

PLANNING & DEVELOPMENT COMMITTEE

1 MARCH 2018

REPORT OF THE SERVICE DIRECTOR, PLANNING

PURPOSE OF THE REPORT

Members are asked to determine the planning application outlined below:

APPLICATION NO: 17/0525/38 - Proposed revised restoration scheme following completion of coal extraction pursuant to Condition 8 of planning permission reference 13/0466, incorporating formation of a plateau for future development in accordance with Policy NSA8 of Rhondda Cynon Taf Local Development Plan, at opencast site, Tower Colliery. (Amended site and section plans, drainage details and new photo montages dated October 2017), Tower Colliery Railhead, Rhigos Mountain Road, Rhigos, Hirwaun, Aberdare, CF44 9UF

1. PURPOSE OF THE REPORT

Members are asked to consider the determination of the application the subject of this report.

2. RECOMMENDATION

That Members **APPROVE** the application in accordance with the advice given.

3. BACKGROUND

This application was reported to the meeting of the Planning and Development Committee held on 7th December 2017 with an officer recommendation that it be approved. A copy of the original report is attached as **APPENDIX A**. At that meeting Members resolved to approve the re-profiled element of the restoration scheme, but to defer determination of the diversion of Nant-y-Bwlch watercourse in order to enable consultation with the Welsh Government on its potential to impact on the proposed dualling of the Heads of the Valley Road (minute 109(3) refers).

Since that date the applicant has been in liaison with Welsh Government which has resulted in the submission of plan (ref no: B2191100/OBJ081/003) that shows a slight modification to the alignment of the retained Nant-y-Bwlch diversion so as to avoid conflict with the alignment of the planned A465 dualling. The Welsh Government has returned observations in a letter dated 2nd February 2018 in which it sets out its acceptance of the route of the proposed re-alignment of the Nant-y-Bwlch watercourse in terms of avoiding impact

on the A465 scheme. Copies of the letter and plan are attached as **APPENDIX B**.

In view of the above, and having regard to original report at **APPENDIX A** and resolution from the meeting of this Committee on 7th December 2017, Members are requested to re-affirm their approval of the re-profiled plateau element of the restoration scheme and to approve the route of the re-aligned Nant-y-Bwlch in accordance with plan reference number B2191100/OBJ081/003 dated 8th January 2018.

APPLICATION NO: 17/0525/38 (PB)
APPLICANT: Barton Willmore
DEVELOPMENT: Proposed revised restoration scheme following completion of coal extraction pursuant to Condition 8 of planning permission reference 13/0466, incorporating formation of a plateau for future development in accordance with Policy NSA8 of Rhondda Cynon Taf Local Development Plan, at opencast site, Tower Colliery. (Amended site and section plans, drainage details and new photo montages dated October 2017)
LOCATION: TOWER COLLIERY RAILHEAD, RHIGOS MOUNTAIN ROAD, RHIGOS, HIRWAUN, ABERDARE, CF44 9UF
DATE REGISTERED: 09/05/2017
ELECTORAL DIVISION: Hirwaun

RECOMMENDATION: APPROVE

REASONS FOR RECOMMENDATION

The proposed restoration strategy does not vary, in terms of its general profile, land form and surface water drainage to the current restoration strategy approved prior to the commencement of coal extraction in 2012, with two exceptions. Firstly, it proposes the formation of a level plateau capable of facilitating employment development opportunities on the Strategic Site in accordance with Policy NSA8 of the LDP within which the application site lies. Secondly, the restoration retains the Nant-y-Bwlch diversion. Neither of these deviations from the currently approved restoration scheme is likely to impact adversely upon the landscape, visual appearance and drainage of the site or upon the wider surroundings, including the Brecon Beacons National Park.

REASON MATTER REPORTED TO COMMITTEE

- Three or more letters of objection have been received

APPLICATION DETAILS

This application is submitted pursuant to condition 8 of planning permission reference 13/0466 and seeks consent for a revised restoration scheme following the completion of coal extraction at the Tower opencast coal site, Tower Colliery, Hirwaun. As part of its consideration of the planning applications for opencast coal extraction at the site the Council approved a broad restoration strategy in 2012 which essentially proposes the restoration of the opencast site to the pre-mining profiles and landform. This would involve the removal of the overburden mound and tip 901 and the restoration of the Nant-y-Bwlch watercourse which has been temporarily diverted to the eastern boundary of the opencast site.

Coal extraction ceased at the site in March 2017 and the applicant has submitted a revised restoration strategy which broadly followed the previously approved strategy with two major differences. Firstly, the restoration levels at the northern end of the site were proposed to be altered to allow for the formation of a plateau of land accessed off the A465 and capable of future development as part of proposals for development of a wider Strategic Site identified under Policy NSA8 of the LDP. The front face of the plateau would be elevated approximately 20 metres above the level of the land envisaged in the previously approved strategy though still significantly below the maximum height of the overburden mound. Secondly, the revised strategy retained the diversion of the Nant-y-Bwlch water course.

In October the applicant submitted an amendment to the above scheme that deleted the elevated development plateau and replaced it with proposals for a land form very similar to those in the approved restoration strategy of 2012, though retained the Nant-y-Bwlch diversion. The amended proposals will provide a gently sloping landform, comprising a lower plateau at the northern edge of the restored site which will offer the opportunity for the future development of a significant level of business/temporary uses.

SITE APPRAISAL

The application site relates to the Tower Coal Surface Mine which commenced operations in March 2012. The site covers an area of 253 hectares and is located to the south and west of Hirwaun. Most of the site lies to the south of the A4061 Rhigos Road but there is a smaller part of the site located to the north of the A4061 Rhigos Road which incorporates the 1.5km enclosed conveyor system (being dismantled), covered coal loading facilities and the existing railhead adjacent to the mineral rail freight line. This area also includes a number of water bodies known as Hirwaun Ponds.

The site occupies a generally sloping area from 340m AOD in the south to 210m AOD in the north. The natural drainage of the site has been altered through the implementation of the Surface Coal Mine.

Major services/apparatus belonging to statutory undertakers are located within the site. A high pressure natural gas main runs along the western boundary of the site, overhead electricity lines run close to the southern boundary and electricity pylons cross through the northern part of the site.

There are three Sites of Importance for Nature Conservation within the site known as Hirwaun Ponds (SINC's 9 and 12) and Hirwaun Common (SINC 10). Adjacent to the site, to the north of the mineral railway line lies the Blaen Cynon Special Area of Conservation (SAC) and the Cors Bryn -Y-Gaer SSSI. The Brecon Beacons National Park is located approximately 1.5km north of the site boundary. The site is visible as part of an overall panoramic view from locations within the National Park.

Vehicular access to the site is gained from the Rhigos Road at a point 900m west of the A465 roundabout and 200m east of the Hirwaun Industrial Estate Roundabout.

The nearest residential properties to the site are located adjacent to the access on Rhigos Road i.e. properties known as Maesglas, Cartref and Willows Farm. There are also residential properties within Hirwaun such as those within Redhill Close adjacent to the junction of the A465 and the A4061, Tower Road north of the A4059, Limeslade Close and Caswell Close, properties south of Johnson Park (Mountain View), properties further east off Hirwaun Road known as Waungron, Lyndhurst, Dunromin, Fairview Bungalow and Mountain View Bungalow, and properties within Mount Pleasant.

PLANNING HISTORY

13/0466	Tower Surface Mine, Rhigos Road, Hirwaun	Variation of conditions 19, 20, 21 and 22 of planning approval 10/0292 to extend working hours on Saturdays to 16.00 hours.	Allowed on appeal 03/06/2014
10/0292	Tower Colliery, Rhigos Road, Hirwaun, Aberdare	Land remediation and reclamation of old tips, derelict land and buildings; surface coal extraction and associated ancillary development including improvements to the access onto the A4061; recontouring and landscaping of the site to enable future re-development; restoration and after care for agricultural purposes, nature conservation with public access and provision of a visitor/education centre. Environmental Statement Addendum received 17/01/11, additional information received 05/05/11 regarding ecology and landscape and visual assessment, details of restoration, soils handling, drainage matters and revised planning drawings to reflect amendments and additional information received 24/08/11 incorporating a Restoration Strategy Plan which was amended on 27/10/11, 05/12/11, 12/12/11 and 14/12/11.	Granted 16/12/2011

PUBLICITY

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

A total of 85 letters have been received in response from members of the public, the grounds of objection are as follows:

- The residents of Hirwaun and Rhigos were re-assured at public meeting before the commencement of coal extraction that the land would be restored to its original contours, and therefore expect the Council and Tower Regeneration to honour that commitment.
- LDP Policy NSA8 paragraph 6.39 states *'the Council's vision for the Strategic Site is the enhancement of Hirwaun as a key settlement in Rhondda Cynon Taf, through residential, employment and community development, and restoration and enhancement of the landscape and habitats.*' This amendment will not enhance the landscape and habitat of the area, and will have a detrimental visual impact, particularly from the Brecon Beacons National Park.
- The Council should not have earmarked the area for light industrial development under NSA8 when there is a massive area already available on the Rhigos Industrial Estate which should be developed instead.
- Development would have a disastrous affect on wildlife, which should be given a chance to re-establish.
- It has not been demonstrated how the development plateau would blend in with the proposals to dual the A465 Heads of the Valley Road.
- Detrimental impact on tourism to this area.

CONSULTATION

Natural Resources Wales – response will be reported orally at the meeting.

Brecon Beacons NPA – objection, potential adverse impact upon the special qualities of the National Park.

Land Reclamation & Engineering – from the drainage strategy provided the principal of the post mining drainage arrangements are suitable in principal. I would request that to support the discharge rates the attenuation calculations are provided for review to ensure the pre and post flow rates do not increase the risk of surface water flooding off site. I would also remind the applicant at this time that any works to alter the ordinary watercourse will require an Ordinary watercourse consent prior to the works taking place which will sit outside of the planning process.

Public Health & Protection – no objection raised to the revised restoration scheme.

POLICY CONTEXT

Rhondda Cynon Taf Local Development Plan

The Proposal and Constraints Maps show that the site lies within the area of primary and secondary coal resources, and that within the western part of the site there is a hazardous installation consultation zone for the high pressure gas main, Sites of Importance for Nature Conservation SINC's AW8 - 9, 10 and 12 lie within the site. Adjacent, and to the north of the mineral railway line lies the Blaen Cynon Special Area of Conservation SAC. The site also lies within the allocated Northern Strategic Area, NSA8, where the concept plan shows the northern part of the site for

employment and residential uses and the southern part for open space. The northeast of the site is affected by the Welsh Government scheme for dualling the A465 Heads of the Valleys Trunk Road.

Policy CS10.6 – seeks to ensure that impacts upon residential areas and sensitive land uses from mineral operations and the transportation of minerals are limited to an acceptable proven safe limit.

Policy AW5 – supports development proposals where amenity and accessibility criteria are met.

Policy AW6 - supports development proposals where design and placemaking criteria are met.

Policy AW10 states that development proposals will not be permitted where they would cause or result in an unacceptable risk of harm to health and/or local amenity because of air, light, water and noise pollution, contamination, land instability and flooding or any other identified risk to public health or safety.

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 Decisions), Chapter 4 (Planning for Sustainability), Chapter 7 (Economic Development), Chapter 12 (Infrastructure and Services) and 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.

Para 13.15 of Planning Policy Wales advises that noise can be a material planning consideration. Local Planning Authorities should make a careful assessment of likely noise levels and in some circumstances it will be necessary for a technical noise assessment to be provided by the developer. The effect of noise on the enjoyment of other areas of landscape, wildlife and historic value should also be taken into account.

Minerals Planning Policy

Para 10 sets out the key principles of sustainable mineral development including limiting the environmental impact of mineral extraction.

Para 34 includes noise (in terms of limits, type and locations) that must be addressed to ensure minerals proposals do not have an unacceptably adverse impact on the environment and the amenity of nearby residents.

Minerals Planning Policy (Wales) Minerals Technical Advice Note (Wales) 2: Coal

Para 167 provides Guidance on best practice on noise is in Appendix M.

Para 168 to 177 provides advice in relation to noise impacts, noise surveys and planning conditions for noise.

Minerals Planning Guidance: The Control of Noise at Surface Mineral Workings (MPG 11)

Whilst MTAN 2 supersedes MPG 11 for the determination of noise limits, other elements of MPG11 remain applicable to the assessment of mineral extraction noise in Wales.

Other relevant policy guidance consulted

PPW Technical Advice Note TAN 11 Noise provides guidance on how the planning system can be used to minimise the adverse impact of noise and outlines the main considerations to take into account when determining planning applications.

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 proposal the subject of this application essentially seeks approval for an alternative restoration strategy following the cessation of opencast coal extraction at the Tower Surface Mine. As noted earlier in this report the original restoration strategy approved prior in 2012 prior to the commencement of coaling envisages the site being returned to its pre-mining profiles blending with the topography of the hillside location and restoration of the Nant-y-Bwlch watercourse to its original pre-mining alignment. It is evident from the representations submitted by members of the public that there is an overwhelming desire for the originally approved restoration profiles to be delivered.

In terms of broad principles this application seeks to revise the approved restoration scheme in order to incorporate the creation of a land form or plateau capable of providing opportunities for future development in accordance with Policy NSA8 of the LDP. This policy allocates an area to the south of Hirwaun as a Strategic Site, for development of a mixture of large scale development, including residential (400 dwellings) and employment (36ha). The indicative plan identified on the LDP Proposals Map, shows that the proposed plateau area is located within the employment area of the Strategic Site. Although concern has been expressed by members of the public about the need for and consequences of such development, nevertheless, the restoration proposals are likely to facilitate opportunities for employment development in accordance with Policy NSA8. It is acknowledged that

there are no submitted details of the proposed parameters of the type, scale and layout of future development on the plateau; these are not matters for consideration at this stage but the subject of future planning applications if and when detailed development proposals emerge.

Turning to the relationship of the restoration proposals to the dualling of the A465, for access purposes, there are no detailed proposals at this stage. However, the site benefits from an existing 7.3m wide access spur off the Rhigos roundabout to be retained as part of the dualling. Officers of the Council and the Welsh Government are in on-going discussions to ensure that the detailed highway engineering proposal for the A465 dualling make, or at least retain, adequate provision for access to existing and allocated development sites along its route through Rhondda Cynon Taf. To date, none of these discussions has revealed any fundamental obstacle to the achievement of an adequate highway access to the restoration plateau from the A465 upon completion of dualling.

In terms of its landscape, visual and drainage impacts the alternative restoration strategy and surface drainage scheme, as amended, does not differ greatly from the strategy approved in 2012. It removes all of Tip 901 upon which much of the overburden mound currently sits, though retains the Nant-y-Bwlch diversion as permanent watercourse. The submitted cross sections indicate that the proposed contours of the restored land form will reflect those of the hillside prior to mining activities on the land. However, along the northern edge of the restoration area there is a significant difference where it is proposed to level-off restoration profiles to provide an area of land or plateau providing opportunities for future development in accordance with Policy NSA8. The plateau will be rather irregular in shape and comprise three parcels of land of 10, 12 and 13 hectares totalling 35 hectares and cut-in and levelled at a height no greater than 230m AOD (Above Ordnance Datum), which is comparable to surrounding grounds levels. By way of comparison the earlier submitted proposal for restoration involved formation of a plateau elevated above surrounding ground levels at a height of approximately 250m AOD, with a moderately steeply sloping batter along the northern edge facing towards Hirwaun. It will be noted that members of the public, NRW and the Brecon Beacons National Park Authority expressed concerns about this earlier submitted restoration proposal involving an elevated plateau because of its potential adverse landscape and visual impacts on the surroundings and on the setting of the National Park. The amended restoration proposal, whilst maintaining a plateau capable of providing development opportunities, significantly reduces its elevation and prominence to an extent that is considered unlikely to have unacceptable consequences in terms of its landscape and visual impacts viewed within the context of the overall restoration landform and its wider surroundings. The Nant-y-Bwlch diversion has performed adequately during the period of surface mining and has begun to develop its own ecology as a less rapidly flowing hillside watercourse than the original alignment. Its retention has not attracted adverse comment from NRW and members of the public, including the landowner.

Finally, arising from on-going assessment by and discussions with the Coal Authority it is considered that the amended restoration proposals do not have significant implications for the quantum of the restoration bond held by the Council under the

terms of the Section 106 agreement entered into as part of the planning permission for surface coal extraction at the site.

Conclusion

The proposed restoration strategy does not vary, in terms of its general profile, land form and surface water drainage to the currently approved restoration strategy approved prior to the commencement of coal extraction in 2012, with two notable exceptions. Firstly, it proposes the formation of a level plateau capable of facilitating employment development opportunities on the Strategic Site in accordance Policy NSA8 of the LDP within which the application site lies. Secondly, the restoration retains the Nant-y-Bwlch diversion. Neither of these deviations from the currently approved scheme is likely to impact adversely upon the landscape, visual appearance and drainage of the site or upon the wider surroundings, including the Brecon Beacons National Park.

RECOMMENDATION: Grant

Adran yr Economi a'r Seilwaith
Department for Economy and Infrastructure



Llywodraeth Cymru
Welsh Government

Anthony Shott
Managing Director
Tower Surface Mine
Rhigos Road
Hirwaun
Aberdare
CF44 9UD

Eich Cyf/Your Ref:
Ein Cyf/Our Ref: qA1243569 & qA1283490 OBJ081R1

Date: 2nd February 2018

Dear Mr Shott

THE WELSH MINISTERS (THE NEATH TO ABERGAVENNY TRUNK ROAD (A465) (ABERGAVENNY TO HIRWAUN DUALLING AND SLIP ROADS) AND EAST OF ABERCYNON TO EAST OF DOWLAIS TRUNK ROAD (A4060) AND CARDIFF TO GLAN CONWY TRUNK ROAD (A470) (CONNECTING ROADS) (DOWLAIS TOP TO HIRWAUN)) AMENDMENT ORDER AND COMPULSORY PURCHASE ORDER 201-

A review of the proposed re-diversion of the Nant Y Bwch watercourse has been undertaken based on the information tabled at our meeting 19th January 2017, subsequently forwarded by your Daniel Jones in digital format 8th January 2018.

This information has been used as the basis for preparing the enclosed plan ref B2191100/OBJ081/003, and we make the following comments with regard to the proposal.

1. The route of the proposed re-alignment of the Nant Y Bwch watercourse, as set out in the aforementioned plan, is acceptable in terms of avoiding impact on the A465 scheme.
2. The length of the existing watercourse to be stopped up needs to be extended to avoid encroachment on the footprint of the scheme, see attached plan for details.
3. The need for a bridge and access track to serve G Jenkins is unclear as there are alternative crossing points of the channel in close proximity.
4. Western Power Distribution (WPD) will need to be consulted as part of your planning application to ensure access provision to their assets is acceptable. Access to WPD assets will not be granted from the Trunk Road.
5. The planning application (10/0292/10 granted 16 December 2011) clearly states that it was always the intention to return the diverted Nant Y Bwch watercourse to its

original line post completion of mining activities. In light of this we consider that suitable financial allowance would have been made at this time for TRL to undertake remediation to the watercourse. As such the Welsh Government do not consider it appropriate to provide financial assistance to meet commitments made as part of the planning process.

Subject to amendments relating to points raised above we approve the proposed re-alignment of the Nant Y Bwch watercourse. Please do not hesitate to get in touch if you wish to discuss any of the points raised in this letter.

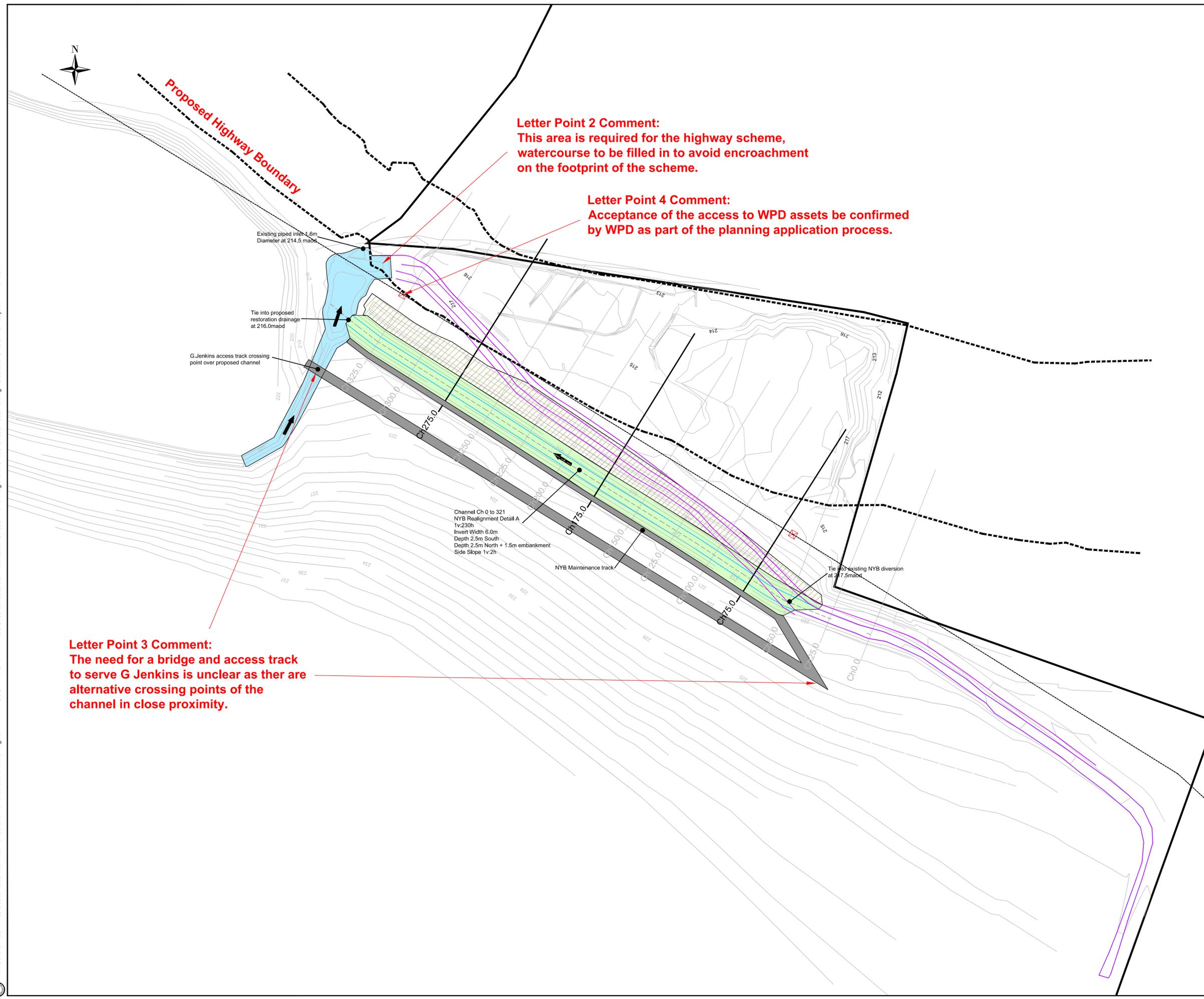
Yours faithfully



Mark Dixon
Project Engineer
Department for Economy and Infrastructure

cc. Lee Weatherall, Planning and Development Manager, Hargreaves (UK) Ltd.
Roseby House, Lund Hill Lane, Royston, Barnsley, S71 4BD

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Letter Point 2 Comment:
 This area is required for the highway scheme,
 watercourse to be filled in to avoid encroachment
 on the footprint of the scheme.

Letter Point 4 Comment:
 Acceptance of the access to WPD assets be confirmed
 by WPD as part of the planning application process.

Letter Point 3 Comment:
 The need for a bridge and access track
 to serve G Jenkins is unclear as there are
 alternative crossing points of the
 channel in close proximity.

Rev	Rev. Date	Purpose of revision	Drawn	Checked	Rev'd	Appr'd

JACOBS
 8th Floor, Churchill House, 17 Churchill Way,
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Client: Llywodraeth Cymru
 Welsh Government

Project: **A465 SECTIONS 5 & 6**

Drawing title: **OBJECTION 081
 TOWER REGENERATION LTD
 NANT Y BWCH WATERCOURSE
 REALIGNMENT PROPOSAL**

Drawing status: **FOR INFORMATION**

Scale: 1:2000 @ A1
 Jacobs No. B2191100

DO NOT SCALE FROM THIS DRAWING

Drawing number: **B2191100/OBJ081/003**

Rev: **P0**

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