



PLANNING & DEVELOPMENT COMMITTEE

9 MAY 2019

REPORT OF THE SERVICE DIRECTOR, PLANNING

PURPOSE OF THE REPORT

Members are asked to determine the planning application outlined below:

APPLICATION NO: 19/0087/10
(EL)
APPLICANT: Mr Shott
DEVELOPMENT: An environmental resource centre with public access, parking, play area and cafe.
LOCATION: HARGREAVES SURFACE MINING LTD, RHIGOS ROAD, RHIGOS, HIRWAUN, ABERDARE, CF44 9UD
DATE REGISTERED: 31/01/2019
ELECTORAL DIVISION: Rhigos

RECOMMENDATION- APPROVE

REASONS:

The provision of the ERC is a long-standing commitment made as part of an application to extract coal from the site at Tower Colliery. Its provision was a legal requirement of that consent.

The proposed building is considered acceptable in terms of its scale, siting and appearance, and would not be harmful to the character of the site and its setting or adversely impact upon highway safety or the amenity of neighbouring occupiers.

REASONS FOR REPORT TO COMMITTEE

The nature of the application (and its relationship to its parent consent) is such that it is considered appropriate for Committee to determine it.

BACKGROUND INFORMATION

The provision of this Environmental Resource Centre (ERC) is a requirement of the Section 106 Agreement signed as part of the consent that enabled the applicant to mine coal (see PLANNING HISTORY below).

As the original application dates back some considerable time, Committee is advised/reminded that, as part of the application for coal extraction, the developer included the provision of an Environmental Resource Centre. It was not specifically required or requested either by the Council's Ecologist or Environment Agency Wales (now NRW) to specifically mitigate an environmental consequence of the development itself. The S106 Agreement was the legal mechanism to secure its provision

The relevant extract from the S106 document is set out below for Committee's information:

THIRD SCHEDULE

The Developer's Covenants with the Council

1. Community Facilities

The developer covenants and agrees:

- 1 subject to the grant of the ERC Planning Permission to provide, lay out and erect the Environmental Resource Centre in accordance with the ERC Planning Permission for the purpose of accommodating the Environmental Resource Centre*
- 2 subject to the grant of the ERC Planning Permission to use reasonable endeavours to complete the erection of the Environmental Resource Centre within twelve months of Commencement of Works.*
- 3 Following completion of the Environmental Resource Centre and subject to sub paragraphs 1.4 and 1.5 below to dedicate the Environmental Resource Centre for use as an environmental resource centre until the expiration of the Extended Aftercare Period.*
- 4 During the period referred to in sub paragraph 1.3 and subject to sub paragraph 1.5 below the developer shall:-*
 - 1 manage or procure the management of the Environmental Resource Centre at its own cost:*
 - 2 manage the Environmental Resource Centre in accordance with paragraph 1.4.1 with reasonable care and skill and in accordance with generally recognised practices and standards:*
 - 3 manage the Environmental Resource Centre in accordance with paragraph 1.4.1 in accordance with all applicable legislation from time to time in force:*
 - 4 not impose charges for car parking for normal usage of the Environmental Resource Centre:*
 - 5 keep the Environmental Resource Centre clean and tidy and in good repair, fair wear and tear excepted:*
 - 6 keep the Environmental Resources Centre open for such hours during the months of May until September as the Developer reasonably considers appropriate having regard to user demand:*

- 5 *subject to obtaining all necessary planning permissions and other requisite consents the Developer shall be entitled to use the Environmental Resource Centre for purposes ancillary to an environmental resource centre provided that such other uses do not materially adversely affect or interfere with the use as an environmental resource centre.*

Committee is advised that there are no specific details attached to the S106 Agreement that specifies the size that any building should be or what activities constitute an “Environmental Resource Centre”

A previous application was submitted for an ERC and granted consent (see PLANNING HISTORY). The building was never commenced and subsequently the consent expired. It is not clear why this consent was never implemented however the applicant has stated (orally) in a public meeting that he was not aware that an application had ever been submitted/approved (submitted by Hargreaves who were Tower Colliery Ltd.’s business partners) nor have it could not have been constructed during the time that the mine was operational.

APPLICATION DETAILS

Full planning permission is sought for the construction of an Environmental Resource Centre with public access, parking, play area and cafe. The proposed development would be located on a parcel of land to the north of Rhigos Road, Rhigos, with access from the same.

The building itself would be rectangular in plan, providing two rooms for activities, divided by an entrance foyer and w.c. facilities. It would extend to 17.5 metres in length and 7.0 metres in depth with a mono pitch roof construction extending to 2.8 metres at its highest point. The building would be of blockwork construction with ‘eternit cedral cladding’ to its elevations along with a ‘green roof’.

A supporting statement which accompanies the application confirms that;

‘The environmental resource centre (ERC) will have many uses one being a centre, which can be used for schools to teach subjects related to the national curriculum and STEM (science, technology, engineering and mathematics) especially earth science, science and history. The ERC will be located in an ecologically rich area that includes many trees and wildlife, there are also many ponds, these features are now stocked with fish and popular with anglers. It can also be used as an amenity for the general public that may include certain events, meetings or just a place to relax when pursuing outdoor activities.’

The proposed development was included as an outline proposal within the detailed surface coal extraction scheme. As part of this consent the ERC was formally subject to a Section 106 Agreement attached to the planning permission (issued in respect of application ref 10/0292). The Section 106 agreement requires that once constructed the building shall be dedicated for its given purpose for a period of 25 years (the Extended Aftercare period).

SITE APPRAISAL

The site measures approximately 2100m² (0.21 hectares) and is located to the north of the A4061 Rhigos Road. The proposed building would be sited approximately 90 metres to the north of Rhigos Road. The site lies adjacent to an area of land that was previously in use in connection with the opencast mining operations, formerly accommodating the enclosed conveyor system which extended northwards to the railhead of the mineral rail freight line of Tower Colliery. This parcel of land has now been cleared, although operations continue on the land to the south of Rhigos Road.

The site is located within a larger piece of land and adjacent to a number of water bodies, which together are known as Hirwaun Ponds and are designated as a Site of Importance for Nature Conservation (SINC). In close proximity 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. Vehicular access to the site is gained from Rhigos Road at a point 250m east of the Hirwaun Industrial Estate Roundabout. The nearest residential properties to the site are located adjacent to the access on Rhigos Road.

PLANNING HISTORY

The most relevant applications to the determination of this application are:

10/1212	Tower Colliery, Rhigos Mountain Road, Rhigos	A new environmental resource centre with public access, parking, children's play park, ancillary cafe and retail use	Granted with conditions 03/01/12
10/0292	Tower Colliery, Rhigos Road Hirwaun	Land remediation and reclamation, surface coal extraction and associated works.	Granted with conditions 16/12/11

PUBLICITY

The application was advertised by direct neighbour notification and site notices.

A letter of representation has been received from Hirwaun and Penderyn Community Council. They raise no objections to the application but ask that consideration be given to the following points:

- Extending the car park to meet the footpath bridge.
- That the footpath to the ERC be wheel chair accessible.
- That the access should be wide enough to allow vehicular access.
- Questions are raised with regard to the toilet facilities at the ERC, noting that they should be DDA compliant and wheelchair accessible.

CONSULTATION

Transportation Section – no objections raised.

Natural Resources Wales - no objections raised, informative notes relating to foul drainage recommended.

The Coal Authority – no objections raised.

Countryside, Landscape and Ecology – no objections raised, condition requiring a wildlife protection plan recommended.

Glamorgan Gwent Archaeological Trust – no objections raised, condition requiring mitigation suggested.

Public Health and Protection – no objections raised, condition suggested.

Land Drainage - no objections raised.

Dwr Cymru/Welsh Water – no objections raised.

Wales & West Utilities – no objections raised.

Western Power Distribution – no objections raised.

POLICY CONTEXT

Rhondda Cynon Taf Local Development Plan

Indicates that the site lies outside of settlement limits, within a Site of Important Nature Conservation (SINC).

CS1 emphasises building a strong and sustainable community. This would be achieved by various criteria including: encouraging a strong diverse economy and promoting the re-use of under used and previously developed land and buildings.

Policy AW2 promotes development in sustainable locations.

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

Policy AW6 sets out the criteria for new development in terms of design and place-making.

Policy AW8 refers to the protection and enhancement of the natural environment.

Policy AW10 sets out the criteria for environmental protection and public health.

Policy NSA12 sets out the criteria for development within and adjacent to settlement boundaries.

National Guidance

The Welsh Government published Planning Policy Wales 10 on 5th December 2018, and the document aims to incorporate the objectives of the Well-being of Future generations Act into Town & Country Planning.

It is considered that this proposal meets the seven wellbeing of future generation's goals and is consistent with the relevant key principles and requirements for each of the Chapters those being:

Chapter 2 People and Places: Achieving Well-being Through Placemaking,

Chapter 3 Strategic and Spatial Choices (including good design)

Chapter 4 Active and Social Places (including Transport)

Chapter 5 Productive and Enterprising Places (including the economy, energy, minerals and use of material resources)

Chapter 6 Distinctive and Natural Places (including historic environment and landscapes)

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 Development

Full planning permission is sought for the construction of an environmental resource centre with public access, parking, play area and cafe. The proposed development would be located on a parcel of land to the north of Rhigos Road, Rhigos, with access from the same.

It is acknowledged that the application site is located on a parcel of land that is outside of the defined settlement limits, where development is usually restricted. However, the application represents development on land that was (in part) previously used in connection with operations at Tower Colliery. Furthermore, the site lies close to both Hirwaun Industrial Estate and strategic site NSA8 – land south of Hirwaun, which is allocated for mixed use development, including residential, commercial and recreational uses.

It is also important to note that the proposal to create an environmental resource centre was included as an outline proposal within the detailed surface coal extraction scheme, (ref 10/0292). The proposed resource centre was then formally subject to a S106 Agreement attached to the planning permission. The S106 agreement requires that once constructed the building shall be dedicated for its given purpose for a period of 25 years.

Given the above, it is considered that the principle of the development is acceptable, subject to an assessment of the following key considerations;

- The impact of the proposed development upon the character and appearance of the surrounding area.
- The impact of the development on the residential amenities of neighbouring properties.
- The impact of the proposal on highway safety.
- The ecological impacts of the scheme.

Character and Appearance

The application site is a parcel of land positioned to the north of Rhigos Road. Whilst the site lies outside of settlement limits and is defined as SINC, the area surrounding the application site is largely commercial in character, with the main Tower Colliery site being located to the south of Rhigos Road and Hirwaun Industrial Estate being located to the west. Within the site, the area around the access has been cleared (from previous activities), however the land to the east (which forms part of the SINC) is still covered by trees, vegetation and a number of ponds; the proposed resource centre would be located within this part of the site. The proposed building would be functional in terms of its design being a single storey construction with a mono pitch roof. Its scale and form is considered appropriate with a footprint of approximately 122m² and a maximum height of 2.8 metres. The building would be a concrete block work construction, with elevations finished in 'cedral cladding' and a 'green planted roof'. The proposal seeks to utilise an existing access to the site, with the car park being situated outside of the SINC and connected to the resource centre and play area by footpaths. Overall, it is considered that the scale and appearance of the proposed building is acceptable and despite its siting, away from the road, would not result in the formation of an overly prominent feature that would be harmful to the character of the site or its immediate setting.

Residential amenity

Whilst there are many commercial uses in the vicinity of the site, there are also a small number of residential properties, fronting Rhigos Road, notably Cartref and Willows Farm. Although the dwellings lie in relatively close proximity to the access, they are largely screened from the site by a band of mature trees along the western boundary. It is also noted that separation distances in the region of 180 metres would be achieved between the closest property and the site of the resource centre building. Therefore, given the above, it is not considered that either the building itself, or its use as a community resource or learning space would unduly affect the levels of privacy and amenity which neighbouring residents may reasonably expect to enjoy. As such, it is considered that the Proposal would accord with the requirements of policy AW5 of the Local Development Plan.

Highway Safety

With regard to the potential impact upon highway safety, following consultation with the Council's Transportation Section, no objections have been raised.

Their assessment notes that the proposal is served off an existing access point onto the A4061, which has acceptable junction layout and visibility. There is a 3.0m cycle path crossing the junction with tactile paving, which is acceptable for safe pedestrian

movement. Visibility is in excess of 2.4m x 70m and is acceptable for safe vehicular access to the proposal. It is commented that, taking into account the limited size of the building at 122.50m², it is not considered that the proposal would have any detrimental impact on the operation of the public highway.

The proposal has been assessed as a community facility requiring parking provision of 1 off-street space per 10m² (resulting in a total requirement of 13 spaces). The application is accompanied by a layout plan that identifies an area that is to be dedicated for the parking of vehicles. This arrangement is considered acceptable.

Overall, it is not considered that the scheme would adversely impact upon highway safety in the vicinity of the site and therefore accords with the requirements of policy AW5.

Ecology

As set out above, the application site is located within an area that is defined as a Site of Important Nature Conservation (SINC). As such, to assist in the potential impacts of the development upon the ecological value of the site, consultation has been undertaken with both NRW and the Council's Ecologist. Neither response raises an objection to the proposals. The Council's Ecologist comments that the footprint of the building and area that would be affected by the proposals is relatively small. They also note that the wider site has been assessed for its baseline ecology value and the nearby ponds have had ecological surveys (prepared in connection with the opencast mining planning application) which found no evidence of great crested newt at the site.

It is commented that the development may disturb small areas of reptile and nesting bird habitat and because of the colliery spoil nature of the ground there is a potential for run-off pollution, it is also commented that the site lies in close proximity to known areas of Japanese Knotweed. Nevertheless, potential impacts arising from these matters can be adequately controlled by the use of a condition, should Members be minded to approve planning permission. The condition in question would require the preparation of a Species and Habitat Protection Plan for Construction, which would amongst other things, require details of water pollution control measures and details of protection measures (both physical measures and sensitive working practices) to avoid impacts during construction including pond protection.

As such, it is not considered that the proposals would cause harm to the features of a Site of Importance for Nature Conservation (SINC) and therefore they accord with the requirements of policy AW8 of the Local Development Plan.

Archaeology

Consultation has been undertaken with Glamorgan Gwent Archaeological Trust (GGAT) who comment that, whilst no objections are raised, the proposals will require archaeological mitigation. Their observations note that an Environmental Statement accompanied an earlier 2010 planning application (10/0292) for reclamation works at Tower Colliery, this included a chapter on the cultural heritage and archaeology of the area, prepared by Cotswold Archaeology. The report identified the potential archaeological resource of the current application area, as well as that of the

surrounding area. Detail in this, and the current Historic Environment Record, shows in the immediate vicinity early industrial features including a length of Tappenden's Tramroad (West), and the Tir-Herbert Brick Works, as well as industrial archaeological features too transient to have been recorded on OS mapping. The tramroad linked the Llwydcoed and Abernant Ironworks with the canal at Glynneath, and the West and East sections were opened in 1802 and 1805.

GGAT have considered the nature of the proposed development, and note that the area has undergone some disturbance associated with reclamation. Therefore, they do not consider an evaluation to be appropriate and in order to mitigate the impact of the development on the archaeological resource, they recommend that a condition, for a programme of archaeological work, taking the form of an archaeological watching brief during the groundworks, for the development, should be attached to any permission granted. As such, should Members be minded to approve planning permission a condition to this effect is recommended.

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.

Conclusion

Having taken account of all of the issues outlined above, the application proposal is considered acceptable in terms of its impact upon the character and appearance of the area, upon residential amenity, upon ecology and its potential impact upon highway safety. Therefore the proposal is recommended for approval, subject to the conditions specified below.

RECOMMENDATION: GRANT SUBJECT TO THE BELOW CONDITIONS:

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(s) no(s)

- Site location plan scale 1:2500
- Drawing no. ERC 001: ERC Location Plan 001
- Drawing no. ERC 001a: ERC Outlay Plan 001a
- Drawing no. ERC 003: ERC Building frame 003

- Drawing no. ERC 004 : ERC Foundation and steel work plan 004
- Drawing no. ERC 005: ERC Section plan details

and documents received by the Local Planning Authority on 24/01/19 and 04/02/19 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. The Environmental Resource Centre shall not be brought into use until the area shown on the approved plan has been laid out in accordance with the approved plan as a children's play area and that area shall thereafter not be used for any purpose other than as a play area in connection with the Environmental Resource Centre.

Reason: To ensure continued use as a community facility for the benefit of the local community.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking and re-enacting that Order) no external lighting equipment shall be erected or installed unless details have been submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent light pollution and to protect the amenities of neighbouring residential properties in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

5. Notwithstanding the approved plans, prior to commencement of development, details/ samples of external finishes for all elevations of the Environmental Resource Centre building shall be submitted to approved in writing by Local Planning Authority. All finishes/ materials used shall conform to the sample(s) 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.

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

- a) An appropriate scale plan showing 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 including pond protection;

- c) A timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife and species could be harmed
- d) Details of specific species mitigation measures for reptiles and birds.
- e) Details of specific habitat mitigation measures related to construction
- f) Details of water pollution control measures
- g) invasive plant control
- h) An agreed scheme of progress reporting to the Council during the construction programme.

Persons responsible for:

- i) Compliance with legal consents relating to nature conservation;
- ii) Compliance with planning conditions relating to nature conservation (Ecological Clerk of Works);
- iii) Installation of physical protection measures and management 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) Specific species and Habitat Mitigation measures
- vii) Provision of training and information about the importance of the '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.

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 the applicant, or their agents or successors in title, has secured agreement for a written scheme of historic environment mitigation which has been submitted by the applicant and approved by the local planning authority. Thereafter, the programme of work will be fully carried out in accordance with the requirements and standards of the written scheme.

Reason: To identify and record any features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource in accordance with Policy AW7 of the Rhondda Cynon Taf Local Development Plan.

10. The development hereby permitted shall not begin until a scheme to deal with contamination has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include all of the following measures unless otherwise agreed in writing by the Local Planning Authority:

- A desk-top study to identify and evaluate all potential sources and impacts of contamination relevant to the site. The desk top study should contain a conceptual site model.
- A site investigation shall be carried out to fully and effectively characterise the nature and extent of any contamination and its implications. The site investigation shall not be commenced until a desk-top study has been agreed in writing with the Local Planning Authority.
- A written method statement for the remediation of contamination affecting the site

Reason: In the interest of health and safety and environmental amenity and so as to accord with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

11. The ERC, hereby permitted, shall not be occupied until the measures approved in the scheme (referred to in Condition 10) have been implemented and a suitable validation report of the proposed scheme has been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of health and safety and environmental amenity and so as to accord with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

12. If during development works any contamination is encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the contamination proposals then work shall cease and revised contamination proposals shall be submitted to the Local Planning Authority. The development shall not re-commence until the additional proposals have been agreed in writing by the Local Planning Authority.

Reason: In the interest of health and safety and environmental amenity and so as to accord with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

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