

PLANNING COMMITTEE

28TH APRIL 2015

AMENDMENT SHEET

ITEM 4

<u>APPLICATION NO:</u> P2012/1073	<u>DATE:</u> 21/12/2012
PROPOSAL:	
<p>A planning application at the site currently known as East Pit East Revised OCCS, Gwaun-cae-Gurwen, SA18 1UP for development comprising:</p> <p>Matters of Outline with all matters reserved: leisure facilities to include: a 120-bedroom hotel (Use Class C1); 78 holiday lodges (Class C3) of 2, 3 and 4 bed-units; a campsite (Sui Generis) of 6.35ha. with facilities block of 210m² and Visitors Centre (Class D1) of 300m²; dive centre with ancillary dive centre shop (Class D2) of 1630m²; all to include appropriate parking provision, recreational open space, internal access routes, services and drainage provision; and associated works including access, footpaths, cycle routes and bridleways, landscaping and layout details;</p> <p>Matters of Detail (as set out in the application at Annex 1: Mineral Extraction and Processing) the proposed north eastern extension to East Pit East Revised for the purposes of coal extraction along with the completion of coaling at the existing site and the retention of associated ancillary development and Gwaun-Cae-Gurwen Railhead together with the development of a Country Park and recreational lake.</p>	
LOCATION:	East Pit East Revised OCCS, New Road, Gwaun Cae Gurwen, Neath SA18 1UP
APPLICANT:	The Lakes at Rhosaman Ltd
TYPE:	Minerals
WARD:	Gwaun-Cae-Gurwen, Tairgwaith and Cwmllynfell

There are a number of amendments in relation to late correspondence and updates within the report as follows:

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The Welsh Government have advised in writing that under Article 18 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012, they are placing a Holding Direction on the Council preventing the Authority from approving this application without the prior authorisation of the Welsh Ministers. This direction effectively gives the Welsh Ministers additional time to consider whether they should ‘call in’ the application.

This Holding Direction does not prevent the Council from continuing to assess and debate the application within the Committee. The only restriction in place at this time prevents us from issuing a decision to grant planning permission.

There is an error in the report relating to the wards affected. The ward referred to on page 7 of the report only refers to Gwaun-Cae-Gurwen. Given that the site straddles three wards it should read Gwaun-Cae-Gurwen, Tairgwaith and Cwmllynfell.

In addition to the above, there is a typographical error within the report in relation to the ultimate paragraph on page 134 which continues on to page 135 in addition to the first of the six Heads of Terms associated with the recommendation on page 180. They are amended to read as follows:

Amended paragraph on pages 134 to 135 should read:

As stated earlier in this report the bond has been calculated independently by the Coal Authority who have specific expertise in this area of work. The bond is calculated to be £22,420,000 and an additional £580,000 contingency, bringing the total to £23,000,000. This will be secured through phased payments via a S106 agreement. In addition to securing the aforementioned funds, the S106 agreement will also secure an annual review of the fund together with the first payment securing a minimum of £7,615,000 which will be paid by the end of the first annual review. The latter is sufficient to make the site safe in a worst case scenario and secure the site should operations cease prematurely.

The first of the six Heads of Terms should read:

1. Provision of a Bond to the total of £23,000,000 to secure restoration and aftercare of the site, of which £7,615,000 is to be paid at the end of the first annual review.

In addition to the above there is a typographical error within Condition 84 relating to a road name. The condition should read as follows:

(84) Within 6 months of the date of this consent, details of the improved access and the provision for the creation of a continuous pedestrian footway and cycleway link to the proposed Country Park, including the provision of a roundabout and tactile crossing points at the junction with the A4068 (Gwilym Road), shall be submitted to and approved in writing by the Local Planning Authority for its written approval. The scheme shall be implemented prior to the beneficial use of the Country Park commencing.

Reason: In the interests of highway safety

One late letter of objection has also been received which is summarised and addressed as follows:

NPTCBC have fallen into the trap set for them by the applicant. The report is full of errors but the following two are explained:

‘It is understood that the applicants have agreements with the landowners to occupy the land.’ This is incorrect as they have no such agreements although it is acknowledged that some have been paid for the loss of grazing via a scheme arranged with the commoners Association. The Commoners have no right to enter into agreements either on a temporary or permanent basis.

‘The void will fill with water to approx 175m AOD.’ This is the key to the Lakes fantasy and the applicant has access to information which demonstrates that this is a fraudulent assertion. If the lake cannot be filled the operator will be acting contrary to an agreement and as such will be breaching contract law.

I’m curious as to the nature of the application with part being covered under the full planning application and the other part being the subject of an outline application, although they appear to be in reverse order. NPT appear to be twisting the planning process or have allowed it to be twisted in order for more mining to take place. Is this lawful? The two projects should be implemented at the same time if not the substance of the dive centre completed first, although no-one is going to build on a backfilled open cast site.

In response to all of the above, it is not considered that the report is full of errors. The agreements referred to are reported for information only and are not material to the determination of this application. As clearly stated within the report, the issues regarding Common Land would need to be addressed outside this process whereby the applicant would need to apply to the Planning Inspectorate. This process was carried out in relation to the 2004 consent albeit the procedures have changed since that time.

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In terms of the filling of the lake, this has been explained comprehensively within the report whereby detailed assessments have been undertaken of the levels of rainfall, the geology of the area, groundwater levels and geotechnical assessments. All of which indicate that the lake will fill to the stated levels.

Turning finally to the nature of the application, this application has been submitted as a hybrid planning application which is clearly recognised within the planning legislation as a valid and lawful type of submission. Mineral applications cannot be submitted as outline planning applications and as such must be full applications. However the regeneration element of the scheme can be submitted as an outline application. When these elements are put together as one submission it is known as a hybrid application. Should planning permission be granted for this development, the applicant would be able to implement the full planning permission, but would require approval of reserved matters (ie the detail) in relation to the tourism led regeneration scheme. It would not be possible to implement the two projects simultaneously given that developers of the tourism element of the proposal are unlikely to commit to a project until the restoration of the site is complete. In terms of the claim that no one will build on a previously restored site, this is not borne out from evidence around the country where a number of former opencast coal sites have been successfully restored and redeveloped for other purposes, Ffos Las being one of them.

One letter has also been submitted by the operator of the site, Celtic Energy, which is also summarised as follows:

Following recent discussions I have been having with interested parties, I should like to comment on a number of matters in relation to the above application.

1. The financial position of Celtic Energy over the next 5 years is sound. We still have very substantial cash reserves of over £30million although these will fall to around £10million by 2018. However, by that time there will be sufficient cash held by local authorities to complete the restoration work fully at Selar, Nant Helen and East Pit (assuming the new East Pit restoration strategy is agreed). Furthermore the cash held by each local authority is completely ringed fenced for each site individually and cannot be used at a site other than the one for which it was originally deposited under the terms of the relevant S106 agreement.
2. The Aberthaw power station is vital to our overall coal sales and the effective production of a range of qualities and specifications at our Onllwyn blending plant (washery). Although Aberthaw takes around 50% of our total production volume, it generates only 30% of our income. This is because the

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prices of the various grades of coal we produce vary widely and the power station coal is our lowest priced product – in fact we sell it at a price which is currently substantially below the cost of production because of the depressed world coal prices. However, this is compensated for by the prices of higher grade coal which includes domestic, industrial, manufactured product (briquettes), specialist grades and export.