

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2014-215

**DEVELOPMENT CONTROL
COMMITTEE
16 OCTOBER 2014**

**REPORT OF: SERVICE
DIRECTOR PLANNING**

Part 1	Agenda Item No.7
APPLICATIONS RECOMMENDED FOR REFUSAL	

1. PURPOSE OF THE REPORT

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

2. RECOMMENDATION

To refuse the applications subject to the reasons outlined in Appendix 1.

1. Application No. 13/0859 - Variation of Condition 4 of Planning Permission Ref 13/0466/10 to substitute approved mining operation plans in years 3, 4, 5, 6, and 7 of the approved working programme, to provide for the revision of the approved coal extraction area 20 metres further east of and parallel to Rhigos Road, along the western boundary of the site, to extract approx 270,000 tonnes of additional coal, Tower Colliery, Rhigos Road, Rhigos, Hirwaun, Aberdare.

APPLICATIONS RECOMMENDED FOR REFUSAL

APPLICATION NO: 13/0859/15 (DB)
APPLICANT: Tower Regeneration Ltd
DEVELOPMENT: Variation of Condition 4 of Planning Permission Ref 13/0466/10 to substitute approved mining operation plans in years 3, 4, 5, 6, and 7 of the approved working programme, to provide for the revision of the approved coal extraction area 20 metres further east of and parallel to Rhigos Road, along the western boundary of the site, to extract approx 270,000 tonnes of additional coal.
LOCATION: TOWER COLLIERY, RHIGOS ROAD, RHIGOS, HIRWAUN, ABERDARE, CF44 9UF
DATE REGISTERED: 07/02/2014
ELECTORAL DIVISION: Hirwaun

RECOMMENDATION: Refuse

REASONS:

The proposed variation of Condition 4 of Planning Permission 13/0466 seeks to extend coal extraction 20 metres further east of and parallel to Rhigos Road along the western boundary of the site, to extract approx 270,000 tonnes of additional coal.

In principle such a proposal would be considered acceptable as it would represent a minor extension to the ongoing Tower surface Coal Mine site (10/0292) and the environmental impact of such an extension of coal operations within the site would be considered acceptable and compliant with the relevant policies of the Local Development Plan.

However, the works would require the diversion of the high pressure gas main which crosses the site. No details have been submitted of how the gas main would be protected and diverted or the environmental impact of such works. It is considered that this forms a fundamental part of the overall proposed scheme and the omission of this information has resulted in incomplete environmental information being submitted to accompany the application.

The application is therefore recommended for refusal due to the absence of information concerning the likely environmental impact on the high pressure gas main crossing the site.

APPLICATION DETAILS

This application is made under Section 73 of the Town and Country Planning Act 1990 to seek to vary certain conditions that were attached to the full planning permission 13/0466, which was granted on appeal on 3 June 2014.

On a scheme of this size and complexity it is not unusual for developers to seek variations to the scheme as originally approved and an application under Section 73 allows them to do so. Members should recognise, however, that an approval under Section 73 results in a new full planning permission for the whole scheme. As a consequence, as well as the variations sought, the Council would need to re-impose those existing conditions that are still considered relevant, as well as any additional conditions that are deemed appropriate.

This application seeks to give consent for the following changes to the scheme:-

Consent is sought for the variation of Conditions 3,4,5,6 and 7 of the approved working programme in order to extend the approved coal extraction area approximately 20m further east of and parallel to Rhigos Road in order to extract an additional 270,000 tonnes of coal.

The proposed extended coal excavation works would extend to a maximum limit of 20 metres east of and parallel to Rhigos Road (A4061) apart from a point to the north east of the surface position of the Hirwaun No. 2 fault where the standoff would increase to 50 metres. The excavation limit would vary from approximately 65 metres at the northern end which would increase to 130 metres at its deepest point at the south and involve the extraction of a number of coal seams from the Five Feet up to the Gorllwyn Seam.

The area would be worked in phases in accordance with the method of working being undertaken for coal extraction and restoration works as permitted in the original permission 10/0292 as updated by the 13/0466 permission. The originally approved features within this area such as the perimeter drainage channel and screening bunds would be resited westwards to accommodate the extended works. A new hedge line is also proposed along the A4061 for added visual screening.

The application seeks to substitute the approved working scheme for years 3, 4, 5, 6, and 7 to accommodate the revisions to the coal extraction area by revised plans. The extended area of working would be accommodated within the working schemes of the main site and would not affect the life of the main site. The extended area would be restored to agricultural pasture and thereafter subject to management for an extended 25 aftercare period in accordance with the specifications laid down in the approved overall scheme. The temporary screening bunds would be removed and the ground levels returned close to existing levels.

Access for any plant, traffic movements and restoration works would be gained from the existing entrance to the Tower Surface Coal Mine site, which is gained from the main entrance along the A4061 Rhigos Road.

The application is accompanied with an Environmental Statement (ES) as part of the Environmental Impact assessment Regulations. The (ES) is submitted as an Addendum to the original ES which accompanied the original permission 10/0292, and is dated February 2014. The ES deals with a range of issues, but primarily considers the environmental effects of the proposed development in terms of the effects (impacts) on the following matters:-

Landscape and visual issues
Air Quality

Ecology

Noise and water resources.

The application is also accompanied by the following information/documents:-

- A Non Technical Summary of the ES
- A Geotechnical Assessment on the stability of the A4061 Rhigos Road dated June 2014
- Updated Drainage Statement - Revision A provided by UTS Associates dated 27.06.14.

The proposed extended coal extraction works would require the high pressure gas main which crosses the site to be diverted. The applicant, TRL, maintains that it benefits from mining surface land access rights for the site and the gas pipeline can be relocated under the statutory undertaker's permitted development rights. Therefore, no details are provided neither of the means of diverting the high pressure gas main nor of the environmental impact of undertaking such works.

SITE APPRAISAL

The application site relates to the Tower Coal Surface Mine which commenced operations in March 2012. The extended area of working would remain within the original red line boundary of 10/0292 and would cover an area of approximately 9.45ha. It lies on the lower valley slopes with the south western most point lying at approximately 295m AOD sloping down at a fairly even gradient to 230m AOD at the north eastern point.

The site is presently in agricultural use for sheep grazing comprising of improved grassland within the south western part of the site and elsewhere of rush dominated marshy grassland. There are no trees or hedgerows within the site.

There are a number of water courses which travel in a southerly direction through the site, some of which enter the highway ditch alongside the A4061 and flow into culverts running under the A4061 and others which flow into existing ditches which flow into existing water courses within the main site.

The only above ground structure on the site is a former sheep shed and overhead electricity lines.

There is a public right of way which crosses the site which has previously been temporarily extinguished as part of the original scheme.

The site is crossed by a high pressure gas pipeline which runs parallel to Rhigos Road. It runs about 70m from the north western boundary and 50m from the south eastern boundary of the present approved excavation limits.

The overall site covers an area of 253 hectares and is located to the south, south west and west of Hirwaun. Most of the site lies to the south of the A4061 Rhigos Road but there is a smaller part of the site located to the north of the A4061 Rhigos Road which incorporates the existing 1.5km enclosed conveyor system, covered coal loading facilities and the existing railhead adjacent to the operational mineral rail

freight line. This area also includes a number of water bodies known as Hirwaun Ponds.

The overall site occupies a generally sloping area from 340m AOD in the south to 210m AOD in the north. The natural drainage of the site has been altered through the implementation of the existing surface coal mine.

Major services/apparatus belonging to statutory undertakers are located within the overall site. Overhead electricity lines run close to the southern boundary and electricity pylons cross through the northern part of the site. The diversion of the southerly electricity line has been undertaken as part of the operations and was subject to planning permission 13/0523.

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

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

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

MOST RELEVANT PLANNING HISTORY

13/0523	Tower Colliery, Rhigos Road, Hirwaun, Aberdare	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)	Approved 12/11/13
13/0466	Tower Colliery, Rhigos Road, Hirwaun, Aberdare	Variation of conditions 19, 20, 21, & 22 of planning approval 10/0292 to extend working hours on Saturday to 1600 Hours.	Refused 19/12/13 Allowed on appeal 03/06/14
10/0292	Tower Colliery, Rhigos Road, Hirwaun, Aberdare	Land remediation and reclamation of old tips, derelict land and buildings; surface coal extraction and associated ancillary	Granted 16/12/11

development including improvements to the access onto the A4061; recontouring and landscaping of the site to enable future re-development; restoration and after care for agricultural purposes, nature conservation with public access and provision of a visitor/education centre.

Environmental Statement Addendum received 17/01/11, additional information received 05/05/11 regarding ecology and landscape and visual assessment, details of restoration, soils handling, drainage matters and revised planning drawings to reflect amendments and additional information received 24/08/11 incorporating a Restoration Strategy Plan which was amended on 27/10/11, 05/12/11, 12/12/11 and 14/12/11

PUBLICITY

The application has been advertised by a press notice, site notices and neighbourhood notification. No letters have been received as a result of this publicity.

STATUTORY CONSULTATIONS

Transportation Section - raises no objections subject to the imposition of a condition.

Land Reclamation and Engineering Section – raises no objections subject to the imposition of drainage conditions.

Countryside – raises no objections subject to the imposition of the ecological, soil and restoration conditions imposed on 10/0292. PROW 25 crosses the extension site but the main part should have been extinguished or diverted as part of the previous mining works.

Hirwaun and Penderyn Community Council – raises an objection due to the considerable prejudice to the local community, further aggravating the inconvenience to the community. Quality of life is affected by the works and the effect would be greater with prolonged and extended workings.

Wales & West Utilities – advises that there are no apparatus in the area of the enquiry.

Glamorgan Gwent Archaeological Trust – raises no archaeological objection to the determination of the application.

National Grid - raises a holding objection to the proposal which will cross National Grid Gas PLC's apparatus – namely a High Pressure Gas Pipeline – Feeder 02 Dowlais to Dyffryn Cladach.

Cwm Taf Health Board – raises no objections.

Merthyr Tydfil County Borough Council – raises no objections to the proposed development.

Brecon Beacons National Park – raises no adverse comments.

Public Health and protection Division – raises no objection subject to all the existing conditions being re-applied

Natural Resources Wales - raises no objection to the proposed development but notes that the environmental impact of relocating a substantial gas main in the event that the development proceeds, has not been assessed as part of these proposals.

POLICY CONTEXT

Rhondda Cynon Taf Local Development Plan

The Proposals and Constraints Maps show that the proposed coal extraction area lies within the area of primary and secondary coal resources, a hazardous installation consultation zone for the high pressure gas main, and the southern part lies within a Site of Importance for Nature Conservation, SINC 10. The site also lies within the allocated Northern Strategic Area, NSA8, where the concept plan shows the northern part of the site for employment and residential uses and the southern part for open space. Within NSA 8 provision will be provided for park and ride/park and share facilities.

The mineral railway head of the Tower site lies immediately south of the Blaen Cynon Special Area of Conservation (SAC).

Land is safeguarded for rail network improvements along the route of the rail freight line from Aberdare to Tower Colliery, station improvements at the freight head and the existing network of cycle paths and community routes will be extended, improved and enhanced to include schemes at the Heads of the Valley Cycleway 7 links to Hirwaun Industrial Estate.

To the northeast of the Tower site the land is affected by the Welsh Government scheme for dualling the A465 Heads of the Valleys Trunk Road.

Other parts of the Tower site lie within SINC's 9 and 12.

Policy CS10.2, 4 & 6 – seeks to safeguard areas of coal resources, ensure that appropriate restoration and after care measures are incorporated and impacts upon residential areas and sensitive land uses from mineral operations are limited to an acceptable proven safe limit.

Policy AW5 – sets out amenity and accessibility criteria for development proposals.

Policy AW6 – supports development with a high standard of design where (7) landscaping and planting are integral to the scheme and enhance the site and the

wider context, (14) the design protects and enhances the landscape and biodiversity, (16) the design promotes good water management.

Policy AW8 – only permits development proposals where they would not cause harm to features of a Site of Importance to Nature Conservation, unless the proposal is directly necessary for the positive management of the site, would not unacceptably impact on the features of the site for which it has been designated or the development could not reasonably be located elsewhere and the benefits of the proposed development clearly outweigh the nature conservation value of the site. The proposed development should have no unacceptable impact upon ecological networks, the quality of natural resources such as water, soil and the natural drainage of surface water.

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

Policy AW14 - states that mineral resources shall be safeguarded from any development which would sterilise or hinder their extraction. The resources of coal will be safeguarded from development.

Policy NSA8 - allocates land south of Hirwaun for a strategic site, including residential, employment, retail and community development and restoration and enhancement of the landscape and habitats.

Policy NSA21.1 identifies land within the Hirwaun Strategic Site for the provision of a park and ride/park and share facilities.

National Guidance

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

Planning Policy Wales Chapter 3 (Making and Enforcing Decisions), Chapter 4 (Planning for Sustainability), Chapter 5 (Conserving and Improving Natural Heritage and the Coast), Chapter 6 (Conserving the Historic Environment) Chapter 7 (Economic Development), Chapter 12 (Infrastructure and Services) and Chapter 13 (Minimising and Managing Environmental Risks and Pollution) set out the Welsh Government's policy on planning issues relevant to the determination of the application.

Minerals Planning Policy Wales Part 1 General Guidance, A (To provide for the working of minerals), B (To Protect areas of importance to the natural and built heritage from inappropriate mineral development), C (To reduce the impact of mineral extraction and related operations during the period of working) D (To achieve a high standard of restoration and after care, and provide for beneficial after uses when mineral working has ceased), Part 2 Para's 61-63 (Coal).

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

Para's 45 to 54 (development control), Para's 55 to 58 (use of conditions, planning obligations and agreements), Para's 60 to 66 (finance for a reclamation scheme), Para 89 (locally significant environmental designation) Para 94 (agricultural land) Para 96 to 110 (reducing the impact of coal extraction), Para's 178 to 184 (visual

impact), Para 187 to 195 (stability) Para's 201 to 217 (water), Para's 230 to 253 (land stability and subsidence), Para's 257 to 284 (high standard of restoration, after care and after use).

Other relevant policy guidance consulted

PPW Technical Advice Notes (TAN) 5 Nature Conservation and Planning

PPW Technical Advice Notes (TAN) 11 Noise

REASONS FOR REACHING THE RECOMMENDATION

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

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

Main Issues:

Principle of the proposed development

The proposed development would be carried out in connection with the ongoing Tower Surface Coal Mine Site, (10/0292 as amended by 13/0466). The additional extraction area would extend the western boundary of the approved scheme of working by approximately 20 metres in depth nearer the A4061 Rhigos Road. It would cover an area of 9.45ha compared to the overall scheme of 253ha and therefore represent a minor extension to the ongoing Tower Surface Coal Mine Site.

The application site is located outside the settlement boundary and is located within the area of primary and secondary coal resources, as defined in the LDP, as a resource of national importance and is therefore safeguarded for its extraction. Furthermore, it is considered that from a national planning viewpoint the demand for coal, particularly from power generation is likely to continue for the foreseeable future. The supply of 270,000 tonnes of coal would be supported by national policy and provide a small contribution towards the demand for coal from primarily the electricity generating industry. The principal of the proposed development in utilising coal resources and supplying coal is therefore in accordance with national policy and Policy AW14 of the LDP.

However, whilst the principle of the development is considered acceptable, there is a need to determine whether any significant environmental impacts likely to be caused by the proposed development are acceptable or could be made so by the imposition of planning conditions or obligations so as to avoid any lasting environmental damage.

The site is also subject to a high pressure gas main and its safety zone as defined in the Constraints Map of the LDP. There is therefore an additional need to determine the likely impacts on the gas main as part of the proposed development.

It is considered that the main considerations in the determination of the application, are the impact on the stability of the A4061 Rhigos Road, nature conservation interests, landscape and visual amenity, impact on the approved restoration scheme, the impact on the amenities of neighbouring properties, impact on surface water, water pollution and flooding issues, highway safety and the impact on the high pressure gas main.

Ground stability

Due to the proposed substantial depth of excavation in close proximity to the A4061 Rhigos Road, the Council's Transportation Section requested that a geotechnical assessment be submitted to accompany the application in order to ensure the maintenance of the stability of the road and identify any mitigation measures required to support the highway.

The submitted geotechnical report considers that there is a reasonably high level of confidence with respect to the geological conditions within the proposed extension area and its immediate vicinity which has been facilitated by the originally submitted Geological Report dated January 2010, additional boreholes drilled in 2013 and by the previous (now abandoned) underground mine working records of the Coal Authority.

The proposed excavation design has been considered and areas of structural disturbance have been identified but these features are stated as being favourably orientated. Stability analyses have been undertaken and the potential for instabilities of any significance, which could impact upon the A4061 have been demonstrated to be remote. It is envisaged that small scale localised instabilities are likely to occur but none of any significance would develop to disrupt the structural integrity of the road.

The report states that ground conditions within the proposed excavation would continually provide information enabling designs to be re-assessed as required and if necessary revised designs would be implemented prior to the final boundary excavation limits being reached.

The Council's Transport Section has considered the submitted Report and has raised no objections as the adverse impact on the stability of the A4061 Rhigos Road is considered to be low and remote. However, a condition has been recommended in order to secure the provision of vehicle containment along the A4061 Rhigos Road in the interests of highway safety. A note advises that the developer would be liable for any instability associated with the A4061 Rhigos Road abutting the site.

It is therefore considered that subject to conditions to ensure that the proposed works would comply with the mitigation measures incorporated within the submitted geotechnical report and the recommended condition by the Council's Transportation Section, the application would comply with national and local planning policies in respect of its impact on ground stability.

Surface water drainage, flooding, water pollution and groundwater issues

The original ES surveyed the water resources for the overall site. The drainage statement submitted with this application includes surface water drainage drawings which indicate the implications of the extended extraction area on the existing watercourses and the planned diversions along the western boundary of the site.

The drainage strategy replicates the presently approved drainage strategy. Each of the two upstream water catchments areas (the River Neath and River Cynon) would be separately intercepted and diverted around the site to maintain the downstream flows in the receiving watercourses. There would be small reductions in the normal catchment areas to the downstream receiving watercourses during the works but on completion of the works these will be returned to pre-development conditions. The drainage channel proposals and the sequence of operations would not significantly alter from the details that have already been approved as part of the main site apart from the change in location of the proposed temporary drainage channel. The existing culverts that carry flows away from the site under the A4061, which are maintained by the Highway Authority would not be affected by the proposed site works. The statement considers that there would be no increased flood risk to downstream properties or water pollution as the existing water management operations and pollution control measures would be utilised for the extended working area.

The Council's Drainage Section has considered the drainage statement and the drainage proposals and has advised that the scheme has demonstrated that the scheme would have minimal impact on the existing highways drainage ditches and is agreeable in hydrological terms. No objections are raised subject to the imposition of full drainage conditions. It is considered that conditions should also secure the construction details, use of materials and appearance of the drainage works to ensure that they would secure a high quality finish, appropriate to the character of the area and to reduce further impacts on adjacent ecological areas.

NRW have considered the proposals in relation to groundwater and surface water drainage and have raised no objections subject to conditions to ensure that any contaminated surface water from the operational area is intercepted and treated prior to discharge to surface waters and to provide further assessment of water levels and impacts on groundwater.

It is therefore considered that, subject to the imposition of conditions as recommended above, the proposed scheme would comply with national and local planning policies in respect of its impact on surface water drainage, water pollution, flooding and groundwater issues.

Impact on nature conservation and the approved restoration scheme

The proposed additional excavation works would impact on an additional area of marshy and acid grassland which lies within SINC 10, as defined in the LDP. The submitted ecology report identifies the need for some specific mitigation works for reptiles, amphibians, nesting birds, bats and wax cap prior to any coal extraction works commencing. The Council's Ecologist has considered the proposals and has advised that whilst the extension area would affect SINC habitat and would compound the impacts of the original scheme, it is considered that the additional habitat loss will be a very small proportion of the impact of the implemented main extraction scheme. Furthermore, it is considered that there should not be any over-

riding protected species issues given the lack of such issues in respect of the implemented scheme. No ecological objections are raised subject to the provision of the stringent mitigation measures imposed on the original scheme covering prior updated surveys, wildlife protection measures, and re use of the existing soils and vegetation and restoration of the SINC areas.

NRW note that the loss of habitats would be relatively small in relation to the permitted development and that the proposed mitigation measures together with the significant mitigation, long term habitat plan and restoration programme associated with the main development, represent appropriate mitigation for the impacts of this scheme.

It is considered that there would be no other discernible impact on the approved restoration scheme under 10/0292, as amended by 13/0466, as the same methodology and restoration details approved for the main site could be secured by means of conditions and extended aftercare as exists for the main site.

In conclusion, it is considered that whilst there would be minor ecological SINC losses, these would be mitigated by suitable conditions and a S106 Agreement to ensure that the restoration measures are of the same environmental quality as the remainder of the site.

It is therefore considered that subject to conditions and a Section 106 Agreement, to ensure that the extended area complies with the mitigation measures approved for the main scheme, the application complies with national and local planning policies in respect of its impact on nature conservation and the overall restoration of the site.

Landscape and visual amenity

A landscape assessment and visual representation has been carried out of the potential impacts of the proposed extended working area. The assessment uses the original Zone of Theoretical Visibility (ZTV) although accepts that the site is overall less visible than the original scheme lying at a relatively low part of the main site. There is however, a small element of the additional area which would be visible from the A4061 to the southwest of the site.

The assessment states that there would be negligible impacts on the Special Qualities of the Brecon Beacons National Park and on the Hirwaun Common Special Landscape Area compared to the approved scheme. The extended area would bring the works closer to the listed buildings of the former Tower Colliery. However, the landscape change is mining related and whilst the site extension would be seen in the approach road to the colliery buildings, the two are not visually related. Therefore, the proposed development is assessed as having a neutral effect on the setting of the listed buildings.

Nine viewpoints have been selected as representative. No significant impacts have been identified at any phase of the proposed works for residential receptors, users of the local road network including the A4061, on the wider footpath network including Open Access Land and no significant cumulative landscape and visual effects with any other relevant projects with planning consent (Enviroparks and the Hirwaun Power Station).

The landscape and visual report states that the extended area of extraction would represent approximately 7% of the area of the consented extraction works, (131ha) be located in a lower valley location compared to the higher areas of the consented development. In the context of the overall scheme this would result in a minor adverse revision to the existing scheme and would have no significant adverse landscape and visual impact at any stage of the development. It concludes that there would be no material change in landscape and visual terms to the consented scheme.

No objections have been raised by Brecon Beacons National Park. It is therefore considered that subject to conditions to ensure that the extended area complies with the mitigation measures approved for the main scheme, the application complies with national and local planning policies in respect of its impact on landscape and visual amenity.

Highway safety

The ES Addendum updates the Traffic and Transport Chapter of the original ES insofar as it relates to the revised extraction area and any material circumstances that have changed since the main scheme was granted in December 2011.

Mitigation measures were recommended within the original ES to minimise the effects of traffic associated with the extraction of the mineral within the site on the local highway network. These included conditions requiring a Traffic Management Plan to be submitted to and approved by the local planning authority, limitations on the annual amount of mineral allowed to leave the site by road, improved site access and wheel washing facilities.

Following the mitigation measures proposed above, the original ES concluded that the proposed use would not result in any significant adverse residual effects as a result of traffic generated by the proposed use. Further, the original ES concluded that the proposed use would reduce the amount of HGV traffic generated by the site when compared to the historic use of the site.

The previous temporary uses of the site by Aberpergwm and Tarmac allowed for up to 350 HGV movements per week. The original ES allowed for up to 270 HGV movements per week. This was a worst case scenario which comprised 70% of the mineral to be transported by rail and 30% to be transported by road.

The Addendum states that this approximate percentage distribution would still remain as the worst case scenario in relation to the revised extraction area, with less than 30% of the mineral transported by road.

The Council's Transportation Section have considered this information and have advised that, an additional maximum of 81,000 tonnes by road would be transported over a remaining period of 5 years at an assumed rate of 16,200 tonnes per annum. Based on 5.5 working days per week and allowing for bank holidays and planned shutdown, such as at Christmas etc., a total of 275 working days per annum would be established.

Based on 16,200 tonnes being transported in 20 tonne lorry loads over 275 days, an average of 3 additional loads resulting in 6 two-way HGV movements per day would

be generated by the development or an additional 33 HGV trips per week. In total, this would result in 303 HGV movements per week being generated which is above the rate for the current approval relating to planning application 10/0292 but less than the 350 HGV movements generated by Aberpergwm and Tarmac previously on the site.

The Council's Transportation Section have advised that the additional traffic generation would be acceptable and have raised no objections to the impact on the existing highway network.

It is therefore considered that subject to conditions to ensure that the proposed works would comply with the mitigation measures within the approved main site the application complies with national and local planning policies in respect of its impact on highway safety.

Residential amenity

As the site operations would be undertaken in connection with the Tower Coal Surface Mine, there is the potential for the works to have an impact on the residential amenity of the properties located in the vicinity of the site, in terms of noise, dust and general disturbance. An objection has been received from the Hirwaun and Penderyn Community Council regarding the further inconvenience to the community, quality of life and prolonging the scheme due to the extended workings. There is also the potential for the works to have an effect on the enjoyment of users of the open countryside on land adjacent.

The ES Addendum updates the air quality and noise chapters of the original ES in respect of the sensitive receptors nearest to the proposed site operations.

In terms of dust, PM₁₀ and NO₂, the original ES recognised that the main site had the potential to cause impacts on nearby receptors emanating from the movement of overburden material, the creation of screening bunds, the extraction of coal, backfilling of voids, road traffic emissions and the operation of the railhead. Mitigation measures were recommended to ensure that the proposed works could be undertaken without resulting in any significant adverse effects, and these have been included in the dust management plans currently being employed throughout the site.

The ES Addendum has assessed the results of the existing dust monitoring results for the nearest locations at Location 1 (Treherbert Rd), 5 (site entrance), 10 (The Willows) 11 (Heol Y Bryn). It has demonstrated that provided the stringent mitigation measures as set out in the Dust Management Plan are employed and vigorously enforced, the potential impacts from dust emissions would be negligible and would not adversely affect amenity.

In terms of noise, the original ES recognised that there was the potential to cause impacts on nearby receptors from excavation works, coal processing, loading and unloading, engine noise, reversing alarms and other noise generating equipment. A number of mitigation measures were recommended in order to ensure that the proposed works could be undertaken without resulting in any significant adverse effects, and these have been included in the noise management plan currently being employed throughout the site.

The ES Addendum includes an updated technical note regarding the nearest sensitive receptors to the additional extraction area, at Location F (Cartref, Rhigos Road) and Location G (Tanybryn, Heol Y Bryn). It concludes that with the implementation of the previously approved mitigation measures and noise management plan, (as amended by the Sat pm working scheme) the conclusions of the original ES would not change.

The Public Health & Protection Division have raised no objections to the proposed development subject to all the existing conditions on the current consent being reapplied.

In considering the ongoing noise and dust monitoring exercises which are undertaken as part of the approved site, it is shown that the site does operate well within permitted levels albeit that there are complaints from time to time regarding the dust and noise generated from the site. The ES addendum has shown that from the nearest sensitive receptors, which would represent the worst case scenario, the additional potential impacts from dust emissions and noise generation would be negligible. The Community Council have raised a concern that the additional area could extend the life of the site, but the applicant has confirmed that this is not the case and in any event this can be secured by the imposition of a condition on any consent granted.

It is considered that the extended area of working would not result in a significant impact upon the living conditions of neighbouring residential occupiers or the users of the nearby countryside in terms of levels of noise, dust and general disturbance.

It is therefore considered that subject to conditions to ensure that the proposed works would comply with the mitigation measures within the approved main site, the application would comply with national and local planning policies in respect of its impact on residential amenity and recreational users.

Air quality and public health issues

The ES Addendum and updated technical reports have confirmed that, subject to the proposed mitigation and planning conditions imposed on the original planning permission being updated in relation to the revised extraction area, the proposed development could be undertaken without any significant residual effect arising. Given the limited extent of the revised extraction area in comparison with the wider approved operations and there being no material change to the conclusions of the original ES, which supported the granting of the planning permission, Cwm Taf Health Board have raised no objections on human health grounds to the application.

It is therefore considered that subject to conditions to ensure that the proposed works would comply with the mitigation measures within the approved main site, the application would comply with national and local planning policies in respect of its impact on air quality and public health issues.

Air quality and effects on the Blaen Cynon SAC

The ES Addendum and updated technical reports have confirmed that, subject to the proposed mitigation and planning conditions imposed on the original planning

permission being updated in relation to the revised extraction area, the proposed development could be undertaken without any significant residual dust effects arising. Given the limited extent of the revised extraction area and not bringing the works any closer to the SAC in comparison with the wider approved operations and there being no material change to the conclusions of the original ES, which supported the granting of the planning permission, it is considered that there would be no additional impacts of the SAC.

It is therefore considered that subject to conditions to ensure that the proposed works would comply with the dust mitigation measures within the approved main site, the application would comply with national and local planning policies in respect of its impact on air quality and the nearby SAC.

Cultural heritage and archaeology

The ES Addendum advises that the original ES included a cultural heritage assessment which included all the land within the planning application boundary. The ES identified that there were a number of features relating to 19th and 20th century industrial activity within the site and these were all of low value. The mitigation measures proposed included recording these industrial features prior to demolition and this was secured by a condition attached to the original planning permission. Therefore, the impact of working this additional land has already been considered and the archaeological mitigation work, contained within the approved programme of archaeological work will take place to include this area.

Glamorgan Gwent Archaeological Trust, as the Council's archaeological advisors have raised no objection to the determination of the application.

It is therefore considered that subject to conditions to ensure that the proposed works would comply with the mitigation measures adopted within the approved main site the application would comply with national and local planning policies in respect of its impact on cultural heritage and archaeological issues.

Whether prejudicial to the implementation of NSA8 of the LDP

The site lies within the allocated Northern Strategic Area, NSA8, where the concept plan shows the northern part of the site for employment and residential uses and the southern part for open space. Within NSA8 provision is also provided for park and ride/park and share facilities.

It is considered that the proposed coal extraction would ensure the pre-extraction of the safeguarded coal resource, as encouraged in Policy CS10 of the LDP. Furthermore, the proposed timetable of the coal extraction would not lengthen the overall timescale of the main site and therefore would not prejudice the timing of the development of the strategic site as identified within the LDP Examination Paper - Hirwaun Strategic Site Phasing Report.

Effects on the high pressure gas main

The Constraints Map of the LDP shows that the proposed additional coal extraction area lies within a hazardous installation consultation zone for the high pressure gas

main - namely a High Pressure Gas Pipeline – Feeder 02 Dowlais to Dyffryn Cladach.

The works would require the diversion of the high pressure gas main which crosses the site. No details have been submitted of how the gas main would be protected and diverted or the environmental impact of such works. The applicant maintains that it benefits from mining surface land access rights for the site and that the gas pipeline can be relocated under the statutory undertaker's permitted development rights. However, it is considered that the presence of the gas main forms a fundamental obstacle in the implementation of the proposed scheme and the environmental impacts of its necessary diversion and details of how it would be protected should have accompanied the application. NRW note that the environmental impact of relocating the gas main has not been assessed.

It is therefore considered that, for this reason alone the application has failed to provide all the necessary environmental information to accompany the application and is therefore recommended for refusal accordingly.

CONCLUSION

The application is recommended for refusal due to the absence of information concerning the likely environmental impact on the high pressure gas main crossing the site. In all other aspects it is considered that the proposed development would be acceptable in principle and comply with national policies and the relevant policies of the Local Development Plan as detailed above.

RECOMMENDATION: Refuse

1. The environmental information submitted to accompany the application is considered incomplete. The proposed development will require the diversion of the high a pressure gas main, namely Feeder 02 Dowlais to Dyffryn Cladach, which crosses the site. No details have been submitted of how the gas main would be protected and diverted, or of the environmental impact of such works. It is considered that the presence of the gas main is a fundamental obstacle in the implementation of the proposed scheme and the environmental impacts of its necessary diversion and protection should therefore have been submitted to accompany the application.

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LOCAL GOVERNMENT ACT 1972

as amended by

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

LIST OF BACKGROUND PAPERS

DEVELOPMENT CONTROL COMMITTEE

16 OCTOBER 2014

REPORT OF: SERVICE DIRECTOR PLANNING

REPORT

**APPLICATIONS RECOMMENDED
FOR REFUSAL**

OFFICER TO CONTACT

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See Relevant Application File