takes into account of the needs of the operator as well as other planning considerations.

- 2) The developer shall notify the Local Planning Authority in writing within 7 days of the date of the following.
- The completion of each landfill phase.
  - The completion of restoration of each landfill phase.
  - The completion of final restoration under this planning permission.

Reason

To enable the Local Planning Authority to control the development.

- 3) In the event of a cessation of operations, for a period exceeding 6 months, at any time before the development is completed, a reinstatement and restoration scheme shall be submitted to the Local Planning Authority for approval within 1 month of the end of the 6 month period. The scheme shall provide revised details of final levels, restoration, capping, landscaping, and a timescale for the implementation of the scheme and each element within it. The approved scheme shall be carried out in accordance with the approved timescale.

Reason

To secure the proper restoration of the site within a reasonable and acceptable timescale.

- 4) Unless modified by other conditions of this permission, the working, phasing, landscaping, restoration, and aftercare of the site shall be carried out substantially in accordance with the following plans:
- Drg. No. JODA/PW/890/001E (Fig. 22)
  - Drg. No:-JODA/OPW/890/003E (Fig. Ref. 6.1) Site Infrastructure Drawing. June 2001.
  - Drg. No: JODA/PW/890/018A (Fig. Ref. 6.3) Civic Amenity Site Details (Jan 2003).
  - Drg. No: JODA/PW/890/007F (Fig. Ref. 7.1) Restoration and Aftercare Proposals (June 2001).
  - Drg. No: JODA/PW/890/014B (Fig. Ref: 15.5). Pre-settlement contours (Extension Area only). June 2001.
  - Drg. No: JODA/PW/890/16C (Fig. Ref: 15.6). Design Sections.
  - Drg. No: JODA/PW/890/17 (Fig. Ref: 15.7). Design sections.
  - Drg. Ref: SH/PW/12-03/11256. Settlement lagoons and cut off drains for landfill extension.
  - Plan Ref. No's SH/PW/121-03/11264 to 11269 - material movements plan and phasing.
  - Drg. No: 5 General Layout (approved under planning permission P2006/1029)
  - Drg. No: 8 Proposed Office Layout and Elevations (approved under planning permission P2006/1029)

As amended by the following plans and documents

- WR7431 17 01 R1-Site Location Plan
- WR7431 17 02 R1-Planning Application Boundaries and Land Under the Applicants Control
- WR7431 17 03 R2-Proposed Phasing Plan
- WR7431 17 04 R2-Pre-Settlement Waste Contours Plan
- WR7431 17 05 R2-Post-Settlement Waste Contours Plan
- WR7431 17 06 R1-Section Location Plan
- WR7431 17 07 R2-Sections Through Proposed Landform
- WR7431 06 01 Pwllfawtkin Restoration Masterplan R2
- WR7431 17 08 R2-Proposed Surface Water Management Scheme
- Additional Ecological Appraisal, Dated October 2018
- Additional Ecological Appraisal, Dated January 2019
- Letter containing additional Ecological Information, Dated 8th February 2019
- Planning Statement, report ref WR7431/PS/1 dated June 2018
- Pwllfawtkin Landfill Site Surface Water Management Plan (document reference: WR7407, final rev 2, and all plans therein)

On no account shall any development extend outside the planning boundary indicated in red on Fig. Ref. 6.1.

Reason

To enable the Local Planning Authority to adequately control the development and to minimise its impact on the amenities of the local area.

- 5) A survey shall be carried out at intervals of not less than every 12 months, starting from the date of this permission, on all of the areas identified for the construction of landfill cells and waste tipping at the site showing levels to ordnance datum. A copy of the survey shall be submitted to the Local Planning Authority within 28 days of the survey being undertaken.

Reason

To ensure the proper restoration of the site in accordance with submitted plans.

- 6) The Scheme for the periodic monitoring and review of the biodegradable fraction of waste deposited at the site, approved under planning reference P2005/0607, shall be implemented, as approved, at all times throughout the lifetime of the site.

Reason

To ensure that restoration levels pay regard to changes in settlement rates that might be achieved over the period of landfill.

- 7) Any leachate treatment facility constructed at the site shall be used solely for the processing and treatment of landfill leachate which has been generated by the Pwllfawtkin Landfill site. At no time shall any other leachate, effluent, or liquor, be imported to the facility for processing or treatment.

Reason

In the interest of highway safety and in the interest of the amenity of the area and in order to secure the eventual restoration of the site.

- 8) On the completion of landfilling the last layer of waste in each phase, the surface levels shall be ascertained by a competent surveyor and any discrepancy between actual levels and those approved shall be immediately made known to the Local Planning Authority. Markers shall be placed to indicate the approved pre settlement reclamation levels, and these shall be retained until completion of final restoration.

Reason

To ensure the proper reclamation of the site in accordance with the submitted plans.

- 9) Within six months of any leachate treatment facility ceasing to be operated for any 12-month period, the facility shall be decommissioned and demolished and the site restored accordance with details to be submitted to and approved by the Local Planning Authority

Reason

To secure the eventual satisfactory restoration of the site.

- 10) Any plant and machinery that may be retained on site for landfill gas control or treatment following restoration of the site, shall be removed from the site within 6 months of its effective decommissioning. The area occupied by such plant and equipment shall be restored in accordance with details to be submitted to and approved by Local Planning Authority.

Reason

To secure the eventual satisfactory restoration of the site.

- 11) Before entering onto the public highway, the wheels, undersides, and bodies of all vehicles travelling from the site shall be cleaned and in such a condition as to avoid the deposit of slurry, mud, or other material upon the public highway.

Reason

To ensure that such reasonable precautions are taken, and provisions made as is necessary to prevent the exit of vehicles onto the public highway which would be likely to deposit material on the public highway to the detrimental highway safety.

- 12) All vehicles, plant and machinery operated at the site shall be maintained in accordance with the manufacturers specification at all times and shall be fitted with and use effective silencers.

Reason To ensure minimum disturbance from operations and avoidance of nuisance to the local community.



- 13) In respect to the importation of waste for disposal at the landfill and ancillary operations, the permission hereby granted relates only to the use of the access road and access point marked X on approved Drawing No. JODA/PW/890/001E (Fig. 22) by vehicles gaining access to or from the site and no other access or access point shall be used

Reason

To provide that any proposed use of alternative access routes and access points can be considered by the local planning authority.

- 14) Notwithstanding the provision of condition 13 above, the transportation of material between the landfill site and Tip 871 shall be via the access points marked Y on Drg. No. JODA/PW/890/001E (Fig 2.2). No other access point shall be used for such operations.

Reason

To prevent alternative accesses for the transportation of engineering materials or unsuitable spoil that may be inappropriate in highway or amenity terms

- 15) No more than 125 heavy goods vehicles shall enter the site on any day Mondays to Fridays and no more than 60 such vehicles should enter the site on Saturdays. No such movements shall occur on Sundays, Bank or Public Holidays other than in accordance with the function of the Civic Amenity facility.

Reason

In the interest of highway safety and residential amenity.

- 16) Except as may be modified under other terms or conditions of this permission, operations for the deposit of waste into the site for landfill disposal shall be restricted to the following periods.

07.00 to 17.00 hours Mondays to Fridays.

07.00 to 13.00 hours Saturdays.

No such operations shall occur on Sundays, Bank or Public Holidays

Operations for the covering of waste or for ancillary operations and restoration works shall be restricted to the following periods

07.00 to 19.00 hours Monday to Friday.

07.00 to 15.00 hours Saturdays.

No such operations shall occur on Sundays, Bank or Public Holidays

Reason: To control the time of operations at the site in the interest of the amenities of the area.

- 17) Notwithstanding provisions of condition 16 above, operations for the construction and removal of surface water treatment lagoons shall not occur except between the hours of 08.00 and 16.00 Monday to Friday and 08.00 to 14.00 hours Saturdays.

Reason

To control the time of operations at the site in the interest of the amenities of the area.

- 18) The Scheme for dust monitoring and suppression, approved under planning reference P2005/0608, shall be implemented, as approved, at all times throughout the lifetime of the site.

Reason

To protect the amenities of the locality from the effects of any dust arising from the development.

- 19) Noise levels arising from the development shall not exceed 52 dB (L<sub>aeq</sub>) (1 hour) free field at any of the noise sensitive properties identified on plan A to this permission following the completion of the deposit of the engineering cap on cell 1 of the proposed landfill extension.

Reason

To protect the amenity of local residents.

- 20) The free field noise levels attributable to the construction and removal of water treatment areas, as measured at the boundary of the curtilage of any residential or noise sensitive property shall not exceed 60dB(A) Leq (1hr).

Reason

In the interest of amenity of the area.

- 21) All operations at the site shall be carried out in full accordance with the approved Odour Management Plan dated January 2020 (as approved dated January 2020 or following review under the condition 22 below) until landfilling and restoration have been completed.

Reason

To ensure that an up-to-date Odour Management Plan is in place which provides the necessary degree of control over activities at the site in order to minimise odour impacts in the interests of residential and local amenity, and to comply with Policy EN8 of the Local Development Plan.

NOTE: Failure to comply with the approved OMP would amount to a breach of planning for which a Breach of Condition Notice (BCN) could be served. In addition, in the case of a serious odour issue arising from such a breach, the option is also available to issue a Temporary Stop Notice alongside such a BCN.

- 22) No later than twelve months after the date of this consent (and every twelve months thereafter), the operator shall undertake a review of the Odour Management Plan. Such review shall consider the effectiveness of measures within the OMP, include details of all complaints received and actions taken, and make recommendations for any necessary improvements. The review

and any necessary amendments to the Odour Management Plan shall be submitted for the written approval of the LPA no later than one month after the review date. In the event that the operator fails to undertake and submit the required review within the above timescales, or the Local Planning Authority refuses to accept the recommendations within the review, all operations at the site shall cease until such time as the Local Planning Authority has confirmed in writing their agreement of a revised Odour Management Plan.

#### Reason

To ensure that an up-to-date Odour Management Plan is in place which provides the necessary degree of control over activities at the site in order to minimise odour impacts in the interests of residential and local amenity, and to comply with Policy EN8 of the Local Development Plan.

23) Within one week of the Local Planning Authority making a request in writing following receipt of a justified complaint, the operator shall conduct a full investigation into the causes of the odour and report in writing to the Local Planning Authority the results of its investigation along with an Action Plan to address any identified issues. The report should contain as a minimum;

- Evidence of the examination of all potential odorous activities detailed in the current approved Odour Management Plan and the conclusions of those investigations
- Details of any pre-notified or refused odorous materials identified at the weighbridge
- Details of landfill odour monitoring including calibration certificates for monitoring equipment
- Copies of all Daily Odour Inspection Forms for the relevant period
- Copies of the Site Diary as detailed in the Odour Management Plan for the relevant period
- Copies of Olfactory Odour Assessments for the relevant period
- Copies of Odour Diaries received from local residents for the relevant period
- Copies of Sniff Test Report forms for the relevant period
- Copies of Odour Complaint Report Forms for the relevant period
- Details of proactive gas and leachate infrastructure checks for the relevant period

In the event that the operator fails to undertake and submit the required investigation within the above timescales, (without having first agreed, in writing, an extension of time with the LPA to provide this information) or the Local Planning Authority notifies the operator in writing that they have failed to accord with the agreed Action Plan, all operations at the site shall cease until such time as the Local Planning Authority has confirmed in writing their agreement of the implementation of the Action Plan and a revised Odour Management Plan.

Reason To ensure that robust procedures are in place to swiftly address any odour issues arising from justified complaints in the interests of residential and local amenity, and to comply with Policy EN8 of the Local Development Plan.

- 24) Any facilities for the storage of oils, fuels or chemicals shall be on impervious bases and surrounded 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, vents, 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 filling points and tank overflow pipes should be detailed to discharge downwards into the bund.

Reason

To prevent pollution of watercourses

- 25) The Landscaping Scheme approved under planning reference P2005/0609, shall be implemented, as approved.

Reason

To minimise the visual impact of the development by ensuring that areas disturbed, including faces of excavations and slopes of fill, in the initial development of the site but which are then no longer required for continuing operational purposes are landscaped at the earliest opportunity,

- 26) All surface water drainage from parking areas and hardstanding's shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained prior to discharge into any watercourse. Roof water shall not pass through the interceptor.

Reason

To prevent pollution of watercourses.

- 27) Drainage ditches, settling ponds and lagoons shall be regularly desilted and maintained in such condition that they are able to perform effectively and efficiently 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.

- 28) With the exception of the construction of water treatment facilities and associated drainage , the leachate and landfill gas compound, and the erection of fencing, no other engineering works or landfilling shall occur within 40 metres of the Upper Clydach River within the Landfill Extension site (Tip 890)

Reason

In the interest of nature conservation.

- 29) Any additional settlement lagoons or drainage works to be carried out within the extension site (tip 890) shall be carried out in accordance with the details within the Ecological Management Plan, approved under planning reference P/2005/0609

Reason

To ensure appropriate mitigation and enhancement of areas of ecological interest and the provision of additional nature conservation habitat and wildlife in areas not affected by the proposed development.

- 30) The aftercare of Phase 1 and 2 shall be carried out in accordance with the details approved under planning permission P2012/0072

Reason

In the interest of the satisfactory phasing of restoration and aftercare.

- 31) By 31st September 2022 or 12 months prior to the cessation of operations at Tip 890, whichever is sooner, the applicant shall submit a detailed restoration and aftercare scheme for phases 3 – 4 (inclusive of the sidewall extension detailed in this application) and any areas requiring restoration and aftercare works not included within previous planning approvals. Works shall be carried out in accordance with the approved scheme

Reason

In the interest of the satisfactory phasing of restoration and aftercare.

- 32) Prior to any restoration works being undertaken in furtherance of this permission all areas of Section 7 habitats (with the exception of waterbody 24) as identified in the Ecological Appraisal dated January 2019, will be appropriately demarcated to prevent encroachment, and retained as existing.

Reason

To ensure appropriate protection of S7 habitats and compliance with the Environment Wales Act 2016.

- 33) Prior to commencement of any works within 7m of a watercourse or waterbody, the area shall be subject to a precautionary check for otter and water voles by an Ecologist. If any such species are discovered, appropriate mitigation will be agreed in writing with the local planning authority and where necessary a licence from NRW obtained prior to any works being implemented. Works will be undertaken strictly in line with the agreed mitigation and licence conditions (where relevant).

Reason

To comply with the proposals set out in the Ecological Appraisal section 6.40 and to ensure compliance with the Conservation of Habitats and Species Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended).

- 34) All mature native trees within and bounding the site shall be retained

Reason

To conserve habitats that support species such as birds and bats; and to ensure compliance with the Conservation of Habitats and Species Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended). To comply with the proposals set out in the Ecological Appraisal section 6.22.

- 35) No lighting will be installed on site that is additional to the existing approved lighting scheme for the site.

Reason

To ensure nocturnal wildlife are not adversely affected or disturbed by the lighting of the site and to ensure compliance with the Conservation of Habitats and Species Regulations 2010, the Wildlife and Countryside Act 1981 (as amended) and to comply with the proposals set out in the Ecological Appraisal section 6.21.

- 36) Where it is necessary to remove a waterbody, works will be undertaken outside of the breeding season for amphibians. Works will be limited to between September and January.

Reason

To comply with the proposals set out in the Ecological Appraisal section 6.30 to protect Common Toad (S7 species) and to ensure compliance with the Environment Wales Act 2016.

- 37) Where it is necessary to undertake any works to any waterbodies that are to be retained details of restoration works and planting shall be submitted to the Local Planning Authority for approval. The works shall be implemented as approved.

Reason

To comply with the proposals set out in the Ecological Appraisal section 6.32 to conserve S7 habitats and to ensure compliance with the Environment Wales Act 2016.

- 38) Notwithstanding the submitted restoration masterplan and planning statement, prior to the commencement of restoration works on site an updated restoration and aftercare scheme shall be submitted to the Local Planning Authority for approval. This revised scheme shall include the following revisions and additional items:

- Details of areas to be recreated of S7 habitats including ponds and open mosaic habitat on previously developed land, to offset losses of such habitats
- Details of wildflower seeding to be over seeded following establishment of the grass sward in the species rich grassland areas

- Replace Beech (*Fagus sylvatica*) with Alder (*Alnus glutinosa*) in the tree planting schedule
- Ongoing management proposals to ensure the biodiversity interest of the site is retained
- Monitoring and remedial action arrangements to ensure the biodiversity interest is successfully established and maintained and where necessary changes to management agreed and applied.

The scheme will be implemented as approved.

Reason

To comply with the proposals set out in the Ecological Appraisal section 6 and to ensure compliance with the Environment Wales Act 2016

- 39) Operations at the site shall be carried out in accordance with the details provided within the scheme for noise monitoring and suppression (approved under planning permission P2005/0610) at all times for the lifetime of operations at the site

Reason

To ensure adequate arrangements are in place for the monitoring of noise associated with the site.

- 40) The signage, road markings and drainage works approved under planning permission P/2005/0706 shall be maintained for the lifetime of operations at the site

Reason

In the interest of highway safety.

- 41) The road improvement works carried out in accordance with the approved scheme (planning permission ref P/2005/0707) shall be maintained for the lifetime of operations at the site

Reason

In the interest of highway safety.

- 42) The signage improvement works carried out in accordance with the approved scheme (planning permission ref P/2005/0713) shall be maintained for the lifetime of operations at the site

Reason

In the interest of highway safety.

- 43) From the commencement of development to its completion, a copy of this Permission including all documents hereby approved and any other documents subsequently approved in accordance with this permission shall be permanently maintained and available for inspection at the site office.

Reason

To ensure that the operators of the site and any appropriate officer of the local planning authority has access to such approvals on site.

- 44) Site Liaison Committee meetings shall continue to be held, in accordance with the scheme approved under planning permission P2006/0173, for the lifetime of operations at the site (to include the restoration and aftercare phases).  
Reason  
To assist in the control of and assessment of monitoring of the environmental effects of the development.
- 45) Technical Working Party meetings shall continue to be held, in accordance with the scheme approved under planning permission P2005/0606, for the lifetime of operations at the site (to include the restoration and aftercare phases).  
Reason  
To assist in the control and monitoring of the environmental effects of the development.
- 46) Lighting at the site shall be maintained in accordance with the details, approved under planning permission P2005/0604, for the lifetime of operations at the site  
Reason  
In the interest of amenity.
- 47) No highly malodorous waste shall be imported into Tip 890 without the prior approval of the Local Planning Authority, as detailed in the scheme approved under planning permission P2005/0601  
Reason  
To control the level of highly malodorous wastes in the interest of amenity.
- 48) Within 3 months of the commencement of the deposition of waste into the Proposed extension landfill site (Tip 890) and every 3 months thereafter until the completion of waste importation into the site, a record of the origin and total tonnage of waste imported into the site for each 3 month interval and the aggregated total of all waste imported into the site shall be provided in writing to the local planning authority.  
Reason  
In order that the planning authority can monitor the compliance of planning controls and other planning considerations.
- 49) The highways improvement works, carried out in compliance with planning permission P2005/0715 shall be retained in a condition fit for their purpose for the duration of operations at the site  
Reason  
In the interest of highway safety.
- 50) The ground levels at Tip 890 shall not exceed the pre-settlement contours as shown on plan WR7431 17 04 R2-Pre-Settlement Waste Contours Plan  
Reason  
In the interest of clarity and to establish an early indication of the contours to be achieved to accord with restoration proposals.



- 51) The crossroads on Barran Road, between Tip 871 and the current landfill site shall be monitored daily, from the date of this permission, (to include a daily photographic record) for a 6 month period, to ensure surface water drainage is not leaving the landfill site and flowing onto the public highway. The results of this monitoring shall be submitted to the Local Authority on a monthly basis.

Should surface water run off leave the site and flow onto the public highway then the applicant shall submit details, for the approval of the Local Authority (within 1 month of any incident being identified) to include remedial measures to be put in place to clear the highway of any deleterious material and any additional drainage measures to ensure on site drainage does not continue to flow onto the public highway. The additional works shall be carried out as agreed for the duration of operations at the site

Reason

For the safety of users of the public highway and to prevent potential contamination of nearby watercourses

- 52) No later than the 31st December 2022 or 12 months prior to the cessation of landfilling operations on site, whichever is the sooner, the applicant shall submit a drainage scheme (covering the landfill site north of Barran Road) for the approval of the Local Planning Authority, this scheme shall include, inter alia:

- Details for the disposal of water from the site using gravity connections
- Detailed plans showing contours and flow routes
- Engineering plans showing drainage pipes, manholes, hydro brakes (if applicable)
- Discharge rates and storage attenuation
- Storage capacity for any lagoons and discharge rates
- Measures to prevent or mitigate any potential exceedance of water

The scheme shall be implemented as approved

Reason – to ensure effective drainage at the site following the cessation of operations at the site and in order to minimise potential for the contamination of nearby watercourses.

- 53) The local planning authority shall be given a minimum of 48 hours prior notice in writing of any soil stripping operations.

Reason In the interest of soil conservation.

- 54) Soil stripping shall only be carried out when the soil is in a dry and friable condition and between the months of April and September inclusive,

Reason

In the interest of soil conservation.

- 55) In order to minimise compaction of soils, only those vehicles involved in loading soils shall be permitted on unstripped areas and then only restricted to the minimum necessary to recover the soils. Vehicles used in transporting soils shall only travel over areas of ground that have previously been stripped of topsoil, subsoil, and shallow soil-forming material.  
Reason  
In the interest of soil conservation
- 56) No sub or topsoil's originating from on-site soil stripping operations shall be sold or otherwise leave the site  
  
Reason  
In the interest of soil conservation
- 57) No hazardous waste so defined by Article 1(4) of Directive 91/689/EEC(7) (hazardous waste) or any subsequent amendment to this Directive or Landfill (England and Wales) Regulations 2002 redefining that definition shall be deposited into the site.  
Reason  
To retain adequate control of the development in the interest of amenity and prevent development of a nature not considered within the application.
- 58) No more than 180,000 tonnes of waste of any kind shall be imported into the site over any 12-month period.  
Reason  
To control the scale of development and transportation to a level that is acceptable and in the interest of general amenity.

## SECTION A – MATTERS FOR DECISION

### Planning Applications Recommended For Approval

<b><u>APPLICATION NO:</u> P2018/0511</b>	<b><u>DATE:</u> 20/06/2018</b>
<b>PROPOSAL:</b>	The variation of Condition 1 (to extend the operational lifetime of the site until 2025, followed by a year for restoration works) 2, 5, 6, 8, 15, 19 & 21 (to reflect the submitted updated plans and statements) attached to planning permission P2014/0693
<b>LOCATION:</b>	Pwllfa Watkin Refuse Tip ( <b>Tip 871</b> ), Pontardawe Link Road To Baran Road, Pontardawe SA8 4RX
<b>APPLICANT:</b>	FCC ENVIRONMENT
<b>TYPE:</b>	Section 73 – Variation of Condition
<b>WARD:</b>	Pontardawe

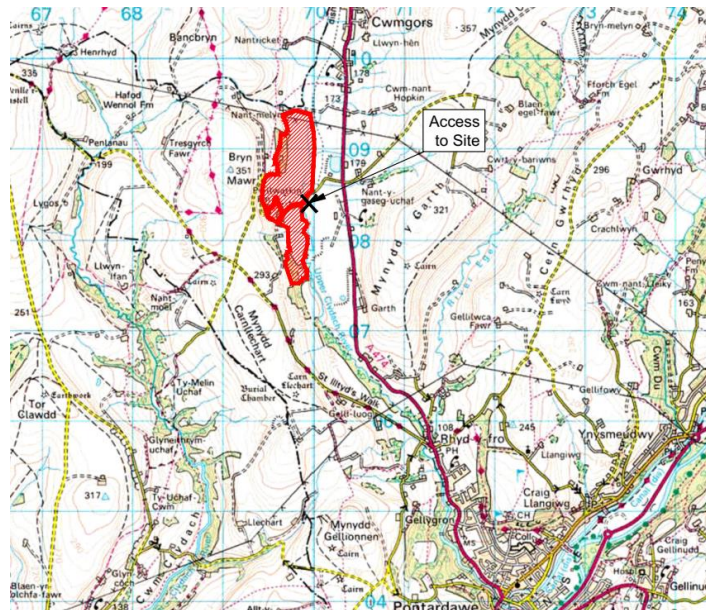
### BACKGROUND

Although Officers had determined that this would be an appropriate matter to be brought before the Planning Committee for a decision, Members should note that the local ward Members for Pontardawe and Gwaen-Cae-Gurwen have made requests that the application (and the concurrent application ref. P2018/0512) should be determined at Planning Committee.

Members are also advised that on 24<sup>th</sup> June 2020, the Welsh Ministers – having been requested to call in the applications (P2018/0511 and 0512) for their own determination – issued a Holding Direction under Article 18 of the Town and Country Planning (Development Management Procedure)(Wales) Order 2012. This precludes the Council from granting planning permission without the prior authorisation of the Welsh Minister. It does not, however, preclude the matter being reported to members for a resolution, after which The Welsh Ministers will have the opportunity to call the application or lift their holding direction.

### SITE AND CONTEXT

The Pwllfawatkin Landfill site is located in the north-western part of Neath Port Talbot, approximately 500m south west of Cwmgors and 3.4km north west of Rhydyfro.



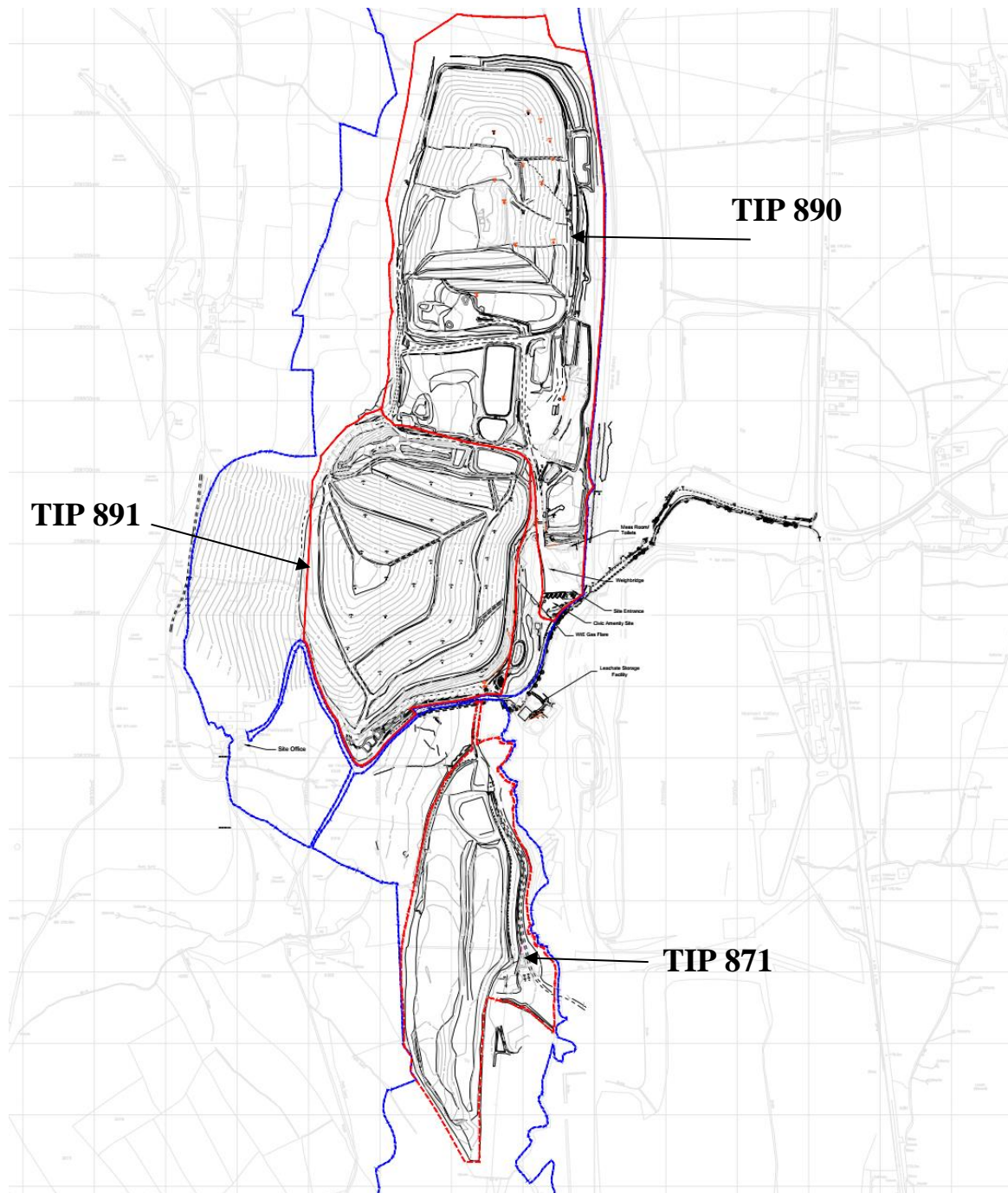
The landfill site comprises two separate sections. The area known as Tip 891 is the completed southern section of the landfill. The northern section, which is currently being landfilled, is known as tip 890.

The northern section has been landfilled in a series of cells working from north to south, with progressive restoration as each cell is completed. The site is in a valley with land rising steeply to Bryn Mawr to the west and Mynydd Y Garth (a special landscape area) to the east.

Access to the site is gained via the minor road (known as Baran Road) which also affords access to the Site Offices further up the hillside to the west. Baran Road connects with the A474 approximately 350m east of the site entrance.

The area to the south of the Baran Road, known as tip 871, is part of the site but is not used for landfill. The tip material has permission to be used for capping on the active landfill site. Activities here are sporadic and infrequent and no material from tip 871 has been used in the landfill site in recent years.

**This application relates to tip 871** (which is identified on the plans below). The tip is an area of colliery spoil from the former Abernant Colliery, which closed in 1988. Materials from the spoil tip are utilised for engineering works, such as clays for capping and other similar operations on the active landfill site. The tip 871 is accessed from the landfill site via an internal haul road, another haul road then crosses directly across the Baran Road from the tip into the landfill site.



The site is bounded by trees and shrubs to the east, south and west, there is a settlement pond, to the north of the site, which drains to the upper Clydach River, approximately 30 metres to the west of the site boundary. The north of the site is bounded by Baran Road, and this is also lined with various trees and shrubs, although not as thickly as with the other boundaries.

The closest property to the north is Nant-y-gafaelau approximately 625m distant (with the partially restored landfill phase 1 forming much of the intervening landscape) to the east Highbury Cottage is approximately 530m distant, fronting the A474. To the west the closest property is the site office, located on the hillside overlooking the site, approximately 300m distant. To the south the closest property is Coadcae Mawr approximately 700m distant.

## DESCRIPTION OF DEVELOPMENT

Condition 1 of planning permission P2014/0693 granted permission for operations at Tip 871 until 30th September 2018, condition 2 allowed 12 months for restoration, with a requirement for restoration to be completed by 30<sup>th</sup> September 2019.

This application seeks to vary numerous conditions attached to planning permission P2014/0693.

When the current application was initially made it sought to vary condition 1 to extend the lifetime of operations until 30<sup>th</sup> September 2025 and condition 2 to extend completion of restoration until 30<sup>th</sup> September 2026. These dates had been proposed based on the cessation of operations at tip 890, which is subject to a separate planning application P2018/0512 (being considered concurrently on the Agenda).

The original submission for the extension of the time period for tipping at tip 890 proposed an end date of 2024, with a year for restoration, bringing the closing date of tip 890 to 2025. As engineering material for capping tip 890 is taken from tip 871 then tip 871 would need to remain open in order to provide materials during tip 890's restoration period, until 2025. There would then be a further year of restoration for tip 871, bringing the final restoration date of tip 871 to 2026.

However, in December 2019 the applicant submitted an amended scheme for tip 890, which predicted the cessation of tipping operations would now be December 31<sup>st</sup> 2023, so restoration works would be complete by December 31<sup>st</sup> 2024, allowing 12 months for restoration. Based on these time scales this means that extractive operations at tip 871 will need to end by 31<sup>st</sup> December 2024 with restoration ceasing by 31<sup>st</sup> December 2025, a year earlier than originally proposed.

The amended final finished profile of tip 890 will require up to 65,000 tonnes of material to be extracted from tip 871 (the previously proposed profile required 40,000 tonnes). This will result in a different restoration profile compared to the current approved profile. In light of this the applicant has also sought to vary conditions 2, 5, 6, 8, 15, 19 & 21 in order to allow for the change in restoration profiles and the need for updated plans to reflect this, along with updated ecological information.

## PLANNING HISTORY

There is an extensive history of waste related planning applications at the Pwllfawtkin Site, with the following of relevance to this application: -

- P2014/0693, Variation of conditions 3 and 5 of Planning Permission P2011/0537 to allow for the implementation of a revised Surface water drainage strategy. Full granted, 15/5/2017
- P2011/0537, Retrospective planning application for continued operation of engineering operations and final restoration. Full granted, 22/12/2011

- P2010/1178, Regulation 5 request for a screening opinion - for the continued operation of engineering operations at tip 871. Full granted, 20/12/2010
- P2001/0306, Discharge of condition 6 of planning permission no: P/2000/1417-surface water treatment facilities. Full granted, 09/05/2001
- P2000/1417, excavation of colliery spoil tip, (tip 871) for use in the engineering and restoration of Pwllfawatkin landfill site. Full granted, 20/02/2001

## CONSULTATIONS

**Cllr Linet Purcell and Cllr Anthony Richards (Pontardawe Ward)** have responded jointly as follows: -

As ward councillors representing Pontardawe, and particularly those residents living in the village of Rhydyfro, our prime concern is to protect the community from the problems with odour which is sufficiently bad to have necessitated NPT's Environmental Health Officers serving an abatement notice.

We are willing to be guided by the officers' expert opinion as to the best way to improve this situation going forward. Can officers inform us as to what controls, if any, the Council would be able to apply should the application be refused and give us some idea as to the likely future of the tip should permission to extend be refused?

If the officers advise that the best way to protect the residents from this ongoing nuisance is to give permission for the extension and to apply strict conditions to that permission, then we would be minded to support that proposal.

However we look forward to reading the officers' report and receiving information as to the possible future for the tip should the application be refused.

**Cllr S H Reynolds (Gwaen Cae Gurwen Ward)** - expressed concerns related to odour and the impact on amenity, the need for a landfill site and the effectiveness of the monitoring procedures in place. Requested that the application be called in to be considered by committee, mainly due to the high number of complaints from residents relating to odour, highways impacts and impacts relating to visual amenity and the local economy

**Pontardawe Town Council** – No objection

**Natural Resources Wales** - raised some concerns with regard to protected species, in particular, Newts. However, following the submission of additional information, and the inclusion of a condition requiring further restoration and aftercare details to be submitted, 12 months prior to the cessation of operation, the initial objections were withdrawn.

**The Coal Authority** – No objections

**Head of Engineering & Transport (Highways)** – The concerns of the highways officer are closely linked to drainage. The officer raised initial concerns with regard to the long term drainage strategy for the site and raised concerns regarding the potential flooding issues at Baran road between the two tips. Required further details regarding the overall drainage plan for the site utilising a gravity system, without having to rely on pumps. Conditions are suggested which the officer has confirmed address these concerns.

**Head of Engineering & Transport (Drainage)** – Initial concerns with regard to vehicles tracking over the site changing the existing drainage regime. Agreed that conditions (detailed in the report) including a drainage plan adequately address the concerns.

**Environmental Health (Noise)** – no objection

**Environmental Health (Odour)** – Requested a condition requiring the submission of an up-to-date odour management plan

**Environmental Health (air quality)** – no objection

**Biodiversity Unit** – initial response raised concerns with the application, chiefly, relating to

- Inaccuracies and inconsistencies in the ecological survey report
- Inadequate restoration plan which did not meet the requirements of the environment act
- Loss/gain for different habitats needed to be undertaken
- Further information on restoration works already carried out at the site
- Grassland and woodland species mix were not considered acceptable
- Further clarification of post-restoration management required

The applicant responded to the queries submitting additional ecological appraisals and amended the design of the scheme. In a final response the ecologist confirmed that there would be no objection to the amendments, so long as her requested conditions were applied.

## REPRESENTATIONS

There was an initial period of consultation on 21st June 2018, and following the submission of amended plans (to allow for a side well extension of cell 4 at Tip 890), re-consultations were carried out on 23/09/2019.

The application was also re-advertised in the press on 16<sup>th</sup> January 2020 and new site notices displayed on 13<sup>th</sup> January 2020.

In response, to date 19 no. representations have been received, with the issues raised summarised as follows: -

- Strong odour coming from the site
- Health concerns associated with the site and potential emissions



- The viability/need of the site given a move towards recycling
- Number of HGV's entering/leaving the site exceeding the limit
- Debris falling from lorries onto the road network
- The distance the waste travels and the importation of waste from areas outside of the county

## REPORT

### National Legislation

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

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

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

Acting in accordance with the sustainable development principle means that a body must act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

To act in that manner, a public body must take account of the following things—

- (a) the importance of balancing short-term needs with the need to safeguard the ability to meet long term needs.
- (b) the need to take an integrated approach, by considering how the body's well-being objectives may impact upon each of the well-being goals or objectives
- (c) the importance of involving other persons with an interest in achieving the wellbeing goals and of ensuring those persons reflect the diversity of the population of the area which the body serves
- (d) how acting in collaboration with any other person (or how different parts of the body) could assist the body to meet its well-being objectives
- (e) how acting to prevent problems occurring or getting worse may help public bodies achieve their objectives.

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; and
- A globally responsible Wales

The Environment (Wales) Act 2016 has been designed to complement the Wellbeing of Future Generations (Wales) Act 2015 by applying the principles of sustainable development to the management of Wales' natural resources.

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

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

### National Policy

Planning Policy Wales (PPW10) 10<sup>th</sup> Edition (December 2018) confirms that the Welsh Government policy for waste management is contained in Towards Zero Waste – One Wales: One Planet (2010) and the associated sector plans.

PPW10 advocates aiming to create a circular economy, one which aims to keep materials, products, and components in use for as long as possible. There are environmental, social, and economic benefits of taking such an approach, most notably the increased value and productivity of materials, financial savings for the construction sector and the prevention of waste.

PPW10 states that planning authorities must support the provision and suitable location of a wide ranging and diverse waste infrastructure which includes facilities for the recovery of mixed municipal waste and may include disposal facilities for any residual waste which cannot be dealt with higher up the waste hierarchy.

The waste hierarchy provides the key starting point for all types of waste management proposals. However, consideration of the hierarchy should be set against the wider social, economic, environmental, and cultural factors which are relevant in any given case.

The extent to which a proposal demonstrates a contribution to the waste management objectives, policy, targets, and assessments contained in national waste policy will be a material planning consideration.

Towards Zero Waste :One Wales One Planet (2010) (and the accompanying Sector Plans) is the overarching waste strategy document for Wales. It sets out a long-term framework for resource efficiency and waste management between now and 2050.

The aim of the strategy is for Wales to be a high recycling nation by 2025 and a zero-waste nation by 2050. The document sets out a number of aspirations and targets in order to meet the overall objective of zero waste by 2050. The key aims are:

- By 2025, a significant reduction in waste of around 27% based on 2007 levels.
- Residual waste will decrease to a maximum of 30% by 2025 and residual waste to landfill will be phased out and it will be sent instead to high efficiency energy from waste plants in order to deliver the best sustainable outcomes for this waste fraction.
- By 2050, achieving zero waste and 'living within our environmental limits'; and
- In achieving zero waste by 2050, a need to reduce waste arising by around 1.5% of the 2007 baseline each year across all sectors.

In achieving the above, the document states that Towards Zero Waste means:

- Waste will be reduced significantly.
- There will be a strong economy in resource management.
- Residual waste will be minimised.
- Landfill will be eliminated as far as possible; and
- Legacy wastes will be tackled.

The Sector plans are the key delivery documents that identify specific objectives and actions for each sector in order to make the necessary contribution towards the delivery of Towards Zero Waste. Sector Plans have been produced for the following:

- Collections, Infrastructure and Markets (CIM) Sector Plan
- Construction and Demolition Sector Plan
- Municipal Sector Plan
- Industrial and Commercial Sector Plan
- Food manufacture, Service and Retail Sector Plan

### National Guidance

Technical Advice Note 21: Waste (TAN21) (February 2014) provides advice on how the land use planning system should contribute towards sustainable waste management and resource efficiency, reflecting the new waste management drivers at an EU and Wales level

TAN21 states that with specific reference to waste management, land use planning should help to

- Drive the management of waste up the waste hierarchy and facilitate the provision of an adequate network of appropriate facilities
- Minimise the impact of waste management on the environment (natural and man-made) and human health through the appropriate location and type of facilities
- Recognise and support the economic and social benefits that can be realised from the management of waste as a resource within Wales.

The general principles are that when considering development proposals for all types of waste management facilities, planning authorities should take account of their potential contribution to the objectives, principles and strategic waste assessments set out in *Towards Zero Waste* and the relevant waste sector plans and the relevant

development plan for the area. The extent to which a proposal demonstrates this contribution, in environmental, economic, and social terms, will be a material planning consideration. The aim being to ensure that the right facilities are located in the right place to meet environmental, social, and economic needs. At both a strategic and a site level this means accepting that waste will need to be managed in all areas of Wales.

TAN21 expects that the recycling and reuse targets set by Towards Zero Waste and the Collections, Infrastructure and Markets Sector Plan will, over time, result in a reduction in the volume of waste requiring disposal. As a result, landfill has an ever-decreasing role to play in waste management. Nevertheless, it is recognised that it still has a role (albeit a diminishing role) in the short to medium term (to 2024/25) while the necessary waste treatment infrastructure comes on stream. Landfill void space will therefore continue to be required in the short to medium term.

### Local Policy

#### Local Development Plan (LDP)

The Neath Port Talbot Local Development Plan (2011-2026) was formally adopted on 27<sup>th</sup> 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.

#### *Strategic Policies*

**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 SP16** 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 SP19** seeks to make provision for an integrated network of waste management facilities including the identification of preferred sites for in-building waste treatment capacity.

**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.

### *Topic based policies*

**Policy SC1** allows for development outside settlement limits where (9) it is associated with the provision of public utilities, infrastructure and waste management facilities that cannot reasonably be located elsewhere; or

**Policy EN2** identifies a Special Landscape Area for Mynydd Y Garth (EN2/1). In such area's 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.

**Policy EN7** indicates that 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 full account has been taken of the relevant features in the design of the development 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 EN8** 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. The LPA has also produced Supplementary Planning Guidance on Pollution in October 2016.

**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.

### EIA and AA Screening

The application site exceeds the Schedule 2 (part 13 (b)) 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 screening report concluded that the proposed extension of time, and amendments to restoration profiles would result in a continuation of operations for a longer time period, but with no changes to current operational practice. The site has been operating for a considerable length of time and is located in relatively isolated area where there are few receptors who would be affected by any potential impacts.

Whilst there are some properties nearby the small-scale nature of operations (no blasting of material, and low level processing) means that any potential impacts would

be relatively limited and would not warrant an environmental impact assessment. There are a range of relatively straight forward, best practice measures that can be employed by the applicant to keep impacts (such as dust and noise) to a minimum. The comprehensive landscaping plan submitted also ensures that visual impacts would also be kept to a minimum. In light the scale and nature of the potential impacts associated with the development both alone and in combination with other developments within the area, it 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.

Given that there are no proposed changes in operational activities at the site a further ES study, for the extension of time, is not considered necessary as the impacts relating to the landfill have already been subject to an ES study. The nature of any impacts, and the proposed operations on site have not changed enough to justify the submission of another ES.

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 2017 is not required.

### Issues

Having regard to the above, the main issues to consider in this application relate to

- whether the surface water management plan is adequate enough to deal with surface water drainage at the site without polluting the River Clydach or flooding the Baran Road,
- Visual impact (including potential impact on cultural/archaeological features) relating to the amended restoration profile,
- The impact on biodiversity and ecology (relating to the restoration of the site)
- any issues relating to noise, dust, odour, and health, and impacts on highways within the context of the increase in the duration of these potential impacts; and
- Contamination and land instability

### Drainage and Flooding

The current drainage arrangements on site consists of surface water run-off being collected in the settlement lagoon located to the north of the tip, where the sediment is allowed to settle and the clean water flow out of the pond, via the control headwall, into the existing engineered ditch, into a further settlement lagoon and then via a discharge point into the Upper Clydach River. This drainage scheme was approved under the planning permission reference P2014/0693. This current application has proposed minor changes to the previously approved scheme, including the construction of a drainage ditch around the perimeter of the site. This ditch will be at least 0.3 metres deep, with 1:2 sides a 0.25 metre base and a minimum fall of 1:500. This is to help reduce the likelihood of surface water drainage flowing into the nearby River Clydach or back onto Baran Road.

The proposed restoration levels would result in a slightly flatter and lower profile in comparison to the currently permitted scheme, it is not considered that this change would have any adverse impact upon surface water drainage. The Council's drainage engineer raised concerns with regards to the proposed excavation and movement of material on site. The excavation and transportation of materials from the tip will require the use of heavy plant which would result in the compaction of any areas that are tracked by these machines, consequently this could result in a reduction of the permeability of the surrounding area and an increase in surface water runoff rates. The drainage engineer has raised concerns that the current drainage arrangements on site might not be adequate enough to deal with any increase in surface water should this occur in the future as a result from extraction operations at the Tip.

In light of this a condition has been suggested, which would require a drainage construction management plan to be submitted and approved by the Authority, prior to any operations taking place on site. This would ensure that, should any materials be required from the tip, then drainage arrangements can be quantified and measures put in place.

Subject to such condition there would be no unacceptable impact on drainage.

#### Visual Amenity

When considering the visual and landscape impact of the proposed amendments to the approved restoration scheme it is important to note that there is already an approved restoration scheme in place for this site. Therefore, when considering any potential impacts of the proposed amendments these need to be weighed against any potential impacts resulting from the currently approved scheme.

In accordance with pre-application advice provided to the applicant a full Landscape and Visual Impact Assessment (LVIA) has been submitted with the application, which identifies that there are features of importance for landscape value within the vicinity of the site. This includes the landscape Character Area (LCA) 32 Cwm Gors/Gwaun Cae Gurwen/Abernant – characterised by upland valley features, and the Special Landscape Area of Mynydd Y Garth, identified in the Local Plan, and covered by policy EN2/1, again identified as an upland area.

The currently approved restoration contours are identified by a condition on planning permission P2014/0693. The approved plans show that the restored Tip would consist of a central 'ridge' that would run most of the length of the site in a north-south direction. The tip profile showed a gentle rise from 162m aod in the north to 172m aod in the centre and falling back to 165m aod in the south.

The proposed restoration contours would result in a much lower landform to those approved and would result in a much larger 'plateau' in the central area of the site, as opposed to the more 'ridge' like formation previously approved. There would be a gentle slope from north to south, starting from the northern end of the site, at approx. 160 metres a.o.d rising to the highest point of the site 166 metres a.o.d, at the middle with a gentle slope at the extreme southern end of the site, falling to 162 metres a.o.d.

In summary the proposed contours would result in a larger plateau feature and the grade and visual prominence of the slopes would be reduced, when compared to the approved contours.

In order to determine any predicted visual effects from the proposed changes the LVIA has identified 17 visual receptors, based on residential properties, 2 based on transport routes as well as various 'viewpoints' all detailed in the LIVA. There will also be restoration planting carried out on the tip once operations have finished and this will help the site to 'blend' in with its surroundings and reduce the visual impact of the 'scar' formed from the current tip.

Overall, the conclusions drawn from the LVIA state that the overall landscape itself has a negligible sensitivity to change and that the development itself is not likely to negatively influence the key characteristics of the landscape, over and above the consented scheme. It is also considered that the lower level of tip 871 may result in a slight reduction in visual impact, due to the reduced engineered volume in comparison to the consented scheme. Once restored any long-term effects would be largely similar between the scheme consented and the proposed scheme.

With regard to residential receptors, it is considered that the overall effect of the proposed changes would actually be positive due to the reduction in physical form of the tip. It is also considered that this positive element would outweigh any negative impacts of an additional 5 years (including the 1 year for restoration works) operational life proposed by this application.

Therefore, the proposals are not in conflict with the relevant policies of the Local Plan, namely, Policy SP 14 The countryside and the undeveloped coast and Policy EN2 Special Landscape Areas (specifically EN2/1 Mynydd Y Garth).

### Residential Amenity

The proposal would result in a longer operational time frame for works on the site, there has been no proposed increase in working hours at the site, or any increase in output. Operations at the site are sporadic and future need to extract material from Tip 871 is uncertain. However, as part of this application they have allowed for excavation of materials from the tip to cover all eventualities and this can be considered to be a 'worst case' scenario. If material is required it is usually sourced on a 'campaign' basis and is not a regular requirement as it takes time for the cells to be built, filled and then capped. It is proposed that this site would be worked in 3 phases, with approximately 13,000 tonnes extracted and moved to tip 890 in each phase. Each phase would last a few weeks and would be spread out over the proposed extended 5 year period, it is estimated this would result in 14 deliveries of material each day (crossing over Baran Road at the current access from tip 871 to the northern area of landfill).

Therefore, at its peak the operations would have the potential to impact on residential amenity in relation to dust, noise and vibration, linked to excavation operations on site and the use of heavy plant on site, the haulage of material would also have the potential to generate a noise and dust nuisance. Notwithstanding this over the entire 5 year period operations would be infrequent, and whilst there may be intense periods of work these would be relatively limited in duration, a few weeks.



Looking at the site surroundings there is also a limited number of sensitive receptors that could be impacted upon as a result of the operations. Taking this into account and considering the sporadic nature of the proposed operations on site it is considered that the extension of time proposed at Tip 871 would not have any adverse impacts linked to dust, noise or vibration. Whilst there are numerous potential sources of dust, noise or vibration pollution from the site the applicant has identified a number of best practice measures to limit dust and noise emissions.

These are included as part of the dust management plan and noise mitigation scheme, both conditioned under conditions 16 & 15 respectively, of planning permission P2014/0693) these schemes include the following measures (amongst others);

- Water available on site for dust suppression and wheel washing facilities
- Site speed limits
- Monitoring of site conditions and weather conditions, via on-site weather station
- Maintenance of site haul roads etc, to reduce noise from body slap
- Reversing beepers will be minimised as much as possible (without compromising health and safety regulations)
- All plant and vehicles shall be well maintained and fitted with acoustic covers which shall remain shut at all times, unless maintenance is required.
- Any machines being used intermittently will be shut down or throttled back to reduce noise from idling.

These measures are all mostly standard practice so it can be reasonably assumed that these are achievable and can be implemented by the site operators. The site also requires an Environmental Permit from NRW, this requires measures to ensure any emissions to air and to water are kept to an acceptable level and the site operator will need to be able to demonstrate that they meet the requirements of any permit conditions. The Permit is designed to ensure that any installations comply with the conditions imposed upon them and regular monitoring and compliance visits are carried by NRW, and these reports are also available for public viewing. In addition to this there are also planning conditions on the existing planning permission (P2014/0693) that relate to specific noise limits, and approved details regarding dust and noise suppression and mitigation measures. The Councils environmental health officer has been consulted on this application and has not raised an objections or concerns.

In summary, taking all of the above into account it is considered that the extension of the working life of the site would not have any adverse impacts with regard to dust, noise or vibration. If any issues did occur there are satisfactory control measures (ie permits and/or planning conditions) in place to ensure that any issues are dealt with in a timely manner.

Therefore, the proposals accord with local Policies EN 8 Pollution and Land Stability and Policy SP 16 Environmental Protection.

## Ecology & Biodiversity

As part of the application the applicant has submitted an extended phase 1 habitat and preliminary protected species survey, using both desk based and a walk over study to inform the findings. There is a current restoration and aftercare plan for the site which allowed for the creation of the following habitat;

- Existing Native woodland and proposed native woodland
- Scrubland
- Purple moor grass
- Acid grassland

The plan also detailed various seed mixes for the proposed habitats along with fencing and drainage details. The current, updated, restoration plan submitted with this application shows a restoration of the tip to similar habitats as previously approved and the supporting ecological appraisal also details similar species planting and habitats mix to that previously approved on tip 871.

The supporting information in the ecological assessment has provided up dated seed mixes and planting schedules for the site, which are, for the most part, similar to those that have already been approved for the site. Both the Ecologist for the Council and NRW had numerous queries regarding the supporting information, in particular

- The loss of S7 habitat and the loss/gain balance of S7/LBAP/SINC habitat
- Consider the use retention of colliery spoil as this is becoming more important as a habitat
- The proposed seed mixes were not considered adequate
- Confirmation of post restoration management
- There were also specific queries regarding bat surveys, bird and reptile surveys
- NRW also raised specific queries with regard to the potential for otter holts/activity within proximity of the site, and with regard to Dormice and the potential for loss of potential habitat for Dormice due to scrub clearance etc.

The applicant has attempted to address these queries through the submission of additional information regarding these points. The Applicant has clarified the position of restoration and habitats at the site and whilst the restoration would result in the loss of one water feature, there would still be an overall gain in terms of habitat through the restoration of the current landfill. The Applicant has also confirmed the technical points regarding the bat, bird and reptile surveys and has amended the seed mix to remove beech and replace it with Alder. Since the submission of this additional information NRW have confirmed that they no longer have any objections to the proposals. The Ecologist for the Council has confirmed that with the imposition of numerous conditions there would be no objections.

Taking all of the above into account it is considered that the proposals would not have any adverse impacts on the ecology of the area. The proposed restoration and aftercare of the site are based around previously approved schemes and will deliver satisfactory restoration of the site. Whilst also providing opportunities for habitat

creation and the enhancement of ecology over and above present site conditions, the development would not be in conflict with policies SP16 & EN7.

### Impact on Highways

There is potential for the development to impact on highway safety if deleterious material from the site is deposited onto the highway as material is moved from tip 871 to tip 890. There is also potential for the safety of the highway to be affected by the additional traffic and potential damage to the road surface as a result of this traffic. The applicant has proposed a wheel wash be utilised during excavation operations, which will help to keep the public highway in a clean condition.

The proposal would not result in an increase in vehicle movements over and above the levels already permitted under planning permission P2014/0693 and any movement of material would take place via the existing route. During periods of heavy traffic when muck shift operations are taking place, HGV movements will be spread evenly throughout the day as far as possible in an attempt to avoid a 'rush hour' of HGV's crossing Baran Road. As stated previously operations on the tip will mostly be sporadic. There will be periods when vehicle movements will increase (up to 16 deliveries – or 32 movements per day in peak time) but this will be for a relatively short period of time only (several weeks in order to complete capping works).

The Highways Engineer for the Authority has raised some concerns regarding compaction of the tip resulting from the tracking of heavy vehicles, this in turn would reduce infiltration rates across the site and could potentially result in surface water run off affecting the public highway. A condition could be added to any permission requiring a drainage construction management plan be submitted to the Local Planning Authority prior to the excavation of any materials from the tip. This would help to ensure that any potential drainage issues that could lead to surface water flowing onto the highway could be fully considered prior to the removal of any material from the Tip.

The development would not therefore be in conflict with Policies SP 20 Transport Network and Policy or TR 2 Design and Access of New Development of the Local Development Plan.

### Contamination and instability

The tip is located upon an area of old colliery workings and colliery spoil and so the release of contaminants needs to be considered. It is however, important to note that the principle of using tip 871 for capping material has already been established, this application would extend the lifetime of the site and result in a slightly different restoration profile compared to the currently approved profile. It is not considered that these proposed amendments would have any additional impacts with regard to potential contamination and/or instability in comparison to any potential impacts upon the currently consented scheme.

In the application the applicant has confirmed that any material to be excavated and used as capping material will be source evaluated to ensure it is suitable for this use, this is required as part of the environmental permit for the site. In addition to this the site also has an existing surface water drainage system (along with proposed

improvements in this application) which includes consented discharge points which again, form part of the environmental permit for the site, monitored by NRW. Taking this into account it is considered that the proposed amendments would not result in an increase in risk of potential contamination from various sources on the site. The site is monitored regularly by NRW and any contamination, or potential contamination issues would be covered under the permitting system. As such, this application would not be in conflict with Policy EN 8 Pollution and Land Stability, in particular the section relating to contamination.

With regard to land instability, when the site was granted permission under P2002/1016, a coal mining risk assessment was conducted for the site, this revealed that there was minimal risk with regard to any coal mining legacy causing issues with land stability. The Coal Authority was consulted on that application and in this current application and have not raised any issues of concern. Therefore, with regard to land stability the proposal accords with Policy EN 8 Pollution and Land Stability of the Local Development Plan.

### Other Matters

The Local Ward Members have sought clarification on what would happen in the event the application(s) are refused.

In response, it is noted that the applicant would, of course, have a right of appeal against such a refusal. Such an appeal would have appropriate regard to the 'need' for landfill (as emphasised in this report) and within that context a decision would need to be made on when (and how) to enforce against the operator.

Following a refusal, the Council would need to require updated surveys from the applicant covering the whole site, and the operator would need to formulate the best restoration plan possible based on no further waste being imported to site. It is most likely that imports from tip 871 would still need to continue (as this would be the engineering/capping material) and would be the best source of material rather than importing capping material along the main road network.

Given that the site would not be at its finished profiles the restored landform would, in all likelihood, be unlikely to look as well landscaped as it would if the restoration were carried out as per the plans. In this respect it is noted that restoring landfill sites is a pretty complex process, including consideration of drainage, leachate management and gas wells so all this has to be taken into account when drawing up the restoration profiles.

It is also reiterated that refusal would mean that the overall void space for the region would then fall below the required threshold (as outlined in the report) and most likely NPT, in discussion with other members of the South West Wales region, would need to start to look for some candidate sites and /or alternative arrangements to deal with the shortfall in capacity resulting from the loss of voidspace.

## CONCLUSION

The decision to recommend 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 Development Plan comprises the Neath Port Talbot Local Development Plan (2011–2026) adopted January 2016.

The proposals would result in relatively modest changes to the currently permitted scheme, as detailed above. In terms of visual impact the proposals would not have any adverse impacts and could potentially improve visual amenity in comparison to the permitted scheme, due to the reduction in ground levels. With regard to residential amenity, the nature of operations at the site would remain the same and there are numerous schemes in place in order to protect amenity. Highways and drainage have also been considered in detail, and it is considered that with the inclusion of a condition requiring a drainage construction management plan – prior to any operations taking place on the tip, the proposals are acceptable. The restoration of the site is closely tied into potential ecological issues, but having considered the proposals and following extensive consultation with NRW and the ecologist for the council it is considered that the proposals would not have a negative impact on ecology and the biodiversity of the area would be maintained.

Accordingly, the proposed development is in accordance with Policies SP 19 Waste Management, Policy SP 16 (Environmental Protection), Policy SP 20 (Transport Network), Policy SC1 (Settlement Limits), Policy EN 2 (Special Landscape Areas), Policy EN 7 (Important Natural Features), Policy EN 8 (Pollution and Land Stability) and Policy TR 2 (Design and Access of New Development) of the Neath Port Talbot Local Development Plan, as well as Planning Policy Wales (PPW10) 10<sup>th</sup> Edition and guidance in Towards Zero Waste – One Wales: One Planet (2010).

## RECOMMENDATION

That, subject to Welsh Ministers' withdrawing their Holding Direction under Article 18 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012, planning permission is granted subject to conditions.

## Conditions

### Time Limit Conditions

- 1) Operations relating to the recovery of capping material from site (Tip 871) shall cease by no later than 31<sup>st</sup> December 2024. Restoration of Tip 871 shall be completed no later than the 31<sup>st</sup> December 2025.

#### Reason

To provide a period which takes account of the needs of the operator as well as other material planning considerations.

## Approved Plans

2) The working, phasing, landscaping restoration and aftercare of the site shall be carried out in accordance with the following plans:

- DRG. D130513.002.002
- DRG. D130513.002.003
- DRG. D130513.002.004
- DRG. D130513.002.006 - Rev A
- DRG. D130513.002.007
- DRG. No. 479A295 - Rev A
- DRG. No. 479A296 - Rev A
- DRG. No. 479A297 - Rev A
- DRG. No. 479A298 - Rev A
- DRG. No. 479A299 - Rev A
- DRG. No. 479A300

## As amended by

- WR7431 17 01 R1-Site Location Plan
- WR7431 17 02 R1-Planning Application Boundaries and Land Under the Applicants Control
- WR7431 17 03 R2-Proposed Phasing Plan
- WR7431 17 04 R2-Pre-Settlement Waste Contours Plan
- WR7431 17 05 R2-Post-Settlement Waste Contours Plan
- WR7431 17 06 R1-Section Location Plan
- WR7431 17 07 R2-Sections Through Proposed Landform
- WR7431 06 01 Pwllfawatkin Restoration Masterplan R2
- WR7431 17 08 R2-Proposed Surface Water Management Scheme
- Additional Ecological Appraisal, Dated October 2018
- Additional Ecological Appraisal, Dated January 2019
- Letter containing additional Ecological Information, Dated 8<sup>th</sup> February 2019 Appendix D SWM Final
- Planning Statement, report ref WR7431/PS/1 dated June 2018
- Pwllfawatkin Landfill Site Surface Water Management Plan (document reference: WR7407, final rev 2, and all plans therein

On no account shall any development extend outside the planning boundary indicated in red on Drg. 479A377 (dated 17<sup>th</sup> July 2014)

## Reason

To enable the Local Planning Authority to adequately control the development and to minimise its impact on the amenities of the local area.

3) In the event of a cessation of operations, for a period exceeding 24 months, at any time before the development is completed, a reinstatement and restoration scheme shall be submitted forthwith to the Local Planning Authority for approval. The scheme shall provide revised details of final levels, restoration, and landscaping and a timescale for the implementation of the scheme and

each element within it. The approved scheme shall be carried out in accordance within the approved timescale.

Reason

To secure the proper restoration of the site within a reasonable and acceptable timescale.

- 4) A survey of Tip 871 shall be undertaken every 12 months from the date of this permission indicating the levels of the tip and the areas restored to restoration levels, unless no operations have been undertaken on the site since the last survey. A copy of the survey shall be submitted to the Local Planning Authority within 28 days of the survey being undertaken.

Reason

To provide adequate information to the Local Planning Authority that the development and progressive restoration is being undertaken in accordance with the approved plans.

- 5) Details for the modification, retention or removal of the surface water settling lagoons and the access road as indicated on the WR7431 06 01 Pwllfawatkin Restoration Masterplan R2 shall be submitted to the Local Planning Authority for its approval within 6 months of the completion of all other restoration works on the site. The details shall provide information on the removal of all slurry fines from the lagoons to an appropriate facility, the infilling or recontouring of the lagoons for the purpose of biodiversity enhancement and the final restoration of the access road serving the site. The details shall be implemented as approved.

Reason

To ensure the adequate treatment of surface water lagoons and the access road in the interest of the restoration of the site.

- 6) The only materials that shall be imported into the site for disposal and reconstruction of the tip shall be those unsuitable naturally occurring materials of colliery shale excavated and imported from Tip 890. No waste materials of any other kind shall be imported into the site for its disposal.

Reason

To prevent development on a scale and type not considered in the proposal and for the protection of the environment.

- 7) The surface water treatment lagoons and associated drainage set out on plan WR7470 01 01 (appendix 3 of Updated SWM Plan WR7407, final rev 2), shall be implemented within 3 months of the date of this permission and shall thereafter be carried out in accordance with the approved details at all times during the life of the site.

Reason

To improve existing drainage controls in line with the further phasing the engineering works proposed.

- 8) The only access point to be utilised for entering and leaving the site shall be the existing access point onto the Barran Road. On no account shall any other route or access be utilised for the site

Reason

In the interest of highway safety and amenity.

- 9) The transportation of recovered engineering material (colliery shale) from the site and the importation of unsuitable engineering material from the Pwllfawtkin landfill site (Tip 890) shall only occur by crossing the Barran Road as indicated on Drg. D130513.002.003. Such movements shall only be undertaken by exercising the manned control and warning sign system set out in Paragraph 5.4 of the Supporting Statement approved under planning permission P2011/0537.

Reason

In the interest of highway safety and amenity.

- 10) The surface of the public highway shall be efficiently cleansed when the transportation of engineering material occurs into and/or out of the site in order to prevent the accumulation of debris, muck or any other material on the surface of the public highway.

Reason

In the interest of highway safety.

- 11) Except in an emergency to maintain the safe working of the site which shall be notified to the local planning authority as soon as practicable, operations, other than water pumping, servicing and environmental monitoring shall only be carried out at the site between the following times. These times shall also include any periods for the transportation of material into and out of the site.  
07.00 to 17.00 Mondays to Fridays.  
08.00 to 13.00 Saturdays.  
No operations shall be undertaken on Sundays, Bank or Public Holidays.

Reason

In the interest of the residential amenity of the area

- 12) All vehicles, plant and machinery operated at the site shall be maintained in accordance with the manufacturers specification at all times and shall be fitted with and use effective silencers.

Reason

To ensure minimum disturbance from operations and avoidance of nuisance to the local community.

- 13) Noise attributable to the development hereby approved shall not exceed 52dB LAeq (1 hour) freefield at any noise sensitive property.

Reason : To protect the amenity of residents.



- 14) Noise suppression and mitigation shall be undertaken during all site operations at the site in accordance with the measures set out in paragraph 4.6 of the Planning Statement, report ref WR7431/PS/1 dated August 2019

Reason

In the interest of the amenity of area.

- 15) All engineering, transportation and restoration works carried out at the site shall be the subject of the dust mitigation and suppression measures set out in the scheme approved by P2005/0608 in respect of Condition 23 of Planning Permission P2002/1016.

Reason

To mitigate the potential generation of dust arising from site activities.

- 16) Any facilities for the storage of oils, fuels or chemicals shall be on 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, vents, 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 pipe work should be located above ground and protected from accidental damage. All filling points and tank overflow pipes should be detailed to discharge downwards into the bund.

Reason

To prevent pollution of watercourses.

- 17) Drainage ditches, settling ponds and lagoons shall be regularly de-silted and maintained in such conditions that they are able to perform effectively and efficiently 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.

- 18) Prior to any restoration works all areas of Section 7 habitats (with the exception of waterbody 24) as identified in the Ecological Appraisal dated January 2019 will be appropriately demarcated to prevent encroachment and retained as existing.

Reason

to ensure appropriate protection of Section 7 habitats and compliance with the Environment Wales Act 2016.

- 19) Prior to the commencement of any works (including site clearance) on Tip 871 a scheme for the conservation of reptiles shall be submitted to and approved by the Planning Authority. The scheme shall be fully implemented as approved.

Reason

To comply with the proposals set out in the Ecological Appraisal section 6.36 and as reptiles are afforded protection under the Wildlife and Countryside Act (1981) as amended.

- 20) Prior to commencement of any works within 7m of a watercourse or waterbody, the area shall be subject to a precautionary check for otter and water voles by an Ecologist. If any such species are discovered, appropriate mitigation will be agreed in writing with the local planning authority and where necessary a licence from NRW obtained prior to any works being implemented. Works will be undertaken strictly in line with the agreed mitigation and licence conditions (where relevant).

Reason

To comply with the proposals set out in the Ecological Appraisal section 6.40 and to ensure compliance with the Conservation of Habitats and Species Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended).

- 21) All mature native trees within and bounding the site shall be retained

Reason

To conserve habitats that support species such as birds and bats; and to ensure compliance with the Conservation of Habitats and Species Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended). To comply with the proposals set out in the Ecological Appraisal section 6.22.

- 22) No lighting will be installed on site that is additional to the existing approved lighting scheme for the site.

Reason

To ensure nocturnal wildlife are not adversely affected or disturbed by the lighting of the site and to ensure compliance with the Conservation of Habitats and Species Regulations 2010, the Wildlife and Countryside Act 1981 (as amended) and to comply with the proposals set out in the Ecological Appraisal section 6.21.

- 23) Where it is necessary to remove a waterbody, works will be undertaken outside of the breeding season for amphibians. Works will be limited to between September and January.

Reason

To comply with the proposals set out in the Ecological Appraisal section 6.30 to protect Common Toad (S7 species) and to ensure compliance with the Environment Wales Act 2016.

24) Where it is necessary to undertake any works to any waterbodies that are to be retained details of restoration works and planting will be submitted to the Local Planning Authority for approval. The works will be implemented as approved.

Reason

To comply with the proposals set out in the Ecological Appraisal section 6.32 to conserve S7 habitats and to ensure compliance with the Environment Wales Act 2016.

25) Notwithstanding the submitted restoration masterplan and planning statement, prior to the commencement of restoration works on site an updated restoration and aftercare scheme shall be submitted to the Local Planning Authority for approval. This revised scheme will include the following revisions and additional items:

- Details of areas to be recreated of S7 habitats including ponds and open mosaic habitat on previously developed land, to offset losses of such habitats
- Details of wildflower seeding to be over seeded following establishment of the grass sward in the species rich grassland areas
- Replace Beech (*Fagus sylvatica*) with Alder (*Alnus glutinosa*) in the tree planting schedule
- Ongoing management proposals to ensure the biodiversity interest of the site is retained
- Monitoring and remedial action arrangements to ensure the biodiversity interest is successfully established and maintained and where necessary changes to management agreed and applied.

The scheme will be implemented as approved.

Reason

To comply with the proposals set out in the Ecological Appraisal section 6 and to ensure compliance with the Environment Wales Act 2016.

26) All areas of habitat and woodland within or adjacent to the site boundary shall be protected from damage during site operations either by leaving a non-operational zone between such features or erecting fencing for their protection.

Reason

To protect habitat and woodland not required for the implementation of the works.

27) Prior to the re-commencement of any movement of materials from Tip 871, the applicant/owner/operator shall submit a drainage scheme, for the approval of the Local Planning Authority, this scheme shall include, inter alia:

- . Details regarding flow routes and discharge points
- . Detailed hydro calculations
- . Details for a drainage berm adjacent to the eastern boundary at the site

- . A detailed Construction Drainage Method Statement (to include details of flood risks at site source and mitigation measures to ensure that land adjoining and/or downstream are not adversely affected by excess surface and base flows along with a corresponding phased excavation plan.

The scheme shall be implemented as approved

Reason

To ensure effective drainage of the site and to minimise the likelihood of flooding on Baran Road

- 28) At least 12 months prior to cessation of operations on site the applicant/ owner/ operator shall submit a reinstatement and restoration scheme to the Local Planning Authority for approval. The scheme shall provide revised details of final levels, restoration, drainage, landscaping and a timescale for the implementation of the scheme and each element within it.

The approved scheme shall be carried out in accordance within the approved timescale

Reason

To ensure the effective restoration of the site

- 29) The aftercare of the site shall be undertaken for a period of 5 years following the completion of all restoration and planting works at the site as specified on WR7431 06 01 Pwllfawatkin Restoration Masterplan R2

Reason

To ensure adequate aftercare treatment of the land.

## SECTION A – MATTERS FOR DECISION

### Proposed Amendment to Planning Delegated Arrangements

#### Background

As part of the continuous review of service delivery, a number of areas for improvement have been identified in respect of the delivery of the planning service.

In January 2017 Council granted delegated authority to the Planning Committee for the Planning function, including any further amendments as may be deemed necessary to the delegated arrangements / procedures in future.

This report seeks to include minor changes to the delegated arrangements in order to make the system more efficient without undermining the democratic process or customer care.

#### Developments of National Significance<sup>1</sup>

The Developments of National Significance (DNS) process was introduced in Wales (in 2016) to “ensure timely decisions are made on those planning applications that are of the greatest significance to Wales, because of their potential benefits and impacts”.

Such applications are submitted to the Planning Inspectorate Wales for consideration by an appointed Inspector, who considers evidence from the applicant, the Local Planning Authority (LPA) and other statutory consultees and interested parties.

For a project to qualify as a DNS, certain thresholds and criteria apply<sup>2</sup>. The most obvious examples, and ones which are expected to relate to our area in the near future, are wind farms which are caught by the need for ‘energy generation projects’ of between 10MW and 350MW to be a DNS.

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<sup>1</sup> The statutory basis for the Development of National Significance (“DNS”) process is provided by the Planning (Wales) Act 2015, which amends the Town and County Planning Act 1990 (“the Act”), and the Developments of National Significance (Wales) Regulations 2016 (as amended) and subsequent Regulations.

<sup>2</sup> Precise details of the criteria related to various projects can be found in the Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016 (as amended).

### *Current Delegated Arrangements*

The current delegated arrangements require the Planning Committee to approve the Council's Local Impact Report (LIR) for Developments of National Significance.

The purpose of a Local Impact Report is to give a factual, objective view of the impacts of a proposed development on the area in question based on the Council's existing body of local knowledge and robust evidence of local issues. The impacts should be presented in terms of their positive, neutral and negative effects, and is distinct from any representation a local authority may make on the merits of an application.

As noted in the Planning Inspectorate's [Local Impact Report \(LIR\) Guidance](#), however, Local Authorities only have 5 weeks to submit their Local Impact Report. Failure to submit the LIR within that 5 weeks means that the fee of £7750 paid to the Local Authority (which is the only fee we receive in respect of a DNS application) is returned to the applicant.

Having regard to the above, while it would be expected that discussions would have been ongoing with an applicant before submission, the requirement for a Local Impact Report to be reported to Committee both significantly increases the chance that a LIR could be submitted late (thus resulting in loss of income) and places additional strains on the Development Management team in seeking to undertake appropriate research, consult internally and prepare such a report to Committee (within 2-3 weeks of receipt).

### *Proposed Changes to Protocol*

In order to address the above, it is proposed to remove the requirement for the Local Impact Report on a Development of National Significance (DNS) to be brought before Members, replacing it instead with a delegated authority (under 'Normal Delegated Matters') for the Head of Planning & Public Protection / Development Manager – Planning to agree the Local Impact Report subject to consultation with the Chair of Planning as follows:

- (i) Developments of National Significance (DNS): Approval and submission of the Authority's Local Impact Report (LIR) (in conjunction with the Chair of Planning); Submission of consultation responses etc.; Discharge of Conditions / Requirements on DNS applications.

## 'Subsequent' Applications by Members or Members of Staff

### *Current Delegated Arrangements*

The current delegated arrangements require the Planning Committee to determine all applications / matters which fall within the following criteria:-

1. Where an application (with the exception of Non-Material or Minor Material Amendments or the approval of conditions pursuant to permissions previously granted) has been submitted by a Member of the Council or close relative of a Member.
2. Where an application (with the exception of Non-Material or Minor Material Amendments or the approval of conditions pursuant to permissions previously granted) has been submitted by an employee of the Council who is directly involved in the Development Management process [or in an identified post].

The intention of the above is to ensure appropriate scrutiny of such applications in the interest of transparency.

It has been noted however that there is no 'exemption' for applications to vary conditions on any such consents (under section 73), for example seeking to extend the time to commence development, or remove/ vary conditions. Given that such matters do not go to the heart of any decision – which has already been made by Committee – it is considered appropriate at this time to extend the exemption from reporting to Committee to include such post-decision applications/ changes.

### *Proposed Changes to Protocol*

In order to address the above, the following changes are recommended to the current delegated arrangements: -

4. Where an application (with the exception of Non-Material or Minor Material Amendments, **Section 73 applications to vary conditions**, or the approval of conditions pursuant to permissions previously granted) has been submitted by a Member of the Council or close relative of a Member.

5. Where an application (with the exception of Non-Material or Minor Material Amendments , **Section 73 applications to vary conditions**, or the approval of conditions pursuant to permissions previously granted) has been submitted by an employee of the Council who is directly involved in the Development Management process or in a post identified below: -

- Director of Environment **and Regeneration**
- Head of Planning and Public Protection
- All posts under the direct responsibility of the Head of Planning and Public Protection
- Head of Engineering and Transportation
- Highways Development Control Officers
- Drainage Officers
- Head of Regeneration
- Head of Streetcare
- Head of Legal Services
- Committee Clerk (Planning)
- Principal Solicitor (Litigation and Planning)

### Felling of Trees covered by Tree Preservation Order

#### *Current Delegated Arrangements*

The current delegated arrangements require any application for felling of trees covered be a Tree Preservation Order to be reported to a Delegated Panel and subsequently ratified by Ward members.

Increasingly, applications are being submitted to fell trees which are affected by disease (such as Ash Die Back) and/or which the Council's Arboricultural officer agrees need to be removed due to disease.

In such circumstances it is considered inappropriate for the decision to need to be signed off by Members, given that the Council's technical Officer will have reviewed the tree report and assessed the application. Accordingly it is intended to remove the requirement for a delegated panel decision for felling of 'diseased' trees (which would by default become a normal delegated matter)



### *Proposed Changes to Protocol*

In order to address the above, the following changes are recommended to the current delegated arrangements (under B. Delegated Panel Procedure): -

- Felling of trees covered by Tree Preservation Order (**except where the Council's Arboriculturist as confirmed that the tree(s) is/are diseased**)

### Number of Objections Received

#### *Current Delegated Arrangements*

The current delegated arrangements require any application where three or more objections are received on valid planning grounds to be reported to a Delegated Panel and subsequently ratified by Ward members.

The purpose of the objection threshold is to ensure that those applications which have raised concerns from multiple households have an additional degree of public scrutiny through the ratification of decisions by the Ward members (with the opportunity to call such applications into committee). This process has consistently worked well over the years.

The 'three or more objections' rule has, however, led to occasional confusion in circumstances where more than one person from the same household objects (or objects multiple times), which might mean that three objections are received but potentially only from one or two households.

Given that the impacts of any such development are on the

The opportunity is therefore taken to clarify that the three or more objections on valid planning grounds need to be from three or more households, thus preventing one person or household making multiple objections.

### *Proposed Changes to Protocol*

In order to address the above, the following changes are recommended to the current delegated arrangements (under B. Delegated Panel Procedure): -

- Applications / matters where three or more objections (from three or more households) are received on valid planning grounds

## CONCLUSION

The above changes are all considered necessary and appropriate to ensure that the Development Management process is streamlined, and that applicants get expeditious decisions while still ensuring that there is appropriate member scrutiny of those applications with the greatest identified impacts.

The changes above are identified in detail within Appendix 1 and will need to be incorporated into the Constitution.

## RECOMMENDATION

That Members authorise the changes to the current scheme of delegations as set out in Appendix 1 of this report.

## **NEW DELEGATED ARRANGEMENTS**

The previous delegated arrangements were approved by Council on 25th January 2017.

It would be proposed that the Constitution be updated to include the below (the changes being highlighted in red).

### **Proposed New Delegated Arrangements**

Part 3 of the CONSTITUTION - Annex J – Delegation No. 17 of the DIRECTOR OF ENVIRONMENT AND REGENERATION Delegation Arrangements {see page 3.151 of constitution version 14/01/2017}.

#### 17. Planning

##### **17.1 General Planning Delegation**

###### A. Determination of Applications / matters by the Planning Committee

The Planning Committee will determine all applications / matters which fall within the following criteria: -

1. Where an application is considered to be of strategic importance, or where it is considered by Officers to be appropriate to be determined by Members, taking into account the views of Members where they have requested an application to be considered at Committee (*note: the Member process is set out in the Appendix*).
2. Where an application is to be recommended for approval, and where it is considered by Officers that the proposals would materially depart from Policies within the Development Plan.
3. Where an application has been submitted relating to a Nationally Significant Infrastructure Project (NSIP), approval of the Authority's Local Impact Report and initial Written Representations
4. Where an application (with the exception of Non-Material or Minor Material Amendments, **Section 73 applications to vary conditions**, or the approval of conditions pursuant to permissions previously granted) has been submitted by a Member of the Council or close relative of a Member.

5. Where an application (with the exception of Non-Material or Minor Material Amendments, **Section 73 applications to vary conditions**, or the approval of conditions pursuant to permissions previously granted) has been submitted by an employee of the Council who is directly involved in the Development Management process or in a post identified below: -

- Director of Environment and Regeneration
- Head of Planning and Public Protection
- All posts under the direct responsibility of the Head of Planning and Public Protection
- Head of Engineering and Transportation
- Highways Development Control Officers
- Drainage Officers
- Head of Regeneration
- Head of Streetcare
- Head of Legal Services
- Committee Clerk (Planning)
- Principal Solicitor (Litigation and Planning)

Except as listed above, the Director of Environment and Regeneration, the Head of Planning and Public Protection, and Development Manager - Planning are granted Delegated Powers for the determination of all planning and other related matters / applications in accordance with the following procedures: -

B. 'Delegated Panel' Procedure

To determine applications / reports relating to the following matters and following agreement with local Ward Members and subject to the provisions of the Planning Code of Conduct: -

- Applications / matters where three or more objections (**from three or more households**) are received on valid planning grounds
- Refusal of Applications
- Developments in excess of 5 dwellings (either in full or outline) which do not already have the benefit of a live planning permission
- Developments (either in full or outline) creating new floorspace in excess of 1000 sq.m. in respect of industrial, agricultural, commercial or non-commercial buildings which do not already have the benefit of a live planning permission

- Applications made under section 73 (to develop land without compliance with conditions previously attached to a consent) where development comprises more than 5 dwellings or more than 1000 sq.m. of new floorspace.
- Changes of use where the floorspace is in excess of 1000 sq.m.
- Approval of applications where proposals materially depart from approved Supplementary Planning Guidance
- Deeds of Variation or applications seeking to vary the terms of an existing Section 106 legal agreement
- Authorisation to serve an Enforcement Notice (unless urgently required in connection with a Stop Notice)
- Applications made by the Council (under Regulation 3 or Regulation 4 of the Town & Country Planning General Regulations 1992)
- Felling of trees covered by Tree Preservation Order (except where the Council's Arboriculturist has confirmed that the tree(s) is/are diseased)
- Authorisation to confirm a Tree Preservation Order where objections are received to its issue
- Approval of Hedgerow Removal Notice under the Hedgerow Regulations 1997 where a hedgerow is "important"

#### C. 'Normal' Delegated Matters

All other applications or matters not referred to under 'A' - Determination of Applications / matters by the Planning Committee; or B - 'Delegated Panel' Procedure in addition to but not limited to the following: -

- (i) Nationally Significant Infrastructure Projects (NSIPs): Submission of consultation responses; discharge of requirements following grant of a Development Consent Order (DCO), and responses to applications to vary such Consent (including consents previously granted under section 36 of the Electricity Act 1989).
- (ii) Developments of National Significance (DNS): Approval and submission of the Authority's Local Impact Report (LIR) (in conjunction with the Chair of Planning); Submission of consultation responses etc.; Discharge of Conditions / Requirements on DNS applications.

- (iii) Planning Enforcement Procedures, including service and withdrawal of Notices and to institute legal proceedings for non-compliance with notices, or injunction proceedings, in conjunction with the Head of Legal Services.
- (iv) Section 106 Agreements: To authorise the entering into of Section 106 Agreements under the Town and Country Planning Act 1990

## **17.2 Building Regulations Delegations**

The Director of Environment, the Head of Planning and Public Protection, and Building Control & Business Support Manager are granted Delegated Powers for the determination of all Building Regulations and other related matters / applications: -

- (i) To determine all applications in respect of the Building Regulations.
- (ii) To authorise the issue of infringement notices and any enforcement action with respect to Building Regulations.
- (iii) Building Act 1984
  - (a) Delegated powers for the elements of the Planning Service covered by legislation under the Building Act 1984.
  - (b) To authorise individual Officers to act as Inspectors/Authorised Officers/Enforcement Officers under legislation contained in the Building Act 1984.
  - (c) In consultation with the Head of Legal Services / solicitor to the Council, to institute legal proceedings on behalf of the Council in respect of any offence under the above Act. (This delegation also applicable to the Principal Officer (Building Control)).
- (iv) Safety at Sports Ground Act 1975: To issue and sign the relevant Safety Certificates under the Safety at Sports Ground Act 1975 (as amended) and to take any enforcement action (the latter to be reported to the Planning Committee for information)
- (v) Safety of Stands for Spectators – Section 42 West Glamorgan Act 1987
- (vi) Retaining Walls – Section 26 West Glamorgan Act 1987

### 17.3 Other Delegation

The Director of Environment and Regeneration and the Head of Planning and Public Protection are granted Delegated Powers for the following matters: -

(i) Natural Resources Wales (Forestry) - Consultations on Felling Proposals

- (a) Where there are no objections, the response to Natural Resources Wales is delegated to the Director;
- (b) Where objections are raised by local Members, relevant Community Councils, or by Officers, that the Director be delegated the power to request that this Authority be granted an extension of time, or to submit an objection to Natural Resources Wales. The matter would then be reported to the next available Planning Committee for consideration and that Committee be given plenary powers to resolve the Authority's formal decision. Relevant local Members would be invited to attend the Committee and any site visits, but would not be entitled to vote, in the same manner as in the determination of planning applications;

(ii) Neath and Port Talbot Local Access Forum

To determine future changes to the membership of the forum in consultation with either the Leader or Deputy Leader.

(iii) Rights of Entry

To authorise rights of entry to relevant Officers in respect of the following legislation:-

- (a) Town and Country Planning Act 1990 (as amended) – Section 324;
- (b) Wildlife and Countryside Act 1981 (as amended) – Section 51;
- (c) Planning (Listed Building and Conservation Areas) Act 1990 (as amended) – Sections 88 – 88B;
- (d) Planning (Hazardous Substances) Act 1990 (as amended) – Sections 36-36B;
- (e) Highways Act 1980 – Section 293;
- (f) Road Traffic Regulation Act 1984 – Section 71.
- (g) Anti Social Behaviour Act 2003 (High Hedges) – Section 74

(iv) Affordable Housing Contributions

The Head of Planning and Public Protection is granted delegated authority to review and make any necessary amendments to the charge levied for the negotiation of the Affordable Housing Contribution



## APPENDIX A

### Delegation Process (Development Management Matters / Applications)

1. If any Member of the Council considers that it would be more appropriate to report an application to Committee for decision, Officers will put the matter before Committee provided: -
  - a. a valid planning reason has been given by the Member (such reason to be clearly indicated within the subsequent report to Committee), and
  - b. such request has been made in writing to the Head of Planning and Public Protection or Development Manager – Planning within 14 days of the application being circulated on the ‘weekly list’ of applications<sup>1</sup>; and
  - c. subject to the Members request having been approved by a Panel comprising the Chairperson of Planning and either the Head of Planning and Public Protection or Development Manager – Planning, having regard to the need to ensure that the Planning Committee is restricted to dealing with those applications which, by reason of their complexity or local sensitivity, require detailed scrutiny by Committee, and the need for making expeditious decisions, such approval not to be withheld by the panel unreasonably. In the event of the Panel being unable to agree, the Chairperson of Planning has the casting vote.
2. To maintain accountability and transparency, reports will be prepared for all delegated matters / applications outlining the material issues for consideration together with a recommendation.
3. In the case of ‘Normal’ Delegated Matters (para 17 (i) C of Annex J), each report is to be signed by the Case Officer and Team Leader or in their absence the Development Manager – Planning or Head of Planning and Public Protection, prior to issuing the decision notice.

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<sup>1</sup> This does not undermine the ability of a local Member to call in an application after a delegated panel has made a recommendation

4. Where applications are being dealt with under the 'Delegated Panel' procedure (para. 17 (i) B. of Annex J), a panel of Officers (comprising a minimum of three at Senior Planning Officer grade or above, including the Head of Planning and Public Protection and/or the Development Manager - Planning) will consider and sign off the report and its recommendation, in addition to which the following additional process will apply:-
- (a) Where following consultation with officers the relevant Ward Member(s) have agreed that the application can be determined the delegated decision can be made.
  - (b) if any Ward Member (or such Member nominated to deal with matters in the event of their absence) considers that it would be more appropriate to report the application to Committee for decision, Officers will put the matter before Committee provided a valid planning reason has been given by the Ward Member (such reason to be clearly indicated within the subsequent report to Committee) and subject to agreement of the panel procedure in 1(c) above
  - (c) In the absence of any agreement under 4(a) or representation under 4(b) that the relevant Ward Member(s) (or such Member nominated to deal with matters in the event of their absence) be advised of the proposed decision via e-mail, giving 3 working days to respond to a named officer(s) within the Department. Responses will be dealt with in accordance with (a) or (b), but if no response is received, it will be assumed that the relevant Members are satisfied that the application can be continued to be dealt with under delegated powers and the decision notice will be issued.

## SECTION B – MATTERS FOR INFORMATION

### PLANNING APPEALS - 2020

Since the Covid-19 pandemic, Members have been provided with copies of appeal decisions received by email but these have not been reported under the remote Planning Committee protocol.

This report therefore seeks, at the end of 2020, to update Members on all appeals / decisions received in 2020.

Please note that all Appeal Decision Letters are available to view online using the hyperlinks in the right hand column. The appeal decisions are colour-coded as per the key below.

Key:

IN PROGRESS	ALLOWED	DISMISSED
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#### a) Planning Appeals

PINS Ref.	Site	App. No / Description / Type	Status
<a href="#">H/20/3261901</a>	Fabian Way, Crymlyn Burrows SA1 8QB	<b>P2020/0541:</b> Erection of 1 no. pair of illuminated 48-sheet digital advertisement displays <i>Advert Appeal</i>	In progress
<a href="#">A/20/3259778</a>	Land accessed off Lingfield Avenue Port Talbot	<b>P2020/0147:</b> Construction of 5 energy efficient bungalows	In progress
<a href="#">D/20/3257832</a>	Ty Ffynnon Danyffynnon Port Talbot SA13 2EY	<b>P2020/0166:</b> Erection of a detached out-building in rear garden to provide a summer house/ garden room, garden store and raised patio area above <i>Householder (HAS) Appeal</i>	<a href="#">Appeal Decision Letter</a> ALLOWED 13 October 2020
<a href="#">D/20/3255150</a>	3 Nantyboda Port Talbot SA13 2SG	<b>P2020/0141:</b> Dormer extension to front elevation to provide bedrooms and bathroom. <i>Householder (HAS) Appeal</i>	<a href="#">Appeal Decision Letter</a> DISMISSED 14 September 2020
<a href="#">D/20/3254646</a>	20 Lletty Dafydd Neath SA11 4BG	<b>P2020/0065:</b> demolition of existing garage and the construction of single storey side and rear extensions, outbuilding, balcony and new steps <i>Householder (HAS) Appeal</i>	<a href="#">Appeal Decision Letter</a> ALLOWED 1 September 2020
<a href="#">H/20/3252887</a>	Land to the west of 129A New Road Neath	<b>P2020/0110:</b> removal of existing 48 sheet advertising billboard and replacement with a 48 sheet advert to support a digital poster (D-poster) <i>Advert Appeal</i>	<a href="#">Appeal Decision Letter</a> DISMISSED 22 July 2020

<a href="#">A/20/3251715</a>	Unit 5 Llewellyns Road Port Talbot SA13 1RF	<b>P2020/0049</b> Change of use of industrial unit currently used as a car spraying/ repair and vehicle rental (sui generis use) to Gym (Use Class D2)	<a href="#">Appeal Decision Letter</a> ALLOWED 3 <sup>rd</sup> September 2020
<a href="#">A/20/3247197</a>	15 Bethel Street Neath SA11 2HQ	<b>P2019/5645</b> Change of use of dwelling to 2no. self-contained flats and a 4-bed House of Multiple Occupation	<a href="#">Appeal Decision Letter</a> DISMISSED 26 <sup>th</sup> August 2020
<a href="#">A/20/3244749</a>	62 Ffynnon Dawel Neath SA10 8EQ	<b>P2019/5353</b> Erection of a raised timber decking area and change of use of land to residential purposes.	<a href="#">Appeal Decision Letter</a> DISMISSED 20 April 2020
<a href="#">A/19/3244046</a>	Land to rear of 39 Danygraig Road Pontardawe SA8 4DS	P2019/5215, outline application for residential development	<a href="#">Appeal Decision Letter</a> DISMISSED 16 <sup>th</sup> June 2020
<a href="#">A/19/3238694</a>	Farmers Arms Resolven SA11 4DW	P2019/5070, Change of Use from Public House (Class A3) to a Dwelling (Class C3).	<a href="#">Appeal Decision Letter</a> ALLOWED 21 <sup>st</sup> January 2020 <a href="#">Costs Award</a> DISMISSED

## b) Enforcement Appeals

PINS Ref.	Site	Alleged Breach of Planning	Status
<a href="#">C/19/3243887</a>	20 Pearson Way Neath SA11 2EJ	Without the benefit of planning permission change of use of the land from a "nil" use into garden land forming part of the residential curtilage and incorporating the construction of wooden steps and raised decking/platform(s) providing access to the land to the rear of the property	<a href="#">Appeal Decision Letter</a> DISMISSED / Notice Upheld 27 <sup>th</sup> April 2020
<a href="#">C/20/3245071</a>	Land to the side of 3 Bridge Street Port Talbot SA13 3AH	Without the benefit of planning permission change of use of the land from a (non-lawful use as a) builder's yard to a mixed use for the siting of a caravan (including occasional residential use) and the storage of waste.	<a href="#">Appeal Decision Letter</a> DISMISSED / Notice Upheld 17 <sup>th</sup> September 2020