

SECTION A – MATTERS FOR DECISION

Planning Applications Recommended For Refusal

<u>APPLICATION NO:</u> P2013/0491	<u>DATE:</u> 13/05/2013
PROPOSAL:	Extraction of coal and sandstone by means of surface working, transportation of mine waste from Unity Mine by haul road & it's disposal with progressive restoration of site to forestry
LOCATION:	Land at Bryncwm, Mynydd Resolven , Near Cwmgrach
APPLICANT:	Horizon Mining Limited
TYPE:	Full Plans
WARD:	Resolven

BACKGROUND

This application was submitted on 13th May 2013. Following a comprehensive consultation/publicity exercise the applicant was requested in September 2013 to submit additional information required to address concerns that had been identified by officers and consultees.

However, the applicants entered administration on 30th October 2013, before any further information could be provided. The Administrators were reluctant to provide the necessary finance to enable the information to be provided, especially as they had liabilities at the former Unity Mine (now Glyncastle Mine) site and at an opencast mine site on the hillside at Bwlch ffos.

As the Administrator was seeking to sell the operations at Unity, Bwlch ffos and the proposal at Bryncwm as a 'package' the application has been held in abeyance. However, recent changes to Welsh Government Policy on coal mining operations as set out in PPW10 indicate that there is very little prospect of this site now being acceptable in planning terms. The application is therefore being brought forward for determination even though the applicant is still in administration.

SITE AND CONTEXT

The site is located on the southern slopes of the Neath Valley approximately 1km south of Cwmgwrach and 2km north east of Resolven. The site covers an area of 44 hectares and is steeply

sloping, rising from approximately 265m AOD on its northern side to approximately 375m AOD on the southern boundary. It largely comprises of upland forestry plantation dominated by sitka spruce but there are areas of purple moor-grass and some regenerating areas of clear felling. The surrounding land on all sides is dominated by forestry plantation.

Access to the site is gained via a private access track to the former Unity Mine, through the mine surface area and along 5.6km of forestry track. The former Unity Mine surface area is approximately 200m south west of Cwmgwrach and from there the forestry track runs in a south-westerly direction before turning back in an easterly direction at a point approximately 300m from the property known as Glyncastle, Resolven.

DESCRIPTION OF DEVELOPMENT

The proposed development seeks to extract 300,000 tonnes of high volatile coal from two seams outcropping within the site (Daren Restyn and Rhondda No1) and to also extract 1.6 million tonnes of sandstone by surface mining methods over a period of 5 years. It is also proposed that somewhere between 1.5 million tonnes and 1.75 million m³ (approx. 4.2 million tonnes) of mine waste from the operation of the Glyncastle Mine is proposed to be deposited within the opencast void over the 5-year period. The applicant has been requested to clarify the amount of mine waste given the wide range in tonnage specified but has not done so to date. However, it is likely that the site could only accommodate a tonnage of mine waste at the lower end of this range. The Mine owner is currently in administration and the administrator is trying to sell it as a going concern but its future is somewhat uncertain at the present time. That introduces uncertainty in relation to the achievability of the restoration scheme as there may be no mine waste available to achieve the proposed final contours.

The proposed development of the opencast site follows a series of 14 cuts working progressively from south west to north east. The area to be surface mined amounts to some 21.7 hectares.

Initial works would involve the felling of trees, the erection of site fencing, construction of the site office compound and processing area, creation of the lagoons and drainage system and the stripping of soils and overburden from the first 3 cuts. The overburden from the initial 'box cut' will go to an overburden mound and thereafter the site will continue to work progressively with overburden/mine waste being

backfilled behind the workings. The proposed overburden mound is anticipated to hold 295,000m³ of material and extend some 22m in height. The overburden mound is located to the south east of the extraction area close to the highest part of the site.

The application specifies that the amount of topsoil to be stripped equates to 99,000m³ and the amount of subsoil to be stripped equates to 264,000m³. However, the amount of topsoil storage indicated on the submitted plans equates to 19,400m³ of topsoil and less than 37,500m³ of subsoil. It is possible that the difference is made up of direct placement of soils during progressive restoration but that is not clear. The applicant has been asked to clarify the position to ensure that there are adequate soil storage facilities on site and no soil is lost or unnecessarily damaged but to date he has not done so. The application also states that soil forming material encountered during excavations will be recovered and stored for future use but there are no designated storage areas for such material within the site.

Site plant and machinery is proposed to be 3 crushers, 3 screens, 3 excavators, 3 dump trucks, loading shovel, D8 dozer, and a tractor and water bowser.

The coal won from the site would be transported along the forestry track to the mine surface where it would be washed and blended with coal from the mine. From there the coal would leave the mine site either by train or along the site access road.

The applicant claims that the coal from Bryncwm is required in order to blend with coal from the Mine in order to produce a suitable specification to meet the needs of Aberthaw Power Station. However, since the submission of the application Aberthaw Power Station no longer accepts Welsh anthracite coal. Alternative markets for the coal from Bryncwm have not been put forward by the applicant.

Sandstone won from the site would utilise the same access track and be sold off-site. Transport off-site would be by HGV unless markets could be served by train. The applicant states that stockpiles of processed and unprocessed sandstone will be located adjacent to the plant site up to 7m in height. The size of the storage area will limit the capacity of the site to process sandstone unless sales equate to the speed at which the sandstone is generated from the cuts. The applicant claims that a proportion of the sandstone is high specification aggregate with a polished stone value in excess of 68psv which is of importance to

the UK. However, no testing of the stone appears to have been carried out.

There is a secondary access which runs south for approx. 2km before turning north east for approx. 12km to the A4061. The secondary route is proposed to be used by site personnel/small service vehicles and the occasional low loader delivering site plant and machinery.

The restoration concept is to return the land to commercial woodland with wetland features as the land is owned by NRW. However, as specified above, the achievability of the restoration concept is currently uncertain.

NEGOTIATIONS:

Officers have met with the applicant, the agent and the Administrator in relation to the additional information required. However, despite indications that the information would be provided, no information has been submitted to date.

PLANNING HISTORY

The application site has no relevant planning history.

CONSULTATIONS

Natural Resources Wales – strongly recommend that determination of the application be deferred until further information has been submitted in respect of the impact on bats, clarification as to the depth of the void and the impact on groundwater, and a detailed surface water management plan. Conditions are also requested in relation to protection of badgers, provision of a Reptile Mitigation Strategy, carrying out a soil analysis of the mine waste to be utilised in restoration, submission of a detailed restoration and aftercare scheme, submission of a maintenance plan for haul roads, and submission of detailed pollution controls.

Biodiversity Unit – the ecology chapter of the Environmental Statement is not adequate, further information and clarification is recommended as follows:

The survey of bat use of the site and in particular a former air shaft tunnel has not been carried out in accordance with BCT Guidelines; the reptile survey has not been carried out in accordance with the Froglife guidelines; a further survey is required to establish whether adders are present; confirmation is required of areas where nightjar territories were identified; a soil map showing the extent of peat on the site is required; provision must be made for the loss of 12 hectares of BAP habitats; and a habitat reinstatement plan needs to be produced.

Footpaths – there are several public rights of way adjacent to the site. A note should be included with any grant of planning permission advising that these rights of way must be protected (and damage remedied) at all times during the course of development

GGAT – the applicant has not provided an assessment of the impact of the proposed development upon the known archaeological resource so request that the determination of the application be deferred until an archaeological assessment has been submitted.

Abertawe Bro Morgannwg University Health Board – no sensitive receptors have been identified within 1km of the site but the LPA should be satisfied that emissions from site activities are appropriately controlled to avoid adverse impact on the health of residents in the locality. Dust prevention measures should be sufficient to prevent nuisance and exposure to PM₁₀'s at sensitive receptors. A noise monitoring exercise should be undertaken to confirm noise modelling scenario and a suitably robust Environmental Management System should be provided.

Air Pollution – the site is remote from the nearest sensitive property about 1km away. The mitigation measures seem sensible and there should not be any problems if they are properly implemented.

Environmental Health (Noise) – no comments received

Health & Safety Executive – no comments received

Mineral Valuer – no comments received

Highways – no comments received

Drainage – requested further details in relation to surface water drainage

Coal Authority – encourages and supports the application

National Grid – no comments received

Ramblers Association – no comments received

RSPB – no comments received

Blaengwrach Community Council – no comments received

Resolven Community Council – no comments received

Rhondda Cynon Taff County Borough Council – no objection

REPRESENTATIONS

11 site notices were displayed on 24th June 2013 and the application was advertised in the Neath Port Talbot Courier on 27th June 2013.

In response, two representations have been received, one in support and one objection.

The issues raised in the objection are summarised as follows: -

- Site would be visible from many areas of the Upper Neath Valley
- Dust and noise from the use of the haul road
- Risk to public enjoyment of the woodland
- Run off from the haul road is having a detrimental effect on the woodland
- Cumulative effects should be considered
- No commitment to a Site Liaison Committee

The letter of support was received from RWE NPower in May 2013 who were proposing to utilise the coal product at that time.

REPORT

National Legislation

The Well-being of Future Generations (Wales) Act 2015 (WFG) 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.

In order to achieve this principle the Act introduces five ways of working to support decision making which ensures public bodies take account of:

- a. Long-term thinking – balancing the need to take action to address current issues with the need to the meet long term needs of Wales.
- b. An integrated approach – considering how a body's objectives may impact upon the social, economic, environmental and cultural well-being and considering how an individual body's objectives impact upon other public bodies' objectives.
- c. Engagement – involving the people and communities with an interest in the wellbeing objectives, engaging them in finding sustainable solutions.
- d. Collaboration – acting collaboratively with other bodies, or different parts of a body acting together in a co-productive way, to assist in the achievement of the body's objectives.
- e. Preventative action – deploying resources to undertake action now in order to prevent problems occurring or getting worse.

Well-being goals identified in the Act are:

- A prosperous Wales
- A resilient Wales
- A healthier Wales

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

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

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.

The Environment Act 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”.

National Policy

National Planning Policy is set out in Planning Policy Wales: Edition 10 – December 2018 (PPW10).

Paragraph 5.10.1 of PPW10, states that the demand for energy minerals has been largely based on power generation. The Welsh Government has set climate change targets for the reduction of greenhouse gas emissions and promoting decarbonisation. At the UK level coal powered generation is being phased out. This means moving away from the extraction of fossil fuel for use in energy generation. In the planning energy hierarchy, the extraction of minerals for the purpose of generating energy is undesirable as it is the most carbon intensive form of production. The purpose of this hierarchy is to encourage preferred generation proposals to come forward and to discourage proposals supported by the extraction of fossil fuels.

Paragraph 5.10.13 states that it is part of UK and Welsh Government energy policy to remove coal from energy generation. Current UK Government plans seek to phase out coal fired generation by 2025 and in Wales demanding targets to limit carbon emissions are enshrined in the Environment Act. Coal extraction has reduced to a level where there are relatively few active opencast coal sites operating in Wales.

Continued demand for local coal is uncertain, both in terms of the increased use of imports and challenging abatement requirements.

Paragraph 5.10.14 states that proposals for opencast, deep-mine development or colliery spoil disposal should not be permitted. Should, in wholly exceptional circumstances, proposals be put forward they would clearly need to demonstrate why they are needed in the context of climate change emissions reductions targets and for reasons of national energy security.

Paragraph 5.10.15 states that in wholly exceptional circumstances, there may be some public safety benefit in coal extraction where, for example, historic coal mining has created land instability. Further consideration to physical ground conditions and land instability is contained in Chapter 6. Further advice is contained in MTAN 2 Coal.

Paragraph 5.10.16 states that a Health Impact Assessment should be provided to accompany any application for opencast coal working. If the planning authority decides that an applicant has failed to provide adequate information on health impacts, it should not process and proceed to determine the application without that information. Where an application for opencast coal working is EIA development, for the purposes of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017, and coal working is likely to have a significant effect on human health, the Health Impact Assessment may serve to inform the Environmental Statement.

Paragraph 5.14.32 states that coal has predominantly been used for energy production, however coal has other specific uses. These include use for industrial purposes in the steel industry, in speciality carbon markets, in the making of concrete and for domestic use. Coking coal, for example, which is largely imported is used in coke manufacture for the steel industry and directly in blast furnaces. Whilst the use of coal for energy generation should not be permitted if, exceptionally, planning applications come forward for industrial uses for coal then each case would need to be considered individually and the policies contained in MTAN 2: Coal applied, including the test outlined in paragraph 45 of MTAN 2.

National Guidance

Minerals Technical Advice Note (Wales) 2: Coal (MTAN2) was published in January 2009 and sets out detailed advice on the mechanisms for delivering the policy for coal extraction through surface and underground working.

In particular, the test outlined in Paragraph 45 of MTAN 2 states

1) The proposal should be environmentally acceptable or can be made so by planning conditions or obligations, and there must be no lasting environmental damage.

2) If this cannot be achieved, it should provide local or community benefits which clearly outweigh the dis-benefits of likely impacts to justify the grant of planning permission.

Local Policies

The Development Plan for the area comprises the Neath Port Talbot Local Development Plan which was adopted in January 2016, and within which the following policies are of relevance:

- **Policy SP1** Climate Change
- **Policy SP2** Health
- **Policy SP3** Sustainable communities
- **Policy SP4** Infrastructure
- **Policy SP14** The Countryside and the Undeveloped Coast
- **Policy EN2** Special Landscape Areas
- **Policy SP15** Biodiversity and Geodiversity
- **Policy EN6** Important Biodiversity and Geodiversity Sites
- **Policy EN7** Important Natural Features
- **Policy SP16** Environmental Protection
- **Policy EN8** Pollution and Land Stability
- **Policy SP17** Minerals
- **Policy M2** Surface Coal Operations
- **Policy M4** Criteria for the Assessment of Mineral Development
- **Policy SP21** Built Environment and Historic Heritage
- **Policy TR4** Safeguarding Freight Facilities

Supplementary Planning Guidance:

The following SPG is of relevance to this application: -

- Pollution (October 2016)
- Landscape and Seascape (May 2018)
- Biodiversity and Geodiversity (May 2018)

Issues

Having regard to the above, the main issues to consider in this application relate to whether there are exceptional circumstances which indicate that the development is sustainable and is needed in the context of climate change emission targets and high specification aggregate provision; whether the development is environmentally acceptable and satisfies the biodiversity duty set out in the Environment (Wales) Act 2015, and if not whether there are local or community benefits which outweigh any disbenefits.

Principle of Development / Need

PPW10 states that it is part of UK and Welsh Government Energy Policy to remove coal from energy generation in order to meet climate change and carbon reduction targets. Currently the plan is to phase out coal fired generation of electricity by 2025. It is therefore Welsh Government Policy that proposals for opencast, deep mine development or colliery spoil disposal should not be permitted except in 'wholly exceptional circumstances' where it can be clearly demonstrated why they are needed in the context of climate change emission reduction targets and/or for reasons of national energy security. The applicants have indicated in this application that the coal is for energy generation, which is not needed, and therefore there are no 'wholly exceptional circumstances' which would justify the grant of planning permission.

In terms of sandstone aggregate the landbank of crushed rock in Neath Port Talbot is in excess of 35 years (SWRAWP Annual Report 2017). Where landbanks exceed 25 years Welsh Government Policy states that there is no requirement for additional resources of crushed rock to be released and it should only be acceptable in rare and exceptional circumstances.

However, there is an acceptance in Welsh Government Policy that certain aggregates such as high specification aggregates (HSA) have limited availability geologically. These are relatively plentiful in Wales but unavailable in some parts of the UK. This type of material is therefore seen as being of UK importance and is a special case that may well justify transportation over greater distances and this UK importance must be considered. The applicant has claimed that the sandstone from this site meets the specification for high specification aggregate although no test results on the stone have been provided.

If the stone was of HSA standard the main export markets are to the West Midlands, South West England, London and the South East. Currently, the landbank of HSA in South Wales is some 42 years which is more than sufficient to ensure an adequate supply. There is therefore, no justification for the extraction of sandstone or high specification aggregate on the grounds of need.

Impact on Biodiversity

An Ecological Impact Assessment is contained within the Environmental Statement submitted in support of the proposed development and relates to desk studies and survey work undertaken in 2012. A Phase 1 Habitat Survey was carried out in April 2012. Surveys were also carried out for bats, breeding birds and reptiles. The Council Ecologist has commented that the ecology chapter of the Environmental Statement is not adequate in a number of respects.

The bat surveys undertaken during 2012 identified an assemblage of at least two species of bat using the site – common pipistrelle and soprano pipistrelle for foraging/commuting. No evidence of roosting was recorded although the study states that the potential for bat usage of a former air shaft, although unlikely, cannot be fully discounted. NRW has expressed concerns in relation to the impact on bats and the Council Ecologist does not agree that the usage of the air shaft by bats is unlikely. Bat Conservation Trust Guidelines suggest that there is a high likelihood of bats being present and therefore a further survey, including a swarming survey, is required. The applicant has been requested to provide further survey information but has not done so to date. In addition, all the survey information provided in 2012 is now out of date and cannot be relied upon to provide an accurate ecological baseline. Therefore, all survey work must be updated in order to ensure the Council meets the biodiversity duty set out in the Environment (Wales) Act 2015.

The breeding bird surveys undertaken during 2012 identified a total of 31 bird species of which 30 species were likely to be breeding. Eight of these species were identified as being of conservation concern – crossbill, bullfinch, Lesser Redpoll, Wood Warbler, Song Thrush, Tree Pipit and Nightjar. The survey is now out of date.

The reptile survey also carried out during 2012 identified common lizard, slow worm and grass snake were present in relatively small numbers. However, the Council Ecologist has advised that the surveys were not carried out in accord with Froglife guidelines and should be re-done. The surveys are out of date now in any event.

The habitat survey indicates that habitat comprises mainly of conifer plantation with some broadleaf and areas of felled woodland. These woodland areas are considered by the applicant to be of site level importance only. Remnant areas of purple moor-grass and rush pasture and Heathland/Bog are present and these are acknowledged to be LBAP Priority Habitats, although assessed by the applicant as being only of local importance. The Council Ecologist considers that the BAP habitat, amounting to some 12 hectares, should be reinstated and a plan indicating the reinstated areas should be provided. The current restoration plan does not indicate any areas of BAP habitat reinstatement. The applicant has been requested to provide a revised restoration plan for the BAP habitat but has not done so to date.

The proposed development does not maintain and enhance a site supporting BAP habitat and important ecological features. The impact on protected species is uncertain. The biodiversity duty is not therefore met as the Council do not consider that the development will maintain and enhance biodiversity and contribute to the resilience of ecosystems. The proposal is therefore contrary to Policies EN6, EN7, SP17 (4) and M4 (3) of the Neath Port Talbot LDP as well as not complying with the biodiversity duty in the Environment (Wales) Act 2015.

Impact on Visual Amenity and Landscape Character

As stated above, the site is located in an elevated position within an area of commercial forest on the northern slopes of Mynydd Resolven, which rises to a local high point of 383m AOD. It lies within the Vale of Neath Special Landscape Area as defined under Policy EN2 of the LDP. The policy states that development within the SLA's will only be

permitted where it is demonstrated that there will be no significant adverse impacts on the features and characteristics for which the SLA has been designated.

The Vale of Neath Special Landscape Areas is one of 6 SLA's identified in the LDP which have been identified in a study by TACP (June 2011) using the SLA Designation Criteria in the CCW Guidance Note 1 (2008), utilising LANDMAP data. The study defined the Vale of Neath as having high landscape value in terms of underlying geology, cultural and historical heritage, ecology, visual amenity and sense of place. One of the Key Policy and Management issues identified in the study was preventing the encroachment by opencast mining activity or other developments that will detract from the landscape quality.

Paragraph 5.3.11 of the LDP states that while development is not precluded within SLA's, these areas will be protected as far as possible from any development that would harm their distinctive features and characteristics. The paragraph goes on to state that Supplementary Planning Guidance will be issued giving further information on the approach to be taken to development proposals within SLA's.

Paragraph 5.3.12 of the LDP identifies mineral and renewable energy developments are likely to be the predominant types of proposal that could have significant impacts. There is an expectation that mineral developments would provide screening or bunding during the operational phase of development and that a site restoration scheme returns the landscape as far as practicable to its original form and appearance on completion of works.

Supplementary Planning Guidance (SPG): Landscape and Seascape (May 2018) provides information and guidance setting out the expectations on all development proposals to protect and enhance all landscapes and seascapes. The document outlines the variety of landscapes and seascapes relevant to Neath Port Talbot and sets out the measures that will be taken through the planning system to meet the objectives set out in the Local Development Plan (LDP).

The purpose of the SPG is to assist and guide those proposing and designing new developments and submitting a planning application, to ensure that landscape and seascape are appropriately considered, protected and where feasible enhanced within any development proposal. The document does so by supplementing the policies set out in the LDP, by providing more detailed guidance and by setting planning

policy within the broader context of other environmental legislation and designations.

In relation to the Vale of Neath the important features and characteristics identified in the SPG include the topography and woodland cover on the northern and southern slopes of the Neath Valley which is a significant and dominant feature and provides coherence and integrity to the SLA. This contrasts with the pastoral and deciduous mosaic of the lower slopes providing diversity and contrast within the valley. A strong sense of place, coherence, local distinctiveness and cultural identity also combine to contribute to the special qualities of the Vale of Neath SLA.

The applicant has carried out an appraisal of landscape and visual issues but has not provided a formal Landscape and Visual Impact Assessment (LVIA). The SPG considers that a Landscape and Visual Impact Assessment should be undertaken in all cases where there is likely to be a significant landscape impact. In this case it is considered that an LVIA should have been provided.

LANDMAP (Landscape Assessment and Decision Making Process) is an all-Wales GIS-based landscape resource where landscape characteristics, qualities and influences on the landscape are recorded and evaluated. LANDMAP is intended to help sustainable decision-making and natural resource planning at a range of levels from local to national while ensuring transparency in decision-making.

In terms of the 5 LANDMAP Aspect Areas the site falls within the following:

- Geological – Mynydd Resolven Upland Plateau – Moderate Evaluation
- Landscape Habitat – Coniferous Woodland – Moderate Evaluation
- Visual & Sensory – Mynydd Nant-y-bar/Mynydd Blaenafan Wooded Upland & Plateau – Moderate Evaluation
- Historic Landscape – Afan Wallia Woodland – Outstanding Evaluation
- Cultural Landscape – Eastern High Lands: Resolven Mountain – High Evaluation

The submitted appraisal has only touched on the Visual & Sensory Aspect and has not considered the Historic and Cultural Landscape

Aspects which are important features of the Vale of Neath SLA. Geological and Landscape Habitats Aspects have not been considered either.

The appraisal identifies the landscape fabric as having medium sensitivity but the magnitude of change would be substantial resulting in a major/moderate significant adverse impact during the period of extraction and infilling. It goes on to state that following restoration the residual impact would be negligible. This may or may not be the case but at the present time there are significant concerns in relation to the achievability of the proposed restoration and especially the ability of the underground mine to produce the mine waste to fill the void following the removal of coal and sandstone. The evidence available, although not to the expected standard appears to confirm that there will be substantial adverse effects on the landscape fabric.

In terms of visual impact the submitted appraisal has considered 4 viewpoints the applicant considers are representative of locations where views of the site might be experienced. The basis of the selection of these viewpoints is unclear. Viewpoints would usually be selected on the basis of the identification of a Zone of Theoretical Visibility but this does not appear to have been done in this case. In addition the applicant has merely provided photographs from the four viewpoints. It is usual to provide existing photographs with the extent of the application site identified and then to provide photomontages depicting various stages of the development so that the impact can be assessed. Not only do the photographs submitted not clearly identify the extent of the site within the existing landscape, but there has been no attempt to provide any photomontages. The applicant has been requested to provide further information in relation to visual impact but has not done so to date. The visual impact of the proposed development is therefore currently uncertain and it cannot be concluded on the basis of the information submitted (as the applicant has done) that the visual impact is limited.

As the applicant has not demonstrated that there will be no significant adverse impacts on the Special Landscape Area designation in terms of landscape fabric and visual amenity the proposal is considered to be contrary to Policies EN2 and SP14 of the Neath Port Talbot LDP.

Impact on the Water Environment

The applicant has considered the potential hydrological and hydrogeological impacts of the proposed development and provided a basic hydrogeological impact appraisal which follows NRW guidance.

The published geological maps indicate that the site is covered in thin superficial deposits comprising glacial till typically made up of silty, sandy clay with variable gravel, cobble and boulders. The solid geology is shown as comprising Lower, Middle and Upper Coal Measures from the Carboniferous Westphalian A and Westphalian B sequence. The coal measures are described as a cyclical sequence of sandstones, siltstones, mudstones, coals and seatearths.

Although no specific groundwater data has been provided, the applicant states that the groundwater flow is likely to be controlled by the local geology. Sandstones overlie the coal seams which in turn overlie low permeability mudstones. It is likely that these mudstones act as an aquaclude, creating a localised perched groundwater system within the sandstones. Groundwater flows are likely to follow the dip of the strata to the south east. The Hydrogeological Risk Appraisal concludes that due to the lack of groundwater abstractions within the vicinity of the site, the likelihood of impacts on groundwater abstractions is negligible. NRW accept this conclusion although they comment that cross sections showing the topography and the depth of the void would have been useful. The applicant has been requested to provide these but has not done so to date.

The applicant has proposed a Surface Water Management Scheme incorporating SuDS principles in order to control surface water flows. The scheme proposes that surface water and water accumulated in the void will be routed via swales and drains to attenuation ponds before being discharged into local streams. Whilst NRW have agreed the principle of the scheme they have requested additional details of the exact design and capacity of the system so as to ensure that there is no increase in the risk of flooding downstream. Contaminated run-off can be mitigated by utilisation of pollution control measures and attenuation.

Whilst additional detail is required it is considered that there is no justification for refusal on the grounds of impact on the water environment.

Impact on Residential Amenity / Health Impacts

The applicant has undertaken a noise assessment of the proposed operation at three locations, Heol Wenallt, Maesgwyn and Glyn Castle. The background noise levels were measured at Heol Wenallt and Maesgwyn in 2009 at 50.1dB and 48.1dB respectively and Maesgwyn has been assumed by the applicant to be reflective of the background noise at Glyn Castle, Resolven. These background levels are likely to have been influenced to a significant extent by the traffic on the A465 and the operation of the Underground Mine. The proximity of Maesgwyn to the A465 and the B4242 relative to the position of Glyn Castle to the A465 suggests that the background noise levels at Maesgwyn are not necessarily reflective of Glyn Castle. It is highly likely that the background noise levels at Glyn Castle would be less than they were at Maesgwyn.

Paragraph 173 of MTAN2: Coal states that Local Planning Authorities should establish a noise limit at sensitive locations of background noise levels plus 10dBLAeq (1 hour) or 55dB LAeq (1 hour) whichever is the lesser during normal working hours and a limit of 42 dBLAeq (1 hour) at all other times. In this case the applicable noise limit at sensitive locations would be 55dB LAeq (1 hour).

The noise predictions indicate that the noise generated by the development, including traffic movements along the haul road, are well within this limit. However, the assessment of noise from use of the haul road is based on the assumption of 55 vehicles entering and leaving the site daily. This is considered to be a significant under estimate as the number of vehicles required to remove 300,000 tonnes of coal and 1.6 million tonnes of sandstone and to replace that material with 1.5 million tonnes of mine waste would far exceed 55 vehicles per day. The applicant has been asked to clarify this issue and to revise the noise assessment if necessary but has not done so to date. The impact of the development in terms of the noise impact from vehicles along the haul road on the amenity of residents of Glyn Castle is therefore uncertain and the Council is unable to conclude that the impact is acceptable.

Potential sources of dust emissions to air likely to occur as a result of surface operations undertaken at the site include stripping, storage and replacement of soils; extraction and loading/unloading of coal; crushing and screening; stockpiling of coal; and internal haulage on un-surfaced roads.

The applicant has undertaken an assessment of air quality impacts and in particular PM₁₀ 'suspended dust' related to potential health effects and 'deposited dust' with diameters between 10µm and 75µm, related to potential nuisance effects. As the site is more than 1km from sensitive residential development it is not necessary to carry out detailed analysis of the health effects of PM₁₀ particulates but detailed mitigation measures are proposed so as to minimise dust emissions. These mitigation measures appear to be sensible and the University Health Board has confirmed that dust prevention measures should be sufficient to prevent nuisance and exposure to PM₁₀'s at sensitive receptors. There are no sensitive receptors within 1km of the site.

The UK has published National Air Quality Objectives in relation to PM₁₀ dust of 40µg/m³ as an annual mean and 50µg/m³ as a 24-hour mean (not to be exceeded more than 35 times per year). Whilst the Welsh Government acknowledges in MTAN2 that there is no known safe level of exposure to PM₁₀ particles, the annual mean threshold value has been set at a level at which the risk of adverse health effects to any individual would be very small.

The 2019 levels of PM₁₀ projected at the site are 10.19µg/m³, just over 25% of the NAQ thresholds. Concentrations of PM₁₀ in the 1km grid squares to the north of the site are slightly higher at between 10.68 and 10.98µg/m³. This is likely to be due to the presence of the A465 within and adjacent to those grid squares. Surface related mining operations are generally associated with very small increases in mean concentration of PM₁₀ particles – 2µg/m³ so on that basis the concentration would still be well below one third of the mean threshold at 30.48%.

In terms of nuisance dust there are no UK Statutory Standards recommended for dust deposition rates however MTAN2 suggests that for high-contrast dust such as coal, conditions should be set at a maximum of 80mg/m²/day (as a weekly average) or as a combination of 100% AAC (actual area coverage) across a single 45° sector over a 7 day period or the dust effect or discolouration is greater than 25% for a single sector within the same period. It is unclear if the limit of 80mg/m²/day relates to all dust or just the coal component.

MTAN2 states that medium-size particles (10-30µm) will generally travel 100-250m from the source under normal conditions. In adverse weather conditions coarse dust travels 500m from the source. However, such events will be infrequent and continual or severe

concerns about dust are most likely to be experienced near to dust sources (generally within 100m). The site is 1km from sensitive residential property and therefore adverse impact from nuisance dust is unlikely.

The proposed development involves blasting although there is no section on blasting contained within the environmental statement. Adequate controls could be imposed via planning conditions should the application be approved, especially given the sites remote location from sensitive development.

Therefore, the impact of noise on Glyncastle is of concern and the applicant has not adequately demonstrated that there would be no unacceptable impact. The proposal is therefore contrary to Policies EN8, SP17(4) and M4 (3) of the LDP in that respect.

Impact on the Historic Environment

Policy M4 of the LDP states that proposals will need to demonstrate that the development would not result in any unacceptable impacts to the environment. Paragraph 5.3.80 states that particular regard will be given to the potential impact on the landscape, nature conservation and wildlife interests of the site and adjoining land, areas of historical, cultural and archaeological importance, agricultural interests, pollution or disturbance to ground or surface water supply or drainage, ground stability of the site and adjoining land and air quality and the potential for mine gas emissions.

In relation to this application the applicant has given no consideration to the historical, cultural and archaeological importance of the site. GGAT has advised that the proposed development has an archaeological constraint in that the HER lists the presence of several archaeological sites within the proposed project area and its vicinity. These include a number of sites associated with past industrial development and post-medieval rural settlement which are significant in understanding the cultural history and settlement of this area. In addition, there is little consideration of the potential for the development to uncover undiscovered archaeological remains during land clearance and ground works. Consequently, it is not possible to determine the archaeological impact of the development. The proposal does not therefore consider the impact of the development on the cultural well-being of Wales as required under the Well-being of Future Generations Act when assessing whether a development is sustainable.

The proposal is therefore contrary to Policy M4(3) of the Neath Port Talbot LDP in this regard.

Other Matters

As identified earlier in this report, representations were received during the publicity exercise. In response to the issues raised which have not been addressed elsewhere in this report, the following comments are made:

Risk to public enjoyment of the woodland has been raised but there is no anticipated change as the haul road has already been used to access the Bwlch Ffos Opencast site. The proposed site itself would be fenced off if the development proceeds and this would not prevent access to other extensive areas of the wider woodland.

The applicant has not expressly committed to a Site Liaison Committee. However, if permission was granted then a condition requiring a Community Liaison Committee could be imposed.

CONCLUSION

The decision to recommend refusal of planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Neath Port Talbot Local Development Plan (2011–2026) adopted January 2016.

The proposal does not maintain and enhance biodiversity and contribute to the resilience of ecosystems. There is an adverse impact on BAP habitat in particular and there is uncertainty as to the impact on protected species such as bats.

The applicants have not demonstrated that the impacts on the landscape, in particular the impact on the features and characteristics of the Vale of Neath Special Landscape Area, and visual amenity would be acceptable.

The potential noise impacts on the property known as Glyncastle and the surrounding sensitive properties in Resolven is uncertain due to lack of clarity on numbers of vehicle movements.

Questions remain in relation to the feasibility of extraction of coal/sandstone and its phased replacement with mine waste in order to provide a satisfactory restoration profile and beneficial after-use.

The impact on the archaeological resource and cultural heritage has not been assessed at all.

PPW10 states that the extraction of coal for energy generation should not be permitted except in wholly exceptional circumstances. Proposals put forward would clearly need to demonstrate why they are needed in the context of climate change emissions reductions targets and for reasons of national energy security or where there would be a clear public benefit. No such wholly exceptional circumstances or public benefit exist in this case. There is also no clear UK need for sandstone so the weight to be attached to that aspect is negligible.

It is considered that the proposal represents an inappropriate form of development that would have unacceptable impact on biodiversity, landscape character and visual amenity of the area, the historic environment and in terms of the potential noise impact from the use of the haul road . Accordingly, the proposed development is not in accordance with the Neath Port Talbot Local Development Plan. There are no material considerations which would indicate that a determination should be made in this case other than in accordance with the Development Plan.

RECOMMENDATION

The application is REFUSED for the following reasons:-

(1) Having regard to the national guidance in Planning Policy Wales 10 (December 2018), which states (para 5.10.14) that proposals for opencast proposals should not be permitted, the applicant has failed to demonstrate that there are wholly exceptional circumstances which would justify the extraction of coal for energy generation. The proposal would not therefore be globally responsible and would not support a healthier Wales in that it would have an adverse impact in terms of climate change, and would fail to accord with The Well-being of Future Generations (Wales) Act 2015.

(2) In terms of the proposed extraction of sandstone aggregate, the landbank of crushed rock in Neath Port Talbot is in excess of 35 years (SWRAWP Annual Report 2017), with a 42 year landbank of High Specification Aggregates (HAS) in South Wales. Within this context, there is no requirement for additional resources of crushed rock to be released while, even though insufficient evidence has been provided to demonstrate that the proposals relate to high specification aggregates (HSA), the existing HAS landbank in South Wales is more than sufficient to ensure an adequate supply. Accordingly, there are no exceptional circumstances in this case which warrant departing from Welsh National Minerals policy.

(3) The applicant has failed to submit acceptable proposals for effective sustainable extraction of the minerals, method and phasing of operations, the management of mineral waste and restoration/beneficial after-use, such that the proposal is contrary to Policy M4(5) of the Neath Port Talbot Local Development Plan.

(4) The applicant has failed to demonstrate that there would be no significant adverse impacts on the features and characteristics for which the Vale of Neath Special Landscape Area has been designated. Any such impacts, however, would not be outweighed in any event by any exceptional circumstances relating to the need for mineral extraction. Accordingly, the proposal is contrary to Policy EN2 of the Neath Port Talbot Local Development Plan.

(5) The applicant has failed to demonstrate that the proposed development would maintain and enhance biodiversity and contribute to the resilience of ecosystems insofar as there is an adverse impact on BAP habitat and important natural features and an adverse impact on protected species cannot be ruled out. Any such impacts, however, would not be outweighed in any event by any exceptional circumstances relating to the need for mineral extraction. Accordingly, the proposal is contrary to Policies EN6, EN7, SP17(4) and M4 (3) of the Neath Port Talbot Local Development Plan as well as not complying with the biodiversity duty contained in the Environment (Wales) Act 2015.

(6) The applicant has failed to demonstrate that the proposal would have no significant adverse impacts on the archaeological resource and the cultural heritage of the area. The impact of the proposed development on the cultural well-being of Wales cannot therefore be adequately assessed. Any such impacts, however, would not be outweighed in any event by any exceptional circumstances relating to the need for mineral extraction. Accordingly, the proposal is therefore contrary to Policy M4(3) of the Neath Port Talbot Local Development Plan.

(7) The applicant has failed to adequately demonstrate that the noise impacts associated with traffic along the haul road would not have a significant adverse impact on the amenities of nearby residents and the property known as Glyncastle, in particular. Any such impacts, however, would not be outweighed in any event by any exceptional circumstances relating to the need for mineral extraction. Accordingly, the proposal is therefore contrary to Policy SP16 and EN8 of the Neath Port Talbot Local Development Plan.