





Appendix 1.1

EIA Screening Response



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Mr N Holmberg Capita 7th Floor, Lee House Churchgate House 56 Oxford Street M1 6EU

My Ref/Fy Nghyf: Your Ref/Eich Cyf: Date/Dyddiad: Please ask for/

Gofynnwch am:

20/1154/35

03 November 2020 Matthew Farley

01443 281130

THE TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) (WALES) REGULATIONS 2017

DATBLYGIAD

Screening opinion for Phase 4 of the Tylorstown Tip project,

ARFAETHEDIG/

DIG/ constitutes EIA development.

PROPOSAL:

/LOCATION:

Tylorstown Landslip, Phase 4

I refer to your correspondence received on 22nd October 2020, requesting an Environmental Impact Assessment (EIA) screening opinion in respect of the above proposed development.

The proposal would see the removal of the Tylorstown Tip material and its relocation to an alternative, safer site behind Llanwonno Tip (Phase 4 of the overall remediation scheme). The proposed scheme would consist of essential stabilisation and remediation woks, as recommended by geotechnical studies, to ensure the remaining material within the tip is safe, as well as offering enhancements for the area.

The works proposed would involve:

- Removal of circa 150,000m³ of material remaining within Tylorstown Tip on the hillside and landscaping of the area following the removal to stabilise the tip;
- Transport of the material along a disused tramway to the adjacent Phase 4 receptor site;
- Widening of the existing tramway in order to allow access for trucks and plant









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to the Tip and the Phase 4 receptor site;

• Landscaping of the Phase 4 receptor site.

The objective of the scheme is to prevent any future slips of material such as that which occurred in February 2020.

The sites are located in the Rhondda Fach Valley, which is a steep sided valley in South Wales. Llanwonno Tip, locally known as 'Old Smokey', is above the valley, reaching an elevation of 440m above sea level. The valley bottom is generally covered by woodland, with open moorland at higher elevations. The area is the site of historic collieries and as such there are many landforms that have been created by deposited colliery material.

The proposal has been considered in accordance with the guidance set out in The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017. The proposed development does not meet the criteria set out in Schedule 1 of the Regulations (development where EIA is mandatory). Furthermore, it is not considered the proposed development falls within any of the specific criteria set out in Schedule 2 of the Regulations (development that may or may not require EIA). However, as found in the Kraaijveld (Dutch Dykes) case C-72/92 and the Goodman and another V Lewisham London Borough Council case, the EIA Directive is deemed to have a 'wide scope and broad purpose', and as such, the categories within the EIA Directive and the EIA Regulations are illustrative, not exhaustive. Therefore, given the nature of the works proposed and the application site area, approximately 31ha (the excavation area covering approximately 8ha and the final receptor site approximately 6ha), in this case, it is considered that the Council would be required to give a screening opinion as to whether the development requires EIA or not. This letter hereby constitutes that screening opinion.

Having taken account of the criteria set out in Schedule 3 of the Regulations, it is the view of the Council that the proposed development would constitute EIA development and therefore EIA and the submission of an Environmental Statement (ES) would be required. The reasons for this judgment are set out in detail below:

The application site extends over a considerable area (approximately 31ha) and the proposed works would inevitably form a significant engineering operation that would require a significant amount of material (circa 150,000m³) being moved and imported to the receptor site.

The most noteworthy visual impact would be for properties along Station Road and George Street, Ferndale. Properties along these streets are located in close proximity of the slip site and haul road and some visual intrusion will inevitably occur. However, due to the topography of the area properties along these streets are sited at a considerably higher ground level than the railway cutting and therefore look over it. As such it is not considered the works would be overly prominent from the nearest









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residential properties. It is noted however that they would be highly prominent from wider views across the valley; and will likely result in a considerable alteration to views from such locations.

The neighbouring properties along both Station Road and George Street, as well as users of the nearby Rhondda Fach Leisure Centre, would be the only individuals to be affected by the proposed works in respect of general amenity issues. However the scheme does not require any materials to be brought to site other than construction equipment which would be removed upon completion of the scheme; and the scheme simply involves the moving of material from one location (the Tip) due to the present area being unsafe and at risk of further slip to a safe receptor area further down the valley, away from the properties. As such it is not considered the general works would result in a significant impact to residents of the area.

It is accepted that noise is likely to increase during the movement of the slipped material, however this would be temporary during the works and during normal day time hours only.

Furthermore, whilst the movement of the slipped material and its deposition have the potential to cause localised dust impacts, the material is wet and therefore not expected to create excessive dust. Temporary effects to air quality may arise due to emissions generated from construction and haul vehicles, however the use of the shortest haul route along the former railway line will reduce the proximity to emissions and dust.

Additionally, the scheme will make safe the slipped material and allow the pathway along the former railway line to be used by the public again, therefore benefitting the population of the area. As such it is not considered the works will have a significant impact upon the amenity of surrounding residents.

With respect to ecology, no surveys have been undertaken at the Tip or Phase 4 receptor site at the time of writing, however an Extended Phase 1 Habitat Survey covering these area is due to be undertaken shortly. However, given the nature and scale of the both the site and proposed works, it is likely a significant impact would occur upon local flora and fauna and further information/surveys in this respect will be required.

It is noted however that there are no statutory sites identified within a 2km search of the scheme and no statutory designated sites for bat species were identified within 5km of the scheme. However 10 Sites of Importance for Nature Conservation (SINC) are present within 2km of the scheme, 1 of these being the 'Old Smokey Slopes SINC', partly located within the redline boundary of the development site. There are also parcels of ancient woodland located within close proximity of the site, including 1 within the Tip.









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The nature of the proposed scheme is also going to require detailed geotechnical assessment be undertaken to inform the design and ensure that proposals eliminate the potential for any future material slips and associated negative environmental impacts. As such there is potential for a significant impact to existing ground conditions that will have to be investigated.

It is considered the development would not give rise to any complex or hazardous effects and the project would not result in the production of waste, any significant environmental effect in respect of natural resources, or present significant risk of accident.

Finally, there are no other major development schemes within the area which may have the potential for cumulative interaction. However, Policy NSA 20.2 of the Rhondda Cynon Taf Local Development Plan (LDP) identifies the former railway cutting as an area for the possible extension of the Upper Rhondda Relief Road which could conflict with this scheme. However, the initial stage of the road (from Porth to Pontygwaith) was completed many years ago with no sign of extension, making cumulative interactions with this scheme unlikely.

Policy NSA 23.4 of the LDP also sets out the railway cutting for Cycle Network Improvements – Pontygwaith to Aberaman. While this development may occur, it is not considered the current scheme would conflict with the implementation of a cycle route and would actually provide an option to create a safe route following remediation. And in any case, a cycle route could not be implemented until the slipped material has been moved.

Therefore in conclusion, whilst the proposed scheme is not located within a 'sensitive area', as defined by the EIA Regulations, it does exceed the threshold for a Schedule 2 development and has the potential to have significant negative effects on multiple receptor groups. Consequently, it is the opinion of the Council that the proposed scheme will likely result in significant impacts upon the environment that would last the lifetime of the development. It is therefore considered the above issues can only be effectively delivered through the submission of a full ES, which properly addresses any visual, landscape, geotechnical and ecological issues that the development may generate.

If you disagree with the above position adopted by the Council, you are of course entitled to apply for a separate screening direction from the Welsh Government. They can be contacted at Planning Division, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

Please note that the comments made in this screening opinion relate to the consideration of the need for EIA only, and are made without prejudice to the determination of any future planning application.









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I trust the above is of assistance, however if you require any further information please do contact me.

Yours sincerely,

Matthew Farley.
Team Leader, Planning Applications

You are welcome to correspond in either English or Welsh / Croeso I chi ysgrifennu yn y Gymraeg neu'r Saesneg.









Appendix 1.2

EIA Scoping Response



Mr N Holmberg Capita

My Ref/Fy Nghyf: Your Ref/Eich Cyf: Date/Dyddiad: Please ask for/

Gofynnwch am:

20/1268/37 17 December 2020 Matthew Farley

01443 281130

THE TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) (WALES) REGULATIONS 2017

DATBLYGIAD EIA Scoping Opinion – Tylorstown Landslip (Phase 4).

ARFAETHEDIG/ PROPOSAL:

LLEOLIAD Tylorstown Landslip.

/LOCATION:

I refer to your correspondence received on 11th November 2020 enclosing a scoping report, dated November 2020, for the Environmental Statement (ES) to accompany the forthcoming Tylorstown Landslip (Phase 4) planning application.

Having consulted statutory consultees, and other interested parties, I would advise you that the content of the scoping report is generally considered acceptable, subject to clarification of some issues and the inclusion of additional matters, as set out below:

Council's Public Health and Protection Section

The scoping opinion submitted details the proposals in respect of Air Quality, Contaminated Land and Noise. This department is satisfied with those proposals and would make no further comments in respect of the Scoping Opinion.

Council's Transportation Section

There is estimated to be around 15,000 vehicle movements needed to transport all of the colliery material from the donor site to the receptor site. However, these

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Dewiswch iaith a diwyg eich dogfen | Available in alternative formats and languages

Croesawn ohebu yn Gymraeg a fydd gohebu yn y Gymraeg ddim yn arwain at oedi. Rhowch wybod inni beth yw'ch dewis iaith e.e Cymraeg neu'n ddwyieithog. We welcome correspondence in Welsh and corresponding with us in Welsh will not lead to a delay. Let us know your language choice if Welsh or bilingual.







movements will be made up of a relatively small number of construction vehicles making many trips over the construction period. These movements will not occur on public highways and will instead be along the currently disused tramway, located between the donor site and the receptor site, all within the red line boundary. Daily travel figures for access to the site are not yet known but are anticipated to be limited to cars and vans, with the occasional delivery of plant and/or materials. Therefore, there will likely be no significant impacts on Blaenllechau Road and the wider highways network.

Mitigation required during construction is likely to be minimal as the majority of traffic movements will be within the red line boundary of the proposed scheme and not on local road networks.

Taking the above into consideration the proposed scope of the EIA is generally acceptable in principle, however a Transport Statement will be required that includes, but not be limited to:

- i. Proposed number of vehicular movements on public highway:
- ii. Swept Path Analysis of the largest anticipated vehicle accessing the site off the public highway;
- iii. Impact of the proposal on the public highway and any mitigation measures required;
- iv. the means of access into the site for all construction traffic;
- v. the parking of vehicles of site operatives and visitors;
- vi. the management of vehicular and pedestrian traffic;
- vii. loading and unloading of plant and materials;
- viii. storage of plant and materials used in connection with the proposed;
- ix. wheel cleansing facilities; and
- x. the sheeting of lorries leaving the site.

Further, prior to the commencement of the development, a report indicating a methodology for undertaking a conditions survey of the roads affected by the proposed development will have to be submitted to and approved by the Local Planning Authority. The report should include, but not be limited to:

- i. the timescales for undertaking the surveys and the method(s) of reporting the findings to the Local Planning Authority;
- ii. comprehensive photographs; and
- iii. potential compensation arrangements.

Council's Flood Risk Management Section

The report outlines that the proposed receptor site for Phase 4 'is likely to be subject to surface water flooding during its operation and potentially increases surface water flood risk to others' (11.3.10). However, the report recognises the existing Pluvial flood risk and outlines that the design will 'require careful considerations for surface water drainage'. Based on a review of the local area the proposals are not situated in and around residential or commercial premises immediately downstream of the receptor site.

Within the EIA report the applicant further confirms within section 11.3.3 that the scheme 'is likely to require the diversion of existing drains and minor watercourse at RH01 as well as the receptor site'. Whilst the authority acknowledge the proposals to divert these structures we would outline that the works should ensure that any such diversion is retained as an open channel and appropriately sized to ensure the channels are maintainable and avoid culverting as per the Authorities Culverting Policy. I would further take this opportunity to remind the applicant of the requirement for Ordinary Watercourse Consent required under section 23 of the Land Drainage Act 1991. Notably the requirement of Ordinary Watercourse Consent is not available retrospectively and does not form part of the Town and County Planning Act approval process.

The applicant has also acknowledged the requirement for SAB approval under Schedule 3 of the Flood and Water Management Act 2010, notably the applicant has outlined within paragraph 11.3.12 'A SAB application will therefore be prepared and submitted as part of the planning process to ensure that the potential surface water flood risk, both to the proposed scheme and to others is not increased as a result of the proposed scheme'. The applicant should be reminded, that the SAB and planning approval process are wholly separate statutory requirements and approval is granted separately for each required approval.

In terms of the full application for the planning process the applicant will be required to outline how the proposal will meet the requirements of TAN 15, Paragraph 8 to which we would recommend that a detailed drainage strategy is provided that outlines how the works will manage the sites surface water discharge rate. To evidence this we would recommend that the applicant provide a comparison on the before and after catchments to evidence no detriment to the proposed downstream flood risk. This drainage strategy report should also provide clarity as to how the sites existing flood risk is being taken into account.

Council's Public Rights of Officer

Information on what consideration is being given to effected Public Rights of Way will be required, e.g. where paths are at risk of being bisected or becoming dead-end paths; will crossings be constructed? If so, what types of crossings are being considered at these intersections, underpasses or overbridges etc? With new landscaping etc. to provided the expectation is that these routes will become more popular with improved facilities and that they will serve as important crossing points for non-motorised users travelling in the area and wanting to access the countryside. As such full details of any impacts should be included within the ES.

The Coal Authority

The proposed EIA development is located within the defined Development High Risk Area; the site has therefore been subject to past coal mining activity.

In accordance with the agreed risk-based approach to development management in Development High Risk Areas, past coal mining activities within the site should be fully considered as part of the Environmental Statement (ES); this should take the form of a risk assessment, together with any necessary mitigation measures.

The Coal Authority notes the report entitled: *Environmental Impact Assessment Scoping Report* (*November 2020, prepared by Redstart*), but which does not appear to confirm that the ES will address coal mining legacy. This is not considered to meet National policy requirements and should be revised accordingly to inform the relevant chapter of the ES.

Consideration of Coal Mining Issues in the ES

There are a number of coal mining legacy issues that can potentially pose a risk to new development and therefore should be considered as part of an ES for development proposals within coalfield areas:

- The location and stability of abandoned mine entries;
- The extent and stability of shallow mine workings;
- Outcropping coal seams and unrecorded mine workings;
- Hydrogeology, mine water and mine gas.

In addition, consideration should be afforded as part of development proposals and the ES to the following:

- If surface coal resources are present, whether prior extraction of the mineral resource is practicable and viable;
- Whether Coal Authority permission is required to intersect, enter, or disturb any coal or coal workings during site investigation or development work.

Cadw

A scoping report for the EIA has been produced by Redstart, which includes chapter 5 Cultural Heritage and Archaeology. This suggests that a study area of 250m around the project boundary will be sufficient to identify the effect of the proposed works on the cultural heritage. However in our opinion this area is not sufficient in particular to understand the relationship of the coal mining activity within the project area with the surrounding area, including the settlements of Tylorstown and Ferndale and their historic buildings, that include listed buildings 17658, 17659 and 18284. The study will therefore need to include consideration of the impact of the proposed development the settings of these listed buildings.

A number of scheduled monuments have also been identified in the scoping report as being in the vicinity of the proposed works. However, apart from GM323 (Carn-y-Wiwer Cairnfield & Platform Houses) intervening topography and vegetation are likely to block all Intervisibility between them. Therefore only the impact of the proposed works on the setting of scheduled monument GM233 will need to be included in the EIA.

Finally the proposed works are inside the registered Rhondda Landscape of Special Historic Interest and the scoping report proposes to assess the impact of the works on this by the production of an ASIDOHL assessment. We agree this will be an appropriate assessment and we recommend that whichever expert is commissioned to prepare the assessment should contact Cadw to agree which Historic Landscape Character Areas should be included in the study.

Our records show that the following historic assets are potentially affected by the proposal:

Scheduled Monuments

GM323 Carn-y-Wiwer Cairnfield & Platform Houses

Listed Buildings

- 17658 Penuel Calvinistic Methodist Chapel
- 17659 Church of Our Lady of Penrhys
- 18284 Welfare Hall
- 81029 Church of St Gwynno
- 81030 Grave of Guto Nyth Bran

Registered Historic Landscape

• HLW (MGI) 5 The Rhondda

Dwr Cymru Welsh Water

We have examined the Scoping Opinion report prepared in respect of the above development, and on the basis that the Environmental Statement has regard to the impact of the proposed development on the drinking water abstractions for potable water, we have no comments to offer.

Council's Ecologist

The applicant has generally picked up on the key issues, primarily the fact that the whole site is SINC with some very important colliery spoil habitats and key protected species issues. So a suit of detailed surveys as set out in Section 7 of the Scoping Report will be required. Perhaps the only addition I would make would relate to section 7.5.10 and mitigation, and the importance of prioritising colliery spoil habitat restoration as a key mitigation measure and the developing of mitigation/enhancement on RCT land on and around the Tip. This area has previously been identified as part of a conservation grazing site in the Heathy Hillsides project, and I think there is significant potential to deliver effective ecological mitigation/enhancement if the blue area of ownership is considered along with the red line application site. I think we would need to be looking at a long term site management strategy, that can promote biodiversity, cultural history and prevent future grass fires (which have previously potentially contributed to instability on the tip). That could include additional measures such as the removal of conifer regeneration on the iconic Old Smokey conical tip itself. So the

importance of delivering a robust ecological mitigation/enhancement scheme must be emphasised.

Further, in the cultural/archaeological section it is important to see the references to the industrial archaeological/cultural value of Tylorstown Tip and as referred to above, the potential to integrate archaeological mitigation in with ecological mitigation would be encouraged.

Natural Recourses Wales

The following are matters we consider should be scoped into the EIA and included in the ES:

Ecology

In general, we consider the ES for the proposed development should include sufficient information to enable the LPA to determine the extent of any environmental impacts arising from the proposed scheme on legally protected species, including those which may also comprise notified features of designated sites affected by the proposals.

The ES should include a description of all the existing natural resources and wildlife interests within and in the vicinity of the proposed development, together with a detailed assessment of the likely impacts and significance of those impacts.

Evaluation of the impacts of the scheme should include direct and indirect; secondary; cumulative; short, medium and long term; permanent and temporary; positive and negative, and construction, operation and decommissioning phase and long-term site security impacts on the nature conservation resource, landscape and public access.

Protected Species

The EIA Scoping Report has identified the receptor site at 'Old Smokey' as potentially suitable habitat to support protected species including great crested newt terrestrial habitat. We therefore advise that great crested newts are considered further and included in the ES as recommend in section 7.4.1 of the EIA Scoping Report. This should include the species specific impacts in the short, medium and long term together with any mitigation and compensation measures proposed to offset the impacts identified. Should potential impacts be identified, we advise the EIA sets out how the long term site security of any mitigation or compensation will be assured,

including management and monitoring information and long term financial and management responsibility.

Where a European Protected Species is identified and the development proposal will contravene the legal protection they are afforded, a licence should be sought from NRW. Should a licence be identified as appropriate, the ES should identify how the works will satisfy the three requirements as set out in the Conservation of Habitats and Species Regulations 2017 (as amended). One of these requires that the development authorised will 'not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status (FCS) in their natural range'. These requirements are also translated into planning policy through Planning Policy Wales (PPW) December 2018, section 6.4.22 and 6.4.23 and Technical Advice Note (TAN) 5, Nature Conservation and Planning (September 2009). The local planning authority will take them into account when considering the EIA where a European Protected Species is present.

Local Biodiversity Interests

We recommend the Applicant seeks the advice of the local authority Ecologist in relation to the scope of the work to ensure that regional and local biodiversity issues are adequately considered, particularly those habitats and species listed in the relevant Local Biodiversity Action Plan and are that are considered important for the conservation of biological diversity in Wales.

We further recommend the Applicant contacts other relevant local interest groups (for example, the Local Records Centre, bat groups, ornithological groups, mammal groups, etc.) to inform the assessment of impacts of the proposals.

Land Contamination

We consider the geotechnical issues regarding Phase 4 of the works are sufficiently scoped into the EIA. We expect that the details of the main issues of how it is proposed to remove the spoil, transport to the receptor site and construct the new spoil tip will be addressed in the ES. Further details on the regrading of the remaining spoil to be left on the slope and remedial works for drainage and exposed springs on the slip slope should also be included in the ES.

The Scoping Report identifies what will be included in the Construction Environment Management Plan (CEMP). We recommend the CEMP is included in the ES.

The Water Environment

The Scoping Report identifies a Water Framework Directive (WFD) assessment will be carried out on the Afon Rhondda Fach and Nant Clydach before work commences; best practice construction methods will be applied to prevent pollution events during construction and recorded in a detailed CEMP; and, the drainage channels of the tip surveyed. We recommend the WFD Assessment, CEMP and drainage survey results are included within the ES.

Flood Risk

The site lies within Zone A of the Development Advice Maps (DAM) contained within Technical Advice Note 15 Development and Flood Risk (July 2004). TAN15 advises that for development located in Zone A the justification test is not applicable and surface water requirements apply. The acceptability criteria is for no increase in flooding elsewhere to occur as a result of the development. Given the location of development in Zone A, we advise that surface water requirements should be assessed. We note it is for the Authority's Land Drainage Department to comment on the suitability of these proposals.

Air Quality

The proposed scheme is located approximately 3km from the Craig Pont Rhondda SSSI and 3.5km from the Waun Goch, Penshiw-Caradoc SSSI ecological receptors. Given the nature of the proposals we agree with the EIA Scoping Report that air quality and dust impacts at these protected sites are unlikely to be significant.

Land Contamination

The Scoping Report identifies a site investigation (SI) is not proposed at the removal area and previous SI's will be used to inform the works. We consider the previous SI's are unlikely to be relevant to the proposed works (i.e. forming a new spoil tip). Therefore, it will be necessary to sample the spoil material and carry out earthworks materials classification laboratory tests, prior to the works, to inform the compaction specification for the construction of the new spoil tip. We would expect this to done as a matter of course. We note a SI is proposed at the receptor site for contamination issues.

Other Matters

Our comments above only relate specifically to matters included on our checklist, Development Planning Advisory Service: Consultation Topics (September 2018), which is published on our website. We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests.

Advice for the Developer – Waste

We consider the landslip material is waste material. As such waste management controls will need to be applied.

Environmental Permits/Exemption

The activity proposed in this planning application will require an environmental permit or exemption under The Environmental Permitting (England and Wales) Regulations 2016. An environmental permit or exemption must be in place before any waste activity takes place on site. Alternatively, it may be appropriate for material to be re-used on-site under the CL:AIRE Definition of Waste: Development Industry Code of Practice. We advise this should be considered early to avoid any issues or delays.

If the applicant wishes to deposit and use waste at another location, then a deposit for recovery permit would need to be in place prior to any deposits taking place. A waste recovery plan should be submitted for approval prior to any permit application being made to ensure the correct type of permit is applied for. Any activity that does not meet the definition of recovery as set out within the guidance would be deemed a disposal operation and a landfill permit would then be applicable. Details on deposit for recovery permits and waste recovery plans can be found on our website.

Further advice regarding permits and exemptions can also be found on our website. Please contact Natural Resources Wales for advice regarding an Environment Permit application on 0300 065 3000.

Undertaking this proposed activity without the benefit of an Environmental Permit or exemption is an offence against Environmental Legislation and may result in enforcement action being taken against the operator.

Obtaining planning permission does not necessarily ensure you will be issued an environmental permit.

Waste produced during construction

Any waste removed from site will be subject to waste management controls. Waste must be dealt with appropriately and be in line with all relevant waste legislation including Duty of Care Regulations and Hazardous Waste Regulations. Should waste be removed from site it must be taken to an appropriate facility authorised to accept this waste. As part of your waste duty of care you must classify the waste produced:

- before it is collected, disposed of or recovered;
- to identify the controls that apply to the movement of the waste;
- to complete waste documents and records;
- to identify suitably authorised waste management options;
- to prevent harm to people and the environment.

Other Issues

It is considered that the issue of effects on all existing utility services/apparatus, and diversions should be assessed, and significant effects included in the ES (Dwr Cymru Welsh Water, Western Power Distribution, British Telecom, National Grid etc.).

Please note that the comments made in this scoping opinion relate to the content of the ES only, and are made without prejudice to the determination of any future planning application.

I trust the above is of assistance, however if you require any further information please do contact me.

Yours sincerely,

Matthew Farley.

Team Leader Planning Applications