

SECTION A – MATTERS FOR DECISION

Planning Applications Recommended For Approval

<u>APPLICATION NO:</u> P2018/0511	<u>DATE:</u> 20/06/2018
PROPOSAL:	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
LOCATION:	Pwllfa Watkin Refuse Tip (Tip 871), Pontardawe Link Road To Baran Road, Pontardawe SA8 4RX
APPLICANT:	FCC ENVIRONMENT
TYPE:	Section 73 – Variation of Condition
WARD:	Pontardawe

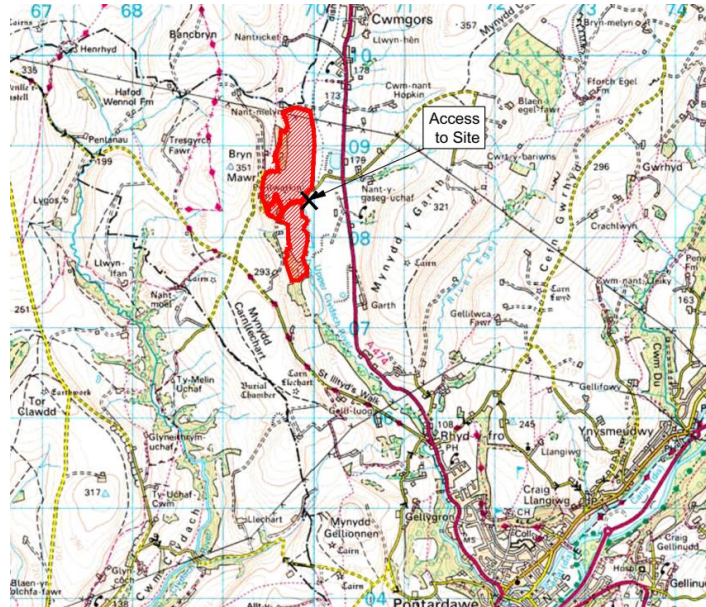
BACKGROUND

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 24th 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.



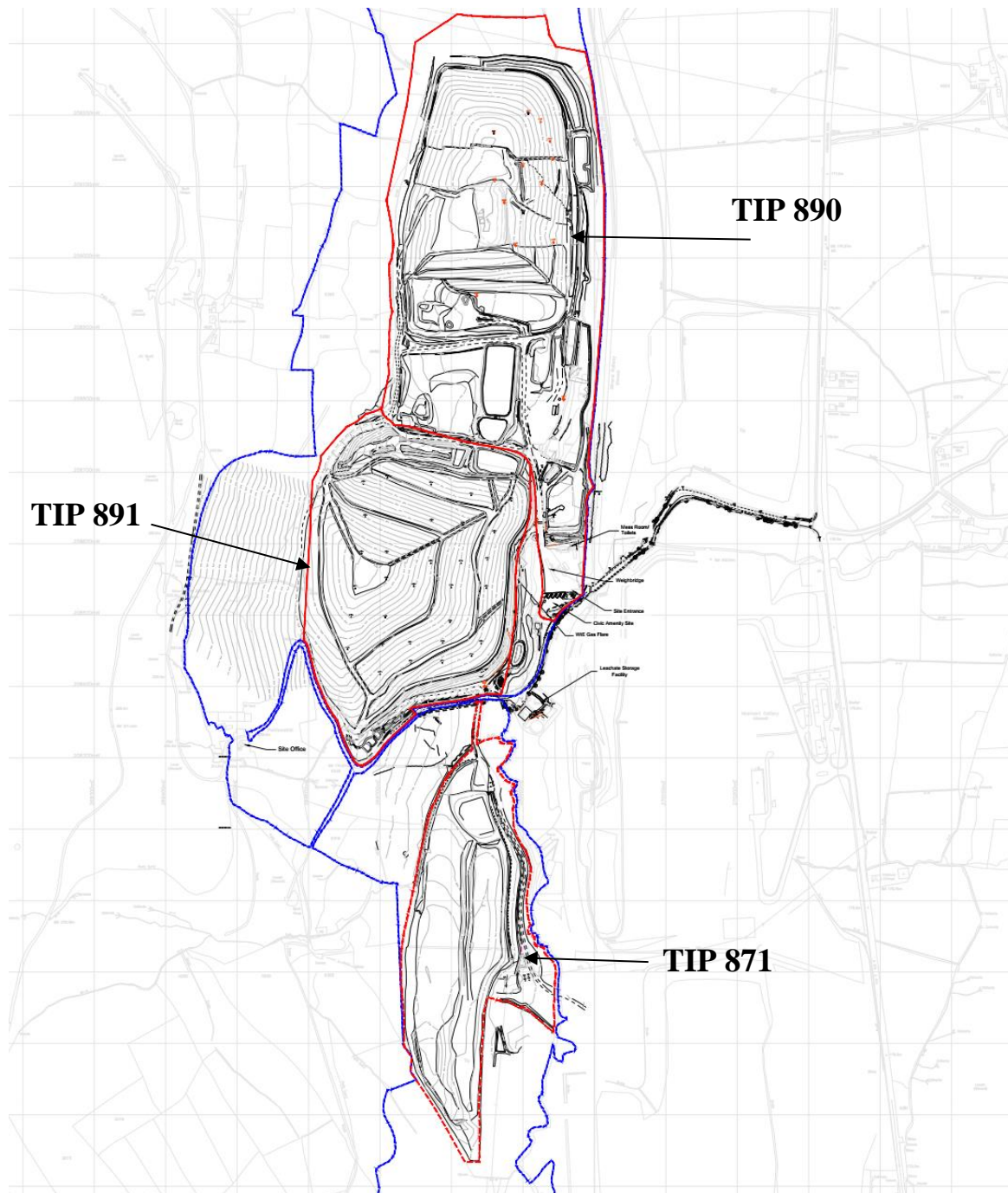
The landfill site comprises two separate sections. The area known as Tip 891 is the completed southern section of the landfill. The northern section, which is currently being landfilled, is known as tip 890.

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 30th 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 30th September 2025 and condition 2 to extend completion of restoration until 30th 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 31st 2023, so restoration works would be complete by December 31st 2024, allowing 12 months for restoration. Based on these time scales this means that extractive operations at tip 871 will need to end by 31st December 2024 with restoration ceasing by 31st 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 Pwllfawatkin 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 16th January 2020 and new site notices displayed on 13th 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) 10th 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 27th January 2016 and is the Development Plan for the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004. Section 38(4) requires a planning application to be determined in accordance with the content of the development plan unless material considerations indicate otherwise. The Neath Port Talbot Local Development Plan consists of a number of policies that relate directly or indirectly to the consideration of the proposals which have been summarised below.

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) 10th 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 31st December 2024. Restoration of Tip 871 shall be completed no later than the 31st 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 8th 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 17th 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 Pwllfawatkin 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.