

**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

**MUNICIPAL YEAR 2015-2016**

**DEVELOPMENT CONTROL  
COMMITTEE  
2 JULY 2015**

**REPORT OF: SERVICE  
DIRECTOR PLANNING**

	<b>Agenda Item No.4</b>
<b>APPLICATIONS RECOMMENDED FOR APPROVAL</b>	

**1. PURPOSE OF THE REPORT**

Members are asked to determine the planning applications outlined in Appendix 1.

**2. RECOMMENDATION**

To approve the applications subject to the conditions outlined in Appendix 1.

1. Application No:13/1100 - New college building at the old goods yard site, Aberdare, including the refurbishment and extension of an existing disused station building, new car park and associated servicing and landscape spaces, Former Railway Goods Yard, Robertstown, Aberdare.
2. Application No:14/1078 - Variation of condition 14 of appeal decision 2147385 of application 06/1842/10 relating to Noise Limits, Fforch Nest Wind Farm, Glyn Ogwr, Bridgend.
3. Application No:15/0147 - Drill an exploratory borehole to test for unconventional gas reserves in the Westphalian and Namurian strata, land next to farm access track at Hendre Owen Farm, Llanharan.
4. Application No:15/0426 - Detached 3 bedroom bungalow with parking for three cars, Bodwenarth Farm, Heol Mynydd, Cilfynydd, Pontypridd.

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## APPLICATIONS RECOMMENDED FOR APPROVAL

**APPLICATION NO:** 13/1100/13 (PB)  
**APPLICANT:** Coleg Y Cymoedd  
**DEVELOPMENT:** New college building at the old goods yard site, Aberdare, including the refurbishment and extension of an existing disused station building, new car park and associated servicing and landscape spaces  
**LOCATION:** FORMER RAILWAY GOODS YARD, ROBERTSTOWN, ABERDARE  
**DATE REGISTERED:** 20/11/2013  
**ELECTORAL DIVISION:** Aberdare West/Llwydcoed

**RECOMMENDATION:** Approve

**REASONS:**

The application site is part of the Robertstown / Abernant strategic site which allocates the land for large-scale residential, employment, retail and recreational development. Although not an employment use in the strict sense, an educational college is considered appropriate as it provides training for employment and would itself provide considerable employment opportunities. The proposed development provides for reasonable access, circulation and parking, and together with to mitigation for its impact on the strategic highway network, is considered acceptable in respect of highway and accessibility issues subject to conditions. The development, however, does present challenges in relation to the management of flood risk and related impacts on ground contamination and otter habitat, which at the time of compiling this report remain to be satisfactorily resolved. Otherwise, the development is acceptable in principle and subject to these outstanding being resolved then approval is recommended.

### APPLICATION DETAILS

This application seeks outline planning permission for the construction of a new college building, refurbishment of an existing disused station building, new car park and associated servicing and landscaping spaces on land at the former railway goods yard, Robertstown, Aberdare. All matters of detail are reserved for future consideration, nevertheless there is a significant amount of information contained in the indicative proposal and these are set out in brief below.

The indicative proposal is for the construction of the college buildings on site A to the east of the spine road (Wellington Street) and the car parking facilities for 133

vehicles served by an existing access on site B the west of the spine road. The college accommodation will comprise two blocks: a four-storey and three-storey building joined by an atrium between the blocks and with an indicative floor space area totalling 6000 square metres. The western block, which is intended to be 4 storeys, will have a minimum and maximum length of 58.9m and 77.6m respectively and a minimum and maximum height of 17m and 18.4m respectively. The eastern block, which is intended to 3 storeys, will have a minimum and maximum length of 51.6m and 70.8m respectively, and minimum and maximum height of 12.9m and 15.6 respectively. As these blocks are joined via an atrium the minimum and maximum widths of the whole building will be 51.5m and 55.5m respectively along the north facing elevation and 27m and 31m respectively along the south facing elevation.

Delivery/service access will be to the rear of the college buildings via an existing lane. A single storey covered cycle shelter is indicated to the south of the main college buildings.

The main building on site A is located so as to maintain a close relationship with the car parking and station building on site B, with clearly defined pedestrian links between the two. Also it is sited so as to provide frontage to Wellington Street and create a public plaza through the positioning of the entrance between the two blocks, and opportunities for landscaped buffer space between the college building and residential / commercial accommodation to the east and Wellington Street to the west.

The application is accompanied by the following:

- Design and Access Statement
- Transport Assessment
- Framework Travel Plan
- Statement of Community Involvement
- Preliminary Ecological Appraisal
- Flood Consequences Assessment (revised)
- Bat and Otter Ecology Assessment
- Contamination Assessment

## **SITE APPRAISAL**

The proposed site comprises of two parcels of land (named as Site A and Site B in this report), situated either side of a spine road (Wellington Street) east of Aberdare town centre. The site was formerly used as a railway goods yard.

Site A (0.58 hectares) lies to the east of Wellington Street. It is vacant with some hard standing and areas of scrub planting. Site B (0.52 hectares) lies adjacent to the mineral railway, and includes a disused railway station building and adjacent

platform. There is a car park (park and ride) to the south of the site, which serves Aberdare Railway Station, and the Cynon River to the north.

The combined total area of the sites is 1.1 Hectares, with part of this incorporating the single storey railway building and platform.

The sites are well accessed by vehicles due their adjacency to Wellington Street. The site is also well served by railway and bus given the location of Aberdare railway and bus stations. Pedestrian access is possible along a footpath either side of Wellington Street which connects to the town centre. Pedestrian access between the two sites is currently achieved by crossing at the roundabout, at the southern tip of Site A. Despite the site being adjacent to the railway station, the platform is accessed from the southern side by passing underneath the Iron Bridge and along a ramp to the south.

Site A is bounded by a smaller access road around its north and east boundary, with exit and entry from the same junction off Wellington Street.

Site B benefits from a junction access mid way along the eastern edge of the site, with additional vehicle access potentially possible from the existing park and ride junction, subject to agreements.

The sites are surrounded by a variety of areas of different uses. Site A is surrounded by a nursery to the north, a care home to the north east, and a residential property and vehicle workshop to the east. A triangular plot, Site A is bounded by Wellington Street and a minor access road on all sides, offering good potential for access arrangements. Site B has no direct neighbouring properties, being bordered by Wellington Street to the east, the River Cynon to the north, the railway line and disused station to the west, and the park and ride facility to the south.

Currently passenger trains terminate at Aberdare Station. At present only goods trains pass by the site on the way to Tower Colliery, Hirwaun.

The sites along Wellington Street both benefit from good levels of street frontage. Approach to the sites will principally be from the south, and this will be a key visual aspect. Site B includes the disused railway station building and platform, which is proposed to be redeveloped as part of the project to provide a potential cafe/bistro, to be used as a training facility by the College and available to the public. The sites location is further strengthened by its proximity to both Aberdare railway station, the bus station, and the town centre, thus providing for a highly sustainable location

The town centre is located across the A4059 with an upgraded pedestrian crossing at the main roundabout currently under construction. This will further improve the sites links with the town centre by foot when complete. The Park and Ride car park to the south of Site B was recently developed and provides car parking for approximately 150 vehicles. The small road around Site A provides access to the

neighbouring community and commercial facilities. Residential properties are accessed via Abernant Road to the east.

In terms of the topography of site A the north end of the site is relatively level at around 126.4m AOD (Above Ordnance Datum). There are slight variations on this level across the site towards the southern end. Around the middle of the site from east to west the site rises approx. 600mm. This is further pronounced at the southern end of the site with the eastern edge dropping to 125.9m AOD and the western edge rising to 127.2m AOD, a difference of approx 1.3m.

Similarly to Site A the north of Site B is generally around 126.4m AOD. This rises to 126.8m AOD at the eastern edge adjacent to Wellington Street. The eastern edge continues to rise further towards the southern part of the site to a height of 127.2m AOD, a difference of 0.4m. The disused railway building is set on a plinth around 1m higher than the majority of the site at 127.5m. The plinth level is accessed via ramps and steps up to the level. The railway line is elevated in relation to the site. A retaining wall to the Afon Cynon forms the northern boundary edge.

## PLANNING HISTORY

11/0424	Former Goods Yard, Off Abernant Road, Aberdare	Construction of an extension to the existing park and ride facility at Aberdare Railway Station.	Granted 05/08/11
04/1809	Former Goods Yard, Off Abernant Road, Aberdare	Mixed use redevelopment to provide residential, commercial and leisure facilities.	Called in – Dismissed 15/11/06
94/0540	Former British Rail Goods Yard, Off Abernant Road, Aberdare	Park and Ride car park	Granted (C) 14/03/95
89/0259	Aberdare Railway Station, Aberdare	Erection of ticket office	No Objection 30/08/89
88/0182	Land adjacent to Aberdare High Level Station, Commercial Street, Aberdare	Railway Station	No Objection 06/08/88

## PUBLICITY

Neighbouring properties have been notified of the application which has been the subject of site notices and a press notice also.

No representations from members of the public have been received.

## **CONSULTATION**

Transportation Section: No objection subject to conditions and the developer entering into a Section 106 Agreement to make a financial contribution (£73,432) towards improving the strategic highway and local highway network.

Natural Resources Wales: objects to the application, as submitted, for the following reasons which are briefly summarised.

The revised Flood Consequences Assessment (FCA) and model on which it is based fails to demonstrate that the risks and consequences of flooding can be managed to an acceptable level in accordance with TAN 15. Also, the latest proposals include major engineering proposals directly adjacent to the river known to be used by Otter, which is not adequately addressed in the application. Similarly, the revised FCA needs to take account of the increased risk of pollution given the scale of work now proposed adjacent to the controlled waters at the site which are high environmental sensitivity.

Public Health & Protection: reply waited.

Land Reclamation & Drainage: No adverse comment other than to note the application site lies within Flood Zones C2 and C3 of Natural Resources Wales' Development Flood Advice Maps, therefore susceptible to surface water flooding. Consultation with NRW is recommended and drainage conditions suggested.

Network Rail: No objection, though offers comments to ensure the safe operation of the railway and the protection of Network Rail's adjoining land.

Welsh Water: No objections subject to conditions.

## **POLICY CONTEXT**

### **Rhondda Cynon Taf Local Development Plan**

The application site lies within settlement limits and is part of the Robertstown / Abernant, Aberdare Strategic Site as identified in the LDP (policies CS 3 and NSA 7), and lies within the Cynon Valley River Park (policy NSA 26)

**Policy CS1** promotes the development of strong, sustainable communities in the Northern Strategy Area. This includes re-use of previously developed land; regenerations schemes in the Principal Town of Aberdare; encouraging a strong, diverse economy; protecting historic built heritage; and promoting sustainable forms of travel.

**Policy CS3** promote sustainable through the allocation of sites for a mixture of large scale residential, employment, retail and recreational development. Under this policy land at Robertstown / Abernant, Aberdare is identified as a Strategic Site. Proposals must have regard to the Indicative Concept Plan (see policy NSA 7).

**Policy AW2** promotes development in sustainable locations, which are those within settlement boundaries; compatible with surrounding uses; with good accessibility; not within C2 flood risk zones unless justified; that support principal towns; and that are well-related to utility services.

**Policy AW4** provides for the securing of planning obligations.

**Policy AW 5& AW6** give general criteria to be met by new development.

**Policy AW8** safeguards the natural environment from inappropriate development.

**Policy AW10** does not permit development that cause or result in unacceptable harm to health and / or local amenity because of hazards, such as flooding and contamination, unless it can be demonstrated that such risks can be mitigated.

**Policy AW11** provides criteria for alternative use of employment sites, but excludes allocated employment sites.

**Policy NSA1** gives criteria for development within the principal town of Aberdare.

**Policy NSA7** allocates the Robertstown / Abernant strategic site for residential, employment / leisure, a new primary school, medical centre and informal amenity space.

The supporting text to the policy for Robertstown draws attention to access and flooding issues, and envisages the following development on the application site:

- Commercial: hotel, cinema or similar leisure use on the vacant land opposite the park and ride station;
- Community: medical centre adjoining the park and ride car park.

**Policy NSA21** proposes expansion of the park and ride facilities at Aberdare station.

**Policy NSA22** safeguards land for rail network improvements, including the rail freight line from Aberdare to Hirwaun.

**Policy NSA23** makes proposal for cycle network improvements, including the Cynon Valley Cycle Route.

**Policy NSA26** supports development that contributes to the achievement of the Cynon Valley River Park Strategy.

The following relevant Supplementary Planning Guidance has been consulted:

- Design and Placemaking
- Delivering Design and Placemaking: Access, Circulation and Parking Requirements
- Planning Obligations

### **National Guidance**

In the determination of planning applications regard should also be given to the requirements of National Planning Policy which are not duplicated in the Local Development Plan, particularly where National Planning Policy provides a more up to date and comprehensive policy on certain topics.

## Planning Policy Wales:

Chapter 2 (Development Plans),  
Chapter 3 (Making and Enforcing Planning Decisions),  
Chapter 4 (Planning for Sustainability),  
Chapter 5 (Conserving and Improving Natural Heritage and the Coast),  
Chapter 7 (Economic Development),  
Chapter 8 (Transport),  
Chapter 13 (Minimising and Managing Environmental Risks and Pollution),

set out the Welsh Government's policy on planning issues relevant to the determination of the application.

## Other relevant policy guidance consulted:

PPW Technical Advice Note 5: Nature Conservation and Planning;  
PPW Technical Advice Note 12: Design;  
PPW Technical Advice Note 15: Development and Flood Risk;  
PPW Technical Advice Note 18: Transport;  
Manual for Streets

## **REASONS FOR REACHING THE RECOMMENDATION**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Furthermore, applications that are not in accordance with relevant policies in the plan should not be allowed, unless material considerations justify the grant of planning permission.

## **Main issues:**

### **Relationship of proposed development to Local Development Plan allocation**

The application site forms part of the Robertstown / Abernant strategic site identified under policies CS 3 and NSA 7 of the LDP. Policy CS 3 allocates the strategic sites for *large-scale residential, employment, retail and recreation* development, and requires proposals to have regard to the indicative concept plan. The relevant indicative concept plan for this strategic site indicates employment and leisure development for the area including the application site. Policy NSA 7 specifies "residential, employment / leisure, a new primary school, medical centre and informal amenity space" for this strategic site. The supporting text indicates that commercial leisure and a medical centre were envisaged for the application site.

The proposals are clearly contrary to the indicative concept plan and the supporting text, however these have lower status than policies CS 3 and NSA 7. These policies do not include provision for community or education development other than a primary school; therefore the proposals are a departure from policies CS 3 and NSA 7. Also, there is conflict with Policy AW 11 since this policy excludes strategic sites from the provision for alternatives to employment development.

Although not an employment use, an education college is considered appropriate in an employment area, since:

- (a) It is training people for employment and should therefore benefit local businesses who need certain skills; and
- (b) The college itself provides considerable employment, so it is an employment use in the wider sense.

Although most if not all employment would be transferred from the existing campus, at least the employment is being retained within the principal town and northern strategy area. Employment estimates are unfortunately missing from the application form, but this information is set out in the accompanying Transport Assessment which confirms that staff and student numbers would be 44 and 793 respectively and is a weighty consideration in favour of the proposal.

The future use of the station building is not specified in the application itself, although the Design and Access Statement (DAS) clarifies that the intention is to use it for a café / dining facility open to the public, which would also be a training facility for catering students. In land use terms, the station building would be integral to the college, so it would not have a separate Class A3 use. Therefore, there is no need to assess the A3 use independently of the rest of the proposals – it is part and parcel of the overall educational facility.

### **Highway safety and accessibility issues**

The application site is located in a principal town, close to its town centre and retail centre. It is highly accessible by a range of sustainable modes of transport, including train, bus, cycling and walking. Moreover, a travel plan has been prepared by the applicant to encourage use of alternatives to car travel. Local Development Plan proposals for rail service improvements and cycle path provision (Policies NSA22 and 23 respectively) would enhance the accessibility of the location reinforcing the acceptability of the development at this general level.

However, taken at a face value there can be little doubt that an educational development of the scale proposed has considerable potential to impact significantly upon highway safety in terms of the traffic generation and distribution and on the capacity of the highway network to cope with the extra traffic. The application is accompanied by a Transport Assessment (TA) which has been the subject of consideration and discussions with the Council's highways officers. The TA predicts

that when the college relocates from Cwmdare Road to Wellington Street there will be a net reduction in traffic flows on the A4059 strategic highway corridor, and as such the development will not attract transport tariff. The TA also states the predicted additional traffic flows associated with the proposed college will not have a detrimental impact on the Ynys roundabout or Cwmbach roundabout. The Transportation Section's conclusion is that having regard for more likely travel scenarios than used in the TA, the proposed development will impact on the local highway network, including the A4059 strategic highway which is of concern. However, further to discussions with the developer, and in lieu of mitigation measures for nil detriment, the developer has agreed to make a financial contribution towards comprehensive improvements of the Abernant roundabout, Ynys roundabout, A4059/Wellington Street/Merion Street roundabout, and A4059/Cwmbach Road/Canal Road roundabout which is considered will make the development acceptable in this regard.

Turning to the internal access and circulation the Transportation Section has commented and expressed some concerns over the indicative proposals in relation to the location of the cycle parking; connectivity with the Cynon Cycle Trail; the need for additional off-site highway improvements to improve pedestrian access; the need for and extent of a 20mph speed zone on Wellington Street; directional signage within the site curtilage; and bus dropping off/ picking up point. These comments are not cause for objection as they relate to matters of detail that can either be conditioned as part of any approval or dealt with at the reserved matters stage. Subject to these matters being addressed the indicative on-site parking provision and layout, cycle parking, service area and bus dropping off / picking up area are all acceptable in principle.

A key element of the applicant's proposal is the submitted Framework Travel Plan intended for the new college. The principal aim of the travel plan is to help reduce car usage by encouraging use of alternative sustainable modes of travel. This is welcome; however at this outline stage it is not possible to set targets as the end users are not yet known. Therefore, in the event of planning permission being granted the Transportation Section suggest that within 6 month of beneficial occupation of the development, a focussed travel plan should be produced that comprises measures to promote and encourage alternatives to single car occupancy, such as car sharing, public transport, cycling and walking, for the consideration of the Local Planning Authority.

In summary, the proposed development provides for reasonable access, circulation and parking, and together with financial contributions to mitigate its impact on the strategic highway network, the proposal is considered acceptable in respect of highway and accessibility issues subject to conditions.

### **Risk of flooding**

The application site lies entirely within Zone C2, as defined by the Development Advice map (DAM) referred to under TAN 15: Development and Flood Risk (July 2004). Natural Resources Wales' Flood Map information, which is updated quarterly basis, confirms the site to within the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual fluvial flood probability outlines of the River Cynon. NRW records also show that the application site has previously flooded from the River Cynon.

This application proposes an educational facility and public building and is categorized as highly vulnerable development as defined in TAN 15, though the car park may be considered less vulnerable. Reference to Section 6 of TAN 15 makes clear that development in the highly vulnerable category should not be permitted in Zone C2. If the Council is minded to approve the application contrary to TAN 15 NRW has advised that the applicant needs to demonstrate, through the submission of a Flood Consequences Assessment (FCA), that the consequences of flooding can be managed over the lifetime of the development.

Accordingly, the application is accompanied by a FCA which has been revised following discussion with NRW.

The proposed scheme hydraulic model has been updated as follows:

- A 1426m<sup>2</sup> flood storage area has been proposed alongside the River Cynon to mitigate flooding to the active car park and offsite impacts.
- The active car park has been reduced by 33% to 2850m<sup>2</sup> and levelled to 127.0m AOD to mitigate flooding to the active car park and offsite impacts.
- A 1.5m wide by 1m deep storage swale has been assumed around Site A to mitigate offsite impacts.

The key findings and recommendations from the revised FCA are as follows:

- The College building is above the 0.1% Annual Exceedance Probability (AEP) flood level.
- The active car park area is above the 1% AEP with climate change flood level but at flood risk in the 0.1% AEP event. However the depth of flooding in the 0.1%AEP event is within the NRW tolerance for general infrastructure.
- The proposed development reduce depths of flooding experienced in the Station Car Park and properties along Cwmbach Road up to and including the 1% AEP event with climate change allowance. It is at the discretion of the Coleg Y Cymoedd on whether to share these findings with owner of the railway station car park and properties on Cwmbach Road.
- The development would increase the existing flood depths in Robertstown industrial estate from 0.35m to 0.52m (0.17m increase) during the 0.1% AEP event only. However, this area is already subject to significant flood risk under the existing condition. It is recommended that these findings are shared with the third party owners of Robertstown Industrial Estate.

- The flood storage area could be further refined to optimise the active car park area in Site B following agreement from NRW. However, the maximum offsite impact to the station car park (increase in flood level) is already 0.039m. Therefore, any further refinement would be limited in area to ensure offsite flooding to the station car park does not increase above the 0.04999m threshold specified by NRW.

The FCA considers there is some residual flood risk which require management and recommends that suitable flood management plan should be put in place and managed by the college. Also, it recommends that a sustainable drainage scheme should be developed as part of the proposals to ensure that peak surface water discharge rates do not exceed that of the existing site. Surface water is managed within the site boundary in events up to and including the 1% AEP rainfall event including an allowance for climate change.

NRW has reviewed the revised FCA and the model on which it is based and they have concerns about the proposed approach which now includes a significant amount of ground lowering adjacent to the River Cynon. NRW consider the FCA shows a significant reduction in theoretical and modelled flood consequences to the building and remaining active part of the car park. But part of the site proposed as flood storage appears to be at a level comparable with the bed of the river. The base of the excavation therefore appears to be below the bank top and as a result may result may be below the water table, which could lead to frequent inundation of the area from groundwater, with a resulting loss of functional floodplain. This is not recognised in the FCA and flood modelling.

As well as groundwater, the flood storage area is likely to receive and collect surface water before the flood peak and will probably fill in advance of flood peak, again severely compromising the flood storage function. The approach does not provide level for level, like for like flood compensation, in line with NRW's flood compensation guidelines.

In addition, NRW has expressed concern that the flood storage area may not be practical to build given the retaining walls and railway structures in the area. Moreover, the FCA currently shows that the development would increase the existing flood depths in Robertstown Industrial Estate from 0.35m to 0.52m during the 0.1% AEP event. TAN 15 requires development to satisfy a number of conditions including 'no flooding elsewhere'.

As a consequence of the issues raised above, NRW currently objects to the proposals in their present form because they do not establish that the risks and consequences of flooding could be properly managed in accordance with TAN 15 by implementation of the mitigation proposed. Correspondingly, the presently submitted proposals conflict with LDP Policy AW10.

### **Contamination**

A geo-environmental desk study accompanies the planning application, which concludes that both site A and site B are classified as having a moderate risk in relation to contamination. Both sites have had potentially contaminative historic industrial land uses, including quarrying, mining, railway land, cattle processing and a coal yard. In addition potentially contaminative historic off-site land uses identified include gasworks, iron works, laundry house, power station, brickworks, depots, steam sawmill timber yard and railway engineering. There is therefore the potential for highly elevated concentrations of contaminants to be present.

The geo-environmental desk study discusses this risk in relation to its potential impacts on human health, controlled waters (surface and ground waters), flora and fauna, construction materials, and ground gas. The study makes recommendations in respect of the need for ground investigations, chemical testing, monitoring, waste classification, Japanese Knotweed, asbestos, and protection of site staff.

However, the Geo-environmental report accompanying the planning application was undertaken on the basis of the original proposals and does not take account of the new proposals for major engineering works within and adjacent to the River Cynon. Moreover, the scope of the report may well be affected if the application proposals are amended to address the flood risk issue discussed above. Either way, the conclusions and recommendations of the Geo-environmental report are outdated and in order to address the concerns of NRW will require to be updated to account for the latest flood mitigation proposals to ensure that there is no risk of pollution to controlled waters at this location in accordance with LDP policy AW10 and TAN 15.

## **Ecology**

The application is accompanied by Preliminary Ecological Appraisal, which concludes the application site has moderate ecological in relation to nesting birds hibernating reptiles, foraging Bats. The Appraisal recommends further survey work and assessment in relation to Bats and such studies and assessments have since been undertaken and submitted in respect of Bats and Otter, which are European Protected Species. These surveys and assessments conclude that no Bats were found using the former railway building, though evidence of Otters on the River Cynon was discovered but that the development is unlikely impact of the river habitat. Riverside boundary vegetation is recommended to be retained to reduce light spillage and disturbance to the river from the adjacent development.

The assessment of impacts on protected species has been undertaken on the basis of the originally proposed scheme which did not include impact on the banks or channel of the river and as a result concludes that there will be minimal impact on Otter. The latest proposals include major engineering proposal directly adjacent to the river in an area known to be used by Otter rendering the conclusions of the report invalid. The report relating to Otter will need significant if the currently submitted flood mitigation proposals are to be developed further.

## **OTHER ISSUES**

### Character and appearance

The application is in outline with all matters of detail reserved for future consideration, nevertheless there is a significant amount of information about the indicative proposals to assist in arriving at a general judgement on the effects on the character and appearance of the area. Although the maximum and minimum dimensions of the development indicate the building will be relatively large, the layout, massing and appearance of the building are generally considered acceptable in its context. The provision of a glazed atrium makes the entrance and internal features of the building easily legible, and creates a bold visual feature on the approach to the site creating a new landmark building close to the centre of Aberdare. At the detailed planning stage further consideration will need to be given to design and external appearance, with particular attention paid to justification of the height in relation to surrounding buildings and the external materials and amount of fenestration. At this outline stage, however, the indicative proposals are generally acceptable in terms of the impact of the development on the character and appearance of the locality.

### Impact on the operation of the railway

The application site is located adjacent to operational railway land. Network Rail has offered no objection subject to practices being followed that ensure the development does not interfere with the safe operation of the railway. However, further consultation with Network Rail will be needed if the currently submitted flood mitigation proposals are to be developed further.

### Cynon Valley River Park

The application site is located within the Cynon River Valley Park. This is not necessarily a restriction on development, but a requirement for positive use and management of the land in the interests of natural processes, wildlife and people. The applicant's Design and Access Statement does not address the issue, though by the same token the indicative proposals do not conflict with the River Park objective. Further work will be required at the detailed planning stage to integrate the development with the River Park strategy.

### **Community Infrastructure Levy (CIL) Liability**

The Community Infrastructure Levy (CIL) was introduced in Rhondda Cynon Taf from 31 December 2014.

The application is for development of a kind that is liable for a charge under the CIL Regulations 2010 as amended however, the CIL rate for this type of development as set out in the Charging Schedule is £nil and therefore no CIL is payable.

## **Section 106 Contributions / Planning Obligations**

Section 106 of the Town and Country Planning Act (as amended) enables local planning authorities and developers to agree to planning obligations to require operations or activities to be carried out on land (in-kind obligations) or require payments to be made (financial contributions), to mitigate any unacceptable impacts of development proposals.

The Community Infrastructure Levy (CIL) Regulations 2010, with effect from 6 April 2010, state that a planning obligation (under S.106) may only legally constitute a reason for granting planning permission if it is:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and,
- fairly and reasonably related in scale and kind to the development.

Planning Policy Wales (Chapter 3) advises that contributions from developers may be used to offset negative consequences of development, to help meet local needs, or to secure benefits which will make development more sustainable. Further guidance regarding what types of obligations developers may be expected to contribute towards is also contained within Policy AW4 of the Local Development Plan and the Council's SPG on Planning Obligations, however it is made clear that this is intended to form the basis of negotiations between all parties.

### **The Section 106 requirements in this case**

Discussion with the applicant has indicated that in this instance they are prepared to make a financial contribution of £73,432 in lieu of mitigation measures for nil detriment of the development on the local highway network. This contribution is required specifically towards comprehensive improvements of the Abernant roundabout, Ynys roundabout, A4059/Wellington Street/Merion Street roundabout, and A4059/Cwmbach Road/Canal Road roundabout and can be secured via a legal agreement.

## **CONCLUSION AND RECOMMENDATION**

This development will deliver a much needed, quality educational facility in Aberdare with its attendant economic benefits, and broadly will not conflict with LDP proposals for development at this key location. It is evident from this report, however, that the proposals are not without their difficulties which essentially revolve around the management of the risk and consequences of flooding. In their present form and if developed further the current flood mitigation elements of the overall development project are unsatisfactory: they will involve major engineering works adjacent to the River Cynon with consequential impacts for contamination and pollution of controlled waters and potential adverse affects on river bank known to be inhabited by Otter. Also, the proposals are predicted to actually increase the flood risk to third party

property at Robertstown Industrial Estate. Therefore, whilst the overall development project is acceptable in principle, the current flood mitigation proposals brings it into conflict with TAN 15 and LDP policies AW 8 and AW10.

At the time of compiling this report the applicant is working in liaison with NRW to design alternative flood mitigation proposals that aim to manage the risks and consequences of flooding. Given that the contamination and ecological issues raised in this report are inextricably related to the current flood mitigation proposals, then it is likely that alternative mitigation proposals will address those issues also. Alternative flood mitigation proposals are likely to involve additional neighbouring land being brought within the application site to provide sufficient land area to accommodate both adequate car parking and flood mitigation itself. These will not affect the siting, scale and design of the building proposed, as shown in the indicative plans, therefore the main thrust of the proposals will not change from that described and assessed in this report.

In conclusion, the proposed development is acceptable in principle though in view of the flood risk issues and, in the event of members being minded to support the development, further discussion is required with the applicant to secure proposals and mitigation that adequately address the flood risk and associated land contamination and ecology issues.

**RECOMMENDATION: APPROVE subject to**

- **The recommended conditions set out below in this report;**
- **The Service Director Planning being authorised to add, amend or vary any condition before the issuing of the planning permission, providing such changes do not affect the nature of the development or permission;**
- **Submission of an amended Flood Mitigation Strategy;**
- **No objection from Natural Resources Wales**
- **The applicant and any other interested parties entering into a legal agreement to make a financial contribution of £73,432 in lieu of mitigation measures for nil detriment of the development on the local highway network.**

1. (a) Approval of the details of the layout, scale and appearance of the building(s), the means of access thereto and the landscaping of the site (hereinafter referred to as "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

(b) Plans and particulars of the reserved matters referred to in (a) above relating to the layout, scale and appearance of any building to be erected, the means of access to the site and the landscaping of the site shall be submitted in writing to the Local Planning Authority and shall be carried out

as approved.

(c) Applications for the approval of reserved matters shall be made before the expiration of three years from the date of this permission.

(d) The development hereby permitted shall be begun before whichever is the latter of either (i) the expiration of 5 years from the date of this permission or (ii) the expiration of 2 years of the final approval of the reserved matters or in the case of approval on different dates the final approval of the last such matter to be approved.

Reason: To comply with section 92 of the Town and Country Planning Act 1990.

2. The development hereby approved shall be carried out in accordance with the approved Site Location Plan number 313115 L(90)001 Revision A, Scale Plan Diagram number 313115 L(00)115, Proposed Site Sections number 313115 L(00)130 and

- Transport Assessment – Coleg y Cymoedd (Mott MacDonald - October 2013)
- Framework Travel Plan – Coleg y Cymoedd (Mott MacDonald – October 2013)

Reason: To ensure compliance with the approved plan and documents and to clearly define the scope of the permission.

3. Notwithstanding the submitted plans, full engineering design and construction details of the proposed access and its tie in with the unnamed road off Wellington Street shall be submitted to and approved in writing by the Local Planning Authority prior to works commencing on site. The approved details shall be implemented to the satisfaction of the Local Planning Authority prior to beneficial occupation.

Reason: In the interests of highway safety and in accordance with policy AW5 of the Rhondda Cynon Taf Local Development Plan.

4. Notwithstanding the submitted plans, full engineering design and construction details of the proposed access and its tie in with Wellington Street shall be submitted to and approved in writing by the Local Planning Authority prior to works commencing on site. The approved details shall be implemented prior to beneficial occupation of the development.

Reason: In the interests of highway safety and in accordance with policy AW5 of the Rhondda Cynon Taf Local Development Plan.

5. Notwithstanding the submitted plans, full engineering design and details of the off-site highway improvements required that shall incorporate uncontrolled pedestrian crossing facilities at the following locations prior to works commencing on site: -
- a) At the junction of the Service Yard with the unnamed road;
  - b) At the junction of the unnamed road with Wellington Street;
  - c) At the junction of Wellington Street with the proposed car park and Station building to be converted to a café / dining facility;
  - d) Tabled pedestrian crossing on the Abernant Road (northern arm) of the Abernant Road / Cwmbach Road / Wellington Street Roundabout;
  - e) Tabled pedestrian crossing on the Wellington Street arm of the Abernant Road / Cwmbach Road / Wellington Street Roundabout; and
  - f) Tabled pedestrian crossing on the Abernant Road (northern arm) of the Ynys Roundabout.

The approved details shall be implemented prior to beneficial occupation of the development.

Reason: In the interests of pedestrian safety and in accordance with policy AW5 of the Rhondda Cynon Taf Local Development Plan.

6. Notwithstanding the submitted plans, full engineering design and construction details of the proposed Toucan crossing on Wellington Street shall be submitted to and approved in writing by the Local Planning Authority prior to works commencing on site. The approved details shall be implemented prior to beneficial occupation of the development.

Reason: In the interests of highway safety and in accordance with policy AW5 of the Rhondda Cynon Taf Local Development Plan.

7. Notwithstanding the submitted plans, details of traffic calming measures along Wellington Street shall be submitted to and approved in writing by the Local Planning Authority prior to works commencing on site. The approved details shall be implemented prior to beneficial occupation of the development.

Reason: In the interests of highway and pedestrian safety and in accordance with policy AW5 of the Rhondda Cynon Taf Local Development

Plan.

8. Off-street parking shall be in compliance with Rhondda Cynon Taf's Supplementary Planning Guidance on Delivering Design and Placemaking: Access, Circulation & Parking Requirements (March 2011). The parking areas shall be constructed in permanent materials and retained for the purposes of parking only unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure that vehicles are parked off the highway, in the interest of highway safety in accordance with policy AW 5 of the Rhondda Cynon Taf Local Development Plan.

9. A bus dropping off / picking up facility shall be provided within the curtilage of the site and retained for such purposes unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure the site can be suitably accessed using sustainable modes of transport in accordance with policy AW 5 of the Rhondda Cynon Taf Local Development Plan.

10. Surface water run-off from the proposed development shall not discharge onto the public highway or connected to any highway drainage system unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety and to prevent overcapacity of the existing highway drainage system and potential flooding in accordance with policies AW5 and AW10 of the Rhondda Cynon Taf Local Development Plan.

11. No development shall take place, including any works of site clearance, until a Construction Method Statement has been submitted and approved in writing by the Local Planning Authority to provide for:

- a) the means of access into the site for all construction traffic;
- b) the parking of vehicles of site operatives and visitors;
- c) the management of vehicular and pedestrian traffic;
- d) loading and unloading of plant and materials;
- e) storage of plant and materials used in constructing the development;
- f) wheel cleansing facilities; and
- g) the sheeting of lorries leaving the site.

The approved Construction Method Statement shall be adhered to throughout the development process unless agreed otherwise in writing by

the Local Planning Authority.

Reason: In the interests of the safety and free flow of traffic in accordance with policy AW5 of the Rhondda Cynon Taf Local Development Plan.

12. All HGV deliveries during the construction period shall only take place between the hours of 09:00 am and 16:30 pm on weekdays to and from the site.

Reason: In the interests of the safety and free flow of traffic in accordance with policy AW5 of the Rhondda Cynon Taf Local Development Plan.

13. Within 6 months of beneficial occupation of the development, a Travel Plan use shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include:-

- a) Travel Plan Co-ordinator;
- b) Targets for the reduction of road traffic and single occupancy car use, the promotion and delivery of more sustainable travel such as walking, cycling, and use of public transport;
- c) Management strategy for monitoring and delivering the objectives;
- d) Review Process; and
- e) Financial penalties and fallback position if the targets set have not been achieved.

The Travel Plan shall be implemented within one month following its approval and maintained and monitored thereafter, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure reduction of road traffic and promotion of sustainable modes of travel in accordance with the relevant National and Local Planning Policies.

14. The details of landscaping required to be submitted to and approved by the Local Planning Authority in accordance with Condition 1 above shall include indications of all existing trees and hedgerows on the land and details of any to be retained together with measures for their protection during the course of development.

Reason: To ensure that the new development will be visually attractive in the interests of amenity in accordance with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan

15. All planting, seeding or turfing in the approved details of landscaping shall

be carried out in the first planting and seeding season following the occupation of the building(s) or completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that the new development will be visually attractive in the interests of amenity in accordance with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

16. The development for which permission is hereby granted shall not be commenced until full details of the surfacing materials proposed to be used on any roadway, footpath, car park, lay-by, play areas or other paved or metalled areas have been submitted to and approved, in writing, by the Local Planning Authority and no dwellings shall be occupied until the works have been completed in accordance with the approved details.

Reason: To ensure that the new development will be visually attractive in the interests of amenity in accordance with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

17. No development shall take place until a Wildlife Protection Plan for Construction has been submitted to and approved in writing by the local planning authority. The plan shall include:

- a) An appropriate scale plan showing 'Wildlife Protection Zones' where construction activities are restricted and where protective measures will be installed or implemented;
- b) Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;
- c) A timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife could be harmed (such as nesting bird season).
- d) Persons responsible for:
  - i) Compliance with legal consents relating to nature conservation;
  - ii) Compliance with planning conditions relating to nature conservation;
  - iii) Installation of physical protection measures during construction;
  - iv) Implementation of sensitive working practices during construction;
  - v) Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction;
  - vi) Provision of training and information about the importance of the 'Wildlife Protection Zones' to all construction personnel on site.

All construction activities shall be implemented with the approved details and timing of the plan unless otherwise approved in writing by the local planning authority'.

Reason: To afford protection to animal and plant species in accordance with Policies AW5 and AW8 of the Rhondda Cynon Taf Local Development Plan.

18. Construction works on the development shall not take place other than during the following times:

- (i) Monday to Friday 0800 to 1800 hours
- (ii) Saturday 0800 to 1300 hours
- (iii) Nor at any time on Sundays, Bank or Public holidays, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the noise emitted from this development is not a source of nuisance to occupants of nearby residential properties in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

19. No development shall take place until drainage arrangements have been submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into beneficial use until the drainage works have been completed in accordance with the approved details.

Reason: To ensure adequate disposal of foul and surface water drainage in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

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**APPLICATION NO:** 14/1078/15 (SF)  
**APPLICANT:** Pennant Walters (PYWX) Limited  
**DEVELOPMENT:** Variation of condition 14 of appeal decision 2147385 of application 06/1842/10 relating to Noise Limits.  
**LOCATION:** FFORCH NEST WIND FARM, GLYN OGWR, BRIDGEND CF35 6EL  
**DATE REGISTERED:** 19/08/2014  
**ELECTORAL DIVISION:** Cwm Clydach

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**RECOMMENDATION:** Approve

**REASONS:**

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**The principle of the wind farm development to which condition 14. relates was previously established through the grant of planning permission 06/1842 on appeal. The wind farm has been operated by the applicant together with other nearby wind farms as one entity and it has been satisfactorily demonstrated through the submission of a revised noise assessment that the proposed variation of the noise limits will not result in the previously agreed noise limits being exceeded. The variation of this condition will not therefore result in any adverse impact on nearby residential properties, or the surrounding area.**

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## **APPLICATION DETAILS**

This application seeks the variation of condition 14. on the original planning permission 06/1842 which was granted on appeal on 14 December 2011. That application sought permission for the development of a wind farm, comprising 7 turbines, together with associated access tracks, an anemometry/meteorological mast and extra stretch of bridleway.

Condition 14. related to the noise limits for the turbines and states:

*'The rating level of noise emissions from the wind turbines hereby permitted and in combination with any wind turbines that may be constructed pursuant to the planning permission granted by Bridgend County Borough Council under reference P/06/1080/FLU (including the application of any tonal penalty), when calculated in accordance with the attached Guidance Notes, shall not exceed the values set out in the attached Tables. Each of these values shall apply to all of the properties falling within the respective areas shown on the attached plan unless otherwise agreed with the local planning authority. Noise limits for any property which lawfully exists at the date of this consent but which is not covered by any of the areas shown on the plan attached shall be those of the nearest area shown on the plan.'*

As background information, application 06/1842 was for the erection of 7 wind turbines which, together with a further 4 wind turbines that are located within the boundary of Bridgend County Borough Council (BCBC) and approved in May 2011 (their ref: P/06/1080/FUL), now comprise Fforch Nest wind farm (11 turbines). During the course of the application the height to blade tip of the turbines was reduced to a maximum of 115m (hub height of 70m) and the total wind farm output was anticipated to be 22–27.5 MW. The permission granted was for a period of 25 years from the first export date (23 April 2013) and after this time, unless a further planning permission is granted, further conditions attached to the consent require the wind farm to be decommissioned, dismantled and the site reinstated.

Fforch Nest wind farm and the adjacent Pant-y-wal wind farm are owned and have also been operated by the applicant Pennant Walters since June 2013. Pant-y-wal wind farm, which is located entirely within Bridgend CBC, was granted permission under application P/06/0417 and comprises 10 turbines. In April 2014, Pennant

Walters submitted a further application to Bridgend CBC to add a further 12 wind turbines (subsequently reduced to 10) to Pant-y-wal wind farm, which had the potential to increase noise levels.

At the time the applications were originally granted for the Fforch Nest and Pant-y-wal wind farms, these were intended to be operated separately and each of the three planning permissions therefore contain noise controlling conditions, such as that set out above under application 06/1842. These conditions were predicated on the Fforch Nest and Pant-y-wal wind farms being operated separately however, they have now been combined in the single ownership of Pennant Walters and are operated as a single entity. The combined operation of the two wind farms under the three separate consents therefore provides the opportunity for the noise controlling conditions to be reviewed, to enable the proposed 10 turbine extension to Pant-y-wal to be accommodated, without exceeding the previously agreed noise limits.

The applicant Pennant Walters is therefore applying to both Rhondda Cynon Taf and Bridgend CBC to secure a variation of the relevant noise controlling condition on each of the three original consents. The current application therefore seeks a variation on application 06/1842 and a similar two applications have been submitted to Bridgend CBC in respect of application P/06/0417/FUL (Pant-y-wal) and P/06/1080/FUL (remaining part of Fforch Nest). Bridgend CBC has recently considered planning applications for that element of the Fforch Nest site within their area, the Pant-y-wal scheme and also a further separate application for the proposed extension of the Pant-y-wal wind farm at their Development Control Committee and have resolved to approve these applications, subject to amended conditions and a Section 106 Agreement which seeks to control the implementation of the new consents.

The current application is accompanied by the following:

- Planning Statement
- Design and Access Statement (DAS)
- Noise Assessment Reports (January 2015)

The Planning Statement sets out the two tables containing the current noise limits referred to in condition 14, the first which applies between 23:00 hours and 07:00 hours and the second, which applies at all other times. It is explained that when the noise level conditions for the Fforch Nest and Pant-y-wal wind farms were originally set, these were designed to ensure that the cumulative noise levels from the two wind farms operating independently from each other would not exceed the relevant ETSU-R-97 noise level criteria relative to background noise levels. (ETSU-R-97 provides the framework for 'The assessment and rating of noise from wind farms' and its use is promoted in TAN 8 as good practice).

As the operators of the individual wind farms were not originally known, the noise levels were therefore reduced in the two tables by 3 dB, so that the combined effect

of the wind farms operating separately would not exceed the desired level. The statement explains that following confirmation that the two wind farms would be operated together and further discussions with Public Health Officers from Bridgend CBC, it was agreed that the noise level criteria for these existing wind farms could be amended and two tables containing the proposed revised noise levels are also set out.

The DAS explains the background to the application and how the Fforch Nest and adjacent Pant-y-wal wind farms, whilst intended to be operated separately, were both developed by the applicant Pennant Walters and became operational in 2013, producing a combined installed capacity of 52.5 MW. The fact that the two wind farms have been combined as a single operation, allows the opportunity to review the conditions controlling noise and Pennant Walters is therefore applying to both Rhondda Cynon Taf and Bridgend County Borough Councils to secure a variation of the noise limit conditions on each of the 3 relevant permissions. It is confirmed that the application site now forms part of an operational wind farm and on the ground, Fforch Nest wind farm is not readily distinguishable from Pant-y-wal. In relation to planning policy, the statement advises that local policy within the LDP and national policy within PPW support proposals for renewable energy and large scale wind farms, subject to various criteria. It is also confirmed that the site is identified located within Strategic Search Area F: Coed Morgannwg, one of seven areas identified within TAN 8: Planning for Renewable Energy as appropriate for large scale wind farm development.

The Noise Assessment Report (January 2015) advises that the assessment compares the predicted combined and cumulative noise levels from the existing Pant-y-wal and Fforch Nest wind farms and the proposed Pant-y-wal extension (10 turbines) with the existing ETSU-R-97 noise limits. The report provides four sets of proposed noise limits, one for each of the three existing sets of turbines and one for the further proposed extension to Pant-y-wal. The relevant noise limit for the Fforch Nest turbines within RCT are set out in Tables 1 and 2 attached as **APPENDIX 1**. It is advised that these limits have been set to ensure that the cumulative noise levels from all existing wind farms and the proposed extension at Pant-y-wal, do not exceed the existing combined limits and will achieve the original 2009 ETSU criteria. The applicant has subsequently produced a further Noise Assessment Report for Bridgend CBC (March 2015), with proposed noise conditions for the proposed Pant-y-wal extension, which affirms that when added together with the existing noise limit conditions, the proposed noise conditions will achieve the original 2009 ETSU criteria. That report was produced in order to satisfy BCBC that whatever decision is made by this Council in relation to this application to vary the condition 06/1842, the noise levels for the existing and proposed 10 further turbines, would not exceed the previously agreed level.

## **SITE APPRAISAL**

The area of the site within Rhondda Cynon Taf is 73.5 ha and comprises an area of coal field plateau. The plateau in this area ranges from 284m AOD to 437m AOD

between steep sided valleys and is known as Mynydd Maesteg and Mynydd Pwllrhebog. Within Rhondda Cynon Taf, the nearest settlements are Clydach Vale (to the north) and Gilfach Goch (to the east). The site remains in agricultural use, being used for upland rough pasture sheep grazing. To its northern extent the site boundary is defined by the edge of the Cwm Clydach Forest and to the south by the Cwm Ogwr Fach which at this point represents the County Borough boundary between Rhondda Cynon Taf and Bridgend. The access to the site is also within Bridgend, accessing the A4093 to the west of Glynogwr and is shared with Pant-y-wal wind farm. The site lies entirely within Strategic Search Area (SSA) F, Coed Morgannwg, which comprises the upland plateaux of the coalfields of the former Glamorgan County and extends to the upper reaches of the Cynon, Rhondda, Garw, Ogmore and Afan Valleys.

## PLANNING HISTORY

The planning history relating to the site is detailed below:

06/1842	Proposed erection of seven wind turbines to form part of the Fforch Nest wind farm -with associated tracks and masts.	Refused 11/02/11 Allowed on appeal 14/12/11
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As indicated earlier in this report, there are other related developments which are in close proximity to this site. The position in respect of these is as follows:

### Applications determined by Bridgend CBC

BCBC Ref: P/14/540/RLX	Variation of condition 29. of P/06/417/FLU relating to noise limits at Pant-y-wal wind farm.	Resolved to approve
BCBC Ref: P/14/541/RLX	Variation of condition 29. of P/06/417/FLU relating to noise limits at Fforch Nest wind farm.	Resolved to approve
BCBC Ref: P/14/293/FUL	12 turbines (reduced to 10), access tracks and associated works for 25 year period at Pant-y-wal wind farm.	Resolved to approve
BCBC Ref: P/08/962/FUL	Construction of access track to serve Pant-y-wal and Fforch Nest wind farms.	Approved
BCBC Ref: P/06/1080/FUL	Fforch Nest wind farm - 4 turbines, sub-station and access off A4093.	Approved
BCBC Ref: P/06/0417/FUL	Pant-y-wal wind farm - 10 turbines, sub-station, tracks, masts and access off A4093.	Approved

Requests for observations made to Rhondda Cynon Taf (from Bridgend CBC) as neighbouring Local Planning Authority.

14/0610	12 wind turbines (reduced to 10), access tracks and associated works for 25 year period at Pant-y-wal wind farm.	Raise objection 21/8/14
08/1673	Joint access off A4093 to serve both Fforch Nest and Pant y Wal wind farms.	Raise no objection 23/12/08
06/1688	Fforch Nest wind farm, comprising 4 turbines, sub-station, tracks and access off A4093.	Raise no objection 25/08/09
06/0829	Pant y Wal wind farm, comprising 10 turbines, sub-station, tracks, masts and access off A4093.	Raise no objection 25/08/09

**PUBLICITY**

The notification procedure in respect of this application has included the direct notification of residential and other properties surrounding the site and the display of site notices. In response, **2 letters of objection** have been received which raise the following points:

- The noise limits set out in condition 14. of the appeal decision are important, given that the existing residential community is ‘trapped’ between 2 major clusters of very large wind turbines;
- The communities most affected (Evanstown, Glynogwr and Gilfach Goch) are sandwiched between the Fforch Nest / Pant-y-wal cluster of wind farms and the Taff Ely / Mynydd Portref cluster;
- Given the severe visual impact and associated loss of amenity this development has imposed on so many people, the strongest possible conditions must be maintained to ensure other aspects of residential amenity are protected;
- Even under the existing noise conditions, it is understood that there have been longstanding complaints from local residents that noise and vibration from Pant-y-wal and Fforch Nest wind farms are adversely impacting on health;
- The situation will soon be compounded by the consented redevelopment of Taff Ely with much larger turbines, which are big enough to be prone to the pulsation effect noise caused by changes in pressure. This means that noise problems could be an issue for residents, whether the wind is blowing from the north, west, south or south-east.

**CONSULTATION**

Public Health and Protection Section - following initial concerns raised in response to the original information submitted with the application, it has been advised that information contained in the noise assessment resubmitted in January 2015 has

addressed their concerns and no objection is raised to the proposed variation of condition. It is advised however that it would be desirable to have the Section 73 (variation of condition) applications approved, prior to the determination of the full application.

Land Reclamation and Engineering - no further comments raised.

Ministry of Defence - has raised no objection.

Natural Resources Wales - has raised no adverse comments.

Dwr Cymru/Welsh Water – the proposal will not affect Welsh Water’s assets.

Glamorgan Gwent Archaeological Trust - has no archaeological objection.

Vale of Glamorgan Council - has raised no objection subject to an analysis of potential noise impacts and consideration of whether there would be any direct impacts on the Vale of Glamorgan.

Neath Port Talbot County Borough Council - has raised no objections.

## **POLICY CONTEXT**

### **Rhondda Cynon Taf Local Development Plan**

The application site is situated in the open countryside within Strategic Search Area F, the Clydach Vale Site of Importance for Nature Conservation (Policy AW8.8) and Sandstone Resource Area (Policy AW14.2) as defined in the Local Development Plan.

**Policy CS1** - promotes development in the north of the County Borough, which builds strong sustainable communities, including the reuse of previously developed land which supports the roles of Principal Towns and Key Settlements.

**Policy AW2** - development proposals will only be supported in sustainable locations, which would not conflict with surrounding uses and have good accessibility.

**Policy AW5** - sets out criteria for new development in relation to amenity and accessibility.

**Policy AW6** - requires development to involve a high quality design and to make a positive contribution to place making, including landscaping and biodiversity and promotes the use of renewable energy.

**Policy AW7** seeks to protect features of the historic, archaeological and built environment and public rights of way.

**Policy AW8** - only permits development that does not harm features of the natural environment including SINC and protects, manages and mitigates potential impacts on species and habitats of ecological importance.

**Policy AW10** - development proposals must overcome any harm to public health, the environment or local amenity as a result of noise pollution, contamination, instability or flooding.

**Policy AW12** - promotes the provision of renewable and non-renewable energy including small / medium sized wind turbines where there is no unacceptable impact on various interests including public health and residential amenity.

**Policy AW13** - permits proposals for wind farm developments of 25MW and over or capable of accommodating 25MW or over, subject to a number of criteria including that it is located within the SSA, is located a minimum of 500m of the nearest residential property and will minimise any loss of, and where possible enhance public accessibility to the countryside and protect the natural beauty and special qualities of the Brecon Beacons National Park. Paragraph 5.86 of the policy advises that the Council will assess issues of noise from wind farms in accordance with 'The Assessment and Rating of Noise from Wind Farms' (ETSU-R-97) report.

**Policy AW14.2** safeguards resources of sandstone from development which would unnecessarily sterilise them or hinder their extraction.

### **National Guidance**

In the determination of planning applications regard should also be given to the requirements of National Planning Policy which are not duplicated in the Local Development Plan, particularly where National Planning Policy provides a more up to date and comprehensive policy on certain topics.

Planning Policy Wales Chapter 3 (Making and Enforcing Planning Decisions), Chapter 4 (Planning for Sustainability), Chapter 5 (Conserving and Improving Natural Heritage and the Coast), and Chapter 12 (Infrastructure and Services) set out the Welsh Government's policy on planning issues relevant to the determination of the application.

### **Other relevant policy guidance consulted**

PPW Technical Advice Note 8: Planning for Renewable Energy;  
PPW Technical Advice Note 11: Noise.

The Strategic Search Areas (SSA's) are identified in Planning Policy Wales and Technical Advice Note 8: Planning For Renewable Energy, as areas noted for having land use and locational characteristics that render them suitable in principle for the development of large scale wind farm development.

### **REASONS FOR REACHING THE RECOMMENDATION**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Furthermore, applications that are not in accordance with relevant policies in the plan should not be allowed, unless material considerations justify the grant of planning permission.

## **Principle of the proposed development**

The proposal application seeks the variation of a planning condition relating to an existing wind farm development which was previously allowed on appeal. Renewable energy schemes and particularly those within SSA's are supported by both national and local planning policy in principle for economic reasons and for their contribution to meeting the challenges of climate change, subject to specified criteria. It is therefore considered that the principle of the proposed development has been established as acceptable however, changes now proposed through this application require further assessment of the relevant planning issues, as detailed below.

### **Main Issues:**

#### **Noise and Impact on Residential Amenity**

As the condition which this application seeks to vary specifically relates to the permitted noise emissions from the wind turbines and no other alterations or amendments to the wind farm are proposed, the only relevant consideration in the determination of this application is whether the revised alternative noise limits put forward are acceptable and whether there will be any resulting impact on residential properties within nearby settlements.

At the time the appeal proposal was determined, the Planning Inspector recognised that the assessment of the impact of operational noise had been undertaken in accordance with the ETSU-R-97 methodology and confirmed TAN 8 regarded this as good practice. He therefore concluded that the noise of the proposed wind turbines had been measured against appropriate measurements of background noise and that the choice of 40dB as the lower absolute daytime noise limit was appropriate. He also acknowledged that as part of the Environmental Statement submitted, the cumulative effects of the simultaneous operation of all existing and proposed wind farms in the region had been assessed, which demonstrated that noise limits derived in accordance with ETSU-R-97, would not be exceeded. As part of the decision to allow the appeal, a condition was therefore included to specifically restrict the noise emissions from the wind turbines, which was achieved by reference to two tables containing proposed noise limits for various 'receptor' locations within both Rhondda Cynon Taf and Bridgend. The locations within Rhondda Cynon Taf include, Tonypany, Clydach Vale and Gilfach Goch. The two tables set out noise level criteria 'between 23:00 and 7:00' and 'at all other times' and as detailed above, the wording of the existing condition requires the noise limits not to be exceeded when the turbines are operated in combination with those operated under the remaining part of Fforch Nest wind farm, which is located in Bridgend CBC.

As indicated earlier in the report, the Planning Statement accompanying the current application seeks to justify an amendment to the previously agreed noise limits on the basis that the Fforch Nest and Pant-y-wal wind farms are no longer being operated separately and therefore, the reduction in noise levels at each receptor by 3dB no longer needs to apply. It is therefore maintained that the existing levels on

each of the wind farm applications could therefore be increased by 3dB without exceeding the ETSU-R-97 criteria. The initial assessment of this information by the Council's Public Health Officer however suggested that the proposed increase of 3dB to each of the noise limits would be likely to result in the cumulative noise emissions exceeding the ETSU-R-97 criteria and would therefore be unacceptable.

The subsequent Noise Assessment report submitted by the applicant in January 2015 following further discussions and meetings with officers (including from Bridgend CBC) however seeks to address this issue by comparing the predicted combined and cumulative noise levels from the existing Pant-y-wal and Fforch Nest wind farms and proposed Pant-y-wal extension (10 turbines) with the existing ETSU-R-97 noise limits. The four sets of noise level tables for the three existing sets of turbines and further proposed extension to Pant-y-wal have also been reviewed by Public Health officers, who are now satisfied that when operated together, the noise levels will not exceed the original 2009 ETSU criteria. This will ensure that the maximum noise levels which can be achieved in each of the receptor areas identified in the assessment including within Tonypanydy, Clydach Vale and Gilfach Goch, do not exceed the previously agreed limit.

As Members will be aware, the issue of noise in relation to wind farm development is often one of the main reasons for resident's concerns and therefore any potential variation of previously agreed limits requires careful consideration. It is therefore acknowledged that the points raised in response to the public consultation exercise are relevant in relation to the determination of this application, as there is the potential for existing residential properties to be adversely affected, in the event of an increase in the agreed noise limits.

Whilst the suggestion put forward in the correspondence received is that there have been longstanding complaints from local residents in relation to noise and vibration from the Fforch Nest and Pant-y-wal wind farms, since June 2013, when the Fforch Nest wind farm became operational, only one complaint has been made to the Council from a residential property in Gilfach Goch regarding noise disturbance and this has been received recently (1 April 2015). Following a visit to the complainant by Public Health Officers, the applicant Pennant Walters has been contacted and is in the process of arranging a visit to discuss the complainant's concerns. In the event that this complaint can be substantiated, there is a requirement within the existing conditions for the wind farm operator to carry out an assessment of the level of noise emissions at the complainant's property and to report back to the Council (condition 15 of 06/1842.) and therefore, appropriate steps could be taken if the agreed limit has been exceeded.

Given the location of the existing wind turbines which comprise Fforch Nest wind farm, which have the potential to impact on a number of residential areas and the fact that only 1 complaint has been received, it is not considered that it could be demonstrated that significant harm to residential amenity is being caused by the existing noise limits. Therefore, it is not considered that the fact that a complaint has

been recently received should affect the determination of this application. It is worth noting however that under the revised noise limits set out in the latest Noise Assessment report (Tables 1 and 2), the proposed noise limits for Gilfach Goch is set at 37dB, thereby representing a reduction from the level of 40dB limit applied to the original consent by the Planning Inspector and therefore, the maximum noise levels experienced by residents in Gilfach Goch would be less.

The objectors to the current application also make reference to the potential contribution of other existing wind farms in the vicinity of Fforch Nest, which could create noise problems for residents, irrespective of wind direction. In this respect, the revised Noise Assessment (January 2015) confirms that the proposed revised noise limits, as well as taking account of the existing Fforch Nest and Pant-y-wal wind farms, have also taken account of contributions from the nearby Taff Ely and Ferndale wind farms and this issue has therefore been taken into account by the applicant within the revised noise limits put forward.

Having carefully considered the revised noise limits in consultation with the Council's Public Health department, it has therefore been concluded that the amended tables proposed to replace those in the existing condition 14. are acceptable, will not result in residents being adversely affected by noise and in certain cases, the maximum noise levels that residents may experience has been reduced. The current proposed variation has been assessed in accordance with the ETSU-R-97 criteria identified in paragraph 5.86 of the Local Development Plan and is therefore considered to comply with policies AW10 and AW13.

#### **Other Issues:**

In determining the current application, issues concerning its implementation, have also been taken into consideration, as the acceptability of the revised tables submitted within the Noise Assessment (January 2015) would also be dependent on the approval and implementation of the other revised noise limits, which have recently applied for by the applicant to Bridgend CBC. If, for example, one or more of the revised noise limits applied for in the 4 current applications (1 in RCT and 3 in Bridgend) were not implemented - either as a result of the application being refused or, the application being approved but the applicant choosing for some reason not to implement it, this could potentially result in an increase in the level of noise that would be experienced in one or more of the receptor sites.

During the course of considering this application, Bridgend CBC have secured a resolution from their Development Control Committee in respect of the two applications to vary the same noise limit condition attached to this application and also to approve the proposed 10 wind turbine extension to Pant-y-wal wind farm. The resolution in each case has required the applicant to enter into Section 106 Agreements. In the case of the two applications which are applying to vary the current noise limits being operated by the other part of the Fforch Nest wind farm and the Pant-y-wal wind farm (Bridgend CBC's refs: P/14/541/RLX and

P/14/540/RLX) which are similar to this application, the S106 Agreement requires the applicant not to implement or rely on the extant consent and to implement the revised noise limits from the date of the agreement. In the case of the proposed Pant-y-wal extension application, the S106 Agreement secures appropriate decommissioning works to be carried out after the 25 year consent period and the requirement that the consent was not issued until the applicant had entered into the S106 Agreements in relation to the two variation of conditions applications and hence, following implementation of the revised noise limits on the existing Fforch Nest and Pant-y-wal wind farms.

It is therefore recommended that should Members be minded to approve this application for the variation of condition 14, the implementation of this application is also controlled by way of a Section 106 Agreement. However, Members are also advised that should their decision be not to approve the application then, as suggested above, this could potentially result in an increase in the level of noise that would be experienced in one or more of the receptor sites including Tonypandy, Clydach Vale and Gilfach Goch. This is because the wind turbines which are within the RCT part of the Fforch Nest wind farm could continue to be operated to comply with the existing (higher) noise limits, rather than operating at the lower noise limits now proposed, which have been designed to take account of the cumulative impact of other nearby wind farms.

The existing planning permission is subject to a Section 106 Agreement regarding the establishment of an account to secure the restoration of the site and obligations in respect of undertaking mitigation measures where domestic TV reception where it is adversely affected by the development. The obligations in relation to the TV reception have been carried out and so are no longer relevant and the account for the restoration has been established. It is recommended if Members are minded to approve the application that a Section 106 Agreement should be required so that the account secures the restoration of the site pursuant to the current application.

### **Community Infrastructure Levy (CIL) Liability**

The Community Infrastructure Levy (CIL) was introduced in Rhondda Cynon Taf from 31 December 2014.

The application is for development of a kind that is not liable under the CIL Regulations 2010 (as amended).

### **Conclusion**

It is considered that the applicant has demonstrated through the submission of a revised noise assessment, that the proposed variation of condition 14. will not result in the previously agreed noise limits being exceeded. The variation of this condition will not therefore result in any adverse impact on nearby residential properties, or the

surrounding area and is therefore considered to comply with policies AW10 and AW13 of the Local Development Plan.

**RECOMMENDATION: Approve**

It is therefore recommended that the application is approved subject to:

- The completion of the Section 106 Agreements in respect of the planning applications submitted to Bridgend County Borough Council reference numbers P/14/540/RLX and P/541/RLX for the relaxation of condition 29. of P/06/0417/FUL and condition 29. of P/06/0180 relating to noise limits at Pant-y-wal Wind Farm and Fforch Nest wind farm respectively.
- The applicant (and any other party/parties with an interest in the land) entering into a legal agreement under section 106 of the Town and Country Planning Act 1990 in order to agree:
  - a) that the tables of noise limits set out as Table 5.15 (Set 4) Proposed Planning Condition Limits for the Existing Fforch Nest Wind Farm – RCT CBC Turbines 15-21 ('Other times') and Table 5.16 (Set 4) Proposed Planning Condition Limits for the Existing Fforch Nest Wind Farm – RCT CBC Turbines 15-21 ('Night-time') in the White Young Green Noise Assessment January 2015 shall be implemented and observed by the Developer from the date that the planning permission is issued.
  - b) that the escrow account secures the restoration of the Site pursuant to the current application.
- The conditions set out below:

**RECOMMENDATION: Grant**

1.
  - a) The permission hereby granted shall endure for a period of 25 years from the date when electricity was first exported from any wind turbine within the development hereby permitted to the electricity grid network ('First Export Date' - 23 April 2013).
  - b) Not later than 12 months before the expiry date of the permission, a decommissioning and site restoration scheme shall be submitted for the written approval of the Local Planning Authority. Such a scheme shall include for
  - c) the removal of all surface elements, plus one metre of the turbine bases below ground level, of the wind farm;
  - d) confirmation of the management and timing of works;
  - e) a traffic management plan to fully address highway issues during the period of the decommissioning works;
  - f) any other works of restoration and aftercare

The approved decommissioning scheme shall be implemented and completed within 24 months of the expiry date of this permission.

2. All of the turbines' blades shall rotate in the same direction.
3. All wind turbines shall be of a 3 bladed configuration and not exceed an overall height of 115m to the tips of the turbine blades. The turbines shall not display any prominent name, logo, symbol, sign, or advertisement on any external surface. The turbines shall not be illuminated and there shall be no permanent illumination on the site.
4. All electricity and control cables within the site shall be laid underground and alongside tracks which are constructed on the site as part of the development.
5. The rating level of noise emissions from the wind turbines the subject of this consent and in combination with any wind turbines that may be operated pursuant to the planning permissions granted by Bridgend County Borough Council under references P/14/540/RLX, P/14/541/RLX and P/14/293/FUL (including the application of any tonal penalty), when calculated in accordance with the attached Guidance Notes, shall not exceed the values set out in the attached revised Tables 1 and 2. Each of these values shall apply to all of the properties falling within the respective areas shown on the attached plan unless otherwise agreed with the local planning authority. Noise limits for any property which lawfully exists at the date of this consent but which is not covered by any of the areas shown on the plan attached shall be those of the nearest area shown on the plan.
6. At the request of the Local Planning Authority, following a complaint to it about noise emissions from the wind farm, the operator of the wind farm shall, at its expense, employ a consultant approved by the Local Planning Authority, to measure, assess and report to the Local Planning Authority the level of noise emissions from the wind farm at the property to which the complaint relates ('the complainant's property') following the procedures described in the attached guidance notes.
7. Wind speed, wind direction and power generation data for each wind turbine shall be continuously logged and provided to the Local Planning Authority at its request and in accordance with the attached guidance notes within 28 days of any such request.
8. Notwithstanding the provisions of conditions 5-7, the wind farm operator shall undertake measurements of noise levels using an appropriately qualified noise consultant during the first year following the implementation of this consent in a scheme to be agreed with the Local Planning Authority to demonstrate compliance with the noise levels set out in the attached tables. The data produced in accordance with the scheme shall be forwarded to the Local Planning Authority within 28 days of the measurements being undertaken.

9. In the event that a turbine does not function (i.e. does not supply electricity to the grid) for a continuous period of 12 months and, if so instructed by the Local Planning Authority, the wind turbine and its associated ancillary equipment shall be dismantled, and its base removed to a depth of one metre below ground level, and removed from the site within a period of 6 months from the end of that 12 month period.
  
10. Any facilities for the on-site storage of oils, fuels or chemicals shall be situated on impervious bases and surrounded by 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 a multiple tankage, the compound shall 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 pipework shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund.

## APPENDIX 1

**Table 1 – Between 07:00 and 23:00 – Noise limits expressed in dBL<sub>A90,10-minute</sub> as a function of the measured wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods**

Location		Measured wind speed at 10 m high, m/s									
		3	4	5	6	7	8	9	10	11	12
R1	Price Town	29.3	29.8	30.2	30.6	30.9	31.4	31.9	32.5	33.4	34.5
R2	Ogmore Vale	29.5	30.0	30.5	31.1	31.8	32.5	33.4	34.4	35.6	36.6
R3	Evanstown	31.1	31.1	31.0	30.9	30.9	30.8	30.8	30.8	30.8	30.8
R4	Tonypandy	36.5	36.5	36.6	36.6	36.6	36.6	36.6	36.5	36.5	36.5
R5	Clydach Vale	37.8	37.8	37.8	38.4	39.5	40.5	41.6	42.6	43.6	44.4
R6	Pantycornant	31.2	31.2	31.0	30.8	30.7	30.6	31.5	32.8	34.0	35.1
R7	Gilfach Goch	37.0	37.2	37.5	37.8	38.3	38.9	39.2	39.1	39.1	39.4
R8	Pen Llwyn Gwent	30.5	30.5	30.5	30.5	31.2	32.0	33.1	34.2	35.0	35.6

**Table 2 – Between 23:00 and 07:00 – Noise limits expressed in dBL<sub>A90,10-minute</sub> as a function of the measured wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods**

Location		Measured wind speed at 10 m high, m/s									
		3	4	5	6	7	8	9	10	11	12
R1	Price Town	29.3	29.3	29.3	29.3	29.3	30.0	31.0	32.1	33.2	34.5
R2	Ogmore Vale	32.5	32.5	32.5	32.5	32.5	32.5	32.5	32.5	33.8	35.4
R3	Evanstown	34.2	34.2	34.1	34.1	34.1	34.0	34.0	34.0	34.0	34.0
R4	Tonypandy	39.5	39.5	39.6	39.6	39.6	39.6	39.6	39.6	39.6	39.6
R5	Clydach Vale	40.8	40.8	40.8	40.8	40.8	40.8	40.8	40.8	40.8	40.8
R6	Pantycornant	34.2	34.2	34.2	34.1	34.1	34.0	33.9	33.9	34.6	38.0
R7	Gilfach Goch	38.2	38.2	38.2	38.1	38.1	38.1	38.1	38.1	38.1	38.1
R8	Pen Llwyn Gwent	33.5	33.5	33.6	33.5	33.5	33.5	33.5	33.5	33.5	33.5

## SCHEDULE OF GUIDANCE NOTES RELATING TO THE NOISE CONDITIONS

These notes are to be read with and form part of the noise conditions. They further explain the conditions and specify the methods to be deployed in the assessment of complaints about noise emissions from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best fit curve described in Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Note 3.

### NOTE 1

- (a) Values of the LA90,10-min noise statistic shall be measured at the approved measurement location using a sound level meter of BS EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 standard (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using a fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). The sound level meter shall be calibrated in accordance with the procedure specified in BS 4142:1997 (or the replacement thereof) These measurements shall be undertaken in such a manner as to enable a tonal penalty to be applied in accordance with Guidance Note 3.
- (b) The microphone shall be mounted at 1.2 - 1.5 metres above ground level, fitted with a two layer windshield or suitable equivalent system. The two layer windshield or suitable equivalent system shall be approved in writing by the Local Planning Authority prior to the commencement of measurements. The microphone shall be fitted with the approved windshield and shall be placed outside the complainant's dwelling and be not more than 35 metres from it. The microphone shall be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the wind farm operator shall submit for the written approval of the Local Planning Authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.
- (c) The LA90,10-min measurements shall be synchronised with measurements of the 10-minute wind speed, wind direction, rainfall and power generation data from the turbine control systems of the wind farm.
- (d) To enable compliance with the noise condition to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second (ms<sup>-1</sup>), arithmetic mean wind direction in degrees from north and rainfall data in each successive 10-minute periods by direct measurement of 10 metre height wind speeds and direct measurement of hub height wind direction and direct measurement of rainfall at the permanent meteorological monitoring mast erected in accordance with the planning permission on the wind farm site. The wind farm operator shall continuously log arithmetic mean nacelle anemometer wind speed, arithmetic mean nacelle orientation, arithmetic mean wind direction as measured at the nacelle and arithmetic mean power generated during each successive 10-minutes periods for each wind turbine on the wind farm. The rainfall detection system to be installed at the permanent meteorological mast erected in accordance with the planning permission on the wind farm site shall be approved by the Local Planning Authority prior to the first export of electricity from the development to the local electricity distribution network. All 10-minute

periods shall commence on the hour and in 10 minute increments thereafter synchronised with Greenwich Mean Time.

- (e) Data provided to the Local Planning Authority in accordance with conditions 15 - 17 shall be provided in comma separated values in electronic format.

## **NOTE 2**

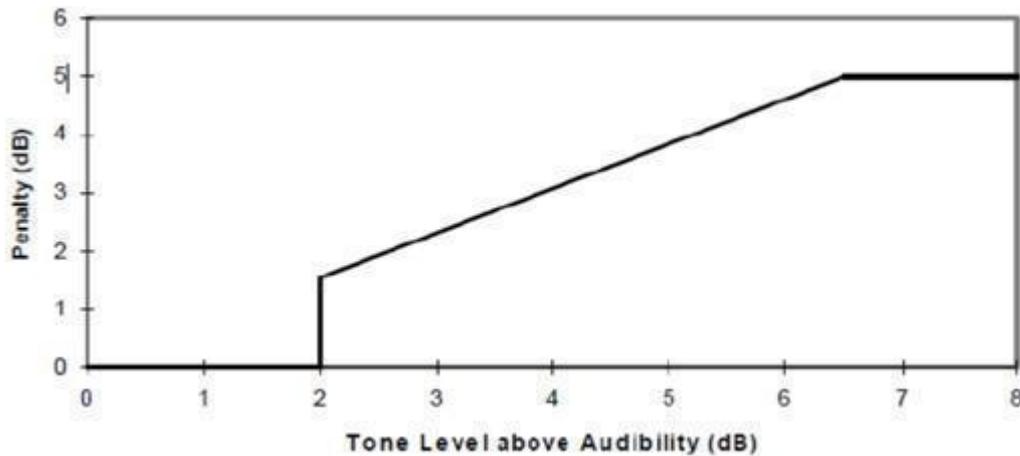
- (a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Note 2 paragraph (b).
- (b) Valid data points are those measured during the conditions specified by the Local Planning Authority in its written request but excluding any periods of rainfall measured at the permanent meteorological mast erected in accordance with the planning permission on the wind farm site. These specified conditions shall include the range of wind speeds, wind directions, times of day, meteorological conditions and power generation requested by the Local Planning Authority. In specifying such conditions the Local Planning Authority shall have regard to those conditions which prevailed during times when the complainant alleges there was disturbance due to noise or which are considered likely to result in a breach of the limits.
- (c) Values of the LA90,10-min noise measurements and corresponding values of the 10-minute ten metre height wind speed for those data points considered valid in accordance with Note 2 paragraph (b) shall be plotted on an XY chart with noise level on the Y-axis and wind speed on the X-axis. A least squares "best fit" polynomial curve of an order deemed appropriate by the independent consultant shall be fitted to the data points and used to define the wind farm noise level at each integer wind speed.

## **NOTE 3**

- (a) Where, in the opinion of the Local Planning Authority as advised to the wind farm operator in its written request under condition 15, wind farm noise emissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component a tonal penalty shall be calculated and applied using the following rating procedure.
- (b) For each 10-minute interval for which LA90,10-min data have been determined to be valid in accordance with Note 2 a tonal assessment shall be performed on noise emissions during 2- minutes of each 10-minute period. The 2-minute periods shall be regularly spaced at 10- minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure"). Where uncorrupted data are not available, the first available uninterrupted clean 2- minute period out of the affected overall 10-minute period shall be selected. Any such deviations from the standard procedure shall be reported.

- (c) For each of the 2-minute samples the tone level above audibility ( $L_{ta}$ ) shall be calculated in accordance with the audibility criterion given in Section 2.1 on pages 104-109 of ETSU-R-1997.
- (d) The tone level above audibility ( $L_{ta}$ ) shall be plotted against 10 metre height wind speed for each of the 2-minute samples. For samples for which the tone level was below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.
- (e) A least squares "best fit" linear regression shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the "best fit" line fitted to values within  $\pm 0.5\text{m/s}$  of each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Note 2.

The tonal penalty shall be derived from the average tone level above audibility of the tone according to the figure below.



**Tone Level above Audibility (dB)  
Penalty (dB)**

**NOTE 4**

- (a) If a tonal penalty is to be applied in accordance with Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Note 2 and the penalty for tonal noise as derived in accordance with Note 3 above at each integer wind speed within the range requested by the Local Planning Authority in its written request in accordance with paragraph (B) of the condition.
- (b) If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Note 2.
- (c) In the event that the rating level of noise at the dwelling to which a complaint relates is higher at any wind speed than the limit(s) set out in the tables attached to the conditions or the noise limits for a complainant's dwelling in accordance with paragraph (C) of the noise condition, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rated level relates to wind turbine noise emission only.
- (d) The wind farm operator shall ensure that all the wind turbines in the development are turned off for such period as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:
  - (i) Repeating the steps in Note 2, with the wind farm switched off, and determining the background noise (L<sub>3</sub>) at each integer wind speed within the range requested by the Local Planning Authority in its written request.
  - (ii) The wind farm noise (L<sub>1</sub>) at this speed shall then be calculated as follows where L<sub>2</sub> is the measured level with turbines running but without the addition of any tonal penalty:

$$L_1 = 10 \log \left[ 10^{L_2/10} - 10^{L_3/10} \right]$$

- (iii) The rating level shall be re-calculated by adding the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L<sub>1</sub> at that integer wind speed.

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**APPLICATION NO:** 15/0147/10 (PB)  
**APPLICANT:** Coastal Oil and Gas Limited  
**DEVELOPMENT:** Drill an exploratory borehole to test for unconventional gas reserves in the Westphalian and Namurian strata  
**LOCATION:** LAND NEXT TO FARM ACCESS TRACK AT HENDRE OWEN FARM, LLANHARAN  
**DATE REGISTERED:** 02/02/2015  
**ELECTORAL DIVISION:** Llanharan

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**RECOMMENDATION:** Approve

**REASONS:**

Although the proposed drilling rig, compound, lighting and associated structures will have a visual impact, particularly upon the setting of the historic park and garden at Llanharan House that overlooks site, their impact will be temporary, short-lived and reversible and therefore will have no unacceptable long-lasting harm. Also, the proposal does not give rise to adverse impacts in terms of its consequences for ecology, transport and highway safety, residential amenity, surface and ground water pollution and the operation of the adjacent railway. In conclusion this proposal to undertake exploratory drilling to test for unconventional gas is acceptable in land use planning terms.

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**APPLICATION DETAILS**

Planning permission is sought to drill a single vertical exploratory borehole to a depth of approximately 1300m to test for unconventional gas reserves in the Westphalian and Namurian strata on land next to a farm access track at Hendre Owen Farm, Llanharan. The application is for the purpose of drilling to take samples of these strata to enable laboratory testing for both coal bed methane and shale gases. This is a continuation of the applicant's ongoing sampling and testing program across South Wales, Bristol, Somerset and Kent.

**This application is for exploration works only and does not entail any ground stimulation, more familiarly known as hydraulic fracturing or 'fracking', nor does it involve directional drilling and any gas production.**

The consent is sought for a temporary period of one year, during which time establishment and site clearance would last 4 weeks, drilling and associated operations 8 weeks, laboratory testing 4 weeks, and gas testing 36 weeks. Hours of work during site establishment, drilling and site clearance would be 11 hours per day

from 07.00 to 18.00 hours Mondays to Friday and from 07.00 to 13.00 hours on Saturdays, and during the drilling period would be 24 hours, seven days per week.

The layout of the site will involve enclosing the entire perimeter of the application land with 2 metre high mesh-panel temporary fencing together with the construction of a cut-off drainage ditch linked to a submerged interceptor tank on the site boundary to collect any surface water run-off from the site. An 11 metre high drilling rig will be erected towards the centre of the site, together with a fuel tank, pipe rack, settling tanks and mud mixing tanks. Portable cabins for use as site offices, on-site laboratory, mess room and drying room. Four floodlights will be erected at the site. The lights will be on stands no more than 3m in height, the lights will be hooded and down pointing so that light cannot spill over the site boundary. Parking facilities will be laid out near the site entrance. To reduce the site noise to a minimum, additional screening around the noise sensitive equipment and around the site will be implemented. Soft noise absorbent matting will be used on the site fencing and around the main sources of noise.

Upon completion of drilling the site will be cleared. Thereafter, the only structure that will remain on site will be a well-head cover that will cap the borehole and will be visited at regular intervals to recover gas samples for laboratory analysis for a period of up to 36 weeks. If the results indicate that viable reserves are present in the strata, the applicant will consult to explore a suitable site for gas production, to be the subject of a new planning application. If the exploratory borehole is unsuccessful, or not required, it will be formally abandoned and filled in accordance with Natural Resources Wales (NRW) guidance and the site reinstated in accordance with an agreed scheme. The technical aspects of the drilling will have to be assessed and approved in writing by the Health and Safety Executive Oil and Gas Division, The Coal Authority and the Department for Energy and Climate Change before works commence.

The application is accompanied by the following:

- Planning Statement for Drilling an Exploratory Borehole;
- Ecological Survey Report
- Noise Impact Assessment
- Method Statement for Drilling

## **SITE APPRAISAL**

The site forms part of Hendre Owen Farm and is currently laid with hard core and used for temporary farm storage alongside the farm. The site is privately owned and it is understood the application is made with the full consent of the landowner. The site is flanked along its northern boundary by a cutting through which the Cardiff – Swansea mainline railway travels. To the north of the railway and A473 the land is predominantly open countryside and woodland, and includes Llanharan House and

Gardens which are Listed. To the south the site the land is predominantly a mosaic of open countryside and woodland.

The farm access roads will be used to get to and from the site; no additional roads are required. The access to the site from the A473 is over a railway bridge that does not have any weight restrictions imposed. The nearest residential properties to the site are located 250m east and north-west.

## **PLANNING HISTORY**

01/2240	Hendre Owen Farm, Llanharan, Pontyclun.	Construction of hardstanding for storage of winter feeds. Area to be filled with soil and stone.	Permitted Development 06/06/01
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## **PUBLICITY**

The application has been the subject of neighbour notification, site notices and a notice published in the Press.

Arising from this process a total of 28 letters and emails have been received from members of the public and Llanharan Community Council.

The grounds of objection to the proposed development are summarised as follows:

- It is a dangerous and environmentally damaging development that poses unquantifiable risks to human and environmental health, and impacts adversely on local residential amenity.
- Risks causing air pollution from greenhouse gas emissions and flaring, water contamination from drilling fluids; noise pollution from drilling operations and other equipment; light, dust, and odour pollution.
- Risks causing subsidence, landslips and earth tremors in an area with a history of past mining activity.
- Requirement for large volumes of water and need to treat waste water generated by the development.
- Visual intrusion in the landscape, especially from the 11m high drilling rig.
- Promotes use of fossil fuels, which will create carbon emissions that contribute to climate change; renewable energy proposals should be supported instead.
- Generate additional traffic, especially HGVs, on an already congested highway network, and give rise to highway dangers because of an intensification of use of substandard highway access to and from A473.
- Road bridging the railway is unsuitable to serve as access to site for use by heavy vehicles.

- Ecological impacts on habitat, wildlife and protected species, which have not been properly assessed by applicant.
- Potential adverse impact on vitally important railway infrastructure immediately adjacent to the drilling site.
- Application site is agricultural land not a brown-field site.
- Application site is located in a green wedge between Llanharan and Pontyclun that will erode the countryside at this location.
- Perception that exploratory testing is related to and is a prelude to the process of hydraulic fracturing (known as fracking).
- Development lies in close proximity to and is not in keeping with Llanharan House, which is Grade II\* Listed of historic significance, and the Registered Park and Garden at the House.
- Development unlikely to provide significant job opportunities and any that are created will be temporary.
- Failure to adequately consult with community affected by the development.
- Fracking is banned or subject to a moratorium in other countries.
- Development will lead to on-site protestors with attendant safety issues, policing costs and negative publicity.
- Concerns over the long-term integrity and safety of the borehole and legacy of any materials left in the ground.
- Development could affect public enjoyment of the footpath, and measures put in place to ensure the path is not obstructed.
- Depreciation of property values.

## **CONSULTATION**

Transportation Section - no objection.

Land Reclamation and Engineering - no adverse comment from a flood risk perspective.

Public Health and Protection - comments that the applicant has submitted a report and associated acoustic scheme in respect of the propose drilling work. The report includes necessary mitigation measures to reduce noise to a minimum. The Noise mitigation scheme, as approved, shall be implemented before the drilling commences and shall be maintained thereafter in accordance with the scheme for the duration of the works. In addition, for the applicant's information and consideration, according to our records there are two private water supplies within 1km of the exploratory borehole. The source of these supplies is unknown and may be further/closer the proposed borehole than shown on the plans.

Natural Resources Wales - no objection subject to conditions covering compliance with Method Statement for Drilling, surface water protection, pollution prevention measures, ecology and lighting.

Dwr Cymru Welsh Water - no comments to offer on the application.

Cadw - the proposals lie within the essential setting of the grade II registered historic park and garden at Llanharan House PGW(GM)16(RCT). The small, eighteenth century landscape park provides the setting for Llanharan House. The house is situated on a south-east facing slope and the significant views (as identified in the Register) extend from the house and front terrace across the parkland.

The application site and associated works traffic would be clearly visible from key areas of the registered park and garden including the forecourt in front of the house, the formal garden to the west of the house and from the drive. The proposed drilling rig is approximately 11m in height and will be visible above the trees from the registered park. It is also highly likely that the compound and cabins will be visible. The visual impact is exacerbated by the proposed lighting and also during the winter months when there are no leaves on the intervening trees.

Cadw understands that it is proposed that the drilling rig and lighting will remain on site for a period of up to 10 weeks. The applicant has also advised that once the drilling operations are complete, the rig, lighting, cabins and fencing would be removed and the only structure left on-site would be a well-head cover which would be visited periodically over the remaining period to permit gas samples to be taken and analysed.

If planning permission is granted Cadw suggests that conditions are put in place to ensure the rig, lighting, cabins and fencing are removed at the end of the limited time period as advised by the applicant (approx 10 weeks) to reduce the visual impact on the registered park and garden.

Although Cadw considers the development to have an adverse visual impact on the registered park and garden at Llanharan House, Cadw does not consider that impact to be significant because of the short-term, temporary nature of the proposals.

Parks and Countryside Section - no records of statutory protected species from the immediate vicinity, though Bat informative note advised. No objection on the basis the application is intended to take place on land covered in hard core and does not propose any works to existing trees and hedgerows.

Glamorgan Gwent Archaeological Trust - no objection on archaeological grounds.

Coal Authority - no objection.

Network Rail - no objection, though offers comments and requirements for safe operation of the railway and the protection of Network Rail's adjoining land.

## **POLICY CONTEXT**

### **Rhondda Cynon Taf Local Development Plan**

The application site lies outside settlement limits of Llanharan and Pontyclun, as defined in the LDP (policy SSA 13) and within a Green Wedge between Llanharan, Pontyclun and Llanharry (policy SSA 22.4).

**Policy CS2** places emphasises on sustainable growth in the Southern Strategy Area.

**Policy AW2** - advises that development proposals on non-allocated sites will only be supported in sustainable locations.

**Policy AW5** specifies criteria for new development. It requires new development to have an acceptable impact on the character and appearance of the site and surrounding area, no significant impact on the amenities of neighbouring occupiers, retention of site features of natural environmental value, to design out opportunity for crime, and to have good access.

**Policy AW7** seeks to ensure development proposals do not adversely impact of site of archaeological and historic importance.

**Policy AW8** seeks to preserve and enhance the natural environment by protecting it from inappropriate development.

**Policy AW10** seeks the protection of environmental and public health and does not permit development proposals where they would cause or result in a risk of unacceptable harm to health and/or local amenity because of issues such as contamination and pollution, etc., unless they can be adequately be mitigated of overcome.

**Policy AW12** supports development proposals which promote the provision of renewable and non-renewable energy, such as on-shore oil and gas, where there is no unacceptable effect upon the interests of soil conservation, agriculture, nature conservation, wildlife, natural and cultural heritage, landscape importance, public health and residential amenity.

### **National Guidance**

In the determination of planning applications regard should also be given to the requirements of National Planning Policy which are not duplicated in the Local Development Plan, particularly where National Planning Policy provides a more up to date and comprehensive policy on certain topics.

The Department for Energy and Climate Change (DECC) published the Overarching National Planning Policy Statement (NPS) for Energy EN1 in July 2011, which indicates that fossil fuel power stations will continue to play a role in our energy mix as the UK makes the transition to a low carbon economy.

The following documents set out the land use planning policy guidance of the Welsh Government in relation to mineral extraction and related development in Wales.

### **Planning Policy Wales**

*Mineral Planning Policy Wales* states 'where oil and gas operations can be carried out in an environmentally acceptable way and consistent with the principles of sustainable development, there is no case in land use planning terms for placing more restrictions on the development than are necessary to ensure the protection of the environment.

*MTAN2: Coal (January 2009).*

Welsh Government's '*Energy Wales: A Low Carbon Transition*' states that gas will be a key transitional fuel because greenhouse emissions from gas are significantly less than coal subject to the method of extraction. It goes on to note that gas is a flexible, responsive and reliable source of energy which can play a key role in the transition to a genuinely low carbon energy system.

## **REASONS FOR REACHING THE RECOMMENDATION**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Furthermore, applications that are not in accordance with relevant policies in the plan should not be allowed, unless material considerations justify the grant of planning permission.

### **Main issues:**

The chief material considerations in the determination of the application for proposed exploratory drilling to test for unconventional gas reserves at this location are:

- Planning policy context
- Potential environmental and amenity impacts, with particular reference to visual and landscape, historic assets, ecology, access and highway safety, water environment, noise and vibration, railway operations, and other miscellaneous matters.

Before these material considerations are considered it is important to deal with some preliminary matters.

Firstly, a significant number of objectors to this application raise concerns as to possible future proposals for gas extraction and in particular the process known as hydraulic fracturing (familarly termed 'fracking'). Whilst these concerns are understood, the current proposal does not include extraction whether by fracking or other methods. Any future proposals for extraction would require a further application for planning permission and the grant of planning permission for mineral exploration does not indicate a presumption in favour of future exploitation of any mineral resources found. **Therefore, concerns about fracking, and the perceived consequences of it, are not material in the determination of this application.**

Secondly, the Town and Country Planning (Notification) (Unconventional Oil and Gas) (Wales) Direction 2015 came into effect from 16 February. The Direction requires that any application registered from that date for the exploration, appraisal or extraction of unconventional oil and gas which would utilise unconventional techniques (including hydraulic fracturing) must be referred to the Welsh Ministers, where local planning authorities are minded to approve them. The effect of the Directive is to give Welsh Ministers the opportunity to consider whether wishes to call-in such applications for their own determination; therefore, it does not amount to a moratorium on fracking. The current application before Members was submitted and valid on 30 January 2015 therefore, **the Direction does not apply to this application.**

Thirdly, the application has been screened and an Environmental Impact Assessment (EIA) not required. The proposal does not fall within any of the descriptions given in Schedule 1 of the *Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999*, as amended. Although Schedule 2 of the same Regulations includes deep drillings, the site area at 0.14 hectare is well below the applicable threshold of 1 hectare, accordingly the proposal is not EIA development and an Environmental Assessment not required to be submitted to accompany the planning application.

### **The proposed development in the context of national and local planning policies**

Exploration and extraction of indigenous gas resources has considerable support at a national level, evident in the Department of Energy and Climate Change's *Overarching National Planning Policy Statement for Energy (EN-1)* and the Welsh Government's *Energy Wales: A Low Carbon Transition*, which see gas as a playing a key role in our energy mix as the UK makes the transition to a low carbon economy. Likewise, *Mineral Planning Policy Wales* also supports oil and gas operations where they can be carried out in an environmentally sensitive way consistent with the principles of sustainable development.

The local planning policy context is provided by the Rhondda Cynon Taf Local Development Plan (LDP), within which the application site lies outside settlement limits of Pontyclun and Llanharan, though is not covered by any specific allocations and designations. Planning Policy Wales provides that the countryside will be conserved and enhanced for the sake of its natural heritage, natural resources etc. Although the application site is located in the countryside where development is strictly controlled, exploration for mineral and fossil fuel reserves can only ever take place where those reserves are known to occur. Seldom will it be either appropriate or practicable to undertake such exploration in built-up areas. Also, the exploration under consideration in this application is for a temporary period, after which the site is capable of being restored to its pre-development condition. Its effects are therefore comparatively short-lived and reversible.

Having regard to these factors it is considered there is as a matter of principle no planning policy objection to exploratory drilling for unconventional gas at this location provided that no other material considerations are of sufficient weight to indicate to the contrary.

### **Visual and Landscape Impact**

The application comprises a relatively small and fairly well-secluded parcel of agricultural land on Hendre Owen Farm situated in a sparsely populated rural location between Llanharan to the west, Pontyclun to the east and Llanharry to the south. It is partly shielded from public vantage points, in particular the A473, by trees, a hedgerow and embankment. Also, it is physically separated from land to the north by the main Cardiff to Swansea railway line which runs in a cutting between the site and the A473. Much of the equipment and cabins that is proposed to be installed on the site will no greater than the height of a single storey building and will be screened from view by the boundary vegetation. At 11 metres in height the drilling rig will to be the most prominent visible piece of equipment on the site, and will be clearly visible above the boundary hedgerow and tree-tops, especially when viewed from higher ground to the north of the A473 and from Llanharan House and Park. However, drilling is proposed for a temporary period of 8 weeks after which the rig and cabins will be removed and all that will remain will be the well-head apparatus. The compound will be lit at night, which will render the development more visible in the hours of darkness, though the lights will be no more than 3 metres in height and will be hooked down and pointed so that light cannot spill over the site boundary.

Although situated in close proximity to a heavily trafficked public highway (A473) and a mainline railway, any views of the development from the A473 and the railway line will be relatively brief and fleeting, Views will be more prolonged for pedestrians using the A473 and the occupants of and visitors to Llanharan House and the associated registered park and garden. There are unlikely to be prominent views of the application site and associated works from other dwellings in close proximity to the site. Therefore, at this more general level it is considered that the visual and landscape impacts would be minimal, particularly having regard to the rural location, the temporary nature of the drilling operations and associated works, and the reversibility of any short-term harm. As a consequence it considered that the development would not have long term and irreparable visual and landscape impacts, and does not conflict with Policy AW5 of the LDP.

### **Impact on Assets of Historic Interest**

Notwithstanding the conclusion reached on the consequences of the proposal for the general visual and landscape amenity of the area, it is important to focus upon and consider the consequences of the development for features of specific historic and landscape interests in the locality. In this regards it is evident that the proposals lie within the essential setting of the grade II registered historic park and garden and is

visible from the grade II\* listed building and associated features at Llanharan House. The documents submitted in support of the application fail to acknowledge the park and garden at Llanharan House or its registered status, and this is a significant omission.

The small eighteenth century landscape park at Llanharan provides the setting for Llanharan House. The house is situated in an elevated position on a south-east facing slope and the significant views (as identified in the Register) extend from the house and front terrace across the parkland in a south-easterly direction and take in the rural backdrop beyond. Although partially screened by trees, the proposed development lies within and interrupts those views. This aspect of the proposed development has been carefully considered by Cadw and the Council's Conservation Officer. They advise that the application site and associated works traffic would be clearly visible from key areas of the registered park and garden including the forecourt in front of the house, the formal garden to the west of the house and from the drive. The drilling rig will be visible above the trees from the registered park. It is also likely that the compound and cabins will be visible, and that the visual impact is exacerbated by the proposed lighting and also during the winter months when the intervening trees are not in leaf. The development will therefore have an adverse visual impact on registered park and garden at Llanharan House. But, in that the drilling rig, lighting, compound and associated cabins and fencing would remain in place for a no more than 8 weeks both Cadw and the Council's Conservation Officer consider that impact not to be significant because of the short-term, temporary nature of the proposals. In the event of planning permission being forthcoming the applicant is prepared to accept a condition (see condition 3 below) that requires removal of all above ground apparatus within 8 weeks of the date of commencement of development. On this basis the proposal it is concluded that the proposed development does not conflict with Policy AW7 of the Local Development Plan which seeks to safeguard Rhondda Cynon Taf's historic environment from the effects of harmful development.

### **Access and highway safety**

The proposed borehole site and compound is served off the A473 and via a private farm track and Network Rail maintained bridge. The applicant has submitted a traffic management plan within the Planning Statement which indicates limited vehicular movement to and from the temporary site over the period of site establishment, drilling, and equipment removal, whilst monitoring of the borehole will continue for a further 36 weeks with minimal daily traffic to site.

Measures have been identified within the Planning Statement to prevent dust or mud being deposited on the highway and to provide adequate space within the site compound to cater for parking for operatives, visitors and delivery vehicles. Measures have been identified to prevent glare from night time lighting. All of these measures are considered acceptable.

Adequate space has been set aside for turning to allow all vehicles to enter and leave the A473 in forward gear.

Taking all of the above into account and having regard to the limited amount of HGV vehicular movements and limited duration of the active site establishment and borehole drilling phase, the proposal is considered acceptable in terms of its accessibility and consequences for highway safety, and does not conflict with Policy AW5 in these regards.

## **Water Environment**

A chief concern, commonly mentioned in association with the exploration and extraction of unconventional gas resources from rock strata, is the risks of pollution to surface water drainage systems and underground aquifers, in particular from any loss of drilling fluids used in the drilling procedures.

The applicant advises that the control of groundwater during exploratory drilling will be achieved by the density of the drilling fluids which will prevent any water ingress. The hydrostatic pressure created by the column of fluid in the borehole will reduce the ingress of groundwater by the fluid effectively creating a barrier against the wall of the borehole. The local aquifer will be completely sealed with steel casing cemented into place. Natural Resources Wales (NRW) has noted that borehole would be cased to a depth of 550 metres below which it would be open-hole. In view of this proposal and the inclusion of in-hole testing, NRW has expressed concern the drilling may produce gas or form water that could ingress the borehole. To minimise the risk of gas and water migration into the overlying strata NRW initially required the borehole to be cased to the target horizon. In response the applicant has advised the lower section of the borehole will not be cased to allow access to the coal seams. This is an exploratory borehole with a number of different horizons (coal seams) so it not feasible to case these individually. Instead the applicant proposes to use inflatable packers lowered down the borehole to seal off the sections above coal seam with pressure recorders placed between the packers to measure the changes in pressure. The applicant states that no formation water is produced from the zone and only clean water is pumped down the well to increase the pressure in the borehole. It is not expected to produce any gas from the formation as the hydrostatic head in the borehole will be maintained during the testing procedure.

The drilling fluid is a proprietary product known as 'Pure-Bore', which is a non-toxic biopolymer that degrades naturally within 8 to 52 weeks and is understood to be commonly used to drill water wells without contamination problems arising and has been accredited by the Centre for Environment, Fisheries and Aquaculture Science (part of DEFRA) for use in the marine environment. The applicant advises that Pure-Bore has been granted approval under regulation 31(4)a of the Water Supply (Water Quality) Regulations 2000 and the Water Supply (Water Quality) Regulations 2010 and therefore approved for use in public water supplies. It is therefore considered to

pose little risk or no risk to the environment. Also, the water and fluids used for drilling are contained in a closed loop system that can be easily monitored for leaks.

All oils and fuels will be stored within a bunded fuel tank where the volume of the bund will be 1.5 times the capacity of the tank. The site toilet will be a hired 'portaloo' type and will be emptied weekly by a licensed operator.

The applicant proposes the construction of a cut-off ditch around the site perimeter and submerged sealed interceptor tank to prevent discharge of surface water from the site. None of the drainage consultees has objected to this proposal as a means of preventing pollution of the surface water environment.

Natural Resources Wales is the relevant regulatory authority insofar as groundwater pollution is concerned, though Dwr Cymru / Welsh Water (DCWW) also has examined the application in relation to the vulnerability of its ground water sources. NRW has confirmed that it is satisfied with the information on the drilling fluid to be used, the methods to be used to minimise the risk of loss of drilling fluid during the drilling process, as well as measures for the collection and disposal of the drilling fluid. NRW has no objection to the proposal subject to compliance with submitted Method Statement for Drilling. DCWW has confirmed that that it also has no observations to make on the application at this time. Public Health and Protection has drawn attention to the existence of two private water supplies within one kilometre of the proposed borehole site though has raised no concerns in respect of any risks to that supply as a consequence of the development.

Taking the above into consideration, and having regard for the fact that the borehole would be sealed in accordance with NRW guidelines, there is no reason to believe the application development would pose a threat of pollution to surface water and ground water in the vicinity of the site. Accordingly, it is concluded that the proposal would not harm the quality of the surface water and ground water environment, therefore does not conflict with LDP Policy AW10.

## **Ecology**

In order to inform the ecological consequences of the proposed development, the application is accompanied by an Ecology Survey undertaken by a Chartered Ecologist. The results of the survey conclude that the site is of low biodiversity value and does not support a wide range of species including protected ones such as Badger, bats and Barn Owl. Moreover, the Ecology Survey report concludes that it is unlikely the proposed development would have an adverse environmental impact upon bats in the area because there will be no loss of foraging areas for bats, as the site is sub-optimal habitat; there will be no loss of commuting routes for bats as no hedgerows will be removed; and there will be no loss of connectivity of habitat. Overall, therefore it is not thought that the development will have any adverse effects on bats and other wildlife. The site set-up works will be restricted to daylight hours. The drilling operations will be a 24 hours per day operation, but contained within a

small footprint, with no noise at night-time, so there will be no adverse potential impact on nocturnal birds or crepuscular bats, from equipment movements and lights. All lights will be downwards facing, so as not to interfere with bat movements, and will be shielded away from the railway line, so as not to lighten up the railway line at night when bats will be likely to be using the railway corridor as a commuting route. The heavy plant that will access the site will arrive from the west via the concrete farm track and will pass under the overhanging branches of a single oak tree. As a precaution against damage and harm to nearby trees, their protection is capable of being safeguarded by condition requiring measures to be put in place to protect them during operations at the site (see condition 12 below).

Although it has been pointed out that the Ecology Survey was undertaken in the middle of winter, both the Council's Ecologist and Natural Resources Wales have offered no adverse comment regarding its findings and conclusions. On the basis that the drilling rig, compound, fence and lighting will be in situ for no more than 8 weeks, the proposal will have no significant and lasting effects on the ecology of the site and its surroundings therefore considered acceptable in this regard and in compliance with LDP Policy AW8.

## **Vibration**

The applicant considers the perceived risk of vibration arising from the development to be nil for the following reasons:

- Experience from drilling previous sites near houses and industrial premises;
- Early stage drilling is through soft overburden that will absorb vibration;
- Once the sandstone is entered by the drill bit vibration will be cushioned by the overburden and distributed through low ground pressure tracks on the drill rig.

None of the consultees has taken issue with the proposal in respect of its potential vibration impact, therefore there is no objection in this regard. Nevertheless, as a precaution it is suggested that effects of vibration from the operations are monitored and assessed in accordance with a vibration methodology (see condition 7 below).

## **Noise**

A Noise Impact Assessment accompanies the planning application, and identifies four noise sensitive premises which are farms and houses situated from 250 metres to 730 metres from the location of the application site. Predicted combined noise levels from stationary and mobile plant without screening are indicated to marginally exceed the night-time limit of 42dB(A) in MTAN1 at the nearest residences. In order to control noise levels at night, plant will be fully screened (excluding the high level drill section) and exhausts should point away from the critical receivers. To reduce the site noise to a minimum, additional screening around the noise sensitive

equipment and around the site will be implemented. Soft absorbent matting will be used on the site fencing and around the main sources of noise.

Subject to implementation of the acoustic attenuation measures proposed as part of the development then Public Health and Protection offered no adverse comments in respect of the noise impacts of the overall scheme. This can be secured through condition (see condition 11 below).

### **Impact on operation of adjacent railway**

The application site is located immediately adjacent to a railway cutting through which the main Swansea – Cardiff mainline railway travels. This is one of the primary communication routes through the County Borough and it goes without saying that any development that potentially affects railway service operations on that route requires very careful consideration. The particular concern with this proposal relates to the possibility consequences for railway services of drilling operations in close proximity to the railway corridor.

Network Rail has returned observations of no objection to the proposal on the basis that it is for vertical borehole exploratory drilling only. Network Rail will, however, will require submission of a full technical method of working and stability of the drilling rig prior to works taking place to ensure that any plant or machinery is positioned a sufficient distance from Network owned property to prevent accidental entry onto railway property of such plant. This should be sufficient to allow for the risks of drill rig toppling, particularly in the vicinity of the railway line. In the event of planning permission being forthcoming an appropriately worded condition is capable of safeguarding the operation of the adjacent railway (see condition 6 below).

### **OTHER ISSUES**

Most of the issues raised in the representations received from members of the public and Llanharan Community Council are addressed in the assessment above. Those issues that have not been addressed so far – potential for earth tremors, need for large water volumes and treatment capacity, fossil fuels and climate change – are essentially matters that relate to oil and gas production which the current planning application is not about. In terms of the consequences of the proposal for public footpaths in close proximity to the site, none will be directly affected by the development. The consequence of the development for local property values is not a material planning consideration. Finally, the application has been the subject of adequate public consultation in the form of direct neighbour notification, erections of notices on an in the vicinity of the site, and publication of a notice in the Press.

#### Community Infrastructure Levy (CIL) Liability

The Community Infrastructure Levy was introduced in Rhondda Cynon Taf from 31 December 2014.

The application is for development of a kind that is not CIL liable under the CIL Regulations 2010 (as amended).

## **Conclusion**

It is concluded that this proposal to undertake exploratory drilling to test for unconventional gas is considered acceptable in land use planning terms. Although the proposed drilling rig, compound, lighting and associated structures will have a visual impact, particularly upon the setting of the historic park and garden at Llanharan House that overlooks site, their impact will be temporary, short-lived and reversible and therefore will have no unacceptable long-lasting harm. Also, the proposal does not give rise to adverse impacts in terms of its consequences for ecology, transport and highway safety, residential amenity, surface and ground water pollution and the operation of the adjacent railway. The proposal is recommended for approval subject to conditions set out below.

## **RECOMMENDATION: Grant**

1. The development hereby permitted shall begin no later than five years from the date of this permission.

Reason: To comply with Sections 91 and 93 of the Town and Country Planning Act 1990.

2. The development shall be carried out in accordance with the following approved plans and documents:

- Llanharan Borehole Location Plan
- Detailed Location of Proposed Drill Site
- Site Layout Plan
- North – South Section
- East – West Section
- Store Unit Plans and Elevations - drawing number 81136-16
- Office Unit Plans and Elevations – drawing number 81136-04
- Lighting Layout Plan – dated 30 January 2015
- Location of Cut Off Ditch Plan – dated 30 January 2015
- Llanharan Exploratory Borehole Method Statement for Drilling, January 2015
- Llanharan Exploratory Borehole Planning Statement for Drilling an Exploration Borehole, January 2015
- Llanharan Borehole, Hendre Owen Farm, Llanharan – Ecological Survey, with assessment of impacts of proposed works, mitigation and enhancements (dated 7 January 2015)
- Noise Impact Assessment 3602/ENS1 by Hunter Acoustics dated 8 January 2015.

Reason: In order to define the terms of the permission granted and to minimise the risk of loss of drilling fluid and protect vulnerable groundwater in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

3. No operations authorised by this permission, with the exception of site restoration works, shall take place after a period of 8 weeks following the commencement of drilling operations on the site, unless otherwise agreed in writing with the Local Planning Authority. Written notification of the date of commencement of development shall be submitted to the Local Planning Authority not less than 14 days prior to the commencement of activities on site.

Reason: To specify a reasonable timescale for this temporary permission to allow a period of exploration to take place and to ensure the site is returned to its former conditions in the interests of visual amenity in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

4. The development hereby permitted shall not be commenced until such time as a scheme for the storage of oils/fuels/chemicals has been submitted to and approved in writing by the Local Planning Authority

Reason: In order to prevent pollution of the water environment in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

5. Notwithstanding the submitted documents, full details of a scheme for the disposal of foul and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority and the approved scheme shall be fully implemented prior to any drilling operations or site preparation taking place. The submitted scheme shall include:

- i) Proposal for the treatment and disposal of suspended solids from surface water runoff;
- ii) Proposals for the treatment and removal of suspended solids from water (groundwater and drilling fluids) abstracted from the ground during drilling and pumping works;
- iii) Emergency procedures to be implemented where any failure results in the pollution of controlled waters.

Reason: In order to prevent pollution of the water environment in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

6. Notwithstanding the approved plans full details of the technical method of the working and stability of the drilling rig shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. Drilling operations shall be carried out in accordance with the approved details.

Reason: To ensure that any plant or machinery is positioned a sufficient distance from adjacent operational railway land to prevent accidental toppling and entry onto railway property of such plant in the interests of public safety in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

7. Monitoring and assessment of vibration from the operations shall be carried out in accordance with the vibration methodology below unless otherwise agreed in writing with the Local Planning Authority.
- i) An acceptable datum level of vibration will be agreed with the Local Planning Authority prior to drilling commencing.
  - ii) The inherent vibration of the drill rig will be monitored before transporting to site.
  - iii) Normal prevailing vibration over the drilling area will be measured at the nearest residential and commercial properties before drilling commences.
  - iv) From the commencement of the drilling operation, vibration will initially be continuously monitored without interruption; at times when the drill is both in use and not in use. Monitoring will take place at both the nearest residential and commercial properties. The duration of continuous monitoring will be agreed with the Local Planning Authority once representative vibration data has been compiled and assessed.
  - v) Once the recorded vibration level approaches 10% below the agreed datum level, drilling will cease.

Reason: To safeguard the amenity of neighbouring residential properties and the operations of neighbouring commercial properties in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

8. Any site lighting shall be carried out strictly in accordance with the submitted documents and plans, unless otherwise agreed in writing with Local Planning Authority.

Reason: To ensure there is no disturbance to wildlife in accordance with Policy AW8 of the Rhondda Cynon Taf Local Development Plan.

9. Before the development is brought into beneficial use the means of access, together with the vision splays, parking, hardstanding and turning facilities,

shall be laid out and constructed in accordance with approved plans and shall be retained throughout the duration of the works.

Reason: In the interests of highway safety in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

- 10. The works to prepare the site for drilling, construct and dismantle the drill and associated equipment, and restore the site shall only be carried out between the hours of 08:00 to 18:00 hours on Mondays to Fridays and between the hours of 08.00 to 13.00 on Saturdays and at no time on Sundays and Public Holidays.

Reason: To safeguard the amenities of neighbouring properties in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

- 11. The noise mitigation scheme submitted as part of the application shall be implemented before the commencement of drilling operations and shall be maintained thereafter in accordance with the scheme for the duration of the works.

Reason: To safeguard the amenities of neighbouring properties in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

- 12. Before any work is commenced on site, including site works of any description, each of the trees to be retained shall be securely fenced off by a chestnut paling or similar fence erected in a circle round each tree to coincide with the extremity of the canopy of the tree. Within the areas so fenced off the existing ground level shall be neither raised nor lowered, and no materials or temporary buildings or surplus soil of any kind shall be placed or stored thereon. If any trenches for services are required in the fenced-off areas they shall be excavated and back-filled by hand and any tree roots encountered with a diameter of 5cms or more shall be left unsevered.

Reason: To protect the existing trees on the site during the course of site set- up, drilling operations and restoration works in the interests of amenity in accordance with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

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**APPLICATION NO:** 15/0426/10 (GW)  
**APPLICANT:** Mrs M Ashford  
**DEVELOPMENT:** Detached 3 bedroom bungalow with parking for three

cars.  
**LOCATION:** **BODWENARTH FARM, HEOL MYNYDD, CILFYNYDD,  
PONTYPRIDD, CF37 4JA**  
**DATE REGISTERED:** **02/06/2015**  
**ELECTORAL DIVISION:** **Cilfynydd**

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**RECOMMENDATION: GRANT**

**REASONS:**

**The site is located within the settlement boundary. The proposed dwelling would have an acceptable impact on the character of the area and there would not be a significant impact on the amenity of surrounding residents. An acceptable level of parking would be provided and the access and turning proposed would be acceptable. There would be no significant impact on the Public Right of Way or on ecology.**

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**APPLICATION DETAILS**

Full planning permission is sought for the erection of a detached dwelling at Bodwenarth Farm in Cilfynydd.

The property would be a bungalow with living accommodation in the roof space and would measure 12m in width, 8m in depth and with a maximum height of 6.4m. Its front elevation would be finished with stone and the others with a smooth render. The roof would be covered with a natural slate. The ground would be reduced in level, similar to that of number 7 Albion Court.

Access to the proposed property is to be obtained from a shared access with the former farm house and related buildings from Albion Court. The entrance point would be amended and the drive would be widened to a width of 4.5m and a turning head provided within the site.

The plans detail a 900mm high stone wall would be provided to mark the front boundary. A 1.8m high close boarded fence would be provided along the remaining boundaries. To the rear, between the site and rear gardens of dwellings on Hilltop Avenue, it is detailed there would be a buffer zone of soft landscaping.

The application is accompanied by the following:

- Design and Access Statement.

**SITE APPRAISAL**

The site is located on the edge of the built up area of Cilfynydd and accessed from Albion Court. This is the uppermost street of a relatively modern housing estate on the valley side. The semi-detached houses along on Albion Court are arranged on one side of the road and are staggered in height; rising in ridge height along the length of the street. Further houses on Hilltop Avenue are located to the north (and are at a lower level).

The site itself is within an area that contains a complex of former farm buildings. These include two vacant barns adjacent to a two-storey farmhouse, which is also vacant and is in a poor state of repair. The dwelling would be located on an area of grass land that is open to a larger paddock area (next to the former barns) and which includes a pond.

Fields are located on the hillside to the south and east (rising up behind the site). There are some agricultural buildings within the fields bordering the site.

Vehicular access to the site is available from Albion Court and a Public Right of Way (PROW) No. 4 Pontypridd, runs through the site. Along the road frontage with Albion Court is a natural stone wall approximately 1.4m high.

## PLANNING HISTORY

14/083	Bodwenarth Farm, Heol Mynydd, Cilfynydd, Pontypridd	Four bed detached house and garage with parking.	Refused 19/08/14
12/1165	Bodwenarth Farm, Heol Mynydd, Cilfynydd, Pontypridd	To vary condition 1 of planning application 06/1478/10 to extend the period of time for commencement of works.	Granted 21/03/13
06/0671	Bodwenarth Farm, Heol Mynydd, Cilfynydd, Pontypridd	Construction of 1 No. detached house. Access via new shared driveway.	Refused 07/12/07
06/1478	Bodwenarth Farm, Heol Mynydd, Cilfynydd, Pontypridd	Conversion of existing vacant barns to 3 No. residential units.	Granted 04/12/07
06/0667	Bodwenarth Farm, Heol Mynydd, Cilfynydd, Pontypridd	Conversion of existing barns to 3 No. residential units.	Refused 28/06/06

94/0114	Bodwenarth Farm, Heol Mynydd, Cilfynydd, Pontypridd	Barn, sheep shed.	Withdrawn 23/05/94
94/0090	Bodwenarth Farm, Heol Mynydd, Cilfynydd, Pontypridd	Restoration of derelict farmhouse and barns to provide 4 No. dwellings.	Withdrawn 01/03/94

## **PUBLICITY**

The application has been advertised via the erection of a site notice and by direct neighbour notification. Seven objections have been received and their comments are summarised below:

- The dwelling would result in a loss of amenity and privacy as it would be at a higher level to surrounding dwellings on Hilltop Avenue. It would also result in overshadowing.
- The parking area would be directly adjacent the side boundary of our property resulting in noise and disturbance.
- There is an inadequate road network to and from the proposed dwelling. There are significant traffic congestion issues in the area.
- There are concerns that vehicles would be left within the turning head at the end of Albion Court and would cause us difficulty in accessing our houses.
- We are concerned that the barns and farmhouse would not be restored if this dwelling is given permission.
- Foliage on the triangular piece of land behind properties on Hilltop Avenue may disturb foundations.
- The triangular piece of land (adjacent 7 Albion Court) has been built up, is unstable and has affected drainage over the years.
- This piece of land (identified above) is unregistered and should be clarified.
- Any boundary treatment should be maintained.
- There are concerns the Public Right of Way would be blocked.
- The enjoyment of walking on the public right of way would be adversely affected.

- There would be safety concerns for users of the Public Right of Way in such close proximity to the driveway.
- The planting outside the site may result in the public right of way being blocked off.
- There are concerns that no consideration has been given to wildlife and tree preservation orders in the area. Bats are located at the farm and are protected.
- Concerned about sewage treatment plant and where it would be located. It could result in smells and leaking in to soil and our gardens. A septic tank would have to comply with Building Regulations. The size of the plant needs to be considered. To enable it to be emptied an access road capable of carrying a sludge tanker needs to be available. Is there going to be a solid waste storage system and where would it be located.
- A septic tank should be located as far away from properties as practicable and not on areas of land prone to flooding. The land where it would be located is unstable and has been prone to flooding, which has spilled down in to gardens on Hilltop Avenue.

## **CONSULTATION**

Corporate Estates – (From previous application 14/0835) Land Registry information details the triangular piece of land within the site (adjacent to 7 Albion Court) is owned by the applicant. The information currently available indicates the Council do not own any land connected to the site.

Countryside, Landscape and Ecology – Part of a public right of way (PROW) would be incorporated within the private drive. No pavements or other measures should be provided which restricts the legal width of 10 feet. It may be necessary for the applicant to apply for a temporary closure during construction.

No records of protected species in the immediate vicinity. There could be some nesting bird potential and limited value as a reptile habitat. An ecological survey is not considered necessary; however any site clearance should take into account nesting birds and reptiles. A bat informative note would be required on any planning permission.

Dwr Cymru / Welsh Water – no objection as the applicant intends to use a private sewage treatment. Advice should be sought from Natural Resources Wales and if details change Dwr Cymru/Welsh Water should be re-consulted.

Land Reclamation and Engineering – there is no evidence of a watercourse passing through the site. No objection subject to conditions including a Hydrological Impact Assessment.

Natural Resources Wales - the foul drainage should be connected to the public sewerage system in accordance with Circular 10/99. A condition requiring details of drainage would be necessary.

Public Health and Protection – no comments received at the time of writing this report.

Structural Engineer – a site investigations condition is advised to establish the ground conditions and inform suitable foundation solutions.

Transportation Section – no objection. Access is off a private drive and would be the fifth and final dwelling allowed. Conditions requiring surface water run-off not to discharge on to the public highway, provision of a turning area, provision of wheel was facilities and a restriction on HGV vehicles visiting the site between 9:00 and 16:30 are recommended.

Wales & West Utilities – no objection subject to general guidance on protecting their apparatus.

## **POLICY CONTEXT**

### **Rhondda Cynon Taf Local Development Plan**

The site is inside the settlement boundary as defined by the Rhondda Cynon Taf Local Development Plan and is unallocated. It is open to and adjoins a Special Landscape Area.

**Policy CS2** - sets out criteria for achieving sustainable growth including, promoting and enhancing transport infrastructure services promoting residential development with a sense of place and focussing development within defined settlement boundaries.

**Policy AW1** - supports new housing inside the settlement boundaries and allocated sites.

**Policy AW2** - advises that development proposals on non-allocated sites will only be supported in sustainable locations.

**Policy AW5** - sets out criteria for new development in relation to amenity and accessibility.

**Policy AW6** - requires development to involve a high quality design and to make a positive contribution to place making, including landscaping.

**Policy AW7** – protects public rights of way. Development would only be permitted if the loss can be replaced with an equivalent or greater provision or enhances the existing facility.

**Policy AW8** - sets out criteria for the protection and enhancement of the natural environment.

**Policy AW10** - development proposals must overcome any harm to public health, the environment or local amenity from pollution, land instability, contamination and/or flooding.

**Policy SSA11** – seeks a minimum housing density of 35 dwellings per hectare unless it can be demonstrated a lower density would be acceptable.

**Policy SSA13** – details criteria for development within and adjacent to settlement boundaries.

**Policy SSA23.10** - identifies that the application site lies immediately adjacent to though not within the Taff Vale Eastern Slopes Special Landscape Area.

### **Supplementary Planning Guidance**

- Access, Circulation & Parking
- Design and Placemaking
- Nature Conservation

### **National Guidance**

In the determination of planning applications regard should also be given to the requirements of National Planning Policy which are not duplicated in the Local Development Plan, particularly where National Planning Policy provides a more up to date and comprehensive policy on certain topics.

Chapter 2 (Development Plans), Chapter 3 (Making and Enforcing Planning Decisions), Chapter 4 (Planning for Sustainability), Chapter 5 (Conserving and Improving Natural Heritage and the Coast), Chapter 8 (Transport) and Chapter 9 (Housing) set out the Welsh Government's policy on planning issues relevant to the determination of the application.

Other relevant policy guidance consulted:

- PPW Technical Advice Note 1: Joint Housing Land Availability Studies
- PPW Technical Advice Note 5: Nature Conservation and Planning;
- PPW Technical Advice Note 12: Design;
- PPW Technical Advice Note 18: Transport;
- Manual for Streets

### **REASONS FOR REACHING THE RECOMMENDATION**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Furthermore, applications that are not in accordance with relevant policies in the plan should not be allowed, unless material considerations justify the grant of planning permission.

### **Main issues:**

#### **Principle of the proposed development.**

The Rhondda Cynon Taf Local Development Plan (LDP) details the site is within the settlement boundary. Policies in the LDP (AW1 and AW2) support residential development inside the settlement boundaries.

The site is close to a complex of former farm buildings including a farm house and two large stone barns. The farm house is seemingly vacant and has become neglected and planning permission (Reference 06/1478) was granted in 2006 for the conversion of two of the former agricultural barns to three residential dwellings. This was extended for another five years on 21<sup>st</sup> March 2013 (Reference 12/1165).

Questions have been raised from the public consultation exercise with regard ownership of the triangular shaped part of the site (where the dwelling would be located). An objector details the land as being unregistered. The applicant has however detailed in the application that they own the site and this has partly been clarified in a previous application (14/0835) with the submission of a land registry plan. Furthermore Council records indicate a strip of land across the access (and which extends around the modern housing estate adjacent the site) may have been owned by the Council. However the Corporate Estates Section has clarified (in the previous application 14/0835) that they consider the Council do not have ownership of the land. Notwithstanding this, Members are advised, disputes in land ownership do not provide reasonable justification for the deferral or refusal of planning applications, and it is outside the scope of the planning application process to settle such disputes. In the event, that it is found that the signed land ownership certificate is incorrect, the applicant may not be able to implement any consent issued.

Finally concern has been raised that if permission is granted the two barns would not be converted and the farm house would not be restored. Members are advised that this application would not prejudice the conversion of the barns or the restoration of the farm house and furthermore it would be outside the control of this application to require they are completed.

Therefore, taking into account the above assessment, the principle of residential development would be acceptable subject to other material considerations, which are discussed below.

#### **Impact on residential amenity and privacy**

As a result of the consultation exercise, an objection has been raised, detailing the dwelling would result in a detrimental impact on the amenity of residents of Hilltop Avenue from a loss of privacy and overshadowing. The rear of the proposed

dwelling would be 21 metres from those dwellings on Hilltop Avenue, which is normally considered an acceptable distance. However the proposed dwelling would be at a higher level and this could result in some overlooking down into the affected properties. It is noted the dwellings on Albion Court are also in a similar position and most likely already overlook the affected dwellings particularly from first floor windows.

Notwithstanding this, the proposed dwelling is a bungalow and it is proposed to have a fence on the rear boundary which would screen views from the ground floor windows. In addition there is a buffer zone indicated between the two boundaries, which is detailed as being under the control of the applicant and contains some vegetation, which would also protect privacy. The roof lights proposed at the rear are detailed as being high level and would only serve a bathroom and landing. It is considered these would not result in any significant overlooking issues and a condition restricting further windows would be necessary if permission were to be granted.

In terms of overshadowing the proposed dwelling would be sited in line with the side elevation of number 7 Albion Court and due to its relatively low height and distance from surrounding dwellings, the proposal would not result in a significant impact from loss of sunlight or overbearing.

One further issue, raised by an objector, is that the proposed parking area would be in close proximity to the side boundary of dwellings on Albion Close. Whilst this would be so, it is considered traffic movement would be relatively low from the proposed dwelling. Furthermore if permission were to be granted details of suitable boundary treatment can be obtained by condition to reduce the impact.

Therefore taking the above into account it is considered the development would not have a significant detrimental impact on the amenity of occupiers of surrounding dwellings.

**Impact on the character and appearance of the area.**

Planning permission exists for the conversion of two of the stone barns to three residential dwellings (12/1165), however this has not been developed at the time of writing this report. Whilst the farm buildings are in poor condition, the rural character of the site is still highly apparent.

The proposed dwelling would be situated in line with dwellings on Albion Court and as such, from some views, it would be read in conjunction with these dwellings. Whilst the proposal would be of a different design, it is considered there would not be a significant detrimental impact on the character of Albion Court, due to the physical separation of the two sites. It is also considered the size, scale, design and materials proposed would be appropriate for its setting in close proximity to the complex of former farm buildings, the Public Right of Way and nearby open countryside.

As such it is considered the proposal would not have a significant detrimental impact on the character of the surrounding area.

### **Access and highway safety**

Access to the site would be via an existing gated access from the end of Albion Court. Objections have been received detailing the surrounding streets are congested and that this development could make the situation worse and result in parking in Albion Court, restricting access to properties. It is considered the addition of a single dwelling being served by surrounding roads would not significantly exacerbate any existing issues. No objection has been raised by the Transportation Section.

The applicant proposes to improve the access and provide a private drive and associated turning head incorporating the Public Right of Way running through the site. Parking for three cars would be provided on site and adjacent the dwelling. It is considered there would be sufficient parking provided on site and the Transportation Section comment an additional dwelling served by a private drive (in addition to the farm house and potential residential barn conversions) would be acceptable.

Members should further note that whilst the plans indicate access and parking for the approved barn conversions the access being proposed would be limited to the red line area. As such this scheme could be implemented on its own or in conjunction with the permitted barn conversions.

Finally Members are advised, due to the small scale of the proposed development, the condition for a wheel wash facilities suggested by the Transportation Section is not considered necessary.

Taking into account the above assessment it is considered the application would be acceptable in these terms.

### **Public Rights of Way (PROW)**

PROW (No. 4 Pontypridd) runs through the site and Council records detail that it has a legally defined width of 10 feet. From the details submitted, part of the PROW would be incorporated into the proposed private drive. The Council's Public Rights of Way Officer does not object, however details separate pavements should not be provided (i.e. it should be a shared drive) so as not to restrict the width of the PROW. It is also highlighted a temporary closure order maybe required during construction of the dwelling.

In terms of the safety and enjoyment of users of the path, traffic volume and speeds would be expected to be low (even taken into account cumulative traffic volumes from the development of the barns). It is also expected that most drivers on site would be aware of the PROW. Furthermore, it is not uncommon for public footpaths to pass through farmyards, where vehicular traffic may occur. During the time the

farm was operated, vehicles could have used the PROW and the existing permission for conversion of the barns would also result in vehicles using the PROW. As such, it is considered this proposal would not result in a conflict in pedestrian and vehicular movement to the significant detriment of the safety of persons using the PROW.

One objector details that the planting outside the site (and detailed on the plans) may result in the PROW being blocked. Members are advised the proposed planting is not detailed as being over the PROW and would not require planning permission. Furthermore the information submitted with the application refers to the maintenance of the public footpath and no evidence has been presented which indicates that the proposal would result in the obstruction of the PROW.

In relation to access from Albion Court to the PROW, there was previously a gate across it, however this has seemingly deteriorated and the access is currently open. The officer report for the permission for the barn conversions (12/1165) detailed that, there is a suggestion that historically the public might have benefited from access to the PROW via the field gate access. It further details that the Public Rights of Way Officer at the time has confirmed that this is however not the case. The current Public Rights of Way Officer advises the applicant should keep any gates that may be provided across the access unlocked to maintain access to the PROW. The use of informatives are recommended to remind the applicant of the legislative protection of public footpaths and that accessibility to the public footpath should be maintained at all times.

On balance, the development would be acceptable in these terms and it is considered that potential impacts on the public footpath would not constitute defensible grounds of refusal.

### **Ecology**

The development site is an area of open ground located on the edge of the settlement boundary and open to the countryside. It contains some overgrown areas of long grasses, is in close proximity to a pond and is surrounded by empty structures such as the farm house and former agricultural barns. Beyond this is the open countryside and other agricultural type buildings. The Council's Ecologist has detailed there are no records of protected species on the site. He further details that it would not be reasonable to require an ecological survey. Notwithstanding this, the site may have potential for nesting birds and potentially reptiles. As such a condition requiring any clearance works takes into account these issues would be required if permission were to be granted.

### **Other Issues**

The following other material considerations have been taken into account in considering the application, though were not the key determining factors in reaching the recommendation:

### **Land Instability**

As a result of the public consultation exercise an objector living close to the site has detailed the land is made up land and is unstable. The Council's Structural Engineer recognises this and has detailed a site investigation report should be submitted prior to construction to allow any structural solutions be incorporated in the proposal. As such it is considered this issue would not warrant a refusal reason and if permission were to be granted a suitably worded condition would be appropriate

### **Drainage**

The applicant has detailed foul drainage would be dealt with by a private package treatment plant. An objector has highlighted that no specific details of this have been submitted and that if a treatment plant is used it could result in leakages and smells and should comply with Building Regulations in terms of size and position.

Natural Resources Wales have commented that Welsh Government planning guidance (Circular 10/99) details developers should use the public sewerage system in Dwr Cymru/Welsh Waters catchment area to protect the environment and potential harm to amenity. The applicant has been informed that if permission is granted they would be expected to investigate use of the public sewerage system. In response the applicant's agent has stated that this would be acceptable.

As such it is considered, prior to any construction being allowed to take place, details of this could be obtained by a suitably worded condition if permission were to be granted.

In relation to surface water drainage an objection has been submitted by a local resident detailing that there are drainage issues resulting from the made up nature of the site. On investigation of this, the Council's Land Reclamation Section (Drainage) has detailed there is no evidence of a water course running through the site and that they do not object to the application subject to satisfactory details of a surface water drainage system. They detail the applicant should first investigate drainage to a soakaway if ground conditions are acceptable. Members are advised that details of this could be secured by a suitably worded condition if permission were to be granted.

### **Community Infrastructure Levy (CIL) Liability**

The Community Infrastructure Levy (CIL) was introduced in Rhondda Cynon Taf from 31 December 2014.

The application is for development of a kind that is liable for a charge under the CIL Regulations 2010 as amended. The application lies within Zone 2 of Rhondda Cynon Taf's Residential Charging Zones, where there is a liability of £40 / sqm for residential development.

The CIL charge (including indexation) for this development is expected to be £6,512.47.

## Conclusion

The application is considered to comply with the relevant policies of the Local Development Plan in respect of the principle of development, the impact on residential amenity, the impact on the character and appearance of the area, access and highway safety, the impact on a Public Right of Way and the impact on ecology (Policies AW1, AW2, AW5, AW6, Policy AW7, Policy AW8 and AW10).

## RECOMMENDATION: Grant

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason: To comply with Sections 91 and 93 of the Town and Country Planning Act 1990.

2. The development hereby approved shall be carried out in accordance with the approved plan

- MA02 Rev B Proposed Plans, Elevations & Sections received on 8<sup>th</sup> April 2015
- MA03 Location & Block Plans received on 2<sup>nd</sup> June 2015

and documents received by the Local Planning Authority on 30<sup>th</sup> March 2015, unless otherwise to be approved and superseded by details required by any other condition attached to this consent.

Reason: To ensure compliance with the approved plans and documents and to clearly define the scope of the permission.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) no windows or roof lights (other than any hereby permitted) shall be installed above ground floor ceiling height without the prior express permission of the Local Planning Authority.

Reason: To safeguard the privacy of residents in the locality in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

4. Building operations shall not be commenced until samples of the finishing materials for the dwellings elevations, roof coverings and surface of the private driveway proposed to be used have been submitted to and approved in writing by the Local Planning Authority and all materials used shall conform to the sample(s) so approved.

Reason: To ensure that the external appearance of the proposed

development will be in keeping with the character of the area and adjoining buildings in the interests of visual amenity in accordance with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

5. The proposed walling shall be constructed in strict accordance with details of coursing, jointing, texture relief and colour to be submitted to and approved in writing by the Local Planning Authority and such details to be demonstrated by the prior construction of a sample panel. The panel shall be retained on site until the completion of the walling.

Reason: To ensure that the external appearance of the proposed development will be in keeping with the character of the area and adjoining buildings in the interests of visual amenity in accordance with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

6. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the dwelling is occupied. Development shall be carried out in accordance with the approved details.

Reason: To ensure that the new development will in keeping with the surrounding area and to protect residential amenity in accordance with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

7. No development shall take place until there has been submitted to and approved by the Local Planning Authority a comprehensive scheme of landscaping, which shall include indications of all existing trees (including spread and species) and hedgerows on the land and details of any to be retained together with measures for their protection during the course of development.

Reason: To ensure that the new development will be visually attractive in the interests of amenity in accordance with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

8. All planting, seeding or turfing in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the building(s) or completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that the new development will be visually attractive in the interests of amenity in accordance with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

9. No development shall take place until a Wildlife Protection Plan for Construction has been submitted to and approved in writing by the local planning authority. The plan shall include:
- a. An appropriate scale plan showing 'Wildlife Protection Zones' where construction activities are restricted and where protective measures will be installed or implemented;
  - b. Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;
  - c. A timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife could be harmed (such as nesting bird season).
  - d. Persons responsible for:
    - i) Compliance with legal consents relating to nature conservation;
    - ii) Compliance with planning conditions relating to nature conservation;
    - iii) Installation of physical protection measures during construction;
    - iv) Implementation of sensitive working practices during construction;
    - v) Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction;
    - vi) Provision of training and information about the importance of the 'Wildlife Protection Zones' to all construction personnel on site.

All construction activities shall be implemented with the approved details and timing of the plan unless otherwise approved in writing by the local planning authority'.

Reason: To afford protection to animal and plant species in accordance with Policies AW5 and AW8 of the Rhondda Cynon Taf Local Development Plan.

10. Prior to the commencement of development, a detailed site investigations report shall be submitted to and approved in writing by the Local Planning Authority. The report should be sufficiently detailed to establish if any ground precautions are necessary in relation to the proposed development and the precautions that should be adopted in the design and construction of the proposed development in order to minimise any damage which might arise as a result of ground condition. The development, herby permitted, shall be carried out in accordance with the approved site investigations report.

Reason: The site may be unstable and as such a stability report is required

in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

11. No development shall take place until drainage arrangements (including a Hydrological Impact Assessment) have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure adequate disposal of foul and surface water drainage in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

12. The dwelling hereby permitted shall not be occupied until the drainage works have been completed in accordance with the approved plans.

Reason: To ensure adequate disposal of foul and surface water drainage in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

13. Before the development is brought into use turning space to enable vehicles to enter and leave the site in a forward gear shall be completed in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

14. No part of the development shall be occupied until drainage works to such developments driveways have been carried out in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent surface water discharging over the highway in the interests of road safety in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

15. All HGV deliveries during the construction period shall only take place between the hours of 09:00am and 16:30pm on weekdays to and from the site.

Reason: In the interests of road safety in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

16. Construction works on the development shall not take place other than during the following times:

- i) Monday to Friday 0800 to 1800 hours;
- ii) Saturday 0800 to 1300 hours;

- iii) Not at any time on Sundays, Bank or Public holidays, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the noise emitted from this development is not a source of nuisance to occupants of nearby residential properties in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

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**LOCAL GOVERNMENT ACT 1972**

**as amended by**

**LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

**LIST OF BACKGROUND PAPERS**

**DEVELOPMENT CONTROL COMMITTEE**

**2 JULY 2015**

**REPORT OF: SERVICE DIRECTOR PLANNING**

**REPORT**

**APPLICATIONS RECOMMENDED  
FOR APPROVAL**

**OFFICER TO CONTACT**

**MR J BAILEY  
(Tel: 01443 425004)**

**See Relevant Application File**

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