

PLANNING AND DEVELOPMENT CONTROL COMMITTEE

30 SEPTEMBER 2014

ENVIRONMENT

AMENDMENT SHEET

SECTION A – MATTERS FOR DECISION

- 1. Planning Applications**
Recommended for Approval Following Full Planning & Development Control Committee Members’ Site Visit

<u>ITEM 1.1</u>	
<u>APPLICATION NO:</u> P/2014/217	<u>DATE:</u> 27/03/2014
PROPOSAL: Temporary permission for the drilling of an exploratory borehole to test the Westphalian and Namurian strata for coal bed methane and shale gases.	
LOCATION: Land Within, Foel Fynyddau Forest, Near Pontrhydyfen, Cwmafan, Port Talbot	
APPLICANT: UK Methane Limited	
TYPE: Full Plans	
WARD: Bryn & Cwmavon	

The Group representing the residents of Pontrhydyfen submitted an email to Councillors and different sections of the Council expressing objections/concerns on the following (summarised) issues: -

- The Council should have insisted that UK Methane consulted with local community (not ward) prior to the application and reminded them of good practice laid down by their own organisation UK OOG. In consequence we feel that you have prejudiced our position in objecting to their Application.
- The Application which included cheaper energy job creation etc. are references that you find in all business applications. In this case however,

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there are environmental Health, social implications and it would seem to us that they are of less importance. Thus it could be construed that in favouring the application its legality is questionable as you should treat everything equally.

- You are obliged under National Planning Policy not to be biased for a business development as opposed to impact Social, Environment
- Note that the Chartered Institute of Environmental Health Officers (CIEH) on 21st July 2014 issued a report which urges local authorities to prevent fracking in their areas until they are sure there is no risk to Public Health. There are no assurances in the UK, so precautionary principles should apply. It also notes that the combination of weak regulations, diminishing resources with regulatory bodies, inexperience of industry and potential conflicts of interest within the Planning Regime is "disquieting".
- Refer to an article in The Lancet Journal, 'Health Implications Fracking' by Sir Michael Hill
- Refer to Cancer UK awaiting a report but whom express concern with the chemicals being used and the contaminants brought up to the surface.
- Methane extraction in your LDP is sparse and you do not provide for buffer zones. This is amazing.

Conclude that if Councillors agree to this exploratory borehole and UK Methane find economic amounts of gas or oil please ask your Planning Officers what would their recommendation be if UK Methane applied to frack the shale, or even put in more boreholes and horizontal pipework at the exploratory stage not appraisal or production stage.

Response

In response, it is considered that the report on the application has thoroughly assessed the implications of this test exploration borehole on the local area.

The lack of consultation from the applicant company with interested locals is noted but this is not a matter which the Council can insist upon for an application of this nature. The significant responses to the application indicate that the community is aware of and actively engaged in the application process.

The CIEH report referred to is entitled "Shale gas and fracking: examining the evidence". While the report is interesting in its conclusions in respect of fracking, and will no doubt be considered by Central Government, it is not about exploratory drilling *per se*, rather fracking itself. In this respect, the adoption of a precautionary approach as advocated does not apply to exploratory boreholes, and having regard to the acceptable impacts detailed in the main report, it does

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not affect the conclusions that there are no justifiable ground son which to refuse planning permission.

Finally, any recommendation in respect of any future planning application for additional ‘fracking’ or additional exploratory pipework on this site or any others in the County Borough, can only be advised following detailed assessment of any such application. Any application for fracking, however, would require extensive supporting information including Environmental Impact assessment, and would be subject to rigorous examination.

An additional letter of objection has also been received which expresses concerns over the potential for contaminants to filter into the surrounding land, including her back garden and other properties in Afan Terrace, with potential failure of cement casings including through tectonic movement, and requesting that the Council err on the side of caution and turn down the application.

Response

It is considered that such matters are satisfactorily addressed in the main report, and it is emphasised that Natural Resources Wales has indicated that it is satisfied with the structure of pollution control measures, and has no objections to the proposal.

An additional objection letter has also been received which expresses some concerns with the committee report namely:

- (1) Concerns that the current application (and previous application) were not adequately publicised.
- (2) The size of the rig is described as “a maximum of 11m” (page five) and 12.8m (page 20) and the swept path analysis (page 25) was also calculated using a vehicle only 12 metres long, whilst the rig is described as being 12.8 metres long.
- (3) The report has an ambivalent tone when addressing concerns raised by objectors who refer to previous planning applications. The report stipulates (on many occasions), that each, “application has to be determined on its individual merits” and so the objections of the public, in this instance, are not relevant, and yet it refers councillors to the previous application P2011/0039 and the “Llandow Appeal”.
- (4) Application P2011/0039 should never have been accepted, as it is full of irregularities and Councillors should read it before deciding to use it as a base upon which to determine Application P2014/0217. The Council would

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- not wish to be seen as acting against their Code of Conduct which stipulates that all applications have to be considered on their “own individual merits”.
- (5) There are concerns regarding page 26 in respect of highway safety and the access. Permission was granted for an unspecified rig under application P2011/0039, yet the current application needs two rigs. The previous application stated that access would be via the 'B4286 from Cwmafan to Pontrhydyfen' which implies vehicles will travel through Cwmafan and turn left onto the forestry track, whereas the 2014 application proposes the vehicles will turn right onto the forestry road, crossing the main carriageway near a bend. Similarly, the volume of traffic to and from the proposed 2014 development is at least three times greater than that of the 2011 application, and the timescale at least four weeks longer.
 - (6) On page 29 it states that “other HGVs and large vehicles, such as buses and forestry lorries, frequently use the same roads”. This is not the case; buses frequently use the same roads, but HGVs do not travel along the stretches of the B4287 and the B4286 within Pontrhydyfen. There is a weight restriction of 7.5 tons along the B4287 through Pontrhydyfen. Whilst forestry lorries use this access road, it is on an infrequent basis and they have been recently observed trying, and failing, to use the route proposed by the applicant
 - (7) Many of the issues determined by the report as “acceptable” relate only to the actual site and not to the impact on surrounding areas caused by traffic generation, noise and dust as stipulated by MPPW policy. Noise barriers, hooded lights and a water bowser for dust control may help minimise onsite problems, but do not address the fact that the 24 hour access requirement of vehicles travelling to the site (page 23) would in itself create a nuisance in terms of noise, dust and light pollution.
 - (8) The report maintains that public rights of way will not be affected by this proposal, but this again refers only to the actual site (page 30). The area and road surrounding the site is used by walkers, cyclist and equestrians. Again, the report's author considers concerns of subsidence alongside the B4286 in terms of site activity and not in terms of the vibration caused by increased HGV use of this stretch of road.
 - (9) The Noise Impact Assessment performed by Hunter Acoustics is invalidated by the fact that the application proposes drilling for at least 10 weeks not 8 weeks.
 - (10) The clarification letter from the Welsh Government, dated July 2014 describes exploration as “the use of seismic surveys and exploratory drilling” (page 45). Have steps been undertaken to initiate a Seismic Survey? Have NRW issued a current permit for “flowback water”? Have the Planning Officers answered the query from NRW regarding the lack of clarity from the applicant in terms of 'gas testing'?

Response

- In respect of the concerns that the current application (and previous application) were not adequately publicised, it should be noted that this has been clearly addressed in the main report.
- In respect of the size of the rig being 11m and 12.8m long, it should be noted that 12.8m relates that to the total length of the vehicle, and 11m relates to the height of the rig element when erected. It should be noted that the swept path analysis was undertaken using a large mobile crane 12.3m long, as this was the nearest vehicle on the auto-tracking system. It is to be used for illustrative purposes only.
- In respect of the references to previous application P2011/0039 and the Llandow appeal, these are included to fully inform the Councillors. Each application is determined on its individual merits, but the previous application is a material consideration, while the Llandow appeal serves as a useful example of a similar proposals having been considered at appeal, albeit the application site has its own individual impacts which need to be assessed on their respective merits.
- In respect of the highway concerns and access points, it should be noted that the previous application utilised the same route as this application, and the Head of Engineering and Transport (Highways Section) have fully assessed the proposed route and access, including the proposed vehicles movements.
- In respect of the comments that HGVs and large vehicles do not use the same roads, it should be noted that HGVs and buses have been observed by officers using the proposed access route. It should be noted that the proposed access route does not go through Pontrhydyfen.
- With regards to the concerns that the report focuses on the actual site and not to the potential impact on the wider surrounding areas, it should be noted that the report has adequately assessed all the necessary and relevant issues.
- Turning to the concerns over the Noise Impact Assessment, it should be noted that the Environmental Health Section offer no objection to the proposal, subject to a condition in respect of a Noise Management Plan.
- With regards to the comments regarding a seismic survey, this has been addressed previously in the report.
- Turing to the comments whether NRW have issued a current permit for “flowback water” it should be noted that this would not be a material planning consideration as it is administered by separate legislation.
- Finally the comments relating to gas testing. The applicant’s have clarified that gas testing only will be undertaken for 36 weeks, and there will be no commercial gas production.

**2. Planning Applications
Recommended For Approval**

<u>ITEM 2.1</u>	
<u>APPLICATION NO:</u> P2014/0246	<u>DATE:</u> 03/09/2014
PROPOSAL: Gas-powered electricity generating station (20MW) and associated works (Amended location plan, block plan, floor plan and elevation plans received 03/09/14).	
LOCATION:	Ex Gas Works, Afan Way, Port Talbot, SA12 6HQ
APPLICANT:	Mrs Sarah Ward
TYPE:	Full Plans
WARD:	Sandfields East

Head of Engineering & Transport (Highways) has offered additional observations on the application expressing some concern regarding construction traffic accessing the site and the constraints on the route they have shown between the public highway and the construction site to accommodate large vehicles.

To address these, an additional condition is recommended as follows: -

- (16) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. the number and types of vehicles travelling to and from the site during construction and likely times of construction workers.
 - iv. route to be taken by delivery and Heavy Goods Vehicles to and from the site and any necessary improvements to accommodate these vehicles. A swept path analysis shall be submitted as part of the Construction Method Statement.
 - v. storage of plant and materials used in constructing the development
 - vi. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate

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- vii. wheel washing facilities
- viii. measures to control the emission of dust and dirt during construction
- ix. a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason:

In the interest of highway safety

<u>ITEM 2.2</u>	
<u>APPLICATION NO: P2014/0248</u>	<u>DATE: 06/06/2014</u>
PROPOSAL:	Detached dwelling and garage (outline)
LOCATION:	Land Adj To The Barracks, Off Queens Street, Pontrhydyfen, Port Talbot
APPLICANT:	Ms A Howells
TYPE:	Outline
WARD:	Peenna

The agent has commented on the statement within the policy section of this report which states that “It is noted at this stage that the site is not proposed for inclusion in the settlement limits in the emerging LDP”. He claims that he has checked his records and has stated that the site has been included in the LDP submission.

In response, Members are advised that the report is correct, with the site not proposed for inclusion within the settlement limits in the emerging LDP submission. The site does, however, form part of a larger site put forward by the owner as an alternative site for inclusion within the Local Development Plan.

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<u>ITEM 2.3</u>	
<u>APPLICATION NO:</u> P2014/0501	<u>DATE:</u> 04/06/2014
PROPOSAL: Demolition of existing buildings and construction of a building to accommodate a new primary and a secondary school with associated outbuildings, means of access, sports facilities and playing fields, car parking, external lighting, boundary treatment and hard and soft landscaping.	
LOCATION: Western Avenue Playing Fields, Adjacent To Seaway Parade, Sandfields, Port Talbot	
APPLICANT: Neath Port Talbot County Borough Council	
TYPE: Full Plans	
WARD: Sandfields West	

It has been noted that the report incorrectly identifies the application site as being in Baglan Ward, instead of Sandfields West.

The report incorrectly states in the Planning History that an application for the change of use from changing rooms and showers to boys club at Western Avenue Playing fields was approved in 2014. The application was actually approved on the 23/08/1983.

A response has been received from Natural Resources Wales (NRW) regarding the updated Flood Consequence Assessment. They have concluded following a technical review that the base hydraulic modelling is acceptable and replicates the NRW's own understanding of current flood risk on the site. The hydraulic model however, also attempted to consider extreme flood risk by replicating the scenario of an extreme blockage at High Street Bridge. Unfortunately, this restricted element of the model was carried out incorrectly and as a result the findings in relation to a potential extreme blockage cannot be relied upon. Notwithstanding this, NRW are satisfied that all other flood risk scenarios that have been modelled are acceptable and can be considered in the decision making process of the application.

Accordingly, Natural Resources Wales (NRW) does not object to this application and advised that it is a matter for the Local Authority to decide whether they wish to defer this application to obtain the correct information for the extreme case that has not been correctly modelled.

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In addition to flooding matters, NRW has also provided additional representations in respect of ecology, surface water drainage and land contamination. No objections are raised subject to conditions/ notes in respect of potential impacts on bats (none found but some may have escaped detection); breeding birds (vegetation clearance out of season); full surface water drainage scheme; and safeguards against land contamination.

Response:

Having regard to the advice received from NRW, it is considered that sufficient information has been provided to allow a robust assessment of the expected impacts of flooding at the site, albeit a further condition is recommended requiring the submission of an additional report, accurately modelling the extreme flood flow of 0.1% and identifying any necessary mitigation measures, to be agreed prior to construction works commencing on the development.

The other matters raised by the NRW are addressed in the report and conditions, with the exception of breeding birds and the discovery of any bats during construction works for which an additional condition is recommended

Additional Conditions:

(37) Prior to commencement of work on site, an amended Flood Consequences Assessment (FCA) which models an extreme flood flow of 0.1% annual probability with the addition of an allowance for climate change in a scenario where there is a blockage at High Street bridge, shall be submitted to and agreed in writing with the Local Planning Authority. Any mitigation measures recommended by the agreed FCA shall be implemented prior to beneficial use of the school commencing.

Reason:

To safeguard future occupiers of the development site.

(38) If any bats are discovered during construction works, the work should stop immediately and the applicant should contact Natural Resources Wales immediately, as a licence may be required to continue, as bats are a European protected species and afforded protection under the Conservation of Habitats and Species Regulations 2010 and by the Wildlife and Countryside Act 1981 (as amended).

Reason

In the interest of protected species.

The following informative is also recommended:

(1) Any vegetation clearance should be done outside the nesting season, which is generally recognised to be from March to August inclusive.

Reason:

To ensure nesting birds are not affected by the development.

3. Applications recommended for refusal.

3.1	APP NO: P2013/0762	TYPE: Full Plans	Page Nos: 135-149	Wards Affected: Pontardawe
PROPOSAL:	Demolition of existing dwelling and construction of two pairs of semi detached dwellings, land infill and associated works			
LOCATION:	Dan-Y-Graig House, 36 Swansea Road, Pontardawe, Swansea, SA8 4AL			

The agent acting on behalf of the applicant has submitted supplementary photomontages of the site and a video that they wish to be included within the committee presentation.

It is not considered that the images or video provide any significant additional information that would alter the recommendation , or reasons for refusal within the report. As such it is not considered necessary to include these. The plans submitted and the cross sections, and photos shown within the report provide sufficient clarity on the development proposals.

In relation to viability of the site and the provision of affordable housing, the agent acting on behalf of the applicant has provided the following additional comment;

“Again I would like to take this opportunity to bring to your attention the issue relating to the viability study, and confirm that my client does not wish to incur the expenditure at this stage should the overriding factor with regard to the decision lie with that of the landfill issue. This is because the viability study results will change relevant to the building level and house topology adopted for the site, it is a simple fact that the form must be determined to enable the complex substructure cost to be established. The initial viability outline submitted is relative to the scheme as submitted, and should further substantiation of the outline be required this can be obtained.”

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The report currently states that there is inadequate information provided within the viability statement. Whilst the applicant has been provided with options for an alternative site layout that would negate the requirement for the landfill works, to the extent shown on the proposed plans, the applicant wishes to continue with the current scheme. This is a full planning application, and therefore if approved would not allow alterations to the levels or house types. As such the viability assessment, in accordance with our adopted Supplementary Planning Guidance and procedures' should reflect this scheme fully.