

**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

**MUNICIPAL YEAR 2014-2015**

**DEVELOPMENT CONTROL  
COMMITTEE  
21 AUGUST 2014**

**REPORT OF:  
SERVICE DIRECTOR  
PLANNING**

	Agenda Item No.6
	<p><b>APPLICATION NO: 14/0527 GAS FIRED 'PEAKING' POWER GENERATING PLANT OF PROVIDING 50-299MWE (REFERRED TO AS THE 'POWER GENERATION PLANT'), NEW UNDERGROUND ELECTRICAL CABLE CONNECTION (REFERRED TO AS THE 'ELECTRICAL CONNECTION) TO EXPORT ELECTRICITY FROM THE POWER GENERATION PLANT INTO THE NATIONAL GRID AT RHIGOS SUBSTATION AND A NEW UNDERGROUND GAS PIPELINE CONNECTION (REFERRED TO AS THE 'GAS CONNECTION' TO BRING NATURAL GAS TO THE POWER GENERATION PLANT FROM THE EXISTING HIGH PRESSURE GAS NETWORK NTS IN THE VICINITY OF THE PROPOSED PROJECT SITE. THIS ELEMENT OF THE PROPOSED PROJECT ALSO INCLUDES THE ABOVE GROUND INFRASTRUCTURE (AGI) FOR THE GAS PIPELINE AT THE POINT OF CONNECTION TO THE NTS, AS WELL AS A NEW PERMANENT ACCESS TO THE AGI, HIRWAUN INDUSTRIAL ESTATE, HIRWAUN, ABERDARE, OBSERVATIONS REQUESTED BY PLANNING INSPECTORATE (NSIP PROCESS)</b></p>

**PREFACE**

Committee is advised that this application is a Nationally Significant Infrastructure Project (NSIP). This means that a Development Consent Order is required to build, operate and maintain the scheme under consideration.

This is not a planning application (in the usual sense) although there are a number of similarities in the consideration / determination process.

Rhondda Cynon Taff County Borough Council are the host authority for this scheme however the application for Development Consent will be processed and examined by the Planning Inspectorate (PINS) who will make a recommendation (following a Public Inquiry due to take place in September at the Ty Newydd Country Hotel in Penderyn) on whether the Development Consent Order should be granted by the Secretary of State for Energy and Climate Change.

**The final decision on the proposed Development Consent Order is made by the Secretary of State.**

The Council (as LPA) are a principal consultee in this process although the formal response of Committee would only constitute one of a number of material considerations that the PINS appointed Inspector / SoS would need to take into account before making a decision.

As part of this process, the Council are required to prepare a Local Impact Report (LIR). The Local Impact Report (LIR) has been prepared in accordance with the requirements of the Planning Act 2008 (as amended by the Localism Act 2011).

As a frame of reference, Members may want to think of this as being similar to the assessment of a Committee Report although the process does not expect the Council to draw the potential impacts together or give a view on the acceptability (or otherwise) of the overall proposal.

In accordance with guidance issued by PINS, the LIR has not examined the relationship with national Policy and guidance. The LIR seeks to establish the degree of local direct impact in relation to the main planning issues having regard to the local planning policy content (the LDP).

As an early part of this process, discussions were held with the applicant to help ensure that the assessments and proposals were of appropriate scope and informed by relevant considerations. At a later stage the LPA had to prepare an "issues" letter. This set out, to PINS, the initial assessment of what the likely issues of concern would be. These have been included within the main body of the report. In accordance with PINS guidance, the likely impacts have been expressed in terms of whether they are

- positive,
- negative or
- neutral

with the degree of impact, where relevant, being expressed as

- major,
- moderate or

- minor.

This is the first application of this type that has been considered by the Council although a number have been submitted for various projects throughout Wales (such as the Tidal Lagoon in Swansea). As a frame of reference, the Pen Y Cymoedd wind farm proposal is, perhaps, the nearest comparison that can be drawn with this scheme in terms of the Council's role in the decision making process however, in terms of procedural matters, the timescales for the constituent parts of this process are much more rigid in NSIP applications.

Members are advised that the timescales for the submission of all constituent parts of this process are very rigid and are not subject to change. As a result of these timescales, it will not be possible for Committee to be able to have the benefit of a site visit and be able submit the LIR to PINS on time. In fact, the timescales are so tight that a response must be sent to PINS by midnight on the day of Committee. All parties that are part of this process are also subject to the same deadlines.

#### **RECOMMENDATION:**

That Committee resolve to accept the conclusions of the following assessment and it be sent to PINS as the Council's formal Local Impact Report.

#### **SUMMARY of ISSUES:**

The proposed use is industrial in nature and sits within an established industrial estate and, therefore, raises little issue in respect of land-use compatibility.

The application will occupy a large area of land that the LDP primarily identifies as suitable for employment in B1 (Light Industry), B2 (General Industry) and B8 (Storage & Distribution) Use Classes. The proportion of likely jobs to land-take is low. If the development proceeds, this land would no longer be available (although the Council has a plentiful supply of industrial land within the County Borough). Nevertheless, if constructed, the scheme represents a significant inward investment within the northern part of the County Borough and, while the number of jobs that will be created through the operational phase of the development is low, there are significant opportunities during the construction phase to help support and enhance local suppliers.

The applicants have taken appropriate steps (subject to compliance with the design principles included within their proposed mitigation measures) so as not to have any significant adverse visual effects on the Brecon Beacons National Park nor on the Hirwaun Industrial Estate and the villages of Hirwaun, Rhigos, Penderyn and their environs.

There are a number of issues of significant importance (ecology, health and safety, emissions, etc.) in the determination process, the responsibility for which, in most part sit outside of the Council but will form part of the final deliberations by the appointed Inspector. Those impacts for which the Council are directly responsible for, namely land use, (some) ecology, noise, highways, Public Rights of Way, etc.) are considered to be acceptable.

The acceptability of the proposal as a whole will rely on the detailed requirements (conditions) of the DCO.

## **DCO APPLICATION DETAILS**

The applicant (Hirwaun Power Ltd.) is proposing a new thermal generating station (power generating plant) on land at the Hirwaun Industrial Estate. The plant would generate an output of up to 299MW and would operate as a “simple cycle gas turbine peaking plant”.

The plant would be fuelled by natural gas supplied to the site by a new gas pipeline connecting the plant to the existing National Gas transmission system.

A “peaking plant” is designed to operate when there is a surge in demand for electricity associated with a particular event (e.g. where many people across the country boil kettles following a break in a major sporting event like the World Cup final, or where there is a sudden drop in power being generated from plants which are constantly operational).

This facility would help to “balance out” the Grid at times of peak electricity demand and would help to support the Grid at times when other technologies (such as wind farms and solar farms) cannot generate electricity due to their inability to operate in certain weather conditions. Peaking plants are therefore vital in levelling out the power in the Grid. It is proposed that the plant may not operate for more than 1500 hours per year (to help put this into context, Committee is advised that there are 8760 hours in a year). The “reactive” intermittent role also means that it is not practical for such plants to provide a local heat output.

There are 3 main elements of the project:

- A new power generating plant, a Simple Cycle Gas Turbine gas fired “peaking” power generating plant capable of providing an electrical output of up to 299 MW (enough to power the equivalent of 400,000 homes)
- A new underground electrical cable connection which will export electricity from the plant to the national electricity transmission system at Rhigos sub-station
- A new underground gas pipeline connection to bring natural gas to the plant from the existing high pressure gas Network Transmission

System. This element of the project also includes the above-ground installation for the gas pipeline at the point of connection to the National Transmission System.

All three elements comprise the project as all are required for the generation of electricity and onward distribution. The application for Development Consent includes the whole of the project and all of the application details have been the subject of Environmental Impact Assessment (EIA).

Unlike a “traditional” planning application, this proposal is made neither in “outline” or “full / detailed”. The exact details of what the final scheme will comprise are not known at this stage although the likely make up of the site has been established. As a frame of reference, Committee may want to think of this as a “hybrid” scheme including some specific details and some details which are to be agreed in principle only.

The main equipment in a Simple Gas Turbine is a gas turbine generator comprising:

- Inlet air filter
- Air compressor
- Combustion chamber
- One or two turbines and
- Exhaust silencer.

In the gas turbine, air is compressed and natural gas is injected. The fuel would then burn in the combustion chamber producing hot, high pressure gasses. This gas expands across the blades of the gas turbine which drives the electrical generators to produce electricity. The exhaust silencer would reduce noise pollution from this process.

The waste gasses and heat produced from this process would be released into the atmosphere via stacks (chimneys). The stack would be equipped with equipment which would reduce the emissions released.

The plant would have between one and five gas turbine generators and, correspondingly, one to five stacks. Each stack would be between 30 – 35 metres in height. At this stage, the exact number of turbine generators, their individual electrical capacity, or number of stacks is not known other than there will be no more than five and that the power generated by the entire installation would not exceed 299MW.

In addition to the generators and stacks there would also be a need for:

- Demineralised process water tank
- Fire water tank
- A control building
- A workshop and store building
- Security infrastructure (cameras, lighting, etc.)

- Lighting, roadways and parking areas
- An administration building and office
- A “blackstart” generator
- Telemetry apparatus
- A switchyard / banking compound
- A natural gas receiving station with compound

While the requirements for this scheme are known, the precise make / model (and therefore design) is not yet finalised. Similarly, the exact layout of these both in relation to each other and the site boundaries is not finalised. This arrangement (which is not permissible in the “normal” planning application) is referred to as the “Rochdale envelope”. Should a Development Consent Order be granted, it will stipulate the maximum dimensions of these constituent parts and the imposition of “requirements” (which are comparable to planning conditions) would mean that the layout, scale and external appearance of all constituent parts of the Power Generation Plant and the Gas Connection AGI are to be agreed with the LPA at a later date (although it would seem that such a submission would be to ratify the final location / layout rather than to assess the details such as would be the case in a “reserved matters” application).

The development of the Power Generation Plant would necessitate the demolition of all above ground structures including the main building (known as Building 1) with a footprint of around 3ha. Demolition of foundations may also be required. Two existing accesses, one at the west part of the site to Main Avenue and one at the eastern end to Fourth Avenue, would be reused as secondary accesses. The main access would be in the central frontage of Main Avenue. Historically this was an entrance to the site but it was blocked up by the construction of an extension to Building 1.

An area of existing hard-standing lying to the south of the Power Generation Plant site would be used for lay-down during the construction period of any part of the Project, and retained for unscheduled maintenance of larger items of plant during the operation of the Power Generation Plant. A single storey derelict brick building, known as building 6, opposite the new entrance on the Main Avenue frontage to this site would be demolished to facilitate this usage and to allow a suitable new access to be built opposite the Power Generation Plant access. A smaller, modern building, known as building 4, would be retained and used as a site office.

The scheme also involves a new underground gas connection to link the plant with the existing National Gas Transmission System. This will enable the provision of a reliable supply of fuel. The connection would run from the plant approximately 900 metres in a south / south east direction to connect into the existing system.

An above-ground installation would also be required to connect into the National Transmission System. It would contain gas regulating equipment and will be sited adjacent to the A4061. A new track would enable access for maintenance.

A new electrical connection would enable electricity generated by the plant to be exported to the national grid. The point of connection would be at the Rhigos substation (to the North West) which is expected to be completed in 2016. The electrical connection route is approximately 680 metres in length. It consists of a 400kV cable buried underground. The cable would run from the plant, alongside Main Avenue before heading north alongside Fourteenth Avenue. No new access points are required in respect of the electrical connection.

## **SITE APPRAISAL**

The plant would be located on Hirwaun Industrial Estate on the former Hitachi factory and its environs (a plan will be provided at Committee for Member's information).

The site is currently owned and occupied by International Greetings UK Ltd which manufactures and distributes a range of seasonal and greeting cards, wrapping paper, decorative bows, etc. It sits approximately 1.3km north east of Rhigos, 1.4km west of Hirwaun and 5km west of Aberdare.

The application site covers approximately 7.5 hectares although the overall footprint of the development is smaller at around 5 hectares. It is characterised by industrial buildings, concrete hard-standings, scrub grassland and plantation woodland. To the North West (but outside of the application site) is the Rhigos sub station where the land is marshy and of greater ecological interest (deep peat).

The A465 Heads of the Valley road runs approximately 100 metres to the north. Tower Colliery is approximately 1 km to the south with Penderyn Reservoir (which is the first notable land feature of the boundary with the Brecon Beacons National Park (BBNP) approximately 1km to the north.

The closest residential properties are located approximately 200 metres from the site, albeit in isolated locations with the closest residential development being approximately 350 metres away.

Several nature conservation sites are located nearby. The marshy area north of the Estate itself is a SINC (a locally important designation) with the Blaen Cynon SAC (a Europe-wide important designation) and two SSSI (a nationally important designation) being located approximately 200 metres to the north.

## **PLANNING HISTORY**

Due to the nature of the extent of the "red edge" application site, the planning history listed below includes applications that are not necessarily of direct relevance to the area where the main bulk of the buildings are proposed (the Estate) however have been included for completeness for Members' information.

13/0859	Tower Colliery, Rhigos Road, Rhigos, Hirwaun, Aberdare, CF44 9UF	Vary condition 6 to substitute approved mining operation plans in years 3, 4, 5, 6, and 7 of the approved working programme in relation to planning permission ref. 10/0292/10.	Pending
13/0779	Selar Opencast Coal Site Nr. Glyneath	Proposed extension for the phased extraction of some 800,000 tonnes of coal integrated into the existing and permitted operations with associated relocation of workshop, internal access road, offices and site infrastructure (consultations requested by Neighbouring Authority).	RNO 9/10/13
13/0734	Selar Surface Mine, Rhigos, Aberdare.	Variation of condition 2 and 4 of Planning Permission Ref 09/1242/10 to continue the use of the existing access off the A4061 for a further period to 31 December 2019, (as part of an extension to the surface mine, within Neath Port Talbot CBC) and to allow the retention of the coal haulage road, post cessation of surface mineral workings, for use in association with the agricultural and other management of the land.	Granted with conditions & S106 Agreement 04/07/14
13/0523	Tower Surface Mine, Rhigos Road, Hirwaun, Aberdare, CF44 9UD	Engineering works to bury existing 33kv power line, construct a surface water run-off interceptor ditch and an access track and restoration works (partly retrospective)	Granted with conditions 12/11/13
13/0466	Tower Surface Mine, Rhigos Road, Hirwaun, Aberdare, CF44 9UF	Variation of conditions 19, 20, 21, & 22 of planning approval 10/0292 to extend working hours on Saturday to 1600 Hours.	Refused 30/12/13  Appeal allowed 03/06/14
10/1212	Tower Colliery, Rhigos Mountain	A new environmental resource centre with public access, parking, children's play park,	Conditions 03/01/12



	Road, Rhigos, Hirwaun, Aberdare	ancillary cafe and retail use	
10/0292	Tower Colliery, Rhigos Road, Hirwaun, Aberdare, CF44 9UF	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; re-contouring and landscaping of the site to enable future re-development; restoration and aftercare 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.	Conditions 16/12/11
09/1311	Approximately 47 Km <sup>2</sup> of Land South of the Heads of the Valleys Road (A465) Between Neath & Aberdare, to the North of Maerdy, Treorchy, & Glyncorrwg And To The East Of	Application under S36 of the Electricity Act. Construction /operation of a 299MW wind turbine generating station (84 turbines, 4 anemometry masts and associated infrastructure.	Raise No Objection 07/10/11

## Tonmawr

09/1295	Selar Opencast Site Rhigos Aberdare	Variation of condition 2 of planning permission ref. 09/1242 to continue the use of the existing access to Selar Opencast Coal Site for a further period to 31 December 2015.	Raise No Objection 15/07/10
09/1242	Selar Opencast Site Rhigos Aberdare	Variation of Condition 2 of planning permission ref. 05/2174 to continue the use of the existing access to Selar Opencast Site, off the A4061 for a further period to 31.12.15.	Conditions 09/07/10
09/1196	Forestry land at Mynydd Tynewydd, Treherbert	Felling of forest and erection of an 80m high temporary mast in the same location. Temporary planning approval is sought for a 36 month period.	Conditions 18/12/09
09/1090	Tower Colliery, Hirwaun, Aberdare	Removal/variation of Condition No.21 of Planning Permission C/98/4221/10 - to allow the deposition of waste on Tip 901. From coal washing (coal not from Tower Colliery).	Conditions 26/02/10
09/0393	Mynydd Bwlfa, Land south of A465, Hirwaun Aberdare	Erection of 12 wind turbines together with vehicular access, site tracks and ancillary infrastructure	Refused 24/05/11  Appeal: Allowed with Conditions 01/06/12
08/0738	Tower Colliery, Hirwaun, Aberdare	Temporary use of land for a mineral terminal at Tower Colliery mineral railway line site.	Conditions 13/10/08
06/2401	Selar Opencast Site Rhigos, Nr Glynneath	Extension of time for the completion of opencast coaling and ancillary operations. (Observations requested by Neath Port Talbot County Borough Council)	Raise No Objection 16/03/07
06/1415	Land south of A465 (Hirwaun	Erection of 12 wind turbines together with ancillary	Withdrawn - Appeal Against

	Common, Mynydd Bwlfa, Mynydd Cefn Y Gyngon)	infrastructure	Non- Determination 20/03/08  Appeal: Dismissed 18/11/08
05/2266	Selar Opencast Site Rhigos, Nr Glynneath	Extension of time for the completion of opencast coaling and ancillary operations (with the exception of the proposed restoration and aftercare works) until 31st December 2010 (Amendment to condition 3 of planning permission 93/0348/05) Observations requested by Neath Port Talbot County Borough Council	Raise No Objection 12/06/06
05/1927	Tower Colliery, Tower Park, Rhigos Road, Hirwaun, Aberdare.	Proposed car park and associated security fencing in order to provide public access to fishing ponds.	Withdrawn 09/02/06
05/2174	Selar Opencast Site, Rhigos, Nr. Glynneath.	Extension of time for the continuation of opencast coaling and ancillary operations (with the exception of the provision of restoration and aftercare works) until 31st December 2010 (Amendment to condition 3 of planning permission ref: 51/93/0266.	Conditions 12/06/06
05/0571	Tower Colliery C.P.Plant Treherbert Road, Hirwaun, Aberdare.	Retention of bagging plant building conversion to coal briquetting plant.	Conditions 10/03/06
05/0354	Land adjacent to Bryn Hir (Mountain View), Rhigos Road, Hirwaun, Aberdare	4 bedroom dwelling (outline application).	Withdrawn 01/07/05
04/1805	Mountain View,	Change of Use of dwelling from	Withdrawn

	Rhigos Road, Hirwaun	C3 (House) to C1 (Residential Care Home)	05/01/05
04/1404	Mountain View, Rhigos Road, Hirwaun	Single storey rear extension to provide office/study.	Conditions 06/09/04
04/0665	Site off Main Avenue, Hirwaun Ind. Estate, Hirwaun, Aberdare	Provision 1 x 16,800m approx & 1 x 12,200m approx warehouse extension to existing.	Withdrawn 14/07/08
03/1546	Tower Colliery, 5'/7' Seam Underlying Mynydd Corrwg Fechan, Mynydd Resolven Mynydd Ynyscorrwg	Underground extension to the current working area of Tower Colliery to permit the continued mining operations	Raise No Objections 07/11/03
03/0293	Aman Metal Spinners (2000) Unit D, Hirwaun Ind. Estate, Hirwaun, Aberdare.	Proposed re-erection of Nissen Hut type building as a Material Store.	Conditions 25/03/03
03/0060	Unit D, Hirwaun Ind. Estate, Hirwaun, Aberdare.	Proposed construction of Toilet Block.	Conditions 11/02/03
02/1732	Unit S, Hirwaun Ind. Est., Hirwaun	Vehicle recycling plant	Conditions 07/03/03
02/1498	Scandinavian Design Ltd., Hirwaun Ind. Estate, Hirwaun, Aberdare	Installation of two water storage tanks and a pump house to feed a sprinkler system.	Conditions 13/11/02

02/0114	Tower Colliery Sidings, Rail Loading Depot, Hirwaun, Aberdare	Variation of condition 1 of Planning permission C/01/4240 to extend the permission for temporary storage of stone and loading stone onto railway transport	Conditions 29/03/02
01/4240	Tower Colliery Sidings, Rail Loading Depot, Hirwaun, Aberdare	Temporary storage of stone and loading of stone onto rail transport	Conditions 14/08/01
00/4520	Fourth Avenue, Hirwaun Ind. Estate, Hirwaun, Aberdare	Installation of new gas pipeline	Conditions 11/01/01
00/4194	Tir Bryn Hir, Rhigos Road, Hirwaun, Aberdare	2 storey extension for a bedroom and office, construction of a detached garage	Conditions 29/06/00

## **PUBLICITY**

The responsibility for carrying out all publicity as part of this process falls to the applicant in accordance with strict guidelines set down by the regulations associated with the Planning Act 2008.

A "Statement of Community Consultation" was prepared during the pre-application stage and has been submitted with the application. Publicity included direct mail to affected properties, site notices, press notices and public exhibitions. As a frame of reference, Committee is advised that the publicity required for this type of application is far in excess of that required for a "normal" planning application.

As a result of this exercise the Council has not received any direct representations. Correspondence may be sent directly to PINS (rather than the LPA) by anyone who considers themselves affected by or interested in the proposals.

## **CONSULTATION**

Again, the responsibility for all consultation rests with the applicant in accordance with the strict guidelines set down as part of the NSIP process. All consultees are required to send their responses to PINS (and not the LPA).

Within the Council, the following consultations have been made. A brief précis of responses have been included for Committee's information:

**Transportation Section** – no objection in principle subject to conditions

**Public Health & Protection** – no objection in principle subject to conditions

**Land Reclamation & Drainage** – no objection in principle but raise some concerns over the lack of / contradicting information submitted as parts of the application

**Countryside Section** – no objection in principle subject to further clarification and examination of the details in conjunction with NRW.

Committee is advised that the responses can only relate to the jurisdiction that the Council has in exercising its functions in these areas although the inter-relationship between the Council and the respective external organisations means that there will inevitably be some overlap.

Committee can be assured that those bodies that have been consulted by the applicant as part of the NSIP process are those which would have been consulted if this had been a “normal” planning application. In fact, the range of organisations that are part of the NSIP process are considerably greater than those of a planning application. Where there is a potential overlap, these have been explained in greater detail in the main body of the report.

Committee is also advised that the DCO will cover legislative areas wider than that of a “normal” planning application as well as there being separate consenting regimes that the applicant may need to undertake before any development can commence (outside of the Development Consent Order) such as construction works to streets within the “red edge” boundary.

## **POLICY CONTEXT**

As an NSIP application, the principal policy context is not the Local Development Plan. The Department for Energy and Climate Change has published a number of National Policy Statements (NPS) in relation to energy infrastructure which was designated by the Secretary of State in July 2011. These NPS set out national policy against which proposals for NSIP are assessed and decided on.

Due to the nature of the project three of the NPS are considered relevant to the determination of the Development Consent Order (listed below):

Members are advised that energy projects of over 50MW are not devolved to the Welsh Government and therefore Planning Policy Wales, which would normally be the source of national planning policy, is not of primary relevance.

### **NATIONAL POLICY STATEMENT for ENERGY (EN-1)**

This sets out national policy for energy infrastructure as defined by the Planning Act 2008 and provides the primary basis for decisions by the Secretary of State (SoS). It recognises that there is a significant need for new energy infrastructure. It states that pending plant closures in the UK will reduce available capacity by 22 Gigawatts by 2020 as a result of tightening environmental legislation and older power stations reaching the end of their useful life;

NATIONAL POLICY STATEMENT for FOSSIL FUEL ELECTRICITY GENERATING INFRASTRUCTURE (EN-2)

This sets out policies specific to the determination of applications for fossil fuel electricity generating infrastructure;

NATIONAL POLICY STATEMENT for GAS SUPPLY INFRASTRUCTURE and GAS and OIL PIPELINES (EN-4)

This sets out the UK Government's policy on the relevant considerations and factors that should be taken into account as to route selection for developers (although it is acknowledged that this relates more to significant gas pipelines than relatively short gas connections as it the case with this scheme)

While these are the principal (and principle) policy considerations in respect of this application, it is considered essential that the decision-maker should have regard to the relevant policies in the Local Development Plan. In order to assist in weighing the impacts and benefits of this scheme, an assessment of its performance against the relevant policies has also been included for Committee's and PINS / SoS consideration. This approach is consistent with National Policy Statement EN-1.

The Local Development Plan

The Rhondda Cynon Taf Local Development Plan up to 2021 was adopted by the Council in March 2011 and sets out *".....the framework for decisions to be made up until 2021 on how land is used in the County Borough, for example what type of development is appropriate or desirable and how best to protect our environment"*.

The Local Development Plan provides part of the Development Plan against which applications under the Town & Country Planning Act regime are to be determined, and parts may be relevant and important under the Planning Act 2008 regime.

Section 4 of the LDP sets out the Core Strategy for Rhondda Cynon Taf and outlines the spatial strategy for guiding all future development and land use in the Borough. Section 5 sets out detailed area wide policies, and Section 6 outlines specific policies for the northern and southern areas of the Borough.

The area of Hirwaun Industrial Estate proposed for the development of the Power Generation Plant is designated in the Proposals Map as Policy CS 9 - Waste Management.

The Hirwaun Industrial Estate is identified as a regional site that is able to accommodate a range of waste management options to meet the capacity requirements set out in the South East Wales Regional Waste Plan. The Local Development Plan notes that *“in identifying Hirwaun Industrial Estate as a suitable site for waste management, it is not the intention that the employment uses at the site should cease.”*

The LDP identifies that DCO application site is:

- Outside the settlement boundary of the key settlement of Hirwaun, and
- Forms part of an area allocated under policy CS 9 for regional waste management facilities.

Policies of the Local Development Plan of relevance to the proposed scheme are:

CS1 – Development in the North	Emphasises building strong sustainable communities, partly by re-use of underused land and buildings (3), and partly by encouraging a strong, diverse economy (6).
CS9 – Waste Management	Hirwaun Industrial Estate is identified as a regional site for waste management, capable of accommodating a range of waste management options (in-building processes only).
AW2 – Sustainable Locations	Promotes development in sustainable locations, which include: <ul style="list-style-type: none"> <li>○ sites within settlement boundaries (1);</li> <li>○ sites where there would be no unacceptable conflict with surrounding uses (2);</li> <li>○ sites with good accessibility by a range of transport modes (3);</li> <li>○ sites where development would support the roles and functions of key settlements (6);</li> <li>○ sites where development would support the development of strategic sites (7); and</li> <li>○ sites well-related to infrastructure, including gas and electrical services (8).</li> </ul>
AW4 – Community Infrastructure & Planning Obligations	Provides for planning obligations to be sought where necessary to make proposals acceptable in land use



	planning terms.
AW5 – New Development	Gives amenity and accessibility criteria for new development.
AW6 – Design and Placemaking	Promotes good design in new development, including: <ul style="list-style-type: none"> <li>○ A high standard of design (1);</li> <li>○ Appropriate to the local context (2);</li> <li>○ Landscaping (7);</li> <li>○ High level of connectivity and accessibility (11);</li> <li>○ Energy efficiency (15); and</li> <li>○ Good water management (16).</li> </ul>
AW8 – Protection and Enhancement of the Natural Environment	Aims to preserve and enhance natural heritage, partly by ensuring no unacceptable impact on natural resources such as air, water and soil. Ecological surveys and appraisal are required where protected and priority special would be affected.
AW10 – Environmental Protection and Public Health	Requires no unacceptable harm from a range of environmental risks, including air pollution (1), noise pollution (2), light pollution (3) and water pollution (7).
AW12 – Renewable and Non-Renewable Energy	Gives criteria for energy schemes, including energy from gas.
NSA3 – Development in the Key Settlement of Hirwaun	Gives criteria for development in Hirwaun, including high standard of design (1), accessibility (4) and nature conservation (5).
NSA16 – Re-development of Vacant / Redundant Industrial Sites	Gives criteria for conversion or redevelopment of redundant and/or vacant industrial sites.

## REASONS FOR REACHING THE RECOMMENDATION

As stated at the beginning of this report, in considering the Council's response to PINS / SoS it is considered that the principal issues to be assessed are:

- Compliance with national and local planning policy;
- The visual and landscape impact of the project, especially with regard to the setting of the Brecon Beacons National Park, and any associated mitigation proposed;

- Consideration of the above in relation to both the “Rochdale envelope” and the likely design and scale of the final project;
- The impact on protected species, biodiversity and habitats;
- The effect of the project with regard to traffic, noise, air & water quality and other environmental effects
- The impact of the development during the construction phase
- Socio-economic impacts including any employment and regeneration impacts;
- An assessment of the content of the DCO and relevant conditions (“requirements”) that could be applied in the DCO;

Following the completion of responses from all relevant bodies (including RCT’s listed above), the Inspector issued an “Initial Assessment of Principal Issues”. This has been included for Committee’s information as **APPENDIX A**

- **Compliance with national and local planning policy;**

The need for the development in terms of national considerations is set out the supporting documents accompanying the application. The National Policy Statement for Energy (EN-1) advises that PINS should start with a presumption in favour of granting consent to applications for nationally significant infrastructure projects. This presumption applies unless any more specific and relevant policies set out in the NPS clearly indicate that consent should be refused, or it is apparent to the decision maker that the impacts of the scheme outweigh the benefits.

To minimise risks to energy security and resilience, the Government believes it is prudent to plan for a minimum need of 59 GW of new electricity capacity by 2025. The NPS also advises that it is not the Government’s intention in presenting the above figure to set targets or limits on any new generating infrastructure – although Committee is reminded that the purposes of this plant under consideration is to supplement the existing array of energy generators by operating as a “peaking plant” - operational only when there is a need to provide a constant supply of energy. While not of direct relevance, Energy Wales (Welsh Government, March 2012) notes that gas is a “*flexible, responsive and reliable source of energy*”.

Committee is advised that the proposed scheme is broadly compliant with the aims and objectives of the LDP. The principal policies within the LDP are set out in the POLICY CONTEXT Section of this report. Some of these policies are general in nature whereas some of them are specific in what they seek to achieve. Not all of the criteria in each of the policy areas will be applicable to this scheme.

The development will involve the removal, remediation and redevelopment of an existing and underused building and is therefore considered compliant with relevant criteria in Policy CS1.

Policy CS9 involves the allocation of between 12.5 and 21.7 hectares of land to meet the South East Wales Regional Waste Plan requirement. The site at

Hirwaun has been identified as being one of two principal sites (the other being Bryn Pica) to meet this need.

The scheme, if built, would effectively remove approximately 5 hectares from the land allocated within the Industrial Estate to develop “waste” uses. While the proposed use would represent a loss, the policy states that land at the respective sites is *available* for this type of use however, in the case of Hirwaun, it would not prevent other B1, B2 or B8 uses from using or developing the land for non-waste related industrial uses. In addition, the policy does not preclude any other site within the County Borough from being considered for “waste” uses that could make a useful contribution to the targets. The latest figures show that 73.6% of the lower (12.5 hectare) target has been met or 42.4% of the higher (21.7 hectare) target. The loss of this site is not considered to be out of accordance with the aims and objectives of this policy and is considered to have a negligible / negative impact.

The development, being within the boundaries of the Hirwaun Industrial Estate and close to the main settlements of Hirwaun, Rhigos and Aberdare is considered to be a “sustainable location” and is broadly compliant with the criteria set out in Policy AW2. In terms of sustainability, the proposal is considered to have a moderate / positive impact.

Policy AW5 sets out the acceptability criteria for new development in respect of “amenity” and “accessibility”. Given the nature of the type of application (with its number of variables) it is considered that, on balance, the scheme is in broad compliance with the criteria set out however a number of criteria would be influenced by organisations outside of the Council (such as NRW) and the ultimate compliance with this policy rests on input into the process over which the Council have no control. In terms of its local impact, the proposal is considered to have a moderate / positive impact, due to the landscaping and proposed appearance and access arrangements.

Policy AW8 relates to the protection and enhancement of the natural environment. The performance of the development against the aims and objectives of this policy are set out later in this report (through the comments of the Council’s Ecologist). It is not possible to conclude whether the scheme is in compliance as the separate participation of NRW in this process with regards to the statutory designated ecological features makes a comprehensive assessment difficult. While it is not considered that the scheme is out of accord with this policy, the decision maker will need to take the broader (and more important) issues into account in determining the DCO. In light of the comments raised by the Council’s Ecologist it is considered that the impacts are minor / neutral but have the potential to have a greater impact without an appropriate long term mitigation strategy.

Policy AW10 refers to environmental protection and public health. The proposal is considered to be broadly compliant with the criteria areas set out. No objection has been received from the Council’s Public Health and Protection section although, again, it is difficult to give a comprehensive response as some of the subject areas sit outside of the Council (NRW and

Public Health Wales / England) however the impact is considered to be minor / neutral.

Policy AW12 supports schemes for renewable and non renewable energy subject to there being no unacceptable affects in respect of soil conservation, agriculture, nature conservation, wildlife, natural and cultural heritage, landscape importance, public health and residential amenity. The scheme is considered to be broadly compliant with, insofar as RCT's area is concerned, these criteria however, in a similar manner to performance against the other policies; it is difficult to give a comprehensive assessment as much of that information is the responsibility of bodies outside of the Council. On the basis of the Council's areas of jurisdiction, it is considered that the scheme will have a neutral / minor impact.

The scheme is considered to be compliant with Policy NSA16 as it relates to the redevelopment of a redundant industrial site. The land identified for the Power Generation Plant is currently underused but remains in economic use for distribution and storage purposes, employing around 20 people (varying by season). It is a large flat site of 7.5ha and the main building is some 3ha in area and indivisible. It is understood by the agent to be larger than any site transacted on in recent years in South Wales. The site has been actively marketed since 2008 at commercial terms, and was offered both whole (the former Hitachi and Advance sites) and in part. There has however been no firm interest in the land, other than a small area of land lying adjacent to the south which was sold and developed for energy generation (the "Green Frog" plant).

Given the visual impact of the existing buildings, it is considered that the proposed scheme would have a moderate / positive impact.

In terms of the scheme's overall performance in respect of compliance with policies in the LDP it is considered that, subject to appropriate safeguards being included within the DCO, it would have a minor / positive impact.

- **The visual and landscape impact of the project, especially with regard to the setting of the Brecon Beacons National Park, and any associated mitigation proposed**

and;

- **Consideration of the above in relation to both the "Rochdale envelope" and the likely design and scale of the final project;**

Committee is advised that the Brecon Beacons National Park are a separate consultee as part of the NSIP process and will make their own representations in respect of the effect of the project on the setting and impact on the special qualities of the Park.

While the LDP is not the principal policy document when considering NSIP applications, some Members may recall that the Cynon Valley Local Plan had

a specific policy criterion which required the Council, when making decisions as the Local Planning Authority, to have regard to the setting of the National Park when considering applications that are in close proximity. This policy was not repeated in the LDP as the need for its inclusion changed when the requirements for LDP preparation made it clear that policies within it should not duplicate the national planning policies within Planning Policy Wales (PPW). While PPW is also not a principal consideration in the NSIP process, it is considered to be a material planning consideration to be taken into account when assessing the performance of the current proposal in such a potentially sensitive location. Underpinning the national guidance is the duty imposed via section 62(2) of the Environment Act 1995 requiring all public bodies to have regard to the two National Park purposes when making their decisions or carrying out activities in relation to or so as to affect land within a National Park.

The consideration of this application is somewhat unusual insofar as the final design of the plant and apparatus required as part of the scheme is not yet known, and effectively, both RCT and the BBNP are asked to make a judgement on the *likely* maximum scale, design and impact.

This is made more difficult through the concept of the “Rochdale Envelope” which means that as well as the final design not being known, the DCO would mean that the location of the constituent parts within the application site are not known either and may differ from the indicative layout submitted as part of the application.

Committee is advised that this is a “normal” part of the NSIP process although it is acknowledged that Members may find such flexibility and uncertainty a little disconcerting given the more rigid requirements of the traditional planning process and the usual considerations that are exercised when sitting in judgement of the vast majority of developments.

That said, the applicant has provided a comprehensive assessment (as far as is possible) of the likely design and layout of the proposal. The applicant has also presented the principal design considerations of the scheme to the Design Commission.

Committee is advised that the proposed design is somewhat typical of what could be expected of developments of this nature, that is to say that it is industrial in its appearance and contains only those buildings and structures that are required for its operational requirements.

The existing building (the former Hitachi factory) is very large and prominent although its position within the wider Estate is significantly detached from the main settlements of Hirwaun and Rhigos and is not unduly detrimental to the visual amenities of these areas. The largest components would be situated in the northern part of the site to take advantage of the screening effect of the local topography and existing tree planting around the industrial estate and nearby highways, which reduces its visibility in these areas. Perhaps the principal impact of the existing unit is the sheer mass and scale of its roof-

scape, particularly when viewed from the surrounding elevated areas, especially within the National Park. The proposed structures and buildings, while still being of a large scale, would not form a solid mass in the way the existing building does and would help to punctuate the impact by offering views through its individual components to the wider landscape. This would significantly help to improve the outlook both from the National Park and from within the Industrial estate itself.

The most prominent element of the proposed scheme will be the erection of between one and five “stacks” being between 30 and 35 metres high. While these are high in comparison to the average height of the majority of existing buildings and structures on the Industrial Estate, it is not considered that they are so high as to look completely out of place in its industrial setting. There are electricity pylons within the estate at a greater height and some Members may recall that a stack was approved as part of the “Enviroparks” scheme that was up to 45 metres high (which was actually located within the boundary of the BBNP). While the exact number of stacks is not yet known (albeit a maximum of five) it is considered that, as long as they were all of the same height and design, and spaced at equal distance from each other to create a uniform “rhythm” then it is considered that their impact on both the Industrial Estate and the BBNP is acceptable.

Similarly, the applicant has proposed a colour scheme that would see the finishes “graded” such that the colour scheme would reflect (sic) the landscape and skyline of the National Park with each band of colour being blended into the next to help minimise the impact that a stack of a solid colour would have. At the presentation to the Design Commission, the applicants were commended for the thought that they had put into making, what is effectively a utilitarian industrial facility, as aesthetically pleasing as possible and reducing the impact on the special qualities of the National Park landscape.

Since the details proposed by the applicant are captured as part of the DCO in the Design Principles Statement and the final design, scale and layout is proposed to be the subject of a “requirement” (condition) it is considered that the design element of the proposal is acceptable and would have a moderate / positive impact.

- **The impact on protected species, biodiversity and habitats;**

The application has included a Phase I Habitat Survey, and specific species survey as for badger, bats, otter, water voles, breeding birds, reptiles and great crested newt and assessment of marsh fritillary and other invertebrate potential.

#### Statutory Protected Sites

The Environmental Statement identifies the Valued Ecological Receptors (VER) relating to statutory protected sites (SAC and SINC). The ES concludes that only three SAC / SSSI are VER and are sensitive to air quality impacts and that no other SSSI are VER for air quality.

The responsibility for assessing these impacts sit with NRW and it is considered an essential part of the process that they need to comment on the rationale and conclusion of that exercise and whether they agree with the conclusions regarding which of those sites are (and which aren't) within the zones of air quality impact.

#### Construction and Operational Impacts

The ES provides a summary of the 'scoping out' exercise for the construction / decommissioning impacts and operational impacts on SAC / SSSI / VERS.

As part of this process, three SAC / SSSI sites were subject to specific assessment;

In summary; the construction impacts are identified as;

1. Dust pollution
2. Pollution of surface/groundwater's
3. Hydrological implications of culverting works

The operational impacts relate to;

1. Air quality
2. Pollution of surface/groundwater's

Taking each SAC / SSSI in turn;

Blaen Cynon SAC.

The ES considers the principle construction impact on the SAC to relate to impacts on the Hirwaun Industrial Estate Bog SINC, which may fulfil an important conservation function for the marsh fritillary butterfly meta population (which the SAC is designated to protect). These impacts are assessed as being "adverse", "short term" and "reversible", of "low magnitude" and "significant" at an international level.

The ES goes on to consider that if mitigation, as set out in the method statement "Hirwaun Power Project; Draft Method Statement - Hirwaun Industrial Estate SINC" is pursued the impacts on the Blaen Cynon SAC will be reduced to 'no significant effect'.

In terms of operational impacts the ES sets out the implications of nitrogen deposition on the SAC, the assessment concludes a non-significant operational impact on the SAC. It is considered essential that NRW make comment on the specific construction and operation impacts on the SAC as the specialist air quality/soil chemistry detail requires NRW's (and therefore the decision makers') special consideration.

With regards to the implications of development on the Hirwaun Industrial Estate Bog (SINC) site there is a concern that the basis for establishing the hydrological impacts on the SINC have not been sufficiently well explored in

the ES and there is a remaining concern that mitigation measures identified may not be sufficiently specific with regards to impacts on the hydrology of the bog.

Coedydd Nedd A Mellt SAC.

Due to the presence of feeder streams for Nant Camnant which run through the SAC, the ES concentrates on construction impacts to the Hirwaun Industrial Estate Bog SSSI as the principle concern relating to water pollution of the SAC. The assessment concludes that the impacts could be “adverse”, “short term” and “reversible” of “low magnitude” and “significant” at a National level, but that with implementation of embedded mitigation and the method statement “Hirwaun Power Project; Draft Method Statement Hirwaun Industrial Estate SINC”, that impact will have “no significant effects”.

In terms of operational impacts, the ES sets out the implications of nitrogen deposition on the SAC and the implications of operational water pollution of the Nant Camnant feeder stream. The assessment concludes that with implementation of embedded mitigation a “non-significant” operational impact on the SAC. NRW clearly have to make comment on the specific construction and operation impacts on the SAC. That specialist air quality / soil chemistry detail requires NRW's specialist consideration. Again, NRW's observations will be very important in relation to impacts on the SAC / SSSI.

Cwm Cadlan.

The ES assesses that the impact on Cwm Cadlan SAC is related to operational air quality concerns.

Again the ES sets out the implications of nitrogen deposition on the SAC. The assessment concludes a “non-significant” operational impact on the SAC. NRW clearly have to make comment on the specific construction and operation impacts on the SAC. That specialist air quality/soil chemistry detail requires NRW's specialist consideration.

Non-Statutory Protected Sites

The ES identifies 13 SINC which are identified as Valued Ecological Receptors (VERs) being impacted by the scheme. All are assessed as being within the zones of influence of potential air quality; Hirwaun Industrial Estate SINC is also identified as having construction and hydrology impacts, while Hirwaun Common will also suffer temporary and permanent habitat loss. The EIA also identifies all ancient woodland within 2km of the project site as a VER with particular sensitivity to air pollution impacts. A summary of the ‘scoping out’ exercise for the construction/decommissioning impacts and operational impacts on SINC has been provided. Those impacts relate to same general construction and operational impacts described earlier. As part of that process the following SINC received more detailed consideration in the ES.

Hirwaun Industrial Estate Bog SINC

The Bog SINC is considered to be an important functioning element of two SAC / SSSIs and the impacts of implications of dust and water pollution. In



terms of specific SINC impacts, the assessment includes consideration of noise and visual disturbance of species. The ES states, that with embedded mitigation (as set out in the “Hirwaun Power Project; Draft Method Statement Hirwaun Industrial Estate SINC”) the “adverse”, “short term” and “reversible” impacts of “low magnitude” and “significant” impacts at a County Level will be reduced to “no significant effects”. Notwithstanding this conclusion, there remains a specific hydrological concern related to Hirwaun Industrial Estate Bog SINC. Section 8.7.18 of the Ecology Section states that *‘the hydrological effects upon either Hirwaun Industrial estate SINC are not predicted’* and that this is *‘largely as a result of the planned re-use of the existing foundations of the Power Generation Plant site and the narrow foot print of the gas connection corridor’*. It goes on to concluded that any limited potential that remains for hydrological impact will be successfully countered by measures set out in Sections 9.8.3 to 9.8.6. However, the Council’s Ecologist is not totally satisfied with this assessment of the specific hydrological impacts on the bog. Firstly, while the explanation of re-using the existing foundations could be an acceptable measure, the ES should have included some more specific assessment of those hydrological features which are of key importance to the peat bog and which could then be used to better justify why impacts are unlikely. There is also concern that the mitigation referred to in the hydrology section relates to mitigation of culverted watercourses and not peat bog impacts. It is considered that the ES doesn’t set out the specific peat bog hydrological concern sufficiently well, and because of that failing the conclusion of an “unlikely impact” is somewhat unsatisfactory. These concerns are not helped by the fact that the mitigation section refers exclusively to culverted watercourse and not remediation of any peat bog impacts. In terms of hydrological impacts on the Hirwaun Industrial Estate Bog SINC, further clarification of the implications on the adjacent peat bog is considered important to the process and the decision makers’ assessment of the scheme.

A further area of concern is that he ES doesn’t seem to include a specific construction impact assessment of the Hirwaun Common SINC, although it does include an operational impact and an Appendix (8.10) contains a “Hirwaun Power Project; Draft Method Statement Hirwaun Common SINC” which does identify direct habitat impacts associated with construction works, and methods for reducing habitat loss and habitat re-instatement. The Council’s Ecologist is generally satisfied with the measures set out, although it is considered that the gas pipeline works may under-estimate the likely hydrological impacts of the works and the near inevitability that localised hydrological conditions along the trench will realise localised hydrological change from existing. In RCT there are many example of how pipeline results in localised soil compaction and water retention, and the establishment of lines rush along pipe line routes. There is concern that the Method Statement doesn’t sufficiently recognise this potential impact or provide for remedial measures to counter this predictable end result. In terms of hydrological impacts on the Hirwaun Common SINC, greater clarification of these implications and mitigation is required.

With regards to nitrogen deposition, all of the SINC in the area (including the above and the Hirwaun Ponds and Hirwaun Ponds North SINC) will have some nitrogen deposition impacts. Based on the same context of assessment as that employed for the SAC sites, the ES concludes that nitrogen deposition affects will be “not significant”. If it transpires that NRW accept no significant impacts for nitrogen deposition on the adjacent SACs then it may be inferred that impacts on the much lower designated SINC will also be acceptable. However, if NRW identify concerns with regards to the SACs and, if those concerns are related to SAC functioning as realised by adjacent SINC (as per Hirwaun Industrial Estate Bog), then the issue of nitrogen deposition impacts on SINC may require further clarification.

## **HABITATS**

### **Power Station Site**

Man-made structures and amenity grassland within the site in the ES are assessed as being of “negligible” ecology value. Areas of marshy grassland and swamp described as being ‘north of the Power Generation Plant and within the Hirwaun Industrial Estate’ are assessed as being of “County Value” which reflects the SINC designation. Elsewhere areas of semi-improved neutral grassland, scrub/woodland and trees areas along the northern boundary of the power station are relatively species rich and may (with further survey work) satisfy SINC selection criteria on species-richness. The ES concludes that these areas are of “local”, or “neighbourhood” biodiversity value (so below SINC value): The ES also identifies a series of mitigation measures for the protection of, and/or replacement of habitats directly affected. The impacts are generally assessed to be of “low magnitude” in a local context. While, that conclusion is not necessarily disputed, it is very important not to under-estimate the roll these areas as potential habitat stepping stone for species movement, connectivity and dispersal within and around the Hirwaun Industrial Estate. The mitigation suggested for the scheme is based on avoidance and restoration and not the longer-term management and aftercare which I think are essential to mitigation. The loss of the habitat areas should be subject to a long-term (S106) habitat management scheme.

### **Gas Connection Route**

Marshy grassland is assessed as being of “County Value” reflecting SINC designation. In addition, a lake and three ponds are also assessed as being of “County Value”. These sites are not currently in the SINC although the ES assessment work indicates that these should be considered for inclusion in the SINC when the SINC review process takes place. Elsewhere, areas of broadleaved woodland and minor watercourses have mitigation measures (as set out in the “Hirwaun Power Project; Draft Method Statement Hirwaun Common SINC”). These measures need to be implemented as part of conditioning of any application approval. It is considered that the hydrological mitigation needs to be clarified.

### **Electrical Connection**

This corridor identifies areas of woodland as being of “local” biodiversity value, while scattered trees and an area of marshy grassland are considered to be of “neighbourhood” value, with other features of negligible importance. It is important that the small area (0.1 ha) of marshy grassland is assessed within the wider context of marsh fritillary conservation, and the capacity for areas to operate as stepping stone habitats to assist the species movement around and through the Industrial Estate as a connectivity habitat function. While taken in isolation, 0.1 ha of not particularly species rich marshy grassland would not be of higher than neighbourhood value, but within the specific context of this location such habitat (if managed) might well perform a higher biodiversity function. The impact on this habitat area which may have potential to act as stepping stone feature for marsh should be the subject of mitigation within the final scheme design. It is noted that direct impacts are not predicted due to the installation of the cable in the adjacent roadway taking place over a short timescale.

#### Ancient Woodlands

The ES identifies that embedded mitigation measures for dust and pollution will reduce impacts on ancient woodland to a non-significant level. It is considered that those mitigation measures clearly need to be robust and effective measures if planning permission is granted.

### **SPECIES**

#### Badger

No evidence of badger was recorded from within the survey area and no pre-existing records were identified. Therefore the EIA concludes that badger are not considered to be Valued Ecological Receptors, although, it possible that badger might take up residence in the future and therefore, if the scheme does gain consent. it is considered that a precautionary pre-check for badgers should be required as part of precautionary Wildlife Protection Plan condition.

#### Bats

Bat survey work has found 13 confirmed summer bat roosts of variously brown longed eared, common and soprano pipistrelle bats in four of the site's buildings (Buildings 1, 3, 4 and 6). The ES concludes that these bat roosts are not maternity or hibernation roosts, but a European Protected Species Licence will be required and mitigation in the form of demolition or refurbishment procedures, timing of works and replacement roosts put in place (it is understood that NRW are content with the “shadow” EPS licence submitted as part of the application). The assessment concludes that there are no potential tree bat roosts affected by the scheme proposals.

While, on the evidence of the bat survey reports, it would appear that the impacts on bat roosts will be able to be mitigated, it is also clear that specific mitigation will be required, and that this should extend beyond the direct impacts on those bat roosts to include details of site lighting (the principles of ecological sensitive lighting are set out in sections 6.2.6 to 6.2.9 of the “Outline Lighting Strategy”) and subsequent habitat management: it is important that the operational site supports useable bat foraging habitat. This

is capable of being governed by “requirement 10” and aftercare and monitoring must also be secured in the S106 agreement. The EIA concludes that the bat issues is of “local interest” which, if taken in isolation, is not disputed although it is important to recognise that mammals (bats) are a contributory feature of the SINC designations which does provide a County/SINC context.

#### Otters

The EIA identified 29 otter records from within 5km of the Site and direct survey evidence of otter spraints within the River Camnant to the south of the application site. The ES concludes that while no other evidence of otter was recorded, several of the other water bodies in the survey area had otter potential and that ‘it is considered likely that they make occasional use of the water-bodies in the survey area’. The assessment concludes that otters are considered as a VER of “local” value. While if taken in isolation, this conclusion is accepted, it is important to recognise that mammals (otter) is a contributory feature of (at least) the Hirwaun Industrial Estate designations, and this does provide a County/SINC context. The assessment of construction and operation impacts identifies mitigation measures (in terms of disturbance, habitat works and water pollution) but concludes that with mitigation the impacts will be non-significant.

There is some concern within the scheme that the existing culverted watercourse under the factory was described as being left in situ: thereby removing any new direct impacts. However, the hydrological summary (9.10) states that a new culvert maybe created under the site and sections 9.8.3 to 9.8.6 provide a summary of various options relating to culverts. As to the inherent potential that any existing culvert may be used by otters and that any culvert works might affect that use – the ES notes the findings of surveys, namely that a substantial obstruction exists at the upstream end, and that an otter survey was carried out and no evidence of otters were found. As a European Protected Species, NRW comments on this issue are required.

#### Water Vole

The ecology assessment for this application identifies some potential water vole activity (on Watercourse 3), although it concludes that on balance ‘it is considered likely that water vole are absent from the survey area’. With no potential evidence of water vole found on the survey, which found the waterbodies largely dry at the time of the survey. However, as a precaution, the ES concludes that a worst case scenario should be employed which is based in the presence of a small population of water vole on the Hirwaun Industrial Estate Bog SINC and the ES considers this to be of “local” value as a VER. This is a difficult issue to assess. While, perhaps, the likelihood of water vole being present is low (there is no known extant populations in the County Borough) the habitat on the Hirwaun Industrial Estate bog is potentially suitable and if a water vole population is found to occur it would be of a very high “County” significance, which is considered to increase the VER concerns. As a vulnerable UK protected species, if the application was to be determined by RCT Council a consultation with NRW would be considered

to be an essential pre-determination requirement. It is considered that the decision maker has regard to this issue.

#### Breeding Birds

The bird survey identified 44 bird species within the survey areas with 161 bird territories of 29 species: these included a number of species identified in various lists of conservation concern. The ES concludes that the bird interest is of "local" interest: while if taken in isolation, is accepted, it is also important to recognise that bird fauna is a contributory feature of the SINC designations and where key species occur (e.g. barn owl) this does provide a County/SINC context.

There is clearly mitigation which will be required in the construction and operational phase of the development, and this would relate to issues of site clearance, restoration, management and enhancement measures (nest boxes etc). If this was an application to be determined by RCT then issues of LBAP species mitigation would be an important consideration (e.g. the capacity to provide safe nesting sites for barn owl within the new power station building complex would be pursued). It is noted that swallow roosting is provided for within the bat mitigation structure but it is considered important that the decision maker should consider whether sufficient bird mitigation is secured in the DCO.

#### Reptiles

Ecology surveying identified small numbers of common lizard and slow worm on the Site. Within the context of RCT one would anticipate that populations of both species should be likely to be present in different parts of the application site. The EIA states that 'given the small populations present and the limited suitable habitat available within the survey area, it is considered that the reptile populations within the survey area are of no more than neighbourhood value'. Given the survey carried out, this is, perhaps, not an unreasonable conclusion, however experience from other development sites has shown how difficult it can be to assess reptile populations before site clearance works are undertaken and as a precaution a reptile mitigation strategy should be required. In addition habitat management measures should be employed to mitigate for long-term impacts.

#### Amphibians

No great crested newts were found during site survey assessment and therefore great crested newt is not considered as a VER for this assessment. This conclusion appears to be reasonable, however as a European Protected Species, NRW views are important with regards to the assessment conclusions. In addition while the other species of amphibian are not strongly protected, if the scheme gains consent, an amphibian mitigation strategy should be required as a condition of any planning permission. In addition habitat management measures should be employed to mitigate for long-term impacts.

#### Marsh Fritillary Butterfly

The ecological assessment sets out the conservation issues associated with the marsh fritillary butterfly and recognises that marshy grassland habitats which may not currently be in optimal condition for the butterfly could become so during the life of the operation of the Power Station. The assessment concludes that 'the marshy grassland fields in the south of the gas connection route corridor could become important for local marsh fritillary populations' in the future, it also identifies potential for the power plant itself to impact on the marshy grassland habitats of the Hirwaun Industrial Estate SINC. These concerns are accepted, although it is considered that even the species-rich neutral grasslands of the Power Plant site may have a function in allowing marsh fritillary dispersal; the EIA doesn't recognise the function nectar rich grassland as feature in the connectivity of marsh fritillary breeding sites. The ES concludes that the marsh fritillary is a VER of "District" Value. Again, this is a fine judgement issue based on the specific context of the issue. Based on the site in isolation the value may not be higher than "District" however within the wider metapopulation dynamics of the Blaen Cynon SAC that value may be considered to be of a higher value (even National or above).

It is considered important that mitigation in terms of careful design and execution of construction and positive habitat management are needed in order to off-set any longer term implications of the development. The implementation of mitigation in terms of marsh fritillary sensitive site management of retained and restored habitats within the Power Station redline boundary does not figure in the mitigation proposals for this Site, and should be required as part of the scheme mitigation.

#### Other Invertebrates

The assessment identifies 11 addition locally significant invertebrate species and concludes that there are 5 species of principal importance which could potentially use habitats in the application site. The assessment concludes that invertebrates are a VER of neighbourhood value and that no further assessment is needed. This is accepted as a reasonable approach if precautionary mitigation can be employed in terms of habitat restoration and management works which can off-set any habitat impacts associated with the works.

#### Embedded Mitigation

The ES identifies that the design of the site proposal have;

- Avoided direct land-take of the Hirwaun Industrial estate SINC.
- Implementation of a Construction Environmental Management Plan
- Adherence to best practice/BS standards for air quality, noise, vibration and water resources.
- Implementation of industry standard methods and procedures to ensure air quality impacts are minimised throughout all phases of the project.
- The 1.7 ha of the Hirwaun Common SINC affected by the gas pipeline will be reinstated.
- Dust Impacts. The Report further concludes that dust deposition impacts will only affect sites within 100 metres of the project site, which are SINC habitats. It identifies a series of measures to reduce

the dust impact. With regards to the SINC features I think this approach is probably acceptable providing the dust monitoring and avoidance measures are implemented, however NRW will have comment on whether they agree that dust deposition will not be an issue for the Blaen Cynon SAC.

- **General Hydrological Mitigation.** The ecology section identifies a series of so-called 'embedded hydrological mitigation' measures relating to hydrology and water quality measures, these are based on generalised good practice and as such would form the basis for an eco-hydrological scheme. It is strongly recommended that the Land drainage department look at the hydrological Chapters 9 and 10 and offer their expert opinions. There is however a remaining concern regarding the potential impacts on the peat hydrology of the Hirwaun Industrial Estate Bog (see above comments). NRW will need to make their specific observation on hydrological implications related to SAC/SSSI in the area.

### Mitigation

The ES clearly identifies measures needed to reduce the ecological impacts of the scheme proposals. However, the proposal does not extend to any positive long-term management of retained or restored features. This admission is an important one and it is considered that the ES conclusions of low impact will only be fully justified with a commitment to management of habitat features within the red line boundary of the application site. The opportunity to bring non-developed areas of the site adjacent to the Hirwaun industrial Estate Bog SINC has been not identified. It is considered that management should, through a S106 Agreement, seek to tie those areas into the adjacent management of the bog. A precedent for such mitigation has been set with the Rhigos Sub-station application and it should be realised on this site. In addition site restoration within other parts of the site should be designed to realise potential for marsh fritillary butterfly dispersal and connectivity through an appropriate restoration and management plan. It is considered that, without this mitigation component, the ES mitigation only relates to short term impacts of the scheme and does not provide any provision for long-term operational impacts of the scheme, or indeed the much sought enhancement opportunities which development application should seek to deliver.

There is also the potential need for long-term monitoring of certain features and receptors and the Council's Ecologist doesn't consider that potential requirement is sufficiently recognised in the ES.

### Ecological Conclusion

It is clear that the decision maker needs to have particular regard to the ecological impacts of the development and that, while there is an area of overlap between the concerns and responsibilities of the respective ecological consideration bodies, the response of NRW in this process is essential for the decision maker to have a detailed understanding of any impacts and the mitigation measures required.

In light of the comments raised by the Council's Ecologist, these issues may be capable of being addressed through a "requirement" (condition) proposed as part of the DCO (such an amendment to the proposed Ecological Management Plan requirement) of the S106 agreement. It is considered that, while there is no fundamental objection to the scheme, there are a number of outstanding issues that need further clarification such that it is recommended that PINS consider the ecological impacts set out above in the issue specific hearings on environmental matters reserved for 24<sup>th</sup> & 25<sup>th</sup> September.

Committee is advised that the applicant is still in discussions with the Council's Ecologist and NRW and may provide further information prior to the public inquiry to allay any outstanding concerns.

- **The effect of the project with regard to traffic, noise, air & water quality and other environmental effects**

Given the nature of the use (as a "peaking plant") and the low number of employees, it is considered that there is unlikely to be any noticeable impact on the highway network during the operational phase.

There is likely to be a considerable impact on the existing highway network during the construction phase although it is acknowledged that the proximity to the A465 will mean that any impacts will be localised in and around the Hirwaun Industrial Estate and its environs.

Should a number of consented developments (Enviroparks, Pen Y Cymoedd Wind Farm) decide to begin / complete construction activities at the same time as this proposal there may be considerable impacts on and around the Industrial Estate and Rhigos however the likely construction for this proposal is in 2018 while the erection of the turbines for Pen Y Cymoedd will begin in 2015 and are proposed to be completed by 2017. No significant progress has been made on the Enviroparks scheme but their consent will have expired by 2018 so may be subject of a commencement in the remaining year or so until its expiry or will result in the submission of a new application where any associated traffic impacts will need to be taken into account. It is understood that Enviroparks have registered as an "interested party" as part of this NSIP process and can update PINS / the Inspector on any progress that has been made.

In mitigation for the highway impacts of the development the applicant has agreed to fund bus shelters close to the site to enable access to the site by means other than a car. The applicant has also agreed to provide a financial contribution to provide improved signage at the Industrial Estate. Part of this will be delivered by the Council through additional "street" signage to enable a greater ease of circulation, the other would be by a mechanism (yet to be agreed) which would involve discussions with the owners of the Estate to provide improved signage for the Industrial Estate as a whole which could involve an improved entrance as well as signage to denote which users are located on the Estate and their location within it. It is anticipated that this will be secured through a S106 agreement.



In respect of human health, the application has been assessed by the Council's Public Health and Protection Section and no objections have been raised. The applicant also submitted a "Health Impact Assessment" which has been consulted upon (by the applicant). It is understood that Public Health England have responded (while this may seem strange, Committee is reminded that this is a UK national proposal rather than a Welsh national proposal) has concluded that there is no harm to human life as a result of the scheme.

The Council's Public Health and Protection Section have also concluded that the scheme is unlikely to have any noise implications through the operational phase however have some concerns over the proposed hours of construction proposed as a "requirement" (condition) as part of the DCO. It is proposed that representations are made such that no works shall commence before 7.00 on any morning nor any works be carried out on Sundays or Bank Holidays (much in the same way as the "standard" condition that is added to the majority of schemes when planning permission is granted).

The Council's Drainage Section have no objections in principle to the proposal however point out that there is either insufficient detail or conflicting detail in the application to give proper consideration to all of the potential impacts. The applicant will have to apply (as a different administrative process) for Ordinary Watercourse Consent (OWC) but there is a sufficient lack of clarity / certainty such that it is considered that the Inspector should give consideration to including the Environmental Issue Specific Hearings discussion in respect of the drainage arrangements.

- **The impact of the development during the construction phase**

Committee is advised that the Hirwaun Industrial Estate in and is located in an outstanding strategic location in very close proximity to the A465 (Heads of the Valleys Road).

The last few years has seen a number of schemes submitted in and around the Estate. Many of these have been large scale schemes and include Tower Colliery, Enviroparks and Pen y Cymoedd wind farm. Each of these applications is either underway (Tower Colliery & Pen Y Cymoedd) or is likely to be underway in the near future (Enviroparks) and each has the propensity to cause disruption either through its operational or construction phase. Each of these applications fully considered the likely impacts and mitigation measures were included within the respective consents to help minimise any disruption through construction activity. While it is unlikely that the Hirwaun Power scheme would have any implications during its operational phases, the construction of such a large plant would inevitably have some implications for other users of the Industrial Estate as well as those residents living in Rhigos. While there is sufficient capacity to accommodate the development through the construction phase, there may need to be some co-ordination should the construction coincide with the construction or operational phases of the other major developments in this area especially in the vicinity of the Hirwaun /

Brecon Roundabout leading from the A465. In this respect it is considered that it should be a requirement of the DCO to include a scheme to mitigate any impacts during the construction phase with particular regard being had to any implications that the scheme may have in conjunction with the other developments which could be under construction at the same time.

In terms of noise, odour, dust, etc., during the construction phase, the Council's Public Health and Protection Section are satisfied that any effects can be minimised through the imposition of a condition. The properties most likely to be affected are the three isolated properties that sit within the Estate. Given their location it is somewhat inevitable that the residents of these properties would endure more of the impacts from activities on the Industrial Estate over and above what the residents of Rhigos and Hirwaun would be likely to endure however, it is important that wherever possible any impacts are minimised.

Subject to the inclusion of appropriate safeguards, it is considered that in respect of this element of the scheme the impact is minor / neutral.

- **Socio-economic impacts including any employment and regeneration impacts;**

This is, perhaps the area of greatest concern to the Council in respect of its role in this process. The LDP has specifically allocated the Hirwaun Industrial Estate for employment uses including B1 (Light Industry), B2 (General Industry) and B8 (Storage and Distribution) as well as part of it being specifically allocated for "waste" uses. The assessment against the specific LDP land use allocation has been assessed earlier in this Section.

The proposed scheme would see an existing employer leaving the building. While this is essentially a commercial decision it is nevertheless disappointing to see this loss but this is likely to occur whether this development proceeds or not. It is not clear whether this employer will relocate elsewhere within the County Borough although it is understood that this move would not involve any job losses.

While the visual appearance of the area would be improved through the redevelopment of this large building, the construction of the power plant would mean that between 5 and 7.5 hectares of land would no longer be available for development. Given the low number of employees required to operate the plant, the ratio of direct permanent jobs to land-take is very low. Given that the site (and the wider Estate) is excellently located in such close proximity to the A465 it would mean that, potentially, one of the most attractive development sites would be lost. It is considered that the loss of this land would have a moderate negative impact.

While such a loss would be disappointing, the construction of the plant would offer a number of opportunities for local firms to benefit, either directly or indirectly. While the nature of the construction activity would mean that many

parts of the build would be through specialist contractors, there is likely to be a requirement for local services and suppliers to become part of the chain (such as for demolition and civil engineering works, arboricultural works & maintenance, etc.).

While it is not part of the “normal” material planning considerations, a number of the larger schemes have included details of how they intend to include these local businesses within the construction and maintenance phases of the development and it is considered important that in reaching a decision, the SoS should include a requirement for the developer to demonstrate how local suppliers and services will be used in order to mitigate the loss of a significant area of employment land. If it was possible to secure such a commitment the likely impact is considered to improve to moderate / positive.

While the loss of this amount of land is of a concern, the County Borough currently has an oversupply of industrial land such that the loss would not have a strategic implication for this type of land. In light of the potential benefits from the construction process and subject to the applicant demonstrating that its development would optimise the opportunities for employment uses, it is considered that on a County Borough wide basis, the likely impact of this loss would be neutral.

- **An assessment of the content of the DCO and relevant conditions (“requirements”) that could be applied in the DCO;**

Copy of the “requirements” proposed by the applicant as part of the DCO are included as **APPENDIX B**. Members may note that these are similar in form to a number of conditions that are regularly added to planning consents granted by Committee.

These “requirements” are binding on the applicant in the same way that planning conditions are and, while the DCO process is one administered by PINS, the discharge of the conditions would be a matter for the Council - again, in the same way as normal planning conditions.

A matter which may be noted is the time limit allowed for the Council to consider these “requirements”. A period of 56 days is proposed (which is 8 weeks and the same as a normal planning condition) and if the Council do not decide the condition within this period and fail to agree a longer period with the applicant, the “requirement” is deemed to have been agreed. It is not anticipated that the Council would take any longer than absolutely necessary to discharge these requirements, but it is likely that the Council would wish to agree a longer period for certain subject areas (such as ecology) may require detailed liaison with external organisations (such as NRW) so that it does not go out of time. Some further clarification is required as to the procedure should the applicant decide not to allow further time to consider the condition however it is not anticipated that this would occur.

The details of the DCO are also still under consideration. Further work is being undertaken by legal teams on both sides to define the scope of the

DCO to identify which issues (that are normally undertaken outside of the normal planning process) are included within the permitted works and to identify any implications that this may have.

It is likely that the details of the DCO and requirements may change throughout the remainder of this process and Committee is requested to grant delegated powers to the Service Director (Planning) to put forward to the determining body any amendments, variations, additions or deletions to the proposed DCO / requirements.

It is further requested that, dependant on the decision of Committee, delegated powers are also given to agree a "Statement of Common Ground" (SoCG). This is a relatively short document that seeks to avoid the examination of issues where the various interested parties are in agreement. A draft SoCG has been prepared in accordance with the details / conclusions contained within this report but may be subject to change either as a result of Committee's decision or as further information is provided up until the end of the Examination – likely to be in December or January.

**RECOMMENDATION:** That Committee resolve to accept the conclusions of the following assessment and it be sent to PINS as the Council's formal Local Impact Report.



## **Initial assessment of principal issues**

The principal issues arising from consideration by the Examining Authority of the application documents and relevant representations received concerning the Hirwaun Power Station project are listed below.

It is not a comprehensive or exclusive list of all relevant matters. The Examining Authority will have regard to all important and relevant matters when it writes its recommendation to the Secretary of State after the examination has concluded.

The issues are in alphabetic order and should not be taken to imply an order of importance.

### **Compulsory Acquisition**, including issues related to:

- The requirement for the powers sought
- The need to establish a compelling case in the public interest
- Financial arrangements

### **Design, Layout and Visibility**, including issues related to:

- The design concept and process
- Visibility and visual effects
- Landscaping and screening
- Brecon Beacons National Park, including heritage assets and Dark Sky status

### **The Development Consent Order (DCO)**, including issues related to:

- The description of the development and definitions used
- Protective provisions
- Consistency with that which has been applied for

### **Economic and Social impacts**, including issues related to:

- The impact on the local economy
- The impact on local services and facilities

### **Environmental Impact Assessment**, including issues related to:

- The adequacy of the assessment of its potential impacts
- Cumulative effects
- Climate change

### **Other Environmental Issues**, including issues related to:

- Airborne emissions and air quality
- Land stability risk

- Flooding
- Noise, lighting, dust and vibration
- Water quality and supply
- Health Impact Assessment
- Coal reserves sterilisation

**Habitats, Ecology and Nature Conservation**, including issues related to:

- The information provided and whether this enables the competent authority to reach a view as to whether or not the project will adversely affect the integrity of any European site
- Nutrient nitrogen deposition
- The impact on European and other protected sites and species
- Impacts on habitats and on biodiversity
- Mitigation and compensatory measures

**The Historic and Archaeological Environment**, including issues related to:

- The effects of the project on the settings of heritage assets
- The effects of the project on archaeological remains

**Operational**, including issues related to:

- The operational mechanisms to not exceed 299Mw output
- Environmental Permitting

**Transport and Traffic**, including issues related to:

- Rail
- Construction traffic movement and routeing
- The local and national road network
- Aviation

B.

## SCHEDULE 2

### REQUIREMENTS

Articles 3 and 39

#### Interpretation

##### 1. In this Part of Schedule 2—

(1) the following expressions shall have the following meanings:

“AOD” means above ordnance datum;

“design principles statement” means the design principles statement contained within the design and access statement document with submission document reference number 10.2.0 (Appendix 2) submitted with the application;

“flood risk assessment” means the flood risk assessment with submission document reference number 5.2.0 submitted with the application;

“lighting strategy” means the lighting strategy contained in appendix 11.2 to the environmental statement;

#### Time limits

2. The authorised development must be commenced within 5 years of the date of this Order.

#### Numbered Works

3. Where these requirements refer to numbered work 2 or numbered work 4, such reference shall be taken to mean numbered works 2A – 2G (inclusive) and numbered works 4A and 4B (inclusive) respectively.

#### Detailed Design

4.—(1) The authorised development must be carried out in accordance with the approved plans, inclusive of any limits of deviation, bearing the references listed below and any other plans, drawings, documents, details, schemes, statements or strategies which are approved by the relevant planning authority pursuant to any requirement (as the same may be amended by approval of the relevant planning authority pursuant to requirement 18(1)):

Works plans	Submission document reference number 2.3
Rights of way, streets and access plan	Submission document reference number 2.7

(2) The authorised development must be carried out in accordance the parameters specified below (as the same may be amended by approval of the relevant planning authority pursuant to requirement 18(1)):

Building or Structure	Maximum height (metres above 211m AOD)	Minimum height (metres above 211m AOD)	Maximum length (metres)	Minimum length (metres)	Maximum width (metres)	Minimum width (metres)
Each gas turbine generator (where one or two gas turbine generators are constructed) (Part of numbered work 2A)	19.0	-	30.0	-	30.0	-
Each gas turbine generator (where three, four or five gas turbine generators are constructed) (part of numbered work 2A)	10.0	-	36.0	-	23.0	-
Each exhaust gas emission flue stack (part of numbered work 2A)	35.0	30.0	-	-	-	-
Control room/office/workshop (part of numbered work 2B)	6.0	-	29.0	-	23.0	-
Natural gas receiving station and gas treatment compound (part of numbered work 2B)	3.0	-	50.0	-	46.0	-
Black start diesel generator (part of numbered work 2B)	5.0	-	13.0	-	5.0	-
Switchyard / banking compound (numbered work 2C)	11.3	-	60	-	60	-
Switchgear Building (part of numbered work 2C)	11.3	-	21.0	-	15.0	-
Gatehouse (part of numbered work 2E)	4.5	-	9.0	-	8.0	-
Demineralised water tank (part of numbered work 2E)	16.0	-	23.0	-	23.0	-
Raw/fire water tank (part of numbered work 2E)	18.0	-	15.0	-	15.0	-
Bat mitigation structure (part of	6.0	-	10.0	-	5.0	-



numbered work 2E)						
Above ground installation (numbered work 4A)	3.0	-	72.0	-	52.0	-
Pipeline inspection gauge facility (part of numbered work 4A)	2.0	-	36.0	-	27.0	-
Minimum offtake connection (part of numbered work 4A)	2.0	-	36.0	-	25.0	-

(3) To the extent that design principles for any numbered work are set out in the design principles statement, that numbered work shall be designed substantially in accordance with the relevant design principle set out therein.

(4) Except to the extent approved pursuant to requirement 6, numbered works 2 and 4 of the authorised development shall not commence until, for that numbered work, details of the layout, scale and external appearance of the numbered work have been submitted to and approved by the relevant planning authority.

#### **Provision of landscaping**

5.—(1) Each of numbered works 2, 3 and 4 of the authorised development shall not commence until a written landscaping plan for that numbered work has been submitted to and approved by the relevant planning authority. The landscaping plan must include details of all proposed hard and soft landscaping works, such plan is to be substantially in accordance with the landscaping mitigation proposals set out in figure 11.5 of the environmental statement, and include details of—

- (a) location, number, species, size and planting density of any proposed planting including details of any proposed tree planting and the proposed times of such planting;
- (b) cultivation, importing of materials and other operations to ensure plant establishment;
- (c) proposed finished ground levels;
- (d) hard surfacing materials;
- (e) vehicular and pedestrian access, parking and circulation areas;
- (f) minor structures, such as furniture, refuse or other storage units and signs;
- (g) existing trees to be retained, with measures for their protection together with any landscaping and visual mitigation required during the construction period;
- (h) implementation timetables for all landscaping works;
- (i) measures for the management of the ecological resources that will remain within the Order land on completion of the authorised development; and
- (j) landscaping maintenance throughout the operational life of the authorised development.

(2) All landscaping works must be carried out in accordance with the landscaping plan approved under this requirement 5 and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice.

(3) The landscaping works must be carried out in accordance with implementation timetables approved in the landscaping plan.

(4) Any tree or shrub planted as part of an approved landscaping scheme that, within a period of five years after planting, is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the first available planting season

with a specimen of the same species and size as that originally planted, unless otherwise approved by the relevant planning authority.

#### **Highway accesses**

6.—(1) Each of numbered works 2, 3 and 4 of the authorised development shall not commence until for that numbered work, written details of the siting, design and layout (to the extent either not provided as part of or differing from, the details contained in Schedule 1, the works plans or the rights of way, streets and access plan) of any new permanent or temporary means of access to a highway to be used by vehicular traffic (including those identified in Schedule 3), or any alteration to an existing means of access to a highway used by vehicular traffic, has been submitted to and approved by the relevant planning authority (in consultation with the highway authority).

(2) The highway accesses must be constructed in accordance with the approved details.

#### **Fencing and other means of enclosure**

7.—(1) Each of numbered works 2 and 4A of the authorised development shall not commence until written details of all proposed permanent and temporary fences, walls or other means of enclosure for that numbered work have been submitted to and approved by the relevant planning authority.

(2) Any construction sites must remain securely fenced at all times during construction of the authorised development.

(3) Any temporary fencing must be removed within three months of the completion of the authorised development.

(4) The details approved pursuant to this requirement shall be implemented.

#### **Surface and foul water drainage**

8.—(1) Each of numbered works 2 and 4 of the authorised development shall not commence until, for that numbered work, written details of a surface and foul water drainage plan (including means of pollution control) have, after consultation with the relevant sewerage and drainage authority, been submitted to and approved by the relevant planning authority, such strategy to be in substantial accordance with the principles set out in Section 5.2 of the flood risk assessment.

(2) The surface and foul water drainage plan must be implemented in accordance with the approved details.

#### **Contaminated land and groundwater**

9.—(1) Numbered work 2 of the authorised development shall not commence until a written scheme applicable to that numbered work, to deal with the contamination of any land, including groundwater, which is likely to cause significant harm to persons, the environment or significant pollution of controlled waters has, after consultation with Natural Resources Wales been submitted to and approved by the relevant planning authority.

(2) The scheme shall include an investigation and assessment report, prepared by a specialist consultant approved by the relevant planning authority, to identify the extent of any contamination and the remedial measures to be taken to render the land fit for its intended purpose, together with a management plan which sets out long-term measures with respect to any contaminants remaining on the site.

(3) Remediation must be carried out in accordance with the approved scheme.

#### **Ecological management plan**

10.—(1) Each of numbered works 2-5 of the authorised development shall not commence until a written ecological management plan covering that numbered work reflecting the ecological mitigation and enhancement measures and survey work identified in figures 8.6 and 11.5 and section 8.7 of the environmental statement has been submitted to and approved by the relevant planning authority.

(2) The ecological management plan shall include an implementation timetable and must be carried out as approved.

#### **Archaeology**

**11.—**(1) Each of numbered works 3 and 4 of the authorised development shall not commence until a written scheme for the investigation covering that numbered work has been submitted to and approved by the relevant planning authority.

(2) The scheme shall identify areas where field work or a watching brief are required, and the measures to be taken to protect, record or preserve any significant archaeological remains that may be found.

(3) Any archaeological works or watching brief carried out under the scheme must be by a suitably qualified person or body approved by the relevant planning authority.

(4) Any archaeological works or watching brief must be carried out in accordance with the approved scheme.

#### **Construction environment management plan**

**12.—**(1) No numbered work of the authorised development shall commence until a construction environment management plan covering that numbered work has been submitted to and approved by the relevant planning authority. The construction environment management plan shall be substantially in accordance with the outline construction environmental management plan set out in Appendix 4.1 to the environmental statement and shall include the following during demolition and construction—

- (a) complaints procedures;
- (b) nuisance management including measures to avoid or minimise the impacts of construction works (covering dust, noise and vibration);
- (c) waste management;
- (d) surface and ground water protection measures;
- (f) security measures; and
- (g) demolition method statement.

(2) All construction works shall be undertaken in accordance with the approved construction environment management plan.

#### **Construction traffic<sup>4</sup>**

**13.—**(1) No numbered work of the authorised development shall commence until a construction traffic management plan has been submitted to and approved by the relevant planning authority in consultation with the Department for Transport of the Welsh Government. The construction traffic management plan shall include—

- (a) construction vehicle routing plans;
- (b) evidence of appropriate trial runs that demonstrate the suitability of the route from point of entry onto the trunk road network to the site for the proposed types of abnormal indivisible loads;
- (c) site access plans;
- (d) proposals for the management of junctions to and crossings of highways and other public rights of way;
- (e) proposals for the scheduling and timing of movements of delivery vehicles including details of abnormal indivisible loads;
- (f) details of escorts for abnormal indivisible loads;

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<sup>4</sup> Note: to be discussed with Welsh Government in light of the relevant representation received on 23 May 2014.

- (g) proposals for temporary warning signs and banksman and escort details;
- (h) proposals for assessing the existing condition of affected highways;
- (i) details of any temporary or permanent improvements to highways;
- (j) proposals for the making good of any incidental damage to highways by construction traffic associated with the authorised development including street furniture, structures, drainage features, highway verge and carriageway surfaces; and
- (k) proposals for traffic management controls (such as temporary signals), diversion routes and signage required during any of the activities, operations or works set out in Schedules 4, 5 or 6.

(2) The construction traffic management plan shall be implemented as approved.

(3) During the operation or decommissioning of the generating station no abnormal indivisible loads shall be transported into or out of the site without the prior written approval of the relevant planning authority in consultation with the Department for Transport of the Welsh Government.

#### **Construction hours**

**14.—**(1) No construction work, or the delivery or removal of materials, shall take place outside the hours of—

- (a) 0700 and 1900 hours on weekdays (excluding public holidays); and
- (b) 0700 and 1300 hours on Saturdays and public holidays.

(2) Sub-paragraph (1) shall not prevent outside such hours construction works, or the delivery or removal of materials, being carried out with the prior written approval of the relevant planning authority.

(3) Nothing in sub-paragraph (1) precludes a start-up period from 0630 to 0700 and a shut down period from 1900 to 1930 on weekdays (excluding public holidays) and start-up period from 0630 to 0700 and a shut down period from 1300 to 1330 on a Saturday.

#### **Control of noise during operational phase**

**15.—**(1) Following the date of final commissioning of numbered work 2, site-attributable noise attributable to numbered work 2 during the operational phase shall be limited to the noise levels set out below measured at the coordinates set out below:

Noise Limit Sound Pressure Level, LAeq, 5mins dB	Coordinates	
	X	Y
52	293820.1	206257.2
52	293738.8	206173.6
53	293622.9	206319
54	293741.2	206353.3

(2) Noise measurements at each of the identified locations must be undertaken in accordance with BS 7445. Measurements should be undertaken with the power plant running at base load. A single LAeq 5min measurement will be required at each identified location during the day, evening and night time periods identified as follows: daytime (0700hrs to 1900hrs), evening (1900hrs to 2300hrs) and night time (2300hrs to 0700hrs).

#### **Control of artificial light emissions**

**16.—**(1) Each of numbered works 2 and 4A of the authorised development shall not commence until, after consultation with the relevant planning authority, a written scheme for the

management and mitigation of artificial light emissions for that numbered work which is substantially in accordance with the lighting strategy has been submitted to and approved by the relevant planning authority.

(2) The approved scheme for the management and mitigation of artificial light emissions must be implemented before and maintained during the operation of the relevant numbered work.

#### **Decommissioning strategy**

17.—(1) Subject to obtaining the necessary consents, unless otherwise agreed with the relevant planning authority, within twenty four months of the site ceasing to be used for the purposes of electricity generation (either actively generating electricity or being available to generate electricity on a standby basis), a scheme for the demolition and removal of numbered work 2 shall be submitted to the relevant planning authority.

(2) The demolition and removal of numbered work 2 shall be implemented in accordance with the approved scheme.

#### **Amendments to approved details**

18.—(1) With respect to the approved plans specified in requirement 4(1), the parameters specified in requirement 4(2) and any other plans, details or schemes which require approval by the relevant planning authority pursuant to any other requirement (the “Approved Plans, Parameters, Details or Schemes”), the undertaker may submit to the relevant planning authority for approval any amendments to the Approved Plans, Parameters, Details or Schemes and following any such approval by the relevant planning authority the Approved Plans, Parameters, Details or Schemes shall be taken to include the amendments approved pursuant to this sub-paragraph (1).

(2) Approval under requirement sub-paragraph (1) for amendments to the parameters identified in requirement 4(2) shall not be given except where it has been demonstrated to the satisfaction of the relevant planning authority that the subject-matter of the approval sought is unlikely to give rise to any materially new or materially different environmental effects in comparison with the authorised development as approved (as identified in the environmental statement).

**SCHEDULE 3**

Articles 8 and 13

**STREETS SUBJECT TO PERMANENT AND TEMPORARY ALTERATION  
OF LAYOUT****PART 1 - PERMANENT ALTERATION OF LAYOUT**

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to alteration of layout</i>	<i>(3)</i> <i>Description of alteration</i>
In the District of Rhondda Cynon Taf	Main Avenue	The lowering of the levels of the kerb between the points marked D and E on the rights of way, streets and access plan to provide a permanent access to numbered work 2
In the District of Rhondda Cynon Taf	Main Avenue	The lowering of the levels of the kerb between the points marked F and G on the rights of way, streets and access plan to provide a permanent access north to numbered works 2 and 3.
In the District of Rhondda Cynon Taf	Main Avenue	The lowering of the levels of the kerb between the points marked F and G on the rights of way, streets and access plan to provide a permanent access south to numbered works 2 and 3.
In the District of Rhondda Cynon Taf	Fourth Avenue	The lowering of the levels of the kerb between the points marked I and J on the rights of way, streets and access plan to provide a permanent access to numbered work 2.
In the District of Rhondda Cynon Taf	Rhigos Road (north and south sides)	The lowering of the levels of the kerb between the points marked L and M on the rights of way, streets and access plan to provide a permanent access to numbered work 2.
In the District of Rhondda Cynon Taf	Rhigos Road (north and south sides)	The lowering of the levels of the kerb between the points marked L and M on the rights of way, streets and access plan to provide a permanent access

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to alteration of layout</i>	<i>(3)</i> <i>Description of alteration</i>
		to numbered work 3.
In the District of Rhondda Cynon Taf	A4061 (north west side)	The lowering of the levels of the kerb between the points marked P and Q on the rights of way, streets and access plan to provide a permanent access to numbered work 3.
In the District of Rhondda Cynon Taf	A4061 (south east side)	The lowering of the levels of the kerb between the points marked P and Q on the rights of way, streets and access plan to provide a permanent access to numbered work 4A.

**PART 2 – TEMPORARY ALTERATION OF LAYOUT**

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to alteration of layout</i>	<i>(3)</i> <i>Description of alteration</i>
In the District of Rhondda Cynon Taf	Rhigos Road (north and south sides)	The lowering of the levels of the kerb between the points marked K and L, M and N on the rights of way, streets and access plan to provide a temporary access to numbered work 3.
In the District of Rhondda Cynon Taf	A4061 (north west side)	The lowering of the levels of the kerb between the points marked O and P, Q and R on the rights of way, streets and access plan to provide a temporary access to numbered work 3.
In the District of Rhondda Cynon Taf	A4061 (south east side)	The lowering of the levels of the kerb between the points marked O and P, Q and R on the rights of way, streets and access plan to provide a temporary access to numbered work 4A.

**SCHEDULE 4****STREETS SUBJECT TO STREET WORKS**

Article 9

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to street works</i>
In the District of Rhondda Cynon Taf	Fourteenth Avenue (works for numbered work 5 to be installed within Fourteenth Avenue between the points marked A and C on the rights of way, streets and access plan).
In the District of Rhondda Cynon Taf	Main Avenue (works for numbered work 5 to be installed within Main Avenue between the points marked C and F on the rights of way, streets and access plan).
In the District of Rhondda Cynon Taf	Main Avenue (works for numbered work 3 to cross and be installed in Main Avenue between the points marked G and H on the rights of way, streets and access plan).
In the District of Rhondda Cynon Taf	Rhigos Road (works for numbered work 3 to cross and be installed in Rhigos Road between the points marked L and M on the rights of way, streets and access plan).
In the District of Rhondda Cynon Taf	A4061 (works for numbered work 3 to cross and be installed in the A4061 between the points marked P and Q on the rights of way, streets and access plan).



**SCHEDULE 5**  
**TEMPORARY PROHIBITION OR RESTRICTION OF THE USE OF**  
**STREETS**

Article 12

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street</i>	<i>(3)</i> <i>Extent of temporary prohibition or restriction of use of streets</i>
In the the District of Rhondda Cynon Taf	Fourteenth Avenue	<p><u>Prohibition/Restriction:</u></p> <p>From the points marked A to C on the rights of way, streets and access plan, being approximately 182 metres.</p> <p><u>Purpose of the Prohibition/Restriction:</u></p> <p>Temporary closure of part of the street to cover numbered work 5 being installed in the road.</p>
In the the District of Rhondda Cynon Taf	Main Avenue	<p><u>Prohibition/Restriction:</u></p> <p>From the points marked C to F on the rights of way, streets and access plan, being approximately 444 metres.</p> <p><u>Purpose of the Prohibition/Restriction:</u></p> <p>Temporary closure of part of the street to cover numbered work 5 being installed in the road.</p>
In the the District of Rhondda Cynon Taf	Main Avenue	<p><u>Prohibition/Restriction:</u></p> <p>From the points marked G to H on the rights of way, streets and access plan, being approximately 50 metres.</p> <p><u>Purpose of the Prohibition/Restriction:</u></p> <p>Temporary closure of part of the street to cover numbered work 3 being installed in the road.</p>

(1) <i>Area</i>	(2) <i>Street</i>	(3) <i>Extent of temporary prohibition or restriction of use of streets</i>
In the the District of Rhondda Cynon Taf	Rhigos Road	<p><u>Prohibition/Restriction:</u></p> <p>From the points marked K to N on the rights of way, streets and access plan, being approximately 102 metres.</p> <p><u>Purpose of the Prohibition/Restriction:</u></p> <p>Temporary closure of bus stop on Rhigos Road to cover numbered work 3 crossing and being installed in the road. Bus stop to be relocated without further carriageway works.</p>
In the the District of Rhondda Cynon Taf	A4061	<p><u>Prohibition/Restriction:</u></p> <p>From the points marked O to R on the rights of way, streets and access plan, being approximately 80 metres.</p> <p><u>Purpose of the Prohibition/Restriction:</u></p> <p>Temporary closure of part of the street to cover both the access to numbered work 4A and 4B and work number 3 crossing and being installed in the road.</p>

**SCHEDULE 6****ACCESS**

Article 10

**PART 1 – THOSE PARTS OF ACCESSES TO BE MAINTAINED AT THE PUBLIC  
EXPENSE**

<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Street</i>	<i>(3)</i> <i>Description of relevant part of access</i>
In the District of Rhondda Cynon Taf	Main Avenue	Those parts of the modified accesses at Main Avenue providing permanent access to numbered work 2 and shown on the rights of way, streets and access plan hatched blue between points marked D and E, F and G.
In the District of Rhondda Cynon Taf	Rhigos Road	That part of: (i) the new access at the northern side of Rhigos Road; and (ii) the new access at the southern side of Rhigos Road, providing permanent access to numbered work 3 and shown on the rights of way, streets and access plan hatched blue between points marked L and M.
In the District of Rhondda Cynon Taf	A4061	That part of: (i) the new access at the A4061 providing permanent access to numbered work 3; and (ii) the new access constituting numbered work 4B, and shown on the rights of way, streets and access plan hatched blue between points marked P and Q.

PART 2 – THOSE PARTS OF ACCESSES TO BE MAINTAINED BY THE STREET  
AUTHORITY

(1) <i>Area</i>	(2) <i>Street</i>	(3) <i>Description of the relevant part of the access</i>
In the District of Rhondda Cynon Taf	Main Avenue	Those parts of the modified accesses at Main Avenue providing permanent access to numbered work 2 and shown on the rights of way, streets and access plan hatched red between points marked D and E, F and G.
In the District of Rhondda Cynon Taf	Fourth Avenue	That part of the modified access at Fourth Avenue shown on the rights of way, streets and access plan hatched red between points marked I and J for access to numbered works 2.
In the District of Rhondda Cynon Taf	Rhigos Road	That part of: (i) the new access at the northern side of Rhigos Road; and (ii) the new access at the southern side of Rhigos Road, providing permanent access to numbered work 3 and shown on the rights of way, streets and access plan hatched red between points marked L and M.
In the District of Rhondda Cynon Taf	A4061	That part of: (i) the new access at the A4061 providing permanent access to numbered works 3; and (ii) the new access constituting numbered work 4B, and shown on the rights of way, streets and access plan hatched red between points marked P and Q.

PART 3 THOSE WORKS TO RESTORE TEMPORARY ACCESSSES WHICH WILL BE  
MAINTAINED AT THE PUBLIC EXPENSE

(1) <i>Location</i>	(2) <i>Street</i>	(3) <i>Description of relevant part of access</i>
In the District of Rhondda Cynon Taf	Rhigos Road	Those areas between the points marked K and L, M and N on the rights of way, streets and access plan hatched blue.
In the District of Rhondda Cynon Taf	A4061	Those areas between the points marked O and P, Q and R on the rights of way, streets and access (north side and south side) plan hatched blue.

PART 4 THOSE WORKS TO RESTORE TEMPORARY ACCESSSES WHICH WILL BE  
MAINTAINED BY THE STREET AUTHORITY

<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Street</i>	<i>(3)</i> <i>Description of relevant part of access</i>
In the District of Rhondda Cynon Taf	Rhigos Road	Those areas between the points marked K and L, M and N on the rights of way, streets and access plan hatched red.
In the District of Rhondda Cynon Taf	A4061	Those areas between the points marked O and P, Q and R on the rights of way, streets and access (north side and south side) plan hatched red.

## SCHEDULE 7

### MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

Article 21

#### *Compensation enactments*

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land shall apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without prejudice to the generality of paragraph 1, the Land Compensation Act 1973 shall have effect subject to the modifications set out in sub-paragraph (2) and (3).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 4—

- (a) for the words “land is acquired or taken” there shall be substituted the words “a right or restrictive covenant over land is purchased from or imposed on”; and
- (b) for the words “acquired or taken from him” there shall be substituted the words “over which the right is exercisable or the restrictive covenant enforceable”.

(3) In section 58(1) (determination of material detriment where part of house etc. proposed for compulsory acquisition), as it applies to determinations under section 8 of the 1965 Act as substituted by paragraph 5—

- (a) for the word “part” in paragraph (a) and (b) there shall be substituted the words “a right over or restrictive covenant affecting land consisting”;
- (b) for the word “severance” there shall be substituted the words “right or restrictive covenant over or affecting the whole of the park or garden”;
- (c) for the words “part proposed” there shall be substituted the words “right or restrictive covenant proposed”; and
- (d) for the words “part is” there shall be substituted the words “right or restrictive covenant is”.

#### *Application of the 1965 Act*

3.—(1) The 1965 Act shall have effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right, or to the imposition under this Order of a restrictive covenant, as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land are read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired; or
- (b) the land over which the right is or is to be exercisable.

(2) Without prejudice to the generality of sub-paragraph (1), Part 1 of the 1965 Act shall apply in relation to the compulsory acquisition under this Order of a right by the creation of a new right with the modifications specified in the following provisions of this Schedule.

4. For section 7 of the 1965 Act (measure of compensation) there shall be substituted the following section—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”.

5. For section 8 of the 1965 Act (provisions as to divided land) there shall be substituted the following section—

“8.—(1) Where in consequence of the service on a person under section 5 of this Act of a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house (“the relevant land”)—

- (a) a question of disputed compensation in respect of the purchase of the right or the imposition of the restrictive covenant would                      apart from this section fall to be determined by the Upper Tribunal (“the tribunal”); and
- (b) before the tribunal has determined that question the tribunal is satisfied that the person has an interest in the whole of the relevant land and is able and willing to sell that land and—
  - (i) where that land consists of a house, building or manufactory, that the right cannot be purchased or the restrictive covenant imposed without material detriment to that land; or
  - (ii) where the land consists of such a park or garden, that the right cannot be purchased or the restrictive covenant imposed without seriously affecting the amenity or convenience of the house to which that land belongs,

The Hirwaun Power (Gas Fired Power Station) Order 201[X] (“the Order”) shall, in relation to that person, cease to authorise the purchase of the right and be deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice shall be deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice shall be deemed to have been served in respect of that interest on such date as the tribunal directs.

(2) Any question as to the extent of the land in which the Order is deemed to authorise the purchase of an interest by virtue of subsection (1) of this section shall be determined by the tribunal.

(3) Where in consequence of a determination of the tribunal that it is satisfied as mentioned in subsection (1) of this section the Order is deemed by virtue of that subsection to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of 6 weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the authority to withdraw the notice.”.



6. The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (failure by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

7. Section 11 of the 1965 Act (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which shall be deemed for this purpose to have been created on that date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on warrant in the event of obstruction) of the 1965 Act shall be modified correspondingly.

8. Section 20 of the 1965 Act (protection for interests of tenants at will, etc.) shall apply with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

9. Section 22 of the 1965 Act (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) shall be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

**SCHEDULE 8****LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN**

Article 27

<i>(1) Location</i>	<i>(2) Number of land shown on land plans</i>	<i>(3) Purpose for which temporary possession may be taken</i>	<i>(4) Relevant part of the authorised development</i>
Land forming part of public adopted highway known as Main Avenue, Hirwaun	1a_GR	Temporary use to facilitate construction for the numbered works 2G and 3	Part of numbered works 2G and 3
Land forming part of public adopted highway known as Main Avenue, Hirwaun	1b_GR	Temporary use to facilitate construction for the numbered works 2G and 3	Part of numbered works 2G and 3
Land situated to the south of Building 6, Hirwaun Industrial Estate, Hirwaun	2a_GR	Temporary use to facilitate construction for the numbered works 2G and 3 together with construction of a temporary means of access to numbered work 3	Part of numbered works 2G and 3
Land forming part of the northern half width of public adopted highway known as Rhigos Road together with a bus lay-by, situated to the south of Building 6, Hirwaun Industrial Estate, Hirwaun	3a_GR	Temporary use to facilitate construction for the numbered works 2G and 3 together with construction of a temporary means of access to numbered work 3	Part of numbered works 2G and 3
Land forming part of the northern half width of public adopted highway and drain known as Rhigos Road together with part of a Public Right of Way leading from Rhigos Road to Main Avenue situated to the south of Building 6, Hirwaun Industrial Estate, Hirwaun	3b_GR	Temporary use to facilitate construction for the numbered works 2G and 3 together with construction of a temporary means of access to numbered work 3	Part of numbered works 2G and 3

<i>(1) Location</i>	<i>(2) Number of land shown on land plans</i>	<i>(3) Purpose for which temporary possession may be taken</i>	<i>(4) Relevant part of the authorised development</i>
Land and overhead electricity lines forming part of the southern half width of public adopted highway known as Rhigos Road situated to the south of Building 6, Hirwaun Industrial Estate, Hirwaun	4a_GR	Temporary use to facilitate construction for the numbered works 2G and 3 together with construction of a temporary means of access to numbered work 3	Part of numbered works 2G and 3
Land and overhead electricity lines forming part of the southern half width of public adopted highway and drain known as Rhigos Road situated to the south of Building 6, Hirwaun Industrial Estate, Hirwaun	4b_GR	Temporary use to facilitate construction for the numbered works 2G and 3 together with construction of a temporary means of access to numbered work 3	Part of numbered works 2G and 3
Land forming part of the southern half width of public adopted highway known as Rhigos Road situated to the south of Building 6, Hirwaun Industrial Estate, Hirwaun	5a_GR	Temporary use to facilitate construction for the numbered works 2G and 3 together with construction of a temporary means of access to numbered work 3	Part of numbered works 2G and 3
Agricultural land, drains and overhead electricity lines (including poles) situated to the east and south east of The Fairways, Hirwaun	6a_GR	Temporary use to facilitate construction for the numbered works 2G and 3 together with construction of a temporary means of access to numbered work 3	Part of numbered works 2G and 3
Agricultural land, drains and overhead electricity lines (including poles) situated to the east and south east of The Fairways, Hirwaun	6b_GR	Temporary use to facilitate construction for the numbered works 2G and 3 together with construction of a temporary means of access to numbered work 3	Part of numbered works 2G and 3

<i>(1) Location</i>	<i>(2) Number of land shown on land plans</i>	<i>(3) Purpose for which temporary possession may be taken</i>	<i>(4) Relevant part of the authorised development</i>
Land and overhead electricity lines situated to the east of The Fairways, Hirwaun	6c_GR	Temporary use to facilitate construction for the numbered works 2G and 3	Part of numbered works 2G and 3
Agricultural land, drains, overhead electricity lines (including poles) and footbridge situated to the south of Rhigos Road and west of the A4061, Hirwaun	7a_GR	Temporary use to facilitate construction for the numbered work 3 together with construction of a temporary means of access to numbered work 3	Part of numbered work 3
Agricultural land, drains and overhead electricity lines situated to the south of Rhigos Road and west of the A4061, Hirwaun	7b_GR	Temporary use to facilitate construction for the numbered work 3 together with construction of a temporary means of access to numbered work 3	Part of numbered work 3
Land forming part of the north western half width of public adopted highway known as the A4061, Hirwaun	8a_GR	Temporary use to facilitate construction for the numbered works 3 and 4B together with construction of a temporary means of access to numbered work 3	Part of numbered works 3 and 4B
Land forming part of the north western half width of public adopted highway known as the A4061, Hirwaun	8b_GR	Temporary use to facilitate construction for the numbered works 3 and 4B together with construction of a temporary means of access to numbered work 3	Part of numbered works 3 and 4B
Land forming part of the south eastern half width of public adopted highway known as the A4061, Hirwaun	9a_GR	Temporary use to facilitate construction for the numbered works 3 and 4B together with construction of a temporary means of access to numbered works 3 and 4A	Part of numbered works 3 and 4B

<i>(1) Location</i>	<i>(2) Number of land shown on land plans</i>	<i>(3) Purpose for which temporary possession may be taken</i>	<i>(4) Relevant part of the authorised development</i>
Land forming part of the south eastern half width of public adopted highway known as the A4061, Hirwaun	9b_GR	Temporary use to facilitate construction for the numbered works 3 and 4B together with construction of a temporary means of access to numbered works 3 and 4A	Part of numbered works 3 and 4B
Land forming part of the Tower Colliery open cast mining complex situated to the south east of public adopted highway known as the A4061, Hirwaun	10a_GR	Temporary use to facilitate construction for the numbered works 3 and 4A together with construction of a temporary means of access to numbered works 3 and 4A	Part of numbered works 3 and 4A
Land and overhead electricity lines forming part of the Tower Colliery open cast mining complex situated to the south east of public adopted highway known as the A4061, Hirwaun	11a_GR	Temporary use to facilitate construction for the numbered works 3 and 4A together with construction of a temporary means of access to numbered works 3 and 4A	Part of numbered works 3 and 4A

**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**

**21 AUGUST 2014**

**REPORT OF SERVICE DIRECTOR PLANNING**

**REPORT**

**APPLICATION NO: 14/0527  
GAS FIRED 'PEAKING' POWER  
GENERATING PLANT OF PROVIDING 50-  
299MWE (REFERRED TO AS THE 'POWER  
GENERATION PLANT'), NEW  
UNDERGROUND ELECTRICAL CABLE  
CONNECTION (REFERRED TO AS THE  
'ELECTRICAL CONNECTION) TO EXPORT  
ELECTRICITY FROM THE POWER  
GENERATION PLANT INTO THE NATIONAL  
GRID AT RHIGOS SUBSTATION AND A  
NEW UNDERGROUND GAS PIPELINE  
CONNECTION (REFERRED TO AS THE  
'GAS CONNECTION' TO BRING NATURAL  
GAS TO THE POWER GENERATION PLANT  
FROM THE EXISTING HIGH PRESSURE  
GAS NETWORK NTS IN THE VICINITY OF  
THE PROPOSED PROJECT SITE. THIS  
ELEMENT OF THE PROPOSED PROJECT  
ALSO INCLUDES THE ABOVE GROUND  
INFRASTRUCTURE (AGI) FOR THE GAS  
PIPELINE AT THE POINT OF CONNECTION  
TO THE NTS, AS WELL AS A NEW  
PERMANENT ACCESS TO THE AGI,  
HIRWAUN INDUSTRIAL ESTATE,  
HIRWAUN, ABERDARE, OBSERVATIONS  
REQUESTED BY PLANNING  
INSPECTORATE /SECRETARY OF STATE  
FOR ENERGY & CLIMATE CONTROL**

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**See Relevant Application File**