



## **PLANNING & DEVELOPMENT COMMITTEE**

**21 JANUARY 2021**

### **REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT**

#### **PURPOSE OF THE REPORT**

Members are asked to determine the planning applications outlined below:

**APPLICATION NO:** 20/1312/08 & 20/1313/08 (CHJ)  
**APPLICANT:** Cyngor Rhondda Cynon Taf Council

#### **20/1312/08**

**DEVELOPMENT:** Temporary deposit and storage of approximately 8,000m<sup>3</sup> of material from Tylorstown landslip consisting of the formation of stockpiles, material consolidation, drainage, habitat/ecological mitigation measures and associated works. (Part Retrospective)

**LOCATION:** STATION ROAD, FERNDALE

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#### **20/1313/08**

**DEVELOPMENT:** Temporary deposit and storage of approximately 22,000m<sup>3</sup> of material from Tylorstown landslip consisting of the formation of stockpiles, material consolidation, drainage, habitat/ecological mitigation measures and associated works. (Part Retrospective)

**LOCATION:** LAND ACROSS FROM OAKLANDS BUSINESS PARK, FERNDALE

**DATE REGISTERED:** 19/11/2020

**ELECTORAL DIVISION:** Ferndale

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**RECOMMENDATION:** Approval subject to the conditions below.

**REASONS:** The development, while largely retrospective, has been necessary to remediate the landslip that occurred earlier this year. Fortunately, nobody was injured as a result of this incident, but it was clear that action to remove the material from the river was urgently necessary.

The proposal represents the most efficient and environmentally sustainable of the (limited) options available. While the stockpiling of this material will have some negative visual impact, it is necessary (for safety reasons) to dry out the

**material before it can be worked and will only be for a temporary period before being removed / remodelled. This will be the subject of a separate planning application (to be made at a future date)**

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**REASON APPLICATION REPORTED TO COMMITTEE:** The nature of the application, while potentially capable of being considered under the Council's Scheme of Delegation, is such that a Committee determination is considered more appropriate.

## **BACKGROUND INFORMATION**

On 16<sup>th</sup> February 2020, Storm Dennis caused the Llanwonno Upper Tip to fail above the village of Tylorstown resulting in a large landslip followed by a smaller, secondary event.

The consequence was that approximately 30,000 cubic metres of colliery tip material slid down the slope and filled the valley bottom from the "toe" of the slope outwards in an extremely low angled and widely distributed debris envelope. This subsequently filled the River/Afon Rhondda Fach diverting its course to the western side of the valley bottom. The diverted river began eroding the western bank of the river creating a vertically unstable face of approximately 5 metres which threatened to undermine the Rhondda Fach Leisure Centre car park adjacent to the top of the bank.

The slipped material also seriously damaged and breached a main sewer beneath the Leisure Centre downstream of the landslide "toe" and felled numerous trees in its wake and covered a water main below the former railway line which is used as a (non-motorised) leisure route.

## **APPLICATION DETAILS**

The development which is the subject of this application is partially (largely) retrospective and was started without the benefit of planning consent due to the threat to the local buildings and infrastructure caused by the landslip and extensive scouring from the diverted river. Committee is reassured that, while the work may be retrospective, the applicants (the Council) sought early advice from both the Countryside, Landscape & Ecology Section and the Development Control (Planning) Section (as well as other in-house technical experts) before any work had commenced.

Committee is advised that there have been two applications submitted, one for each respective receptor site although the access to these sites are the same (essentially a haul road). Members may also note that the two reports are, largely, identical in content and considerations and while the scheme as a whole can be debated together, two separate determinations are required.

Both sites (referred to as **A & B**) are being used simultaneously for the stockpiling of material. Receptor Site A (RSA) is further away (approximately 1km) from the slip

material and Receptor Site B (**RSB**) is approximately 600 metres away from the slipped material.

Both sites are long linear strips of land the width of which has been dictated by the landform with a steep embankment to the north and the river to the south. **RSA** is actually divided into two parcels. The presence of two mine shafts have prevented this from being one area. **RSB** is wider than **RSA** but **RSA** is considerably longer. The majority of the material will be stored on **RSB** which is closest to the land slip area.

Work to deposit the material on the receptor sites began in July 2020 and is expected to continue until February 2021.

**RSA** (1 & 2) is proposed to accommodate approximately 8000 cubic metres with a maximum height of 5.5 metres however, the applicant has subsequently advised that **A1** has only 800 cubic metres and **A2** has nothing at all. **RSB** can accommodate 22,000 cubic metres with a maximum height of 8 metres. Committee is advised that the maximum heights are largely dictated by safety considerations although **RSA** is unlikely to be receiving the amounts of material envisaged (largely due to the good compaction rate of the material excavated so far).

The track (haul road) has had to undergo some strengthening in places and the addition of passing bays however these will be removed following completion of the work and the track returned to its original condition.

The application proposes temporary storage of this material for a period not exceeding 3 years. This allows sufficient time for consultation / monitoring prior to the submission of a planning application for the permanent scheme and it allows sufficient time following the Planning process to programme the work to ensure that it is undertaken during the most advantageous season to reduce any risks in respect of access, management of the material and ecological mitigation.

The applicant will not be precluded from removing the stockpiles before the end of this period subject to obtaining the necessary consents.

The documentation included with the application comprises:

- A Design & Access Statement (incorporating a Planning Statement)
- A Community Infrastructure Levy Declaration
- An EIA Screening Opinion & Response
- Extended Phase 1 Habitat Survey
- Ecological Rationale
- Ecological Method Statement
- Flood Consequences Assessment

- Coal Mining Risk assessment
- Chemical Stability Assessment
- Preliminary Sources Study Report
- Surface Water Drainage Design
- Transport Statement.

## **SITE APPRAISAL**

The land in question (the deposition sites) is in the ownership of the Council.

The application sites largely comprises a linear strip of land which was formerly the line of the mineral railway. It is predominantly flat in its linearity and bounded on one side by the river and on the other an embankment by self-seeded landscaping by trees and shrubs. At one end of the site is the access from the public highway and has a relatively small informal car park for use by visitors who use the track for recreation purposes. Other than for the purpose of removing the slip material and general maintenance of WW/DC apparatus and the riverbank, access by motor vehicles is prohibited. The track is popular with both cyclists and walkers.

The applicants have advised that the site(s) were chosen as they were conveniently located close to the slip and the capacity was considered to be capable of safely accommodating the amount of material required to be stockpiled temporarily.

The closeness of the sites to the landslip also allows the material to be moved in an efficient and timely manner which was also a key consideration given the continuing damage being caused by the diverted river. The alternative was to remove this material in lorries through the narrow and congested streets of the surrounding villages which would cause significant disruption for a considerable period of time.

Four Sites of Interest for Nature Conservation (SINC) were identified within the survey area, which may be impacted. Of these the most relevant are Blaenllechau Woodland (SINC 61) and Old Smokey Slopes (SINC 65).

The majority of the area of **RSA** is located within Blaenllechau Woodland (only a small area at the north-west of the receptor site extends beyond the SINC boundary).

The majority of **RSB** is also located in Blaenllechau Woodland with the exception of a small area at the south-eastern end of the site which falls within Old Smokey Slopes SINC.

A parcel of ancient woodland was found to be located between **RSA** and **RSB** plus a linear parcel of ancient woodland located approximately 20m to the west and

another linear Ancient woodland parcel located approximately 110m to the south from the RSB.

## **PLANNING HISTORY**

The land being used is the line of the former mineral railway. There is no recent planning history identifiable pertinent to the consideration of this proposal.

## **PUBLICITY**

The application was publicised by site notices being displayed both on and in areas surrounding the application site. As a result of this exercise, one (6 page) letter of objection has been received from an adjoining landowner (Welsh Poultry). Due to the somewhat unusual nature of the application, a copy of this letter has been included as APPENDIX 1.

The points raised can be summarised as follows:

- The use of retrospective planning is criticized, and concern is expressed over the environmental consequences of tipping on RSB and that the submitted application is too general and applies to the whole project rather than individual aspects.
- There is criticism about the comprehensiveness of some of the ecological surveys and the limited ecological safeguards included within them.
- There is criticism of the ecological mitigation that is proposed and an absence of a comprehensive environmental compensation strategy.
- There will be an adverse impact on ancient woodland and the work done is one dimensional in its approach.
- The proposals will have an impact on low chemical input farming and RCT as a landowner are “notoriously negligent” in allowing invasive species to both flourish and spread to neighbouring lands. Approval should not be given whilst the applicant continues to work in isolation. A collaborative, comprehensive and detailed mitigation and restoration plan should be requested.
- There is concern about the chemical stability of the material and groundwater contamination.
- Concern is expressed about the consequences of the development flooding downstream by the reduction in the flood plain.
- There are concerns about the use by scramblers (motorcycles) on Council land and a lack of “policing” of activities on it.

Discussions have been held with the objector and it would seem that most of the cause for concern stems from the Council’s decision to transport the tipped material to RSA

& RSB without consultation with the neighbouring landowners and the disappointment of not considering other alternatives (even in combination). Subsequently, the concern is in respect of the environmental damage that has been caused to prepare RSA & RSB for receiving the material and the fact that what has been lost cannot be restored or mitigated.

Committee is advised that these issues will be addressed in the PLANNING CONSIDERATIONS section of this report.

## **CONSULTATION**

As part of the application process the following were consulted. A brief precis of responses has been included for Committee's information:

NRW – have “significant concerns” over aspects of the development and advise on a need for appropriate licenses to be obtained.

Transportation Section – no objection

Public Rights of Way Section – no reply received (therefore no objection)

Countryside, Landscape & Ecology Section – no objection

RCT Drainage Section – no objection

## **POLICY CONTEXT**

National Planning Policy

- Planning Policy Wales - Edition 10 (Welsh Government, December 2018)
- Technical Advice Note 5: Nature Conservation and Planning (Welsh Government, 2009)
- Technical Advice Note 15: Development and Flood Risk (Welsh Government, 2004)
- Circular 22/87 - Development of Contaminated Land (Welsh Office, August 1987)

Local Planning Policy

### **Core Policies:**

**Policy CS 1 (Development in the North)** - Ferndale is identified as a key settlement within the Northern Strategy Area and this policy seeks to promote “*accessibility by securing investment in ...walking and cycling*” and “*new forms of employment in the leisure and tourism sectors*”.

### **Area Wide Policies**

**Policy AW 5** – This policy sets out criteria for new development in relation to amenity and accessibility.

**Policy AW 6** – requires development to involve a high-quality design and to make a positive contribution to place-making, including landscaping.

**Policy AW 8** - This policy seeks to protect the natural environment from non-sustainable development. It set out a number of tests against which development proposals will be judged.

**Policy AW 10** - developments proposed must overcome any harm to public health, the environment or local amenity,

### **Strategy Area Policies:**

**Policy NSA 20 (Major Road Schemes)** -This policy requires that land will be safeguarded for the implementation of additions to the strategic highway network.

**Policy NSA 23 (Cycle Network Improvements)** – Promotes the extension, improvements and enhancement of the existing networks of cycle paths.

### **REASONS FOR REACHING THE RECOMMENDATION (PLANNING CONSIDERATIONS)**

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

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

It is considered that the principal issues in the consideration of this application are Ecology, Landscape Impact, Public Accessibility, the Water Environment and Transportation Considerations (in no particular order of importance).

#### Ecology

In terms of species the sites had varying degrees of potential to support protected species, as follows:

- Low suitability for dormouse, roosting bats and badger;
- High suitability for commuting and foraging bats, otter, breeding birds, common amphibians, hedgehogs, reptiles and invertebrates.

The report submitted contains a series of recommendations to deal with the consequences of the development and suggests where any further surveys etc. should be undertaken and impacts on, for example, ancient woodland should be avoided. The draft design and extent of the receptor sites was subsequently amended to completely avoid any impact on the ancient woodland.

It recognised that tree clearance was required on both receptor sites and specifies the basis on which this was to be undertaken (i.e. in accordance with BS5837: Trees

in relation to design, demolition and construction). It also considers briefly what enhancements could be achieved following the deposit of the material.

In addition, and subsequent to the survey, an Ecological Rationale document (included in the application pack), detailing the approach to the ecological management of the works, was produced following consultation with the RCT's Ecologist and Natural Resources Wales (NRW).

Following the Phase 1 Habitat Survey and agreed rationale, the Ecology Consultants sought to develop a methodology detailing (within the context of, and accepting the emergency nature of the works) how the impact on the habitats and species could be minimised and what mitigation measures were required. The draft document was developed and resulted some changes to their proposals for the receptor sites (for example, by excluding the areas identified as ancient woodland from the proposed work areas thereby avoiding any impact on these areas).

The applicant's approach was designed to ensure that the risk of significant negative impacts on habitats and protected species is minimised and that works are compliant with current wildlife legislation.

The Method Statement was included as part of the contractor's works information required to be followed during the carrying out all aspects of the remedial works to ensure that the risk of significant negative impacts on habitats and protected species is minimised and that works are compliant with current wildlife legislation.

The Method Statement is considered to identify all the protected habitats and species potentially impacted and sets out the necessary mitigation, working practices or other measures required to minimise the development's impact on each of them.

The applicant has also employed an Ecological Clerk of Works who has been on-site during the development and ensuring that it is carried out in accordance with the Ecological Method Statement.

The Ecological Method Statement describes, in detail, all the measures undertaken to protect and prevent damage to SINCs, ancient woodland, trees and other priority habitats, protected and priority species and measures to control invasive plant species.

It will be a requirement of a future application that seeks to remove or remodel the stockpiled material will need to include a full set of mitigation and enhancement measures to compensate for the loss of habitat that has been necessary to facilitate this development. Committee is advised that there is little meaningful mitigation and enhancement that can be carried out in respect of the existing situation (but still requires it to be addressed through the imposition of a condition) and it will be important for the applicant to consider how best to avoid the colonisation of the



tipped material by species that could, have an impact on future plans to remove the material (such as Great Crested Newts).

As part of the application, both the Council's Ecologist and NRW were consulted.

While having "significant concerns" NRW have requested the inclusion of a condition that seeks to improve and enhance the habitat for otters (which are a European Protected Species). Committee is advised that Condition 3 is considered to address this concern. Upon submission of the details required, both RCT's Ecologist and NRW will be consulted to consider any proposals.

RCTs Ecologist has advised:

In the late spring, a series of meetings were held (which included NRW) in order to progress emergency tip removal works at Tylorstown Tip. At that stage the emergency nature of the works was not subject to a planning application requirement. However, protected species issues and minimisation of impacts to SINC habitat were identified as priority environmental considerations in undertaking the emergency works. As such Redstart undertook preliminary ecological assessment in May 2020 which identified the following key ecological issues:

- SINC habitat impacts,
- nesting bird,
- reptile,
- otter,
- fish spawning and
- river pollution.

As a result, a series of precautionary measures to ensure adherence with wildlife law and minimisation of ecological impact were identified and implemented in the clearance and setting up of the receptor sites and in implementing associated works involved in moving spoil from the river and adjacent hillside.

These recommendations included ecological supervision for clearance works and tip removal / re-deposition, species mitigation (in particular nesting bird, otter and reptile), avoidance of adjacent key habitats, and adherence with NRW requirements in terms of river working, pollution controls and avoidance of fish spawning impacts.

The ecological measures identified for the emergency works were appropriate to the situation and circumstances and were ecologically supervised by Ecologists from Redstart.

Therefore, in terms of the current planning application for the two receptor sites, the ecological impacts of the receptor site clearance and much of the impacts of spoil removal has already been completed. In addition, any on-going works to complete this emergency phase are subject to the same attached method statement. As such, I would suggest that perhaps we could condition the continued implementation of the attached ecological rationale for any completion works required through this planning application.

As the ecological rationale identifies, mitigation and compensatory ecological measures in the form of an ecological restoration of the receptor sites, formed an important part of the ecological mitigation of the emergency works. SINC habitat has been affected by the landslip and emergency works. As such Policy AW8 of the LDP is relevant and ecological mitigation in terms of habitat restoration is an important consideration. Fortunately, there is considerable potential to engineer the final landforms of the receptor sites, and to re-use colliery spoil, to create conditions for species rich colliery spoil habitats to recolonise the receptor areas, and to implement simple /effective aftercare management. Colliery spoil grassland based on the local seedbank is a diverse, and species rich habitat, of particular value for a range of invertebrate species (including many pollinators). There is also potential to 'design in' the river bank restoration enhancement measures for species such as otter. So therefore, this application does have the ability to deliver effective ecological mitigation (and potential enhancement) in line with LDP policy AW8.

In light of the above comments, it is considered that the proposal is in accord with Policy AW5, AW8 and AW10 of the Local Development Plan.

#### Landscape Impact,

The site, while being on the valley floor, is publicly visible from a number of directions including public highways, the Sports Centre car park, residential properties and users of the leisure route that is the former mineral railway line.

The applicant, since the original submission, has subsequently advised that RSA (1&2) will now receive significantly less material than originally envisaged, which accordingly lessens any impact. However, there will still be a very visible, very large, mound of earth type material within a countryside location that was previously a well vegetated landscape and, as such forms a very alien feature within the landscape.

The applicant has not made any proposals to landscape the mound(s) due to the temporary nature of its siting. Some limited works are proposed but are predominantly designed in the interest of ecological mitigation.

In reaching a decision, Committee will need to be satisfied that any impact is acceptable, at least for a period of up to 3 years. The residential properties along Station Road and George Street are located closest to the receptor sites and some impact is very evident however, these properties are at a much higher level than the

application site where most views are directly across the valley rather than looking directly at the stockpiled material. It is therefore considered that, while a negative impact is acknowledged, it will not cause significant impact to local residents such as to warrant the refusal of the application. In addition, the outlook is not considered to be any worse than the devastation caused by the landslip which would have had a similar negative impact which, if it hadn't caused so much damage to the river and sewer could have been left in situ much longer than through the Council's intervention.

Accordingly, it is considered that the proposal complies with Policies AW5, AW8 & AW10 of the Local Development Plan.

### Public Accessibility

The sites under consideration form part of an attractive walking and cycling route along the line of the former railway. It is part of the Sustrans National Cycle Network (Route 881). Due to the activity of construction traffic, this route has had to be temporarily closed, with the land slip effectively doing the same job when the incident occurred in February, albeit to a lesser extent.

Once work is complete and the necessary safety inspections have taken place, the route will again be open to the public. While any closure of a recreation facility is regrettable, especially in these difficult times, it is considered both reasonable and necessary under the circumstances the applicant was faced with.

### The Water Environment

As part of the application, the applicant submitted a Flood Consequence Assessment. Amongst other considerations, one of its main aims was to establish what, if any, implications the creation of large earth mounds next to the river would have on land and properties downstream.

The application proposes "less vulnerable" development as defined by TAN15. NRW's Flood Risk Maps confirmed that part of the site is within Zone C2. In their consultation response, NRW have advised "*Given that only a small proportion of the material is located within the flood zones and Section 5.1 of the submitted FCA.....states that the material will be consolidated and the risk of any movement is minor, we have no objection on flood risk ground to the applications as submitted*".

In respect of the potential for land contamination and controlled waters, NRW have "welcomed" the applicant's proposal for further site investigations as outlined in the Receptor Site B Preliminary Sources (Desk) Study Report prepared by Redstart. Recommendations have been made by NRW and subsequently passed on to the applicant.

NRW have expressed "significant concerns" in respect of this development but discussions with them have identified that such concern lies largely outside of the Planning system. They have stated the need (prescribed by TAN15) for the LPA to

consider whether the “less vulnerable” development but within a C2 Flood Zone meets the relevant tests set out in the TAN. The tests are:

*“New development should be directed away from zone C and towards suitable land in zone A, otherwise to zone B, where river or coastal flooding will be less of an issue. In zone C the tests outlined in sections 6 and 7 will be applied recognising, however that highly vulnerable development and Emergency Services in zone C2 should not be permitted. All other new development should only be permitted within zones C1 and C2 if determined by the planning authority to be justified in that location. Development, including transport infrastructure, will only be justified if it can be demonstrated that:-*

- Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or local authority strategy required to sustain an existing settlement; **or***
- Its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners, to sustain an existing settlement or region;*

*and*

- It concurs with the aims of PPW and meets the needs of previously developed land and,*
- The potential consequences of a flooding event for the particular type of development have been considered and in terms of the criteria contained in sections 5 & 7 and appendix 1 found to be acceptable.”*

Members will be familiar with these tests which have been reported in such recent applications as the Industrial Unit development at Robertstown and the new Surgery in Mountain Ash.

Members are advised that Planning policies (both national and local) are written so as to require certain information to be carried out prior to the submission of any application where any impacts can first be identified and mitigated. Policies rarely (if at all) allow for the possibility of emergency works to take place nor offer any exemptions in such circumstances. Clearly policies need to be robust enough so as to deter applicants from undertaking developments without first applying for Planning permission however, there are rare occasions, where this simply isn't possible. This is one such case. Failure to carry out the work will have certainly had an adverse effect on the existing settlements in that area and the blocking of the river channel would have had significant consequences if left in situ. Appropriate advice was taken prior to any works taking place and, in the submission of the application, was fully justified in the proposals put forward. The principal (and principle) aim of TAN15 is to avoid flooding, protect the lives of people in such areas and, in undertaking the development, to prevent the possibility of properties downstream of the development to be at a

greater risk of flooding. The applicant has submitted a Flood Consequence Assessment which demonstrates this and NRW have not objected to the information submitted. In light of this, while the development is out of accordance with the tests in TAN15, the consequences of flooding have been appropriately managed and are found to be acceptable.

A Surface Water Drainage Strategy has been submitted to deal with the run-off using SuDS. A separate application has been made to the Council as the SuDS Approving Body (SAB) for approval of the proposed surface water design. Details of this have been submitted with the application. The applicant has stated:

*“Whilst the individual stockpiles have been designed and shaped to reflect the local topographic constraints, they have each taken the form of a single batter with a variable height berm tying into the existing hillside. The surface water draining arrangements for all three receptor sites share the following common features:*

- *A swale drain running along the rear of the as it interfaces with the existing hillside this collects the runoff from the berm face as well as intercepting runoff from the hillside above the berm that would otherwise drain towards the stockpile and directing it around the stockpile.*
- *A swale drain running along the toe of the batter as it meets the existing ground. This swale collects the runoff from the batter face;*
- *One or more cascade features that transfer flow from the rear swale down to the level of the toe swale; and*
- *A culvert connection that collects flow from the above features and directs it to the point of discharge.*

*The cascade will consist of a steep brick lined channel with a stepped profile similar to another cascade in the area. The final detailed design and materials of this and other drainage features are still to be determined. These will follow the final approved SAB design, therefore the applicant is content for these to be subject to a suitably worded condition in any approval”.*

No objections have been received from the Council’s Drainage Section although the issue of surface water drainage is considered (and regulated) outside of the Planning system.

In light of the above comments, it is considered that the development, in respect of the water environment, complies with the relevant policies (AW5, AW8 & AW10) in the LDP

#### Transportation Considerations.

The proposals represent a significant increase in the amount of vehicular (largely construction) traffic using this area. The majority of traffic will be active within the site and not using the surrounding public highway due to the proximity of the Receptor

Areas to the slipped material. Should an alternative receptor site have been proposed then there would be a considerable impact on the local highway network with a significant volume of material having no alternative other than to be carried throughout the roads and streets of the surrounding villages. While this could, potentially, be the subject of a future proposal (following the expiry of the temporary period sought), this application makes no such proposal and, accordingly the Council's Transportation Section has no objection to the current proposal.

In the LDP, Policy NSA20 (Major Road Schemes) includes the proposed route of the Upper Rhondda Fach Relief Road, the line of which follows the former railway line adjacent to the application site. A section of route from Port to Pontygwaith was opened in 2006/7 and there are currently no active plans to extend this route to Ferndale. Whilst the prospect of a scheme coming forward within the current plan period is unlikely, the stockpiling is not considered to affect such a proposal and is therefore not considered to be in conflict with this policy.

Accordingly, it is considered that any transport considerations are acceptable and comply with Policy AW5 of the Local Development Plan.

#### Objection letter

One letter of objection was received as part of this application. This has been summarised as part of the PUBLICITY section and copied for Committee's information as APPENDIX 1. A copy of this letter was also sent to the applicant who has responded to the comments on an issue-by-issue basis.

Members are advised that, while there may have been other options for the removal and storage of the slipped material, the applicant (the Council) has made an application to remove the material to the site identified and, as the Local Planning Authority, Committee must make a determination based on the strengths and weaknesses of the proposed development - rather than considering an alternative. The objector is correct that environmental damage has been done by the removal of trees and preparatory works in anticipation of receiving the tipped material however such work was carried out only after having received appropriate advice.. While this may be regrettable, neither the Council's Ecologist or NRW have offered any objection and it is considered that, upon removal or reprofiling of the material, it will be possible to both mitigate and enhance environmental / ecological.

A concern was also expressed that there was a lack of consultation (presumably by the applicant) with adjoining landowners to come up with an acceptable solution. While this is a matter for the applicant, the circumstances surrounding the need to remove the material from the river meant that this was, perhaps, not the most pressing issue. In terms of the Planning process, the application has been advertised in accordance with the Regulations and it is understood that this publicity served its purpose in enabling local residents to make any comments.

A concern was expressed about lack of surveys, ecological mitigation and impact on ancient woodland accompanying the application. Committee is advised that none of the respective consultees requested or required the submission of any additional surveys and the impact on the ancient woodland has been avoided. In light of this, the work submitted with the application is considered acceptable.

The objection letter refers to the insufficient justification for the choice of sites however, this is not a requirement and the application must be considered on its own merits.

The objector has raised an issue in respect of the presence and spread of invasive species. The applicant has prepared an Invasive Plant Species Method Statement to help prevent the spread of such species off site however, due to the nature of the land slip and the emergency works to clear the river channel, it was not possible to check whether the slip material contained any such species. The applicants have advised that the receptor sites will be monitored for the emergence of invasive plant species and a management / eradication regime will be carried out if required.

The objector is also concerned about the approach to groundwater pollution risks arising from the deposited material. Committee is referred to the response given by NRW earlier in this report.

Similarly, concerns in relation to flooding have been made. Again, Committee's attention is drawn to the consultation response from NRW.

Finally, comments are raised in respect of potential future uses, however Committee is advised that these are not a consideration of this application.

#### Other issues

As part of the application, the Council's Public Health & Protection Section was consulted. No objections were received but "standard" conditions were suggested in respect of noise, dust and other nuisances. While these comments have been noted, Committee is advised that the development is now largely complete. No adverse comments (complaints) have been received in respect of the works so far and, in the absence of a Planning consent, separate legislation exists (outside of the Planning system) to deal with such issues. Accordingly, Committee is advised that the imposition of conditions to this effect are not considered necessary but can be addressed directly (under Public Health legislation) should problems occur. In the final weeks of the operation.

The consultation response from NRW highlights the need for the applicant to have obtained various permits and licenses from NRW as part of this development. Committee is advised that it is not the role of the Planning system to consider issues other than material Planning considerations, which they are not. Accordingly, the report does not make any comments in this respect, but the applicant is aware of potential issues from ongoing discussions with NRW.

## **Conclusions**

The application(s) is(are) relatively simple in what is proposed. It seeks the temporary storage / stockpiling of material resulting from the landslip which occurred in February of 2020. It is clear that the works that are under consideration are both proportionate and necessary given the circumstances of the situation.

The impacts (environmental and otherwise) of the works are not considered to be significant and the retention and completion of the earth movements are considered acceptable.

As the works are largely complete (scheduled to be completed in February) it is not considered that any many additional conditions are necessary other than to define the plans and documents that comprise the proposal (including mitigation) and the duration of the storage of the material (and its subsequent removal / reprofiling). While the works are largely retrospective (for the reasons given earlier in the report)

Committee is required to determine the application on its individual merits and the fact that the majority of the material has already been removed is not considered to be a material planning consideration. Should Committee decide to refuse the application(s) then it will be necessary to remove the material to an alternative location (which would likely require the submission of another planning application)

Committee is advised that there may be some unresolved issues in respect of the respective consenting regimes operated by NRW however these do not impact on the consideration of the planning application(s).

### **RECOMMENDATION: Grant**

1. The development shall be carried out in accordance with the Plans & Documents contained within the Design, Access and Planning Statement dated November 2020 unless otherwise to be approved and superseded by details required by any other condition attached to this consent.

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

2. Within 2 years from the date of the consent, a scheme for the removal / reprofiling of the tipped material (including restoration and environmental mitigation and enhancement measures) shall be submitted to, and approved in writing by, the Local Planning Authority. The material shall be removed / reprofiled in accordance with the scheme as may be approved before the expiry of 3 years from the date of this consent and the environmental mitigation and enhancement measures carried out in accordance with the



approved details (unless otherwise agreed in writing with the Local Planning Authority).

Reason: To clarify the duration of the consent and to ensure that the site is returned to its original condition or the Local Planning Authority has an opportunity to formally consider an alternative proposal in the interests of Ecology and Visual Amenity in accordance with Policies AW5, AW8 & AW10 of the Rhondda Cynon Taf Local Development Plan.

3. Within 3 months of the date of this consent, a scheme shall be submitted to the Local Planning Authority detailing works to be carried out to the river environment for an improved and enhanced habitat for otters. The scheme shall identify an appropriate timescale for the works to be undertaken and a regime to monitor its effectiveness. The scheme shall be carried out in accordance with any approval.

Reason: The otter is a European Protected Species and it is a requirement where a proposal impacts on such a habitat that, following the development, the habitat is not only maintained but also enhanced, and in the interests of Ecology in accordance with Policy AW8 of the Rhondda Cynon Taf Local Development Plan.

4. Prior to completion of the final (temporary) landform, details of an ecological mitigation and restoration for the receptor sites and riverbank (including timescales) will be submitted to the Local Planning Authority. The works shall be carried out in accordance with any approval and maintained for the duration of the development.

Reason: in the interests of Ecology in accordance with Policy AW8 of the Rhondda Cynon Taf Local Development Plan.