

DATE WRITTEN	4th March 2025
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COMMITTEE	Planning and Regulatory
COMMITTEE DATE	12th March 2025

Application No.
P/23/0065

Date
9th March 2023

Determining Authority
MTCBC

Proposed Development

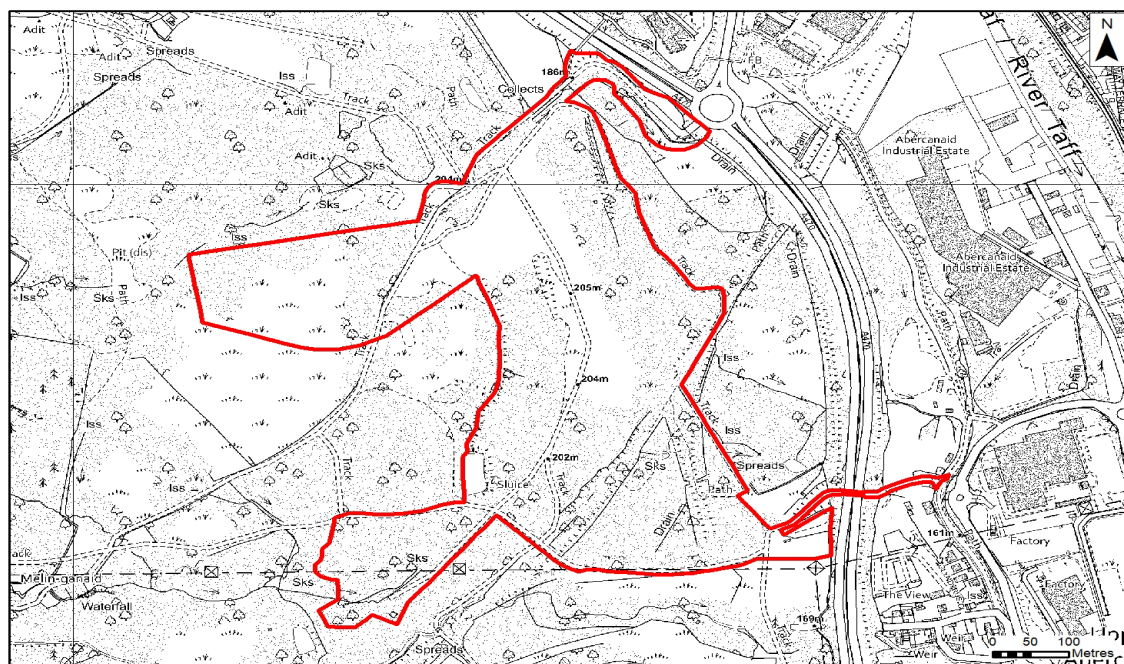
Location

Name & Address of Applicant/Agent

Outline application for erection of a mixed leisure development comprising Indoor Snow Centre (up to 39,200 sq m), Water park (up to 7,500 sq m), Indoor Activity Centre (up to 9,000 sq m), Outdoor Activity Centre, Hotel Accommodation (up to 418 bedrooms), Woodland Lodge accommodation (up to 30 units), car parking (up to 830 spaces) and associated earthworks, access, drainage, servicing and utilities connections/infrastructure

Land to the South West of the A470/A4102 roundabout at Rhydycar West Merthyr Tydfil

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2 Fitzalan Road
Cardiff



P/23/0065

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BACKGROUND/PREAMBLE

Prior to the submission of this application a pre-application enquiry was lodged with the Local Planning Authority on 27th July 2022 under reference PA/22/0035. A written response was issued on 4th October 2022 following a meeting on 13th September 2022. The advice given within the pre-application response outlined significant concern with the proposed development due to its inappropriate location, sustainability, scale, visual impact, ecological impact and the conflicts with both National and Local Planning Policies.

Following the pre-application response being issued to the applicant a Design Review meeting was held with the Welsh Governments Design Commission for Wales (DCfW) on 6th October 2022, following which they issued a report advising that they were “*unable to support the proposal*”, and setting out their *significant and fundamental concerns* in relation to sustainability, quality of design, the visual impact of the proposed development, its impact upon the landscape/landscape character and overall form of the proposed development, and its failure to adhere to both National and Local Planning Policy in Future Wales and the Local Development Plan. The current planning application was received and made valid on 9th March 2023.

APPLICATION SITE

The application site comprises of an irregularly shaped 30.4 hectare parcel of land located outside of the defined settlement boundaries as identified by Local Development Plan (LDP) Policy SW4 and its associated proposals map. Therefore, for the purposes of planning, the application site is located within the open countryside. The site forms part of a wider parcel of land that is within the ownership of the applicant and forms an attractive rural setting.

The site has a varying topography but generally slopes up to the west with areas of hillside, gentle incline and plateaus. The A470 Trunk road runs north-south to the east of the application site, with the Rhydycar Business Park, Leisure Village, Abercanaid Industrial Estate and the village of Abercanaid beyond. The settlement of Heolgerrig is located approximately 1km to the north and to the south is the valley of Nant Canaid, with Bike Park Wales beyond.

The site has historically been used for industrial activities (mining for coal and ironstone) with the remains of mine workings, spoil tips, canal and railway features still present on site. Some remnants of the sites former use benefit from statutory protection in the form of Scheduled Ancient Monuments (SAM) and a Grade II Listed Building as follows:-

- Cyfarthfa Balance Pond and Leat (SAM) – situated along the western boundary.
- Cwm Pit and Head of Railway (SAM) – straddles the southern boundary.
- The Base of the Chimney at Cwm Pit (Grade II Listed Building) – situated along the south boundary.

It is noted that there are other Scheduled Ancient Monuments (SAM) located within and close to the site (to the north and south), outside of the application site. The site forms part of the Merthyr Tydfil Landscape of Outstanding Historic Interest identified on the Register of Landscapes of Outstanding Historic Interest in Wales and noted for its evidence of industrial activity that dates back to 1750.

The previous industrial uses ceased on site many years ago and the site has been naturally reclaimed with significant portions of the site being covered by dense woodland and other ecological features. Given the extent of the vegetation, the time that has elapsed since the previous industrial use and the ecological designations across the site, it cannot be considered that the site meets the definition of previously developed land as set out by Planning Policy Wales 12. In this regard, the definition excludes, among other things, *'land where the remains of any structure or activity have blended into the landscape over time so that they can reasonably be considered part of the natural surroundings'* and *'land which is species rich and biodiverse and may qualify as section 7 habitat'* or be identified as having *nature conservation value'*.

As stated above, the site is subject to a number of ecological designations, namely; The Cwmglo and Glyndyrus Site of Special Scientific Interest (SSSI), the Rhydycar West Site of Importance for Nature Conservation (SINC), a portion of Ancient Woodland and the woodland in the west and south-west covered by a Tree Preservation Order (TPO) Number 15. A Site of Special Scientific Interest (SSSI) is a site of geological, ecological and scientific importance that are of special national interest. The importance of this SSSI and the significance of its designation are considered in more detail in the Planning Considerations section of this report.

Vehicular access is available from the Rhydycar Roundabout on the A470. A footpath/bridleway enables access to the south-eastern part of the site via an underpass that links to the Taff Trail and highway that serves the settlement of Abercanaid. A footbridge over the A470 (north-east of the site) also provides access to a network of Public Rights of Way (PROW) that cross through the site and extend into the surrounding area and northern boundary of the site. Some of these were confirmed following a recent appeal decision by Planning & Environment Decisions Wales (PEDW) (reference No. ROW/3214070)

PROPOSED DEVELOPMENT

This application seeks outline planning permission for a large-scale mixed leisure development comprising of;

- An indoor snow centre (up to 39,200m²);
- An indoor tropical waterpark (up to 7500m²);
- An indoor activity centre (up to 9,000 m²);
- External activity area;
- Hotel accommodation (up to 418 bedrooms);
- Woodland lodge accommodation (up to 30 units);
- Car parking (up to 830 spaces); and
- Associated earthworks, access, drainage, servicing and utilities connections/infrastructure.

This application is submitted with all matters reserved therefore details relating to access, appearance, landscaping, layout and scale have been reserved for future consideration.

The application is supported by an illustrative masterplan with indicative illustrations and imagery of the proposal to demonstrate how the site could be developed. The masterplan

indicates that the main access into the site would be via the existing A470/A4102 roundabout where a new road would facilitate vehicles into the northern end of the proposed built development. The masterplan suggests that the internal road network would accommodate service vehicles and deliveries being directed to the west and visitors being directed south along the eastern edge of the site towards a visitor carparking area.

The masterplan suggests that the main built development (including the snow centre, hotels, waterpark and activity centre) would be located in the northern part of the site, designed around a central piazza. The proposed outdoor adventure area and woodland lodge accommodation would be located in the southern part of the site. An 'emergency' access is shown which would be provided via the footpath/bridleway located in the south-eastern corner of the site.

Whilst the majority of the proposal would be accommodated on a relatively consistent ground level, the masterplan suggests that the indoor snow centre would extend up the hillside and therefore would be the most readily visible feature within the landscape.

The scale parameters for the height and footprint of the proposed buildings are set out on the Development Parameter Plan as follows:

Indoor Snow Centre

	Minimum	Maximum
Length:	400.0m	424.0m
Width:	90.0m	93.5m
Height:	15.0m	17.0m

Indoor Adventure Centre

	Minimum	Maximum
Length:	129.6m	134.5m
Width:	47.5m	54.7m
Height:	11.5m	20.0m

Indoor Tropical Waterpark

	Minimum	Maximum
Length:	91.3m	97.1m
Width:	57.2m	61.3m
Height:	8.0m	20.5m

Hotel Accommodation (D)

	Minimum	Maximum
Length:	154.8m	161.6m
Width:	25.2m	28.5m
Height:	22.0m	32.0m

Hotel Accommodation (E)

	Minimum	Maximum
Length:	39.8m	42.8m
Width:	27.0m	40.3m
Height:	28.4m	39.4m

Hotel Accommodation (F)

	Minimum	Maximum
Length:	58.7m	61.7m
Width:	31.5m	37.3m
Height:	16.8m	21.3m

Woodland Lodge Accommodation

(a) Lodges

	Minimum	Maximum
Length:	7.5m	13.0m
Width:	8.0m	8.0m
Height:	3.5m	4.5m

(b) Welcome Management Building

	Minimum	Maximum
Length:	15.5m	23.0m
Width:	12.0m	16.5m
Height:	4.0m	7.0m

Given the existing topography of the land and the levels required to accommodate the proposed development, significant engineering and reprofiling works are required which have been illustrated by a series of section drawings. The supporting Design & Access Statement that accompanies the planning application indicates that the developer has

adopted an approach to cut and fill aimed at achieving the topography and gradients required to accommodate the development, whilst at the same time achieving this without having to import material to or export it from the site. The cut and fill drawings are only illustrative and cannot be relied upon as being totally accurate, but do indicate potential for both to be in the order of between 8m and 15m depending on how the development needs to respond to the natural topography of the site. Further detail is provided on this in the Planning Considerations section of the report. The scale parameters as noted above are not inclusive of the changes to land levels.

The proposed development falls under Schedule 2 (10) (b) and (12) (a), (c) and (e) of the Environmental Impact Assessment (Wales) Regulations 2017. A scoping opinion was sought by the applicant on 27th April 2021 and a response provided on 16th July 2021 outlining the information required to support any subsequent development.

This application is supported by an Environmental Statement (ES) which assesses the following topics:

- Socio-Economic
- Greenhouse Gas Emissions & Climate Change
- Ground Conditions
- Ecology and Nature Conservation
- Transportation & Movement
- Archaeology and Cultural Heritage
- Hydrology & Hydrogeology
- Landscape and Visual Impact
- Water, Drainage and Flooding
- Noise
- Air Quality
- Lighting
- Human Health
- Utilities

The ES includes a number of Technical Appendices relating to a number of the above topic areas.

The following documents also accompany the planning application:

- Planning Statement
- Pre-Application Consultation Report (PAC)
- Design and Access Statement (DAS)
- Strategic Economic Benefits Report
- Sustainability Strategy
- Energy Strategy
- Heads of Terms for a Conservation Management Plan
- Arboricultural Impact Assessment

Following the initial Consultation and Publicity exercise, the applicant submitted the following further information in April 2024: -

- Environmental Statement Addendum (specifically in respect of Ecology and Flood Risk)

- Habitat Management Plan
- European Protected Species Conservation Strategy
- Green Infrastructure Strategy
- LVIA (Landscape Visual Impact Assessment) review response
- WCHAR (Walking, cycling and horse riding assessment review)

Addressed in the above documents is the applicant's attempt to satisfy the ecological/environmental requirement for net-benefit. An additional area of land adjacent to the site has been included within the submission, known as Blaencanaid Farm and is located to the west of the proposed development site. The red line boundary which defines the application site has not been extended to include this area of land. Blaencanaid Farm is proposed as an area to provide off site compensation/mitigation for any ecological loss that cannot be provided within the site, which would need to be secured as a planning obligation via a section 106 agreement.

In January 2025 the applicant submitted additional information in the form of a Sequential Site Search attempting to justify the choice of Rhydycar West as the location for the proposal. This is addressed in the assessment below.

PLANNING HISTORY

P/08/0288 - Reclamation of land (by means of open excavation, including coal extraction and washing of coal from selected tips) and reinstatement works Non-determination - Appeal Application Invalid – 22/05/09

P/07/0524 - Residential development (Outline) – Refused – 12/09/08

P/02/0260 - Comprehensive development: Retail, Leisure, Offices, Hotel, Football Stadium, Country Park and Residential uses, access, servicing, parking and landscaping – Secretary of State Call In – Dismissed - 17/1/2007

P/02/0060 – Reclamation and Landscape Restoration of 83 Hectares of out of 220 Hectares of Derelict and Despoiled Land Including Tip Reprofilling and Coal Recovery from Selected Spoil Tips – Secretary of State Call In – Dismissed 17/1/2007

P/00/0371 - Leisure, retail, residential and business development – Refused – 27/10/08

P/98/0100 - Creation of educational and recreational facility – Secretary of State Refusal – 16/12/98

P/98/0055 - Extraction of coal by opencast methods including the restoration and reclamation of a largely derelict, despoiled area of land and the provision of a landform for future development – Withdrawn – 20/07/98

CONSULTATION

Head of Engineering and Highways: Considers the proposed scheme to be acceptable in principle subject to a number of conditions being attached to any permission granted, along with the successful completion of a Section 106 agreement relating to a travel plan.

Planning Policy Officer: Objection raised as the development is contrary to the following LDP policies:

SW4: Settlement Boundaries;
EcW7: Tourism, Leisure and Recreational Development.

Concerns are also raised in relation to the following LDP policies:

SW11: Sustainable Design and Placemaking;
EnW1: Nature Conservation and Ecosystem Resilience;
EnW2: Internationally and Nationally Protected Sites and Species;
EnW3: Regionally Important Geological Sites, Sites of Importance for Nature Conservations, Local Nature Reserves and Priority Habitats and Species;
EnW5: Landscape protection.

Planning Ecologist: Raises objection and cannot support the proposal due to a lack of information, out of date information and unsatisfactory demonstration of a net benefit for biodiversity and eco system resilience.

Environmental Health Manager: No response.

Rights of Way officer (ROW): The application affects a number of legal rights of way which must be protected at all times. The ROW department has met with the applicant and is satisfied that suitable measures can be put in place to either divert or extinguish the routes that could be affected by the development.

Welsh Government Highways: As highway authority for the Default trunk road, it is directed that any permission granted shall include conditions relating to:

- The access junction from the A470, being substantially complete prior to commencement of any other works, and fully complete prior to the development being brought into use;
- The provision of a travel plan to limit or reduce the number of private vehicles and promote travel by sustainable modes. Annual reports measuring progress shall be submitted to the LPA. Financial penalties to be applied for non-compliance with targets set in the travel plan;
- The provision of a parking strategy prior to commencement;
- Full details of the emergency access prior to commencement;
- Provision of cycle parking prior to first use;
- Provision of a construction traffic management plan (CTMP) prior to commencement;
- Prior to commencement, provision of a package of measures to support a modal shift in line with Llwybr Newydd, to include:
 - Full details of the shuttle bus, free to staff and visitors for a minimum of 15 hours a day;
 - Off site active travel routes audit, and agreed interventions implemented prior to occupation;

- Details of off site surfacing and lighting improvements to footways/cycle networks approved and completed prior to occupation;
 - Public transport to the site to be made available prior to occupation; and
 - Details of an on site active travel route from the main access to buildings within the development shall be implemented prior to occupation.
- EV car charging details prior to commencement; and
 - provision of details of the emergency lay-by on the access road prior to commencement.

Design Commission for Wales: The Design Commission for Wales was consulted on the proposals in 2022 and provided comment through their Design Review service. The Design Commission was unable to support the proposals in the form and location presented and expressed fundamental concerns about the sustainability, quality of design, placemaking and impacts on location and high value landscape.

They have reviewed the planning application as submitted and cannot see any material evidence that their previous concerns have been addressed.

In the context of the Well-being of Future Generations Act, Future Wales and Planning Policy Wales, DCfW cannot see how this scheme can be consented.

The Coal Authority: No objection subject to conditions relating to further ground investigations associated remediation works and subsequent validation of any such works.

Natural Resources Wales (NRW): Initially expressed concerns with the application as submitted, and highlight insufficient survey works in relation to European Protected Species. Following the submission of additional details by the applicant NRW advise that the key issue for consideration is whether the location of development within a SSSI can be justified in accordance with national planning policy. In this regard, NRW's opinion is that the proposed development is not necessary for the management of the SSSI.

Subject to the Local Planning Authority being satisfied that the applicant has justified the location of the development, they believe the package of mitigation, compensation and enhancements for long term management of the SSSI and compensatory land would be appropriate taking account of the step wise approach. Should the Council be of a mind to support the planning application NRW would expect the application of appropriate conditions and legal agreements to deliver the long term management and enhancement of the SSSI and compensatory land. The conditions proposed by NRW relate to:

- Details of approved plans
- Conservation Management Plan
- Protected Species Conservation Plan
- Ecological Lighting Plan
- Construction Environment Management Plan
- Site Wide Landscaping Scheme
- Building appearance
- Dark Skies and Designated Landscape Lighting
- Land Contamination, Controlled Waters, Remediation, Verification and monitoring

NRW are of the view that matters relating to flood risk and the management of hydrology and hydrogeology can be managed by the application of conditions to any permission that might be issued.

Welsh Water: Concerns identified as it is unknown if the existing water supply system could accommodate the proposal. In the absence of a hydraulic assessment conditions have been requested to be attached to any subsequent planning consent relating to the provision of a hydraulic assessment that demonstrates the site can be served with a potable water supply along with details of foul and surface water drainage.

Cadw: Have expressed significant concern about the impact on the Scheduled Ancient Monuments (SAMs) and Listed Building (LB), however if mitigating measures are undertaken their concerns about the impact of the development would be reduced. Cadw note Environmental Statement Chapter 10 Archaeology and Cultural Heritage and the mitigation and off setting measures contained therein and concur with the view that such measures would outweigh the indirect adverse impact to the setting of the archaeological and historical assets. They also agree with the heads of terms of the suggested conservation management plan and indicate that a condition of planning permission to secure such a plan would be acceptable to them.

Heneb: Advise that they are content with the mitigation outlined in the submission and recommend that a condition that requires the applicant to submit a detailed written scheme of investigation for a programme of archaeological work be attached to any planning permission granted. This would include a varied archaeological programme of work, before and during the groundworks required for the development with design mitigation detail noted in any written scheme where this is proposed to protect in situ archaeological remains

South Wales Fire & Rescue Service: The Fire and Rescue Authority has no objection to the proposed development and refers the Local Planning Authority to any current standing advice by the Fire Authority about the consultation. The developer should also consider the need for the provision of:

- Adequate water supplies on the site for firefighting purposes; and
- Access for emergency firefighting appliances

Brecon Beacons National Park: The development will not affect the special qualities of the National Park and has no further comments to make on the application.

Caerphilly CBC: The Transportation Engineering Manager for Caerphilly County Borough Council offers no objection to the proposed development.

Blaenau Gwent CBC: The development has the potential to have a significant impact upon economic growth in the Heads of the Valleys area by attracting investment and visitors that will benefit local businesses and nearby attractions. The development will present a range of employment opportunities.

Rhondda Cynon Taf CBC: No response

South Wales Police: No objection.

Health and Safety Executive: No comment to make as the application site doesn't fall within any HSE consultation zones.

Merthyr Tydfil Museum & Heritage Group: No response

Civic Trust for Wales: No response

Royal Commission on the Ancient and Historic Monuments: No response

RSPB: No response

Wales and West Utilities: No objections to the proposed development.; However, it is noted that their apparatus may be at risk during construction works and should the planning application be approved then they require the promoter of these works to contact them directly to discuss their requirements in detail.

MTCBC Former Deputy Chief Exec: Comments on the economic impact that a scheme of this size and nature would have on the South East Wales region. The scheme's scale and range of activities will be a landmark development for the Heads of the Valleys and will make a significant contribution in attracting further investment, visitors and tourists.

The proposed facilities will make a positive addition to the leisure offer across the region and will complement the varied attractions and activity experiences.

PUBLICITY

In accordance with the Town and Country Planning (Development Management Procedure) (Wales) Order 2012, letters were sent to the 39 closest residential properties on 3rd April 2023. Site notices were displayed within the vicinity of the site on 4th April 2023. A press notice was also published in the local newspaper on 20th April 2023.

Following the submission of revised information and the inclusion of Blaencanaid Farm, a second round of consultation was undertaken with site notices displayed within the vicinity of the site and a press notice being published on 16th May 2024.

Following the submission of additional information in respect of the sequential test in January 2025, a further round of consultation was undertaken with letters sent to the residential properties previously notified, as well as to those who made representations. Site notices were also displayed within the vicinity of the site.

As a result of the above publicity exercises, a total of 23 objections and 141 letters of support have been received. The following is a summary of the key points highlighted in the representations, which are material to the consideration of this application:

Objection to the development:

- The proposed development is contrary to Local and National Planning Policy,
- Adverse visual/landscape impact,
- Adverse impact upon historic designations, possible damage to the canal,

- Concern over the impact on Public Rights of Way,
- Increased road congestion, air pollution, noise levels, litter and anti-social behaviour,
- Destruction of natural habitat
- Concerns for the impact of the proposals on the ecology of the area,
- Destruction of the native tree population,
- Impact upon the SSSI,
- Ground movement, damage to existing mine shafts,
- Increased flood risk and impact upon drainage/watercourses,
- Unsatisfactory demonstration of consideration of other sites. The recently submitted Sequential Site Search – Rhydycar West shows that many other sites are available and fails to mention/consider Tower Colliery/Zip World (amongst others),
- Limited availability of the facility due to use by professional ski teams,
- The development would set an unwarranted precedence for further development in the wider area.

In support of the development:

- Economic benefits,
- Wealth creation boosting the local economy,
- Job creation and training opportunities,
- Positive impact upon local businesses from tourists visiting the local area from the development,
- Local supply chain benefits,
- Increased visitor numbers,
- Beneficial synergies with other attractions,
- Expected to drive further investment into the local area and Cardiff Capital Region,
- Enhanced opportunities and experiences for local population,
- Improved well-being, health & recreation of the local population,
- Reduce travel distance to closest similar offering,
- Links by rail and road from Cardiff and beyond are very good.
- Incorporation of eco-friendly features, such as renewable energy, green infrastructure etc,
- Incorporation of green open spaces,
- Assist in regeneration of the town through investment.

POLICY CONTEXT

National Policy

Future Wales – the National Plan 2040 is the national development plan, setting the direction for development in Wales to 2040. It sets out a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities.

Policy 1: *Where Wales will grow:*

The Welsh Government supports sustainable growth in all parts of Wales.

Policy 2 – *Shaping Urban Growth and Regeneration – Strategic Placemaking:*

Supports the growth and regeneration of towns and cities, which should contribute towards sustainable places that support active and healthy lives, with urban neighbourhoods that are compact and walkable, organised around mixed use centres and public transport, integrated with green infrastructure.

Policy 6 – *Town Centre First*:

Significant new commercial, retail, education, health, leisure and public service facilities must be located within town and city centres. They should have good access by public transport to and from the whole town or city, and where appropriate, the wider region.

Policy 9: *Resilient Ecological Networks and Green Infrastructure* :

To ensure the enhancement of biodiversity, the resilience of ecosystems and the provision of green infrastructure. This can include safeguarding areas of ecological importance, as well as identify opportunities where existing and potential green infrastructure could be maximised as part of placemaking.

Policy 12: Regional Connectivity:

Improving regional connectivity should be supported and in urban areas, priority should be given to improving and integrating active travel and public transport. Active travel must be an essential and integral component of all new development, large and small.

Policy 33: *National Growth Area – Cardiff, Newport and the Valleys*:

Cardiff, Newport and the Valleys will be the main focus for growth and investment in the Southeast region. The Welsh Government supports coordinated regeneration and investment in the Valleys area to improve wellbeing, increase prosperity and address social inequalities.

Planning Policy Wales (Edition 12, February 2024)

Planning Policy Wales sets out Welsh Government's requirements on matters relevant to this application, presented within five areas:

- People and Places
- Strategic and Spatial choices
- Active and Social spaces
- Productive and Enterprising Places
- Distinctive and Natural Places

Chapter 1 Introduction

1.2 The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural wellbeing of Wales, as required by the Planning (Wales) Act 2015, the Wellbeing of Future Generations (Wales) Act 2015 and other key legislation and resultant duties such as the Socioeconomic Duty. A well functioning planning system is fundamental for sustainable development and achieving sustainable places.

1.3 PPW promotes action at all levels of the planning process which is conducive to maximising its contribution to the wellbeing of Wales and its communities. It encourages a wider, sustainable and problem solving outlook which focuses on integrating and

addressing multiple issues rather than on an approach which is fragmented, uncoordinated and deals with issues in isolation.

1.7 Where appropriate, PPW translates wider Welsh Government objectives, strategies and policy into land use planning policy.

1.9 PPW should be read as a whole, as aspects of policy and their application to a particular development proposal could occur in several parts of the document. Where '**must**' is used in the document it reflects a legislative requirement or indicates where action is needed now to make changes in practice over the long term to achieve strategic outcomes. Where '**should**' is used it reflects Welsh Government expectations of an efficient and effective planning system.

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

2.2 Sustainable Places are the goal of the land use planning system in Wales; they are the output of the planning system rather than the process of achieving them. All development decisions, either through development plans policy choices or individual development management decisions should seek to contribute towards the making of sustainable places and improved well-being.

2.3 The planning system should create sustainable places which are attractive, sociable, accessible, active, secure, welcoming, healthy and friendly. Development proposals should create the conditions to bring people together, making them want to live, work and play in areas with a sense of place and well-being, creating prosperity for all.

2.4 Individual places can take many forms and interpretation of what makes a good place will vary. Each place will have its own unique characteristics, history and identity, based on how people have and will interact with the landscape and townscape. This 'sense of place' varies, from the rural countryside which provides an economic and environmental base for agriculture and tourism to thrive, to urban areas which are continually evolving and providing the focus for major social and economic development.

2.8 Planning policies, proposals and decisions must seek to promote sustainable development and support the well-being of people and communities across Wales.

2.26 Planning authorities should ensure that social, economic, environmental and cultural benefits are considered in the decision making process and assessed in accordance with the five ways of working to ensure a balanced assessment is carried out to implement the Wellbeing of Future Generations Act and the Sustainable Development Principle. There may be occasions when one benefit of a development proposal or site allocation outweighs others, and in such cases robust evidence should be presented to support these decisions, whilst seeking to maximise contributions against all the wellbeing goals.

Chapter 3 Strategic and Spatial Choices

3.3 Good design is fundamental to creating sustainable places where people want to live, work and socialise. Design is not just about the architecture of a building but the relationship between all elements of the natural and built environment and between people and places. To achieve sustainable development, design must go beyond aesthetics and

include the social, economic, environmental, cultural aspects of the development, including how space is used, how buildings and the public realm support this use, as well as its construction, operation, management, and its relationship with the surrounding area.

3.7 Good design promotes environmental sustainability and contributes to the achievement of the wellbeing goals. Developments should seek to maximise energy efficiency and the efficient use of other resources (including land), maximise sustainable movement, minimise the use of non-renewable resources, encourage decarbonisation and prevent the generation of waste and pollution.

3.12 Good design is about avoiding the creation of car based developments. It contributes to minimising the need to travel and reliance on the car, whilst maximising opportunities for people to make sustainable and healthy travel choices for their daily journeys. Achieving these objectives requires the selection of sites which can be made easily accessible by sustainable modes as well as incorporating appropriate, safe and sustainable links (including active travel networks) within and between developments using legal agreements where appropriate.

3.19 The built and natural environment is a key determinant of health and wellbeing. The planning system has an important role in shaping the social, economic, environmental and cultural factors which determine health and which promote or impact on wellbeing in line with the Healthier Wales goal. The way places work and operate can have an impact on the choices people make in their everyday lives, including their travel and recreational choices and how easy it may be to socialise with others.

3.20 Disadvantaged and deprived communities tend to be disproportionately affected by health problems. There are links between the built and natural environment and health throughout a person's lifetime and an understanding of the wider determinants of health should be a key component of development plan preparation. The planning system should identify proactive and preventative measures to reduce health inequalities. This will include enabling opportunities for outdoor activity and recreation, reducing exposure of populations to air and noise pollution, promoting active travel options and seeking environmental and physical improvements, particularly in the built environment.

3.21 Planning authorities have a role to play in the prevention of physical and mental illnesses caused, or exacerbated, by pollution, disconnection of people from social activities (which contributes to loneliness) as well as the promotion of travel patterns which facilitate active lifestyles.

3.30 In 2019 the Welsh Government declared a climate emergency in order to co-ordinate action nationally and locally to help combat the threats of climate change. The planning system plays a key role in tackling the climate emergency through the decarbonisation of the energy system and the sustainable management of natural resources. The transition to a low carbon economy not only brings opportunities for clean growth and quality jobs but also has wider benefits of enhanced places to live and work, with clean air and water and improved health outcomes.

3.36 The planning system is wide in its social, economic environmental and cultural scope and takes an all-embracing approach to sustainable development where decisions on short and long-term needs and cost and benefits come together. It secures outcomes where

multiple benefits (more than one ecosystem benefit) can be provided as part of plan making strategies or individual development proposals. The key features of the Sustainable Management of Natural Resources (SMNR) approach to which the planning system can contribute are:

- improving the resilience of ecosystems and ecological networks;
- halting and reversing the loss of biodiversity;
- maintaining and enhancing green infrastructure based on seeking multiple ecosystem benefits and solutions;
- ensuring resilient locational choices for infrastructure and built development, taking into account water supplies, water quality and reducing, wherever possible, air and noise pollution and environmental risks, such as those posed by flood risk, coastal change, land contamination and instability;
- taking actions to move towards a more circular economy in Wales; and
- facilitating the move towards decarbonisation of the economy.

3.60 Development in the countryside should be located within and adjoining those settlements where it can best be accommodated in terms of infrastructure, access, habitat and landscape conservation. Infilling or minor extensions to existing settlements may be acceptable, in particular where they meet a local need for affordable housing, or it can be demonstrated that the proposal will increase local economic activity. However, new building in the open countryside away from existing settlements or areas allocated for development in development plans must continue to be strictly controlled. All new development should be of a scale and design that respects the character of the surrounding area.

Chapter 4 Active and Social Places

4.0.2 when planning and managing future development planning authorities need to ensure that residents of existing and new communities have access to jobs and an appropriate range of community facilities including recreation, leisure, health and education.

4.0.3 This theme aims to ensure new development is located and designed in a way which minimises the need to travel, reduces dependency on the private car and enables sustainable access to employment, local services and community facilities. This will be achieved through integrating development with sustainable transport infrastructure and designing schemes in a way which maximises provision and use of sustainable forms of travel, including prioritising these modes over the private car.

4.1.8 The Welsh Government is committed to reducing reliance on the private car and supporting a modal shift to walking, cycling and public transport. Delivering this objective will make an important contribution to decarbonisation, improving air quality, increasing physical activity, improving the health of the nation and realising the goals of the Wellbeing of Future Generations Act.

4.1.10 The planning system has a key role to play in reducing the need to travel and supporting sustainable transport, by facilitating developments which:

- are sited in the right locations, where they can be easily accessed by sustainable modes of travel and without the need for a car;

- are designed in a way which integrates them with existing land uses and neighbourhoods; and
- make it possible for all short journeys within and beyond the development to be easily made by walking and cycling.

4.1.11 Development proposals must seek to maximise accessibility by walking, cycling and public transport, by prioritising the provision of appropriate on-site infrastructure and, where necessary, mitigating transport impacts through the provision of off-site measures, such as the development of active travel routes, bus priority infrastructure and financial support for public transport services.

4.1.31 Planning authorities must support active travel by ensuring new development is fully accessible by walking and cycling.

4.1.32 Planning authorities must ensure new housing, jobs, shopping, leisure and services are highly accessible by walking and cycling. The design of development proposals should, in accordance with the sustainable transport hierarchy, start with identifying the shortest, most attractive walking and cycling connections and then addressing the other transport needs.

4.1.34 In determining planning applications, planning authorities must ensure development proposals, through their design and supporting infrastructure, prioritise provision for access and movement by walking and cycling and, in doing so, maximise their contribution to the objectives of the Active Travel Act.

4.1.37 Planning authorities must direct development to locations most accessible by public transport. They should ensure that development sites which are well served by public transport are used for travel intensive uses, such as housing, jobs, shopping, leisure and services, reallocating their use if necessary.

4.1.50 Car parking provision is a major influence on how people choose to travel and the pattern of development. Where and how cars are parked can in turn be a major factor in the quality of a place.

4.1.51 A designed approach to the provision of car parking should be taken, which ensures an appropriate level of car parking is integrated in a way which does not dominate the development. Parking provision should be informed by the local context, including public transport accessibility, urban design principles and the objective of reducing reliance on the private car and supporting a modal shift to walking, cycling and public transport.

4.3.1 Retail and commercial centres are hubs of social and economic activity and the focal point for a diverse range of services which support the needs of local communities. They are highly accessible to different modes of transport and are the most sustainable locations for new development.

Sequential Test

4.3.18 The Welsh Government operates a 'town centres first' policy in relation to the location of new retail and commercial centre development. Future Wales provides further context on 'town centres first' policy in respect of large scale and out of centre development. In implementing this policy, planning authorities should adopt a sequential

approach to the selection of new sites in their development plan and when determining planning applications for retail and other complementary uses. By adopting a sequential approach first preference should be to locate new development within a retail and commercial centre defined in the development plan hierarchy of centres.

4.3.19 If a suitable site or building is not available within a retail and commercial centre or centres, then consideration should be given to edge of centre sites and if no such sites are suitable or available, only then should out-of-centre sites in locations that are accessible by a choice of travel modes, including active travel and public transport, be considered. Developers should demonstrate that all potential retail and commercial centre options, and then edge-of-centre options, have been thoroughly assessed using the sequential approach before out-of-centre sites are considered. The onus of proof that central sites have been thoroughly assessed rests with the developer.

4.3.20 Edge-of-centre or out-of-centre sites should be accessible by a choice of public and private modes of travel. New out-of-centre retail developments or extensions to existing out-of-centre developments should not be of a scale, type or location likely to undermine the vibrancy, attractiveness and viability of those retail and commercial centres that would otherwise serve the community, and should not be allowed if they would be likely to put development plan retail strategy at risk. The extent of a sequential test should be agreed by pre-application discussion between the planning authority and the developer.

4.3.21 The sequential approach applies to retail and all other uses complementary to retail and commercial centres. Other complementary uses include, for example, financial and professional services (A2), food and drink (A3), offices (B1), hotels (C1), residential institutions (C2), educational and other non-residential establishments (D1), leisure (D2) and certain other uses such as launderettes and theatres. The Town and Country (Use Classes) Order 1987 (as amended) puts uses of land and buildings into various categories known as 'Use Classes'. However, some education, healthcare and community uses may have specific accessibility requirements which mean they need to be located close to the communities they serve. Planning authorities should be flexible in their approach where it is necessary. The nature of a proposed use is likely to determine what type of centre (i.e. higher or lower order centre) is most appropriate as a starting point for the sequential approach process.

4.5.2 Planning authorities should provide a framework for well located, good quality sport, recreational and leisure facilities, and develop clear policies for the provision, protection and enhancement of sport, recreation and leisure facilities.

Chapter 5 Productive and Enterprising Places

5.4.1 For planning purposes the Welsh Government defines economic development as the development of land and buildings for activities that generate sustainable long-term prosperity, jobs and incomes.

5.4.2 Economic land uses include the traditional employment land uses (offices, research and development, industry and warehousing), as well as uses such as retail, tourism, and public services.

5.5.1 Tourism involves a wide range of activities, facilities and types of development and is vital to economic prosperity and job creation in many parts of Wales. Tourism can be a catalyst for regeneration, improvement of the built environment and environmental protection.

5.5.2 The planning system encourages tourism where it contributes to economic development, conservation, rural diversification, urban regeneration and social inclusion, while recognising the needs of visitors and those of local communities. The planning system can also assist in enhancing the sense of place of an area which has intrinsic value and interest for tourism. In addition to supporting the continued success of existing tourist areas, appropriate tourism related development in new destinations is encouraged. In some places however there may be a need to limit new development to avoid damage to the environment or the amenity of residents and visitors.

5.5.6 Planning authorities should provide a framework for maintaining and developing well located, well designed, good quality tourism facilities. They should consider the scale and broad distribution of existing and proposed tourist attractions and enable complementary developments such as accommodation and access to be provided in ways which limit negative environmental impacts as well as consider the opportunities to enhance biodiversity.

5.6.6 New development sites are, in most instances, likely to be small and, with the exception of rural diversification and agricultural development to which separate criteria apply should generally be located within or adjacent to defined settlement boundaries, preferably where there is public transport provision. However, some industries may have specific land requirements which cannot be accommodated within settlements. The absence of allocated employment sites should not prevent authorities from accommodating proposals for appropriate small scale enterprises in or adjoining rural settlements, including small rural settlements. Planning authorities should include criteria-based policy in development plans to consider such proposals when they are outside settlement boundaries. Whilst the protection of the open countryside should be maintained wherever possible, the expansion of existing businesses located in the open countryside should be supported provided there are no unacceptable impacts.

5.9.1 Local authorities should facilitate all forms of renewable and low carbon energy development and should seek cross-department cooperation to achieve this. In doing so, planning authorities should seek to ensure their area's full potential for renewable and low carbon energy generation is maximised and renewable energy targets are achieved.

Chapter 6 Distinctive and Natural Places

6.0.2 The special and unique characteristics and intrinsic qualities of the natural and built environment must be protected in their own right, for historic, scenic, aesthetic and nature conservation reasons. These give places their unique identity and distinctiveness and provide for cultural experiences and healthy lifestyles.

6.1.1 The historic environment comprises all the surviving physical elements of previous human activity and illustrates how past generations have shaped the world around us. It is central to Wales's culture and its character, whilst contributing to our sense of place and

identity. It enhances our quality of life, adds to regional and local distinctiveness and is an important economic and social asset.

6.1.2 The historic environment is made up of individual historic features which are collectively known as historic assets. Examples of what can constitute a historic asset include:

- Listed buildings;
- Conservation areas;
- Historic assets of special local interest;
- Historic parks and gardens;
- Townscapes100;
- Historic Landscapes;
- World Heritage Sites; and
- Archaeological remains (including scheduled monuments).

6.1.7 It is important that the planning system looks to protect, conserve and enhance the significance of historic assets. This will include consideration of the setting of an historic asset which might extend beyond its curtilage. Any change that impacts on an historic asset or its setting should be managed in a sensitive and sustainable way.

6.1.10 There should be a general presumption in favour of the preservation or enhancement of a listed building and its setting, which might extend beyond its curtilage. For any development proposal affecting a listed building or its setting, the primary material consideration is the building, its setting or any features of special architectural or historic interest which it possesses.

6.1.21 Planning authorities should protect those assets included on the register of historic landscapes in Wales..... The register should be taken into account in decision making when considering the implications of developments which meet the criteria for Environmental Impact Assessment or, if on call in, in the opinion of the Welsh Ministers, the development is of a sufficient scale to have more than a local impact on the historic landscape. An assessment of development on a historic landscape may be required if it is proposed within a registered historic landscape or its setting and there is potential for conflict with development plan policy.

6.2.1 Green infrastructure is the network of natural and semi-natural features, green spaces, rivers and lakes that intersperse and connect places. Component elements of green infrastructure can function at different scales and some components, such as trees and woodland, are often universally present and function at all levels. At the landscape scale green infrastructure can comprise entire ecosystems such as wetlands, waterways, peatlands and mountain ranges or be connected networks of mosaic habitats, including grasslands. At a local scale, it might comprise parks, fields, ponds, natural green spaces, public rights of way, allotments, cemeteries and gardens or may be designed or managed features such as sustainable drainage systems. At smaller scales, individual urban interventions such as street trees, hedgerows, roadside verges, and green roofs/walls can all contribute to green infrastructure networks.

6.2.9 Planning authorities must encourage the appropriate management of features of the landscape which are of major importance for wild flora and fauna in order to complement

and improve the ecological coherence of the National Site Network, formally known as the Natura 2000 network¹¹⁶ as well as SSSIs and other statutory and non-statutory designated sites. The features concerned are those which, because of their linear and continuous structure or their function as 'stepping stones' or 'wildlife corridors', are essential for migration, dispersal or genetic exchange. The protection and creation of networks of statutory and non-statutory sites and of the landscape features which provide links from one habitat to another can make an important contribution to developing resilient ecological networks and securing a net benefit for biodiversity and in doing so improve the quality of the local place and its ability to adapt to climate change.

6.3.3 All the landscapes of Wales are valued for their intrinsic contribution to a sense of place, and local authorities should protect and enhance their special characteristics, whilst paying due regard to the social, economic, environmental and cultural benefits they provide, and to their role in creating valued places.

6.3.13 SLAs are non-statutory designations that define local areas of high landscape importance, which may be unique, exceptional or distinctive to the area. Planning authorities should apply these designations where there is good reason to believe that normal planning policies cannot provide the necessary protection.

6.4.2 The Environment (Wales) Act 2016 introduced an enhanced biodiversity and resilience of ecosystems duty (Section 6 Duty). This duty applies to public authorities in the exercise of their functions in relation to Wales and will help maximise contributions to achieving the well-being goals.

6.4.3 The planning system has a key role to play in helping to reverse the decline in biodiversity and increase the resilience of ecosystems, at various scales, by ensuring appropriate mechanisms are in place to both protect against loss and to secure enhancement. Recognising that development needs to take place and some biodiversity may be impacted, the planning system should ensure that overall there is a net benefit for biodiversity and ecosystem resilience, resulting in enhanced well-being.

6.4.5 Planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means development should not cause any significant loss of habitats or populations of species (not including non-native invasive species), locally or nationally and must work alongside nature and it must provide a net benefit for biodiversity and improve, or enable the improvement, of the resilience of ecosystems.

6.4.11 Planning authorities must follow a step wise approach to maintain and enhance biodiversity, build resilient ecological networks and deliver net benefits for biodiversity by ensuring that any adverse environmental effects are firstly avoided, then minimized, mitigated, and as a last resort compensated for. Enhancement must be secured by delivering a biodiversity benefit primarily on site or immediately adjacent to the site, over and above that required to mitigate or compensate for any negative impact.

6.4.15 The StepWise Approach:

1a) The first priority for planning authorities is to avoid damage to biodiversity in its widest sense (i.e. the variety of species and habitats and their abundance) and ecosystem functioning. Where there may be harmful environmental effects, planning authorities will

need to be satisfied that any reasonable alternative sites (including alternative siting and design options) that would result in less harm, no harm or benefit have been fully considered.

1b) Proposals in statutory designated sites are, as a matter of principle, unacceptable and therefore must be excluded from site searches undertaken by developers. This principle also extends to those sites containing protected species and habitats which are irreplaceable and must be safeguarded. Such sites form the heart of resilient ecological networks and their role and the ecosystem services they provide must be protected, maintained and enhanced and safeguarded from development. It will be wholly exceptional for development to be justifiable in such instances. *For the avoidance of doubt, sites containing protected species, and habitats which are irreplaceable include (amongst others) ancient woodlands and veteran trees, ancient hedgerows, peatland and long undisturbed soils (see footnote 129 PPW12)*

6.4.18 Many of the most important areas for biodiversity have been statutorily or non-statutorily designated. These sites make a vital contribution to protecting biodiversity, maintaining the resilience of ecosystems and can also be important in providing opportunities for achieving wider wellbeing objectives.

6.4.20 Statutorily designated sites must be protected from damage and deterioration, with their important features conserved and enhanced by appropriate management. The contribution of the designated site to wider resilient ecological networks should be recognised and captured as part of a strategic approach to planning policy and decision making.

6.4.24 SSSIs are of national importance. The Wildlife and Countryside Act 1981, as amended by the Countryside and Rights of Way Act 2000, places a duty on all public bodies, including planning authorities, to take reasonable steps, consistent with the proper exercise of their functions, to further the conservation and enhancement of the features by reason of which a SSSI is of special interest. SSSIs can be damaged by developments within or adjacent to their boundaries, and in some cases, by development some distance away.

6.4.25 Development in a SSSI which is not necessary for the management of the site must be avoided. This is a matter of principle to ensure that these sites can continue to fulfil their role at the heart of resilient ecological networks. What may be necessary for the management of a site will need to be considered on a case by case basis but it is likely to be limited to activities needed to meet its conservation objectives, including restoration and nature recovery, as well as site management infrastructure, natural flood management and other appropriate nature based solutions. There may be desirable interventions in SSSIs relating to public access, active travel, educational projects and other minor development necessary to secure its role as a living landscape. This may include agricultural development, such as new barns, slurry stores required to reduce pollution, barn conversions to support tourism or other alterations or extensions to existing houses or buildings on existing employment sites where effects on the features for which a site has been designated can be considered to be acceptable.

6.4.26 There is a presumption against all other forms of development in a SSSI as a matter of principle and this presumption should be appropriately reflected in development plans

and development management decisions. There is also a presumption against development not within a SSSI but likely to damage a SSSI. In such cases, proposals must be carefully assessed to ensure that effects on those nature conservation interests which the designation is intended to protect are clearly understood and development should be refused where there are adverse impacts on the features for which a site has been designated. International and national responsibilities and obligations for conservation should be fully met, and, consistent with the objectives of the designation, statutorily designated sites should be protected from damage and deterioration, with their important features conserved and enhanced and the capacity for restoration demonstrated by and through appropriate management.

6.4.27 In wholly exceptional circumstances and only where development is considered to be appropriate and is not likely to damage a SSSI and there is broad and clear agreement for mitigation and enhancement as part of a development plan should development be proposed. This means that development will be considered unacceptable in the absence of an agreed position in a development plan which indicates that it is acceptable in terms of its effect on the notified features of a SSSI.

6.4.31 Although non-statutory designations do not have a statutory process for their protection, Sites of Importance for Nature Conservation, Local Wildlife Sites, Local Nature Reserves, and Regionally Important Geodiversity Sites make a vital contribution to delivering an ecological network for biodiversity and resilient ecosystems, and they should be given protection in development plans and the development management process. Non-statutory sites can form the core of a vital network of threatened habitats, play an essential role in protecting, maintaining, connecting and restoring biodiversity and contribute to nature recovery and a net benefit for biodiversity.

6.4.39 Planning authorities must protect trees, hedgerows, groups of trees and areas of woodland where they have ecological value, contribute to the character or amenity of a particular locality, or perform a beneficial green infrastructure function.

6.4.40 Where trees, woodland and hedgerows are present, their retention, protection and integration should be identified within planning applications. Where surveys identify trees, hedgerows, groups of trees and areas of woodland capable of making a significant contribution to the area, these trees should be retained and protected.

6.4.43 Ancient woodland, semi-natural woodlands, individual ancient, veteran and heritage trees and ancient hedgerows are irreplaceable natural resources, and have significant landscape, biodiversity and cultural value. Such trees, woodlands and hedgerows are to be afforded protection from development which would result in their loss or deterioration unless very exceptionally there are significant and clearly defined public benefits; this protection must prevent potentially damaging operations and their unnecessary loss. In the case of a site recorded on the Ancient Woodland Inventory, authorities should consider the advice of NRW.

6.9.12 The planning system should guide development to reduce the risk from natural or human-made hazards affecting the land surface or sub-surface. The aim is not to prevent the development of such land, though in some cases that may be the appropriate response. Rather it is to ensure that development is suitable and that the physical, geo-technical,

chemical and other relevant constraints on the land, including the anticipated impacts which climate change may have, are taken into account at all stages of the planning process.

6.9.24 Made ground, the presence of tips and shallow coal workings are extensive in some parts of Wales and their proximity to the surface could present potential instability risk to future development. Information on shallow working has been published by the Coal Authority, alongside data on mine entries, adits and surface hazards.

6.9.25 Planning decisions will need to take into account: • the potential hazard that instability could create to the development itself, to its occupants and to the local environment; and • the results of a specialist investigation and assessment by the developer to determine the stability of the ground and to identify any remedial measures required to deal with any instability.

PPW is supported by Technical Advice Notes (TANs). The most relevant TANs to this application are as follows:

TAN 4: Retail and Commercial development

TAN 5: Nature Conservation and Planning

TAN 11: Noise

TAN 12: Design

TAN 13: Tourism

TAN 15: Development and Flood Risk

TAN 18: Transport

TAN 23: Economic Development

TAN 24: The Historic Environment

Llwybr Newydd – The Wales Transport Strategy 2021 (WTS)

Provides the context for the Welsh Governments aim to reduce the need to travel, particularly by private car, and supports a modal shift to walking, cycling and public transport.

Welsh Government Town Centre Position statement

The statement sets out the challenges faced by towns and the actions WG will take to set the foundations for change and enable local delivery to develop our town centres as locations for a range of services, economic enterprise, employment and to be connected communities

Environment (Wales) Act 2016

An Act to make provision about targets, plans and policies for improving the natural environment; for statements and reports about environmental protection; for the Office for Environmental Protection; about waste and resource efficiency; about air quality; for the recall of products that fail to meet environmental standards; about water; about nature and biodiversity; for conservation covenants; about the regulation of chemicals; and for connected purposes.

The Ancient Monuments and Archaeological Areas Act 1979

An Act to consolidate and amend the law relating to ancient monuments; to make provision for the investigation, preservation and recording of matters of archaeological or historical interest and (in connection therewith) for the regulation of operations or activities affecting such matters; to provide for the recovery of grants under section 10 of the Town and Country Planning (Amendment) Act 1972 or under section 4 of the Historic Buildings and Ancient Monuments Act 1953 in certain circumstances; and to provide for grants by the Secretary of State to the Architectural Heritage Fund.

Planning (Listed Buildings and Conservation Areas) Act 1990

An Act to consolidate certain enactments relating to special controls in respect of buildings and areas of special architectural or historic interest with amendments to give effect to recommendations of the Law Commission. Provides specific protection for buildings and areas of special architectural or historic interest.

Historic Environment (Wales) Act 2016

An Act of the National Assembly for Wales to make provision amending certain aspects of the law relating to ancient monuments and listed buildings; to establish a register of historic parks and gardens and a list of historic place names; to establish historic environment records for local authority areas; to establish an Advisory Panel for the Welsh Historic Environment; and for connected purposes.

Local planning policy

The Merthyr Tydfil County Borough Council Replacement Local Development Plan (2016 - 2031)

The relevant LDP Objectives are:

- *LDP Objective 1 Sustainable Population Growth: To encourage a sustainable level and distribution of population growth.*
- *LDP Objective 2 Welsh Language and Culture: To protect and enhance Welsh language and culture.*
- *LDP Objective 4 Regeneration: To promote the suitable reuse of previously developed land and the continued regeneration of local communities.*
- *LDP Objective 6 Sustainable Design: To promote high quality, sustainable and inclusive design and support measures which mitigate the predicted effects of climate change.*
- *LDP Objective 7 Transport: To support an integrated transport system, promote active travel and ensure new developments are accessible by walking, cycling and public transport links.*
- *LDP Objective 8 Community Facilities: To support existing community facilities and suitable community led development.*
- *LDP Objective 9 Heritage and Cultural Assets: To protect, enhance and promote all heritage, historic and cultural assets.*
- *LDP Objective 10 Biodiversity: To improve ecosystem resilience and connectivity which support habitats and species of principle importance.*

- *LDP Objective 11 Countryside and Landscape: To protect and enhance the character and appearance of the landscape and the countryside.*
- *LDP Objective 12 Economic Development: To provide and safeguard appropriate land for economic and skills development.*
- *LDP Objective 13 Rural Economy: To strengthen and diversify the rural economy.*
- *LDP Objective 14 Town and Local Centres: To develop the town and local centres as accessible, attractive, viable and vibrant places.*
- *LDP Objective 15 Leisure, Recreation and Tourism: To support sustainable tourism, leisure and recreation developments and encourage an all year round tourism industry.*
- *LDP Objective 17 Minerals: To ensure a sustainable supply of minerals.*

The following development plan policies apply:

- *Policy SW4: Settlement Boundaries.*
- *Policy SW9: Planning Obligations.*
- *Policy SW11: Sustainable Design and Placemaking.*
- *Policy SW12: Improving the Transport Network*
- *Policy CW1: Historic Environment.*
- *Policy EnW1: Nature Conservation and Ecosystem Resilience.*
- *Policy EnW2: Internationally and Nationally Protected Sites and Species.*
- *Policy EnW3: Regionally Important Geological Sites, Sites of Importance for Nature Conservation, Local Nature Reserves and Priority Habitats and Species.*
- *Policy EnW4: Environmental Protection.*
- *Policy EnW5: Landscape Protection.*
- *Policy EcW3: Retail Hierarchy – Supporting Retail Provision.*
- *Policy EcW7: Tourism, Leisure and Recreation Development.*
- *Policy EcW10: Sustainably Supplying Minerals.*
- *Policy EcW13: Minerals Safeguarding.*

The following supplementary planning guidance is applicable:

- *Merthyr Tydfil Local Development Plan Supplementary Planning Guidance Note 2: Planning Obligations (March 2012)*
- *Merthyr Tydfil Local Development Plan Supplementary Planning Guidance Note 4: Sustainable Design (July 2013)*
- *Merthyr Tydfil Local Development Plan Supplementary Planning Guidance Note 5: Nature and Development (May 2015)*

PLANNING CONSIDERATIONS

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

In determining any planning application, the Planning Authority is required to have regard to the Development Plans in force and to make its determination in accordance with the policies of those plans unless material considerations indicate otherwise. As identified in the Policy Context section above, the Development Plan comprises Future Wales – the National Plan 2040 and the Merthyr Tydfil County Borough Council Replacement Local Development Plan (2016-2031). PPW is the principal statement of national planning policy and has substantial weight in the planning process.

The proposals at Rhydycar West raise several issues that will require careful consideration in relation to the policy context above. Initially, the principle of the proposed development in this location will need to be considered, and then the site specific constraints set out below will need to be closely examined:

- Ecology and Biodiversity
- Landscape & Visual Impact
- Scale, Design & Placemaking
- Accessibility and Highway safety
- Historic Impact
- Economic Impact
- Noise, Air Quality & Lighting
- Hydrology & Hydrogeology
- Drainage & Flood Risk
- Geology & Ground Conditions

Principle of Development

Future Wales Policy 6 – Town Centre First states:

Significant new commercial, retail, education, health, leisure, and public service facilities must be located within town and city centres. They should have good access by public transport to and from the whole town or city and, where appropriate the wider region.

A sequential approach must be used to inform the identification of the best location for these developments, and they should be identified in Strategic and Local Development Plans.

The supporting text to the policy goes on to say that:

‘To breathe new life into town centres, the Welsh Government has adopted a ‘Town Centre First’ approach. This puts the health and vibrancy of town centres as the starting point of locational decision-making. It also directs facilities and services to where intended users can easily walk, cycle and/or use public transport to access them.

This policy applies to developments of a significant scale, which can broadly be defined as where the facility will serve a town, city or region-wide catchment. It is for planning authorities to determine whether a development is considered to be of a significant scale.

A plan-led approach is the best way to identify the location for these facilities. However, in the absence of a development plan allocation, a sequential approach must be used to determine planning applications. The Welsh Government can intervene in the planning application process where a town centre first approach is not being followed’.

The applicant submitted this site (and other iterations of the land at Rhydycar West) as a ‘candidate site’ to be included in the current LDP. Eleven different candidate sites were submitted by the landowner, with 6 of the sites including land within the boundary of this application. All of the options to the West of the A470 were discounted as they would not accord with the proposed strategy of the LDP, scoring poorly against the Sustainability Appraisal objectives of the plan. The options that aligned the closest to the current proposals scored poorly against objectives relating to Communities; Health; Transport; Climate Change; Biodiversity; Cultural Heritage and Landscape. The sites were not included in the Replacement LDP as the site assessment process (including sustainability appraisal) determined that it was inappropriate to allocate the site, and that developing the site would not accord with the strategy of the Replacement LDP. The Inspectors report on the Replacement LDP found that the site assessments carried out, and the site allocations included in the LDP were appropriate.

As stated previously, the application site is located outside of the settlement boundaries as identified by LDP Policy SW4 and its associated proposals map. Therefore, for the purposes of planning, the site is located within the open countryside where development is strictly controlled and only appropriate development compatible with its location will be considered favourably.

Policy SW4 Settlement Boundaries states;

“Outside defined settlement boundaries, proposals will be regarded as ‘countryside development’ and will not be permitted unless the development:-

- is for the purposes of agriculture or forestry;***
- is associated with rural enterprises or the winning and working of minerals;***
- is for the re-use, adaptation, or replacement of rural buildings and dwellings;***
- supports the expansion of an existing business in the countryside;***
- is for tourism, recreation or leisure facilities or complementary development where the need for a countryside location is fully justified;***
- is for the provision of public utilities, infrastructure or waste management facilities that cannot reasonably be located elsewhere;***
- is required for the reclamation or treatment of unstable or contaminated land;***
- is for renewable energy in accordance with Policy EcW8;***
- is for affordable housing in accordance with Policy SW5;***
- or is low-impact One Planet Development.***

Where ‘countryside development’ is acceptable in principle, the proposal must also satisfy other relevant plan policies.”

Policy EcW3: Retail Hierarchy states that:

proposals for new retail, leisure, and other complementary development outside of defined centres **“will be subject to an assessment of need and a strict application of the sequential test. Proposals will then only be permitted where they avoid causing harm to town/local centre vitality and viability.”**

Policy EcW7: Tourism, Leisure and Recreation Development states that:

“Tourism, leisure and recreation development within settlement boundaries is generally supported, particularly where they aid the revitalisation and regeneration of the Town and Local Centres.

Low-impact tourism, leisure and recreation development outside settlement boundaries will be favoured provided the need for a ‘countryside location’ is fully justified, the proposal minimises environmental, and amenity impacts, maximises positive effects on the local community, economy and environment and is of an appropriate scale to its surroundings.”

The policies outlined above are key considerations in establishing the principle of development in the proposed location. The information submitted by the applicant as part of this application includes a planning statement which aims to assess “the requirements of both local and national planning policy relevant to the site location and the proposals”. Section 4.2 of the submitted Environmental Statement also sets out their response.

Paragraph 6.7.60 of the LDP states that *“Low-impact tourism, leisure and recreation development is development that, through its low environmental impact, either enhances or does not significantly diminish environmental quality. It should directly benefit local communities and be respectful to wildlife. It includes tourism, leisure and recreation land-based activities that are capable of being removed without leaving a permanent trace or where impacts are small-scale or seasonal such as camping, orienteering, rock climbing and treks and trails for hiking, mountain biking and horse riding. The plan seeks to support low-impact tourism, leisure and recreation that minimises environmental impacts, in ‘countryside locations’.*

Clearly the proposed development cannot be considered to be low impact tourism in line with policy EcW7. The significant ‘cut and fill’ operation required to create the built development (hotels and ski slope etc), means that it would not be *“tourism, leisure and recreation land-based activities that are capable of being removed without leaving a permanent trace”*, neither is it *“seasonal”*, as the applicant has confirmed that it is a year-round facility, furthermore, for reasons set out in later sections of this report, it is not considered to be of an appropriate scale to its surroundings.

Sections 4.2.37 - 4.2.39 of the submitted Rhydyar West Leisure Resort Planning Statement attempts to justify the proposed development against the criteria of the LDP. However, the justification is selective to the points within the supporting text which can be

justified and is silent on the matters where the proposal clearly conflicts with the requirements of the policy.

In regard to Policy SW4, the key issue is that locating tourism, leisure or recreation facilities in a countryside location, such as this application site, must be fully justified. The submitted Planning Statement, states that *“a countryside location is central to the vision to create a flagship Welsh and UK leisure resort”*. It goes on to say that the proposed site is the only option for this development due to the slope required for the ski centre and that *“the size of the development has also precluded an ‘in-settlement’ and in centre location.”*

The applicant’s ‘vision’ appears to be at odds with National Planning Policy that requires a town centre first approach and states that development of this kind must be located in town centres. Section 5.6 of the Planning Statement addresses the issue of sequential site location. The statement outlines that there are no suitable alternative sites for this development within, or on the edge of Merthyr Tydfil Town Centre, with the reasoning being the scale of the proposals, and the slope/natural environment required for the development. There is no actual assessment of any alternative sites included in the Planning Statement. Again, given the scale and nature of the proposals, a sequential test proportionate to the proposals would be expected. The planning statement mentions the Tesco site in Merthyr Tydfil Town Centre, and then simply states that *“There are simply no sites within or on the edge of the town centre which are large enough or which meet these requirements.”* This approach towards the sequential test does not fully comply with Technical Advice Note 4: Retail and Commercial Development which states that *“Only when retail and commercial centres and edge of centre locations have been considered and found to be unsuitable can out-of-centre options within, and then outside, a settlement area be considered. Where out of centre sites are concerned preference should be given to brownfield sites which are or will be well served by a choice of means of transport and are close to an established retail and commercial centre.”* The planning statement does not consider any out of centre options, or alternative sites outside settlement boundaries.

Given that the development, as described in the Planning Statement would be of *national significance in Welsh and UK terms*, the opportunity to site the development in a more sustainable location on purely geographical grounds appears to be vast, and it was highlighted to the applicant that both national and local policy require the application of the sequential test for development of this nature in this location. Subsequently, further information was submitted by the applicant in January 2025, titled “Sequential Site Search”. In this submission, the applicant has now retrospectively carried out an assessment of alternative sites that covers development sites allocated within the Merthyr Tydfil Replacement LDP and then considers other town and city centres within Wales.

The applicant has assessed a number of sites outside of Merthyr Tydfil town centre in Appendix 1 of their submission, with several of these sites being large enough to accommodate the core elements of the development, but having their availability raised as a barrier given their current allocation in the LDP for either housing or employment uses. The applicant states that the current allocations of these sites render them unsuitable for the proposed development as locating the proposed development on these sites would be contrary to the adopted LDP.

In order to satisfy the requirements of a sequential test Para 4.3.19 of PPW states:

“If a suitable site or building is not available within a retail and commercial centre or centres, then consideration should be given to edge of centre sites and if no such sites are suitable or available, only then should out-of-centre sites in locations that are accessible by a choice of travel modes, including active travel and public transport, be considered. Developers should demonstrate that all potential retail and commercial centre options, and then edge-of-centre options, have been thoroughly assessed using the sequential approach before out-of-centre sites are considered. The onus of proof that central sites have been thoroughly assessed rests with the developer”.

The applicant has demonstrated through their sequential site assessment, that a site capable of accommodating the requirements of the proposed development is not readily available within a centre or edge of centre location, resulting in the need to locate the development in an out of settlement/countryside location. However, whilst this conclusion has been reached for the purposes of the sequential test for town centre uses (such as leisure and hotels), in terms of whether the development, taken as a whole, could be located within or on the edge of a town centre, it does not follow that the proposal has justified its choice of the particular countryside location that has been selected, in terms of its landscape and ecological/biodiversity impacts. Those matters are considered in later sections of this report.

Ecology and Biodiversity – Habitats Regulations Assessment

Natural Resources Wales (NRW) has advised that the need for an Appropriate Assessment as required under the Conservation of Habitats and Species Regulations 2017 (as amended) should be considered. This is known as a Habitat Regulations Assessment (HRA). Natural Resources Wales were specifically concerned with the potential impact of the proposed development on the Blaencynon Special Area of Conservation (SAC). To that end the Councils ecologist undertook a scoping exercise as the first stage of the process and identified, applying best practice, that the Aberbargoed Grasslands SAC should also be considered given that the principal feature of concern was the Marsh Fritillary Butterfly which has a zone of influence of up to 20 km.

Following the first stage screening process the assessment concluded that the project alone or in combination with other developments is not likely to have a significant effect on the Aberbargoed Grasslands SAC.

In relation to the Blaencynon SAC, following initial screening, the appropriate assessment concluded that significant effects from the development are likely, thus requiring a stage 2 assessment which considers: -

- the predicted impacts of the project alone on the integrity of the Blaencynon SAC.
- The mitigation proposed.

When considered against the criteria above, the Appropriate Assessment concludes, that subject to the submission and implementation of appropriate/effective mitigation measures, the proposed project would not produce an adverse effect on the integrity of the Blaencynon SAC or its designated interest features.

Natural Resources Wales (NRW) have been consulted and are satisfied with the contents and findings of the Appropriate Assessment.

A full copy of the Habitat Regulations Assessment can be found at Appendix A to this report.

Ecology & Biodiversity

The application site has significant biodiversity value which is reflected through its numerous designations namely the Cwm Glo and Glyndyrus Site of Special Scientific Interest (SSSI), the Rhydycar West Site of Importance for Nature Conservation (SINC) and the Cwm Glo SINC as well as Ancient Woodland and woodland covered by Tree Preservation Order Number 15.

Protected sites

The following extract of the citation for the designation of the Cwm Glo and Glyndyrus SSSI states:-

Cwm Glo a Glyndyrus is of special interest for its extensive areas of marshy grassland, species-rich neutral grassland and acid grassland, and for the association of these habitats with others including woodland and heath. It is also of special interest for its outstandingly diverse assemblage of grassland fungi, including 32 species of waxcap Hygrocybe spp, making it one of the best sites in Britain.

A key part of the site is the series of remnant colliery spoil tips that are between one hundred and two hundred years old. These have been colonised by a variety of seminatural habitats, providing a unique opportunity to study the colonisation of abandoned coal and iron workings from one of the earliest periods of the industrial revolution in the world.

Cwm Glo SSSI was originally notified in 2003. Cwm Glo a Glyndyrus SSSI includes this original site together with a significant extension to the South East and West.

Approximately 6ha of the site lies within the SSSI which PPW12 recognises as being of national importance. The rest of the application site is located outside of the SSSI but is surrounded by it on three sides. Development within or adjacent to SSSIs can have a significant adverse impact upon their ecological value and therefore any development which is not necessary for the management of the site must be avoided.

Natural Resources Wales advise that this proposal has the potential to impact the SSSI through the permanent loss of SSSI extent, recreational impacts, the fragmentation of the SSSI, as well as construction phase impacts, all of which would leave the SSSI more vulnerable than it currently is.

Policy 9 of Future Wales: Resilient Ecological Networks states that protected sites (such as SSSI's) are critically important to the long term resilience of our ecosystems and prioritises the development of strong ecosystems through the provision of resilient ecological networks and green infrastructure.

PPW12 has strengthened the position in respect of ecology and biodiversity and the protection of SSSI's. **It states that developments within statutory designated sites is in principle unacceptable.**

In relation to the Section 6 Duty and the step-wise approach, LPA's have a duty to maintain and enhance biodiversity in the exercise of their functions. Meaning that development must provide a Net Benefit for Biodiversity (NBB) and improve the resilience of ecosystems. The step-wise approach is a mechanism for demonstrating the steps undertaken towards securing NBB. Planning authorities must also promote the resilience of ecosystems, by using the DECCA Framework:

- Diversity between and within ecosystems;
- The extent or scale of ecosystems;
- The condition of ecosystems including their structure and functioning;
- The connections between and within ecosystems; and
- Adaptability of ecosystems including their ability to adapt to, resist and recover from a range of pressures likely to be placed on them through climate change for example.

The first step of the step-wise approach is to avoid damage to biodiversity and ecosystem functioning. Where there may be harmful environmental effects, LPA's must be satisfied that any reasonable alternative sites (including alternative siting and design options) that would result in less harm, no harm or benefit have been fully considered.

The applicant has endeavoured to show in the Ecology chapter of the ES and addendum that the step wise approach has been considered in this application and that mitigation as well as on and off-site compensation is proposed in order to secure a net benefit for biodiversity.

Notwithstanding the above, PPW12 is clear that proposals in statutory designated sites (such as SSSI's) are, as a matter of principle, unacceptable and therefore must be excluded from site searches undertaken by developers. Therefore, on the basis of the designations afforded to this site it should not have formed part of the applicants search and cannot be justified within the step wise approach and the additional steps within the 'Step Wise' approach should not have been progressed.

Paragraph's 6.4.25 to 6.4.27 of PPW12 set out the policy on the protection of SSSI's, stating that proposals in statutory designated sites are, as a matter of principle, unacceptable and therefore must be excluded from site searches undertaken by developers, except for developments necessary for the management of SSSI and minor developments necessary to secure the SSSI's role as a living landscape. As such it will be wholly exceptional for most forms of development to be justifiable within a SSSI when applying the 'step wise' approach and the requirement of para 6.4.27 i.e. *development will be considered unacceptable in the absence of an agreed position in a development plan which indicates that it is acceptable in terms of its effect on the notified features of a SSSI.*

The applicant claims that the proposed development, due to its scale and economic and social benefits, including job creation, boost to GVA, on site renewable energy generation and in the provision of compensation for SSSI land lost to the development (in the form of 17 hectares of adjacent farmland at Blaencanaid farm to be appropriately managed), would meet the requirements of 'wholly exceptional' circumstances. They acknowledge that it is

for the decision maker to conclude whether the proposed development is 'wholly exceptional',

In terms of the exceptions set out at Para's 6.4.25 - 6.4.27 of PPW :-

- NRW have confirmed in their consultation response that the development is not necessary for the management of the SSSI;
- The proposal is not a minor development necessary to secure the SSSI's role as a living landscape; and
- The site is not identified in the Local Development Plan, nor is there an agreed position that the development would have no unacceptable impact upon the ecological value of the SSSI.

With particular reference to the third bullet point above it is noted that the site has been thoroughly considered and discounted as part of the LDP candidate site process. Accordingly, there is no agreed position in the development plan which indicates that it is acceptable in terms of its effect on the notified features of a SSSI. As such it has not been demonstrated that the wholly exceptional tests for development in a SSSI have been met.

Para 6.4.15 of PPW details the stages of the 'step-wise' approach. At 1b it states:-

Proposals in statutory designated sites are, as a matter of principle, unacceptable and therefore must be excluded from site searches undertaken by developers. This principle also extends to those sites containing protected species and habitats which are irreplaceable and must be safeguarded. Such sites form the heart of resilient ecological networks and their role and the ecosystem services they provide must be protected, maintained and enhanced and safeguarded from development. It will be wholly exceptional for development to be justifiable in such instances.

Figure 13 of PPW12 illustrates that for statutory designations such as SSSI's the interaction with the 'step-wise approach is to avoid, whereas for non-statutory designations (such as SINCS) the step-wise approach must be applied to determine proposals.

Whilst the applicant rightly states that only part of the proposed development is located within the SSSI, the policy approach above is clear that any development within a SSSI is unacceptable, other than in wholly exceptional circumstances, and that the site should not be included in the site search for the proposed development.

Whilst the LPA are not satisfied that the proposed development is justified as wholly exceptional, it is noted that NRW advise that subject to the Local Planning Authority being satisfied, that they believe the package of mitigation, compensation and enhancements for long-term management would be appropriate if suitably secured by conditions and/or obligations. The package proposed includes a Construction Environmental Management Plan to ensure sensitive management, and sensitive lighting during construction and operation, it also includes off site compensation land adjacent to the SSSI totalling 17ha (the SSSI land lost amounts to 6ha). The Heads of Terms Conservation Management Plan submitted sets out that along with management of the compensation land, a commitment is given to improved long term management of the remainder of the SSSI through grazing and scrub clearance.

Given the requirements of PPW12, which clearly outlines that development within a SSSI is in principle unacceptable and that the SSSI should not have formed part of the search area for the development, it is considered that the proposed development is unacceptable and is not justified. Whilst the applicant has applied the step wise approach, Figure 13 of PPW12 is clear that development in SSSI's should be 'avoided' and as such further application of the 'step wise' approach is not appropriate'.

The whole of the site also sits within the wider Rhydyar West Site of Interest for Nature Conservation (SINC). Whilst not subject to the same level of protection as the SSSI, it covers a wider area and supports the SSSI. The approach taken with the SINC and wider area is broadly outlined above, with the developer proposing the improvement of the SINC within its own boundaries, which in recent years they have not maintained adequately. Improvements are proposed through the acquisition of 17 hectares of land at Blaencanaid Farm which will be managed appropriately and enhanced to compensate for the land lost to development should this application be approved.

With regard to the wider SINC area, the Council's ecologist accepts that iterative design process adopted by the applicant might be considered to have adopted some elements of the stepwise approach, (avoid and minimise), a scheme of enhancements must be provided to ensure net benefit for biodiversity. The applicant has referred to mitigation and compensation measures in a broad sense but the Council's ecologist considers that the detail is insufficient and without full and detailed information regarding mitigation, compensation and enhancement measures, the ultimate outcomes regarding protected habitats and species are unknown. Further, the Council's ecologist takes the view that the information provided in respect of the principle of off-site compensation does not provide confidence of its effectiveness given the current state of on site habitats.

European Protected Species

Following the submission of additional details, NRW now advise that subject to conditions and legal agreements they are satisfied that the impacts on protected species can be adequately managed.

In relation to Great Crested Newts, NRW consider that sufficient information has now been provided to ensure that appropriate compensation can be provided to account for any loss of habitat. Whilst the applicant claims that there will be sufficient space within other sections of their land holdings, this may need to be secured via a legal agreement attached to any consent rather than by condition for consideration at a later date. On this basis NRW are satisfied that the applicant has demonstrated a sufficient level of mitigation/compensation for any loss.

In relation to bats, NRW initially highlighted that wintertime hibernation survey works for bat activity need to be undertaken. This had previously been requested by NRW who considered it essential to be able to make a fully informed decision on the impact of the development upon bats. This view is shared by the Council's Ecologist who in response to the proposed development stated, *"the level of detail remains insufficient to allow a meaningful overall assessment of the impacts on protected habitats and species"*. However, NRW have since indicated that this is an issue that the Council, as the Local Planning Authority, would need to satisfy itself in respect of.

If Planning Permission is granted, a European Protected Species (EPS) Licence from NRW under Regulation 55 of The Conservation of Habitats and Species Regulations 2017 would be required before any works on site commence that may impact upon bats or great crested newts. A licence can only be granted if the following three tests are met;

1. The development works to be authorised are for the purpose of preserving public health or safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.
2. There is no satisfactory alternative; and
3. The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

The first two elements rely in this case upon the LPA taking the view that the proposed development meets the wholly exceptional tests referred to above and that the development of the site would be of overriding public interest.

Paragraph 6.3.7 of Technical Advice Note 5: Nature Conservation and Planning (TAN5) states planning consent should not be granted unless the LPA has satisfied itself that the proposed development would not impact adversely on any European protected species on the site or that, in its opinion, all three conditions for the eventual grant of a licence are likely to be satisfied. In this instance test 1 and 2 have not been met. With reference to test 3, the supporting survey works have satisfied NRW, however, this view is not shared by the Council's ecologist in relation to the proposal.

The Council's Ecologist has raised an objection to the proposed development, and remains of the opinion, on the basis that insufficient/out of date information has been submitted and a net benefit for biodiversity (NBB) and ecosystem resilience has not been fully demonstrated.

Much of the supporting survey work/information is considered to be out of date and therefore cannot accurately be relied upon to demonstrate that an unacceptable level of harm will not be caused, or to establish a baseline for biodiversity and to then inform a strategy of what mitigation/compensation measures would be required. Additionally, the proposed approaches to mitigation/compensation are deemed to be lacking in detail and certainty. The applicant states that information such as species protection plans, improved management of the wider site and off-site compensation would be provided, however this information is relatively broad and insufficiently detailed to provide confidence that it can be appropriately achieved. Whilst it is accepted that this application seeks outline permission, when assessing issues such as ecological harm or impact upon protected species such information is required upfront to accord with the requirements of The Habitat Regulations and The Environment Wales Act. Additionally, when considering offsite compensation measures this would need to be sufficiently detailed as part of the submission in order for it to be included within a legal agreement to ensure the proposed measures are enforceable.

The Council's Ecologist states that *"Taking into consideration the ecological information provided within the Environmental Statement and other associated documents, the negative impacts on protected habitats, species, biodiversity and ecosystem resilience cannot be*

fully assessed. Particularly given the lack of sufficiently detailed mitigation, compensation or enhancement measures provided to date”, and, “Based on the information supplied to date, there is insufficient information to allow a judgement to be reached regarding the adverse effect on biodiversity and ecosystem resilience”. When considering this against the requirements of PPW it is clear that in such circumstances the application should be refused.

Local Planning Policy

LDP Policies EnW1: Nature Conservation and Ecosystem Resilience, EnW2: Internationally and Nationally Protected Sites and Species and EnW3: Regionally Important Geological Sites, Sites of Importance for Nature Conservation, Local Nature Reserves and Priority Habitats and Species are applicable in the assessment of this application.

LDP Policy EnW1 requires proposals to maintain and enhance biodiversity interests unless it can be demonstrated that:

1. The need for the development clearly outweighs the biodiversity value of the site; and
2. The impacts of the development can be satisfactorily mitigated and acceptably managed through future management regimes.

The information submitted in support of the application has not demonstrated that the need for the proposal outweighs the considerable biodiversity value of the site. In respect of point 2 of Policy EnW1 it is considered in light of the comments from the Council's ecologist that the proposals have not demonstrated that the impacts on the important ecology of the site can be appropriately mitigated and managed in the long term. Therefore, the proposal fails to adhere to Policy EnW1.

LDP Policy EnW2 requires that development likely to have an adverse effect either directly or indirectly on the conservation value of an internationally or nationally designated site, including the area, structure and function of designated features, will only be permitted where it is demonstrated that:

1. There is no suitable alternative to the proposed development; and
2. It can be demonstrated that the benefits from the development clearly outweigh the special interest of the site; and
3. Appropriate compensatory measures are secured; or
4. The proposal contributes to the protection, enhancement and positive management of the site.

Development proposals likely to affect protected species will only be permitted where it is demonstrated that:

1. The population size, range, distribution and long-term prospects of the species will not be significantly adversely impacted;
2. There is no suitable alternative to the proposed development;
3. The benefits of the development clearly outweigh the adverse impacts on the protected species; and

4. Appropriate, avoidance, minimisation, mitigation, compensation and enhancement measures are provided.

Again, it has not been demonstrated that there are no suitable alternatives to the proposed development, the special interest of the site is not outweighed by any benefits, appropriate compensatory measures have not been secured and insufficient information has been submitted to confirm no adverse impact. As such the proposal is considered contrary to policy EnW2 as the applicant has insufficiently demonstrated that the development would not have an adverse effect on the SSSI, and the proposal has not fully demonstrated that there is no suitable alternative to accommodate the proposed development.

LDP Policy EnW3 is relevant in the assessment of this application as part of the site is designated as a SINCE. The policy provides the following criteria for proposals impacting such designations to be assessed against;

1. The need for the development clearly outweighs the conservation value of the site;
2. Adverse impacts on nature conservation features or geological features can be avoided;
3. Appropriate and proportionate mitigation and compensation measures can be provided; and
4. The development maintains and where possible enhances biodiversity and geodiversity interests.

As set out previously, it is not considered that there is a means for adequate mitigation or compensation for the proposed development to be achieved and that the proposal would have an adverse impact upon the ecological value of the site. On that basis the proposed development is contrary to points 1, 2, 3 and 4 of LDP Policy EnW3.

Trees & Ancient Woodland

Part of the application site (in the south-west corner) is designated as Ancient Woodland which PPW describes as *“irreplaceable natural resources, and have significant landscape, biodiversity and cultural value. Such trees, woodlands and hedgerows are to be afforded protection from development which would result in their loss or deterioration unless very exceptionally there are significant and clearly defined public benefits”*. The site also accommodates a number of trees and groups of trees across the wider site.

The applicant surveyed the trees on site in 2021, comprising 372 individual trees and 63 groups of trees; of these 145 individual trees and 8 groups of trees are considered by the applicant to be of high quality and value (Category A), 149 individual and 29 groups of trees are considered to be of moderate quality and value (Category B), 50 individual and 26 groups of trees were assessed as low quality (Category C) and 28 trees were assessed as being unsuitable for retention. Over 90% of the individually surveyed trees were recorded as mature or early mature.

The proposed scheme requires the felling of 69 individual trees, 17 groups and parts of a further 10 groups of trees, comprising 35 high quality trees (Category A) and 22 trees of moderate quality and value (Category B). As for the groups of trees, one group to be partially removed is Category A, and two groups to be entirely removed and seven groups to be partly removed are Category B, and the remaining groups are Category C. In

accordance with Para 6.4.42 of PPW12, it would be necessary to replace individual trees lost at a ratio of 3:1 and compensate for the loss of groups of trees/woodlands, at a minimum of 1600 trees per hectare for broadleaved trees and 2500 trees per hectare for conifers.

The survey details submitted with the planning application illustrates a variety of woodland types occupying much of the slopes in and around the Rhydycar site. Broadly this includes wet woodland, upland oakwood, ancient semi natural woodland, restored ancient woodland, plantation on ancient woodland sites and ancient woodlands of unknown category.

Throughout the submission the applicant has claimed that the ecological value of the site as a whole has been diminished and is not consistent with the allocations. When considering this argument in relation to Ancient Woodland it is necessary to apply NRW's *"Advice to planning authorities considering proposals affecting ancient woodland"* which, in part states;

"Existing condition of ancient woodland - Ancient woodland sites are valuable because of the long ecological history which results in diverse species and habitats and characteristic woodland soils. A woodland in poor condition is likely to have remnant features and can be improved with good management. Development proposals should enhance the condition of existing ancient woodland, where possible. The existing poor condition of ancient woodland should not be seen as a reason to give permission for development which would cause loss, further detriment or provide a barrier to future improvement".

It is acknowledged that the development has a minimal encroachment into the ancient woodland and the development in this area would be generally limited to the construction of trails. The applicant has indicated that the development would not result in the loss of any trees in the ancient woodland.

Notwithstanding the above point, the development would, as a direct result of the loss of trees, have a considerable impact on the quality and character of the landscape setting and its distinctive historic characteristics. Furthermore, views of the site would also alter considerably affecting the contribution that the site makes to the character, history and setting of the locality. Whilst the proposed development offers a degree of restoration of the landscape elsewhere these changes do not outweigh the harm to the existing landscape that would result from the loss of trees that the development currently promotes.

Para 6.4.39 of PPW states that *"Planning authorities must protect trees, hedgerows, groups of trees and areas of woodland where they have ecological value, contribute to the character or amenity of a particular locality, or perform a beneficial green infrastructure function"*.

Additionally, as highlighted in the tree surveys noted above, a significant number of trees would be lost as a result of the development. Whilst they do not form part of the ancient woodland, they nonetheless have a positive contribution to the wider green infrastructure, historic landscape character and ecological value of the site.

Therefore, the development would be harmful to the landscape and undermine the resilience of the ecosystem contrary to the aims of Policies EnW1 and EnW5.

Landscape & Visual Impact

A Landscape and Visual Impact Assessment (LVIA) has been submitted, which considers the impact of the proposed development on the landscape. It states that the potential impacts have been assessed through desk top research and walk over surveys of the site and surrounding context. The applicant's submission acknowledges that *"The sensitive integration of development at the site represents a significant challenge due to the combination of former mining features, disused railway infrastructure, tips and the distinctive character of the site and its context."*

The proposed development is sited on an isolated valley side west of the A470 and 1.1km south of Heolgerrig. The western flank of the valley in which the development lies contains a complex mosaic of historic tips, transport features, levels and mine sites intermingled with an upland pasture field pattern, areas of woodland, mature oak trees and substantial natural regeneration which looks like natural habitats from a distance. Further pasture and coniferous forestry plantations lie further up the slopes and on the skyline to the west. Gethin Woodland Park and Bike Park Wales lie to the south.

Due to the large scale of the development and the topography of the land, the proposal would be readily visible from approaches along the A470 as well as other more distant viewpoints across the town and would have a significant visual impact upon the landscape and landscape character of the area.

The proposed development would introduce a significant amount of built form to an undeveloped landscape. The application site is visually isolated from the existing built form and although the site is within relatively close proximity of built development in the urban environment, the intervening topography and infrastructure, (in the form of the A470 dual carriageway) provides definitive and defining breaks that allows the site to be viewed as open countryside, visually isolated from the neighbouring built form.

It is considered that the site as existing contributes positively to the landscape character of the area due to its significant green infrastructure and topography which is readily visible from a number of vantage points and for long reaching views. The site forms part of the Merthyr Tydfil Landscape of Outstanding Historic Interest and is recognised for its positive visual contribution.

The scale of the proposed indoor snow centre is large with a 400m to 424m long indoor ski slope measuring up to 39,200m² in area. Whilst the indoor ski slope building would measure up to 17m high (not taking into account any changes in ground levels, which would increase its overall height), it would rise up the valley side to a level of 287.5m AOD (above sea level), which would be approximately 100m above the ground floor level of the development at the lower part of the site. Not only would the ski slope require extensive cut and fill to achieve the desired levels/gradients, it would also involve significant earth works to the southern side of the ski slope to form a 1:3 embankment to partly screen the structure. The submitted documents contain a number of conflicting visualisations, but on most, the roof appears to be green with white or grey rounded fascias and soffits. The LVIA assumes that the northern fa ade will be muted colours and a textured treatment.

Further built development is proposed at a lower level on a development plateau of cut and fill, partly excavated into the hillside in the form of:-

- Up to 7500m² indoor water park up to 20.5m high (218m AOD).
- Up to 9000m² indoor activity centre up to 20m high (220m AOD).
- Up to 15500m² resort hotel with up to 198 bedrooms up to 32m high (224.5m AOD).
- Up to 7000m² spa hotel with up to 100 bedrooms up to 39.4m high (231.9m AOD).
- Up to 4900m² sport and value hotel with up to 120 bedrooms up to 21.3m high (214.8m AOD).
- Service area up to 2500 m² with maximum building height of 13.5m (206m AOD).
- Up to 830 car park spaces with a maximum footprint of 18,000m².
- Up to 30 freestanding single-storey woodland lodges with a maximum floor area of 2250 m² and a maximum building height 4.5m.
- An outdoor activities area in TPO woodland between the main development and the existing pond to the south, new ponds/water bodies and trails mostly along existing routes and linking the main development with the lodges.

A Green Infrastructure Statement has been submitted to supplement the original submission, which includes a concept plan and GIS Parameter plan, however, limited information remains on the large scale modifications to contours and cut and fill overall. In terms of landscape mitigation, the GIS statement states: *“Areas affected by the masterplan works will, over time be managed to enable re-wilding of the surrounding landscape, and the creation of transitional buffer zones. The southern flank of the Snow centre will be managed as a mosaic of scrub and grassland. The eastern part of the site will be managed as woodland to reinforce visual screening and an ecotone on the area of earthworks”*

The strategy goes on to discuss landscape themes and planting palettes as well as generalised commentary on tree species. The GIS Parameter Plan suggests that 12.46ha of woodland would be retained and improved in the south of the site, 3.77ha of habitat creation in the northwestern part and an ecotone of 3.87ha adjacent to the south and east edge of built development; no specific detail in terms of the height of any landscaping or images have been provided to illustrate this, so it is not clear how the visual impact of the development will be minimised.

The existing tree cover to be retained and removed is set out in the arboricultural report. This includes the removal of trees in a TPO to the west, on the upper slopes, involving the removal of 35 Category A (high quality) and 24 category B (moderate quality) trees, groups and hedgerows.

The LVIA presents what effects are considered significant. It is noted that the rationale at arriving at significance is not underpinned by a significance diagram or matrix, instead the applicant has provided a text assessment to describe how changes in magnitude of change and sensitivity combine to provide the significance of effect.

The level of information provided in the application does not comprehensively illustrate the proposals in their landscape context or consider the effects on a number of landscape and visual receptors requested in the PAC response. The applicant states that this is due to it being an outline application and that the detailed information would be provided at reserved matters stage. Notwithstanding this, an assessment of the landscape and visual effects has been made based on the information provided.

Likely landscape effects

It is considered that significant adverse effects are likely at Year 1 and 15 on the following landscape receptors at the site and wider environment:

- The landform of the east facing slope.
- Areas of woodland and trees.
- Mosaic character.
- Attractive distant views from open elevated areas.
- Setting to the urban edge of Merthyr Tydfil.
- Setting to PROWs and areas of public access land.

The LVIA acknowledges significant adverse effects at Year 1 for all of the above receptors except the attractive distant views. It finds that there are significant adverse effects at Year 15 only for the latter two receptors.

Though part of the development uses the A470 tip, it impinges substantially on more sensitive areas such as mosaic woodland and grassland on the slopes. Providing the materials and colours used are recessive, the effect on Brecon Beacons National Park is likely to be small and not significant.

The proposed development sits within the 'Merthyr West Flank' Special Landscape Area. The special qualities and characteristics of the 'Merthyr West Flank' SLA are described as:

- Mix of industrial heritage, field pattern and woodland.
- Strongly dominant green flank to the town, distinctly rural in character.
- Complex mosaic of tips, transport features and mine sites intermingled with the field pattern.
- Areas of natural woodland and habitat regeneration looking like natural habitats from a distance.
- Distinctive diversity and pattern are high value.
- Further value of habitats that contribute to character as Cwm Glo and Glyndyrus SSSI.
- Further overlaid value of Registered Landscape of Outstanding Historic Interest within the site environs exhibiting features mentioned in the description including remnants of the coal mining industry, water power leats, early tramroads and tips.

The sensitivity of the SLA is considered high-medium. The LPA consider the effect of the proposed development on the SLA to be as follows:

Magnitude of effect Year 1: This development effectively divides the SLA into two with the strong linear feature of the ski slope prominently cutting down the valley slopes with major earthworks and a large-scale development at the lower level and associated movement of vehicles and people. These would directly impact on the historic mosaic character and pattern and habitats and adversely affect the green flank backcloth to the town. It would become a key characteristic of the Merthyr West Flank and undermine its special qualities. The magnitude of effect is likely to be great and at least medium-great.

Significance Year 1: the likely effect would be major and at least major-moderate adverse and significant.

Magnitude of effect Year 15: The proposed limited mitigation is not likely to disguise the linear feature of the ski slope or the development at the lower level more than the existing retained vegetation. The steep sloped mound may have some limited scrub growth and trees may be established in the car park and lower plateau, but this may not be sufficient to change the overall magnitude of effects. The likely magnitude of effect is likely to remain at least medium-great.

Significance Year 15: the likely effect would be major-moderate adverse and significant.

All the special qualities are likely to be harmed and the effects on them are considered important.

Overall, there is considered to be significant harm to the Merthyr West Flank SLA, its special qualities and landscape components, adversely affecting the distinctive wooded mosaic setting of Merthyr Tydfil and its historical features and patterns at Year 1 and Year 15. Therefore, the development would run contrary to Policy EnW5 of the LDP.

Likely visual effects

As with landscape effects, during the construction phase of the proposed development, there is likely to be short-term adverse effects but overall this is unlikely to be significant.

Visual receptors in the eastern quadrant (north-east, east, south-east) including housing at the lower levels and open access land at the higher levels would view the majority of the main proposed development. It would be seen lying in the middle of a well treed/vegetated and undeveloped mosaic on the opposite valley side. It would form a large, isolated and incongruous development forming the focus of the view. It would alter the perceived character of the Merthyr West Flank becoming a key characteristic. The linear form of the ski slope rising up the slope would in some views split the wooded mosaic valley side in two.

In views from the north, such as Heolgerrig and the A470, the northern elevation of the ski slope would be seen above the wooded ridge skyline with the top possibly just below the distant skyline. The lower buildings on the northern edge of the development are also likely to be seen above existing trees. The buildings would change the character of the view from a wooded rural setting to the town to a partially developed setting.

From elevated views to the south in Gethin Woodland Park and surrounds, the majority of the development would be likely to be seen in framed views with the ski slope prominently rising up through the wooded mosaic valley side. Views from the A470 to the south have not been assessed.

It is not clear how much of the profile of the development on the skyline may be seen from the lower levels to the south although the ZTV indicates views from the A470.

At Year 15, the level of effects would be very similar as there is no proposed mitigation to the north, relying on existing trees, limited planting and seeding and reliance on slow

rewilding on the mound adjacent to the ski slope to the south and the majority of tree planting in the car park and shared spaces on the lower level development plateau.

It is considered that Year 1 and 15 significant adverse effects are likely from the following ten viewpoints:

- Viewpoint 1: footbridge over the A4102 representing walkers and cyclists near the site entrance with a close range views of the development.
- Viewpoint 3: Jowett Avenue representing housing rising on the opposite side of the valley to the east north-east.
- Viewpoint 4: Junction of Brynteg Terrace and St Tydfil's Avenue representing housing rising on the opposite side of the valley to the north-east.
- Viewpoint MC05: Boer War Memorial, Thomas Town Park to the north-north-east.
- Viewpoint 7/SWA: Shirley Drive, Heolgerrig representing residents facing the site to the northwest.
- Viewpoint MC08: Cyfarthfa Park representing users of the south-western corner of the park to the north.
- Viewpoint 15: Merthyr Common representing users of the access land with elevated open views directly across the valley to the south-east.
- Viewpoint 16: Gethin Woodland Park representing users of access land including walkers and cycle users to the south.
- Viewpoint 17/SWB: footbridge over the A470 representing walkers near the site and users of the A470 approaching along the valley to the north.
- Viewpoint SWC: Merthyr Eastern Flank representing users of access land including walkers and cycle users to the east north-east.

These viewpoints are mostly within 2km of the site but some with open views lie beyond 3km.

The development would therefore be prominently visible from various viewpoints, significantly affecting the visual landscape, particularly from nearby residential areas and public spaces. The visual impact is expected to remain significant even 15 years after completion due to limited proposed mitigation.

The submitted LVIA finds significant adverse visual effects at Year 1 at Viewpoints 1, 3 and 4, and at Year 15 at Viewpoint 3. For such a visible, large and isolated development on a valley side with limited proposed mitigation, this is considered a small number.

As presented, it is concluded that the development would have significant adverse effects on the local landscape, especially on the woodland, mosaic character, and views from elevated areas. The development would significantly alter the setting of Merthyr Tydfil and the surrounding area, particularly at Year 1 and at Year 15 after completion.

Whilst the supplemental GIS Strategy provides more information, the proposed landscape mitigation for the scheme is not clear. From the information submitted, the planting proposals appear to be limited especially to the north. Though it is appreciated that outline planning permission is sought, it would have been expected that the supporting material for such a prominent development would have demonstrated how landscape and visual impact

could be minimised, The presentation of stylised plans, including the omission of a photomontage of the proposals (as requested at PAC stage), means that it is difficult to fully understand the site and development in its context. The cladding and roof materials proposed are not clear with a variety of conflicting visualisations and models. There is limited information on the large scale modifications to contours and cut and fill, although sections appear to indicate there is large scale movement. There may be issues of slope stability which may mean the need for layers of earth reinforcement which might limit where trees are can grow e.g. avoidance of oaks due to their tap roots. Sessile oak is the main species on the site and would be needed to help integrate the development into the surrounding landscape.

The details presented to date do not therefore give confidence that sufficient mitigation can be achieved. The shortcomings of visualisations and omissions of useful information requested at PAC stage fall short of providing an adequate, fair and realistic impression of what the development may look like and its potential landscape and visual effects. Whilst the applicant argues that it is an outline application so the level of information provided is acceptable, it isn't sufficient to give confidence that the site can accommodate the proposed development without resulting in an unacceptable landscape & visual impact.

The proposed development would cause unacceptable harm to the landscape and visual character of the area, with insufficient mitigation measures in place to address these impacts. Therefore, the proposed development is considered to be contrary to Policy EnW5: Landscape Protection as it has not been demonstrated that:

- a) it would not cause unacceptable harm to the character and quality of the landscape setting of the County Borough;
- b) the development is sensitive to the special characteristics of the SLA;
- c) the development respects the local distinctiveness and historic character of the landscape;
- d) the development safeguards local landscape character landscape features, including views, which make a significant contribution to the character, history and setting of the locality;
- e) the development secures the enhancement of the character, appearance and quality of the landscape through restoration, management or enhancement;
- f) there is no satisfactory alternative site, and the benefits associated with the development have been demonstrated to outweigh the harm.

Scale, Design & Placemaking

Due to the large scale of the development and the topography of the land, the proposal would be readily visible from approaches along the A470 as well as other more distant viewpoints across the town, and across the valley and would have a significant visual impact upon the landscape and landscape character of the area.

The proposed development would introduce a significant amount of built form to an undeveloped landscape. The application site is visually isolated from the existing built form and although the site is within relatively close proximity of built development in the urban environment, the intervening topography and infrastructure (A470 dual carriageway) provides definitive and defining breaks that allows the site to be viewed as open countryside, visually isolated from the neighbouring built form.

It is considered that the site as existing contributes positively to the landscape character of the area due to its significant green infrastructure and steep topography which is readily visible from a number of vantage points and for long reaching views. The site forms part of the Merthyr Tydfil Landscape of Outstanding Historic Interest and is recognised for its positive visual contribution. PPW12 outlines the Welsh Government's specific objectives for the historic environment (section 6.1.6), which in part, seeks to protect areas on the register of historic landscapes in Wales and states at *"6.1.7 It is important that the planning system looks to protect, conserve and enhance the significance of historic assets."*

In respect of placemaking Chapter 2 of PPW12 defines this as *'a holistic approach to the planning and design of development and spaces, focused on positive outcomes. It draws upon an area's potential to create high quality development and public spaces that promote people's prosperity, health, happiness and well-being in the widest sense'*.

'Placemaking considers the context, function and relationship between a development site and its wider surroundings. This will be true for major developments creating new places as well as small developments created within a wider place'.

'Placemaking should not add additional cost to a development, but will require smart, multi-dimensional and innovative thinking to implement and should be considered at the earliest possible stage. Placemaking adds social, economic, environmental and cultural value to development proposals resulting in benefits which go beyond a physical development boundary and embed wider resilience into planning decisions'. Some of the topic issues identified above which contribute to placemaking have been discussed in more detail in the relevant parts of this report.

In respect of design, Chapter 3 of PPW12 highlights the importance of good design to meet the principles of placemaking and to establish sustainable places where people want to live, work and socialise. The objective of good design includes considerations of access and inclusivity, environmental sustainability, community safety, movements and character. This should be informed by an appropriate appraisal of the site and surrounding context, of which Para 3.14 of PPW12 states *'should be used to determine the appropriateness of a development proposal in responding to its surroundings. This process will ensure that a development is well integrated into the fabric of the existing built environment'*.

Where development might be directed towards rural areas, Para 3.38 of PPW12 considers *'the countryside is a dynamic and multi-purpose resource. In line with sustainable development and the national planning principles and in contributing towards placemaking outcomes, it must be conserved and where possible enhanced for the sake of its ecological, geological, physiographic, historical, archaeological, cultural and agricultural value and for its landscape and natural resources'*.

Additionally, the proposed development falls to be assessed against the requirements of LDP Policy SW11: Sustainable Design and Placemaking, which seeks to ensure development contributes to the creation of attractive and sustainable places through high quality, sustainable and inclusive design and lists a number of criteria for proposals to be assessed against. An indicative layout plan has been provided together with the scale parameters setting out the minimum and maximum dimensions of the proposed buildings,

which assist in understanding how the development might integrate with its surrounding context.

The existing context of the site is an isolated, undeveloped parcel of land within the countryside with a steep topography and significant green infrastructure. The proposal for a large scale, mixed use leisure development would be a highly visible addition to the site which would likely appear out of context within its surroundings. The scale, height and mass of the proposal would not integrate well with the existing landscape resulting in an unsympathetic form of development that would run contrary to the requirements of the policy. Indicative plans of the scheme have been provided detailing a potential layout, design and external finishes.

The proposed development struggles to assimilate into the context of the site due to its large scale and design and does not integrate effectively with the adjacent informal recreational use of the wider countryside. Additionally, it would have a notable impact on the character and visual amenity of the landscape, resulting in a direct loss of features that form part of its qualities, including woodland areas and habitat environments, some of which can take a considerable time to establish. Whilst it is acknowledged that measures could be put forward as part of a detailed scheme in the future to better integrate the development, through the use of appropriate material finishes and a considered landscaping scheme, the development would nonetheless remain a highly visible and harmful addition to the landscape, viewed in isolation away from the main urban areas.

The application is accompanied by a Sustainability Strategy that sets out the applicant's vision for the sustainable design of the proposed development. The statement is ambitious and sets out five key elements being, physical capital, social capital, economic capital, human capital and natural capital. Much of what the document suggests would have to be incorporated into the development at the detailed design stage should this outline application be approved.

Given the expressed concerns of the impact of the development on biodiversity elsewhere in this report, it is difficult to support the claim that impacts on biodiversity and the natural environment could be fully mitigated. That said, there are genuine opportunities to deliver on sustainability in respect of a fabric first approach i.e. the use of sustainable construction materials and in exploiting opportunities to make full use of solar PV across the site as a source of renewable energy. The applicant has included an energy strategy with the planning application and whilst it does rule out certain elements such as the use of combined heat and power due to poor carbon reduction or the use of solar thermal and ground source heat pumps, it suggests that air source heat pumps and Solar PV are viable options.

The sustainability of the development remains a fundamental concern for the Design Commission for Wales (DCfW) in terms of site location and the consequences for travelling to and from the site and in the level of engagement with the town of Merthyr Tydfil, the use of energy and decarbonisation not being fully explained and in the impact on the ecology of the site and its historic setting.

The current application was the subject of pre-application discussions both with the Council and the Design Commission for Wales (DCfW). Whilst recognising the ambition within the project, the DCfW have significant concerns about the development and the potential

impacts it would have, which means they cannot support the proposal. The DCfW has concerns in respect of site location, sustainable development, energy and decarbonisation, along with access implications and the impact on the historic landscape setting. They highlight that the submission does not demonstrate that the proposal is the right development in the right place and neither does it respond to the local and national planning policy context. They further comment that:

“the scale of the changes to the landform and the historic landscape needed to accommodate the proposal suggests that this is not an optimum location or design solution”.

Since pre-application stage, concerns have consistently been raised in relation to the scale and visual impact of the proposal in response to the indicative design submitted, as well as the scale parameters and visual prominence of the application site. Such concerns were echoed by the Design Commission for Wales. This proposal has not alleviated the initial concerns raised.

It is considered that the proposed development would fail to effectively integrate appropriately with the surrounding context due to its scale and mass in a countryside location. This would consequently have an adverse visual impact on the landscape and landscape character of the area, which is unsympathetic to the qualities of the historic landscape.

For these reasons, the proposed development as currently presented is not of an acceptable design and does not support the principles of placemaking as set out in PPW12. Therefore, the proposal is contrary to LDP Policy SW11.

Accessibility & Highway Safety

Future Wales and PPW12 place significant emphasis upon sustainable development directing new development towards settlement boundaries where there is existing infrastructure to accommodate development and where access can be gained without the reliance upon private vehicles.

LDP policy SW11 (5) sets out the need for the development to be accessible for the widest range of people and demonstrate that any traffic movements will not have an unacceptable impact on local amenity or highway safety and satisfies parking standards. Policy SW12 encourages a modal shift to sustainable transport.

In this case, one main access is proposed to the development via the A470 at Rhydycar, with an emergency access to the south of the site at Upper Abercanaid which follows an existing route under the A470. The application site is separated from the settlement boundary by the A470, a main arterial route within the County Borough accommodating vehicles travelling at high speeds. Whilst the road network would provide relatively easy access via car the site is not well served by or suited to access via sustainable modes of transport. The existing pedestrian links and public rights of way have been taken into consideration in the assessment of this application, and it is considered that the proposed access and layout of the proposal is designed primarily to serve carborne traffic with little emphasis upon suitable means of access for other modes of travel. Whilst the applicant claims that suitable means of access via sustainable and public modes of transport could

be provided, there was insufficient information in the original submission in relation to sustainable and public transport to/from the site so as to provide a reasonable level of certainty that such forms of access could be provided.

On initial submission the Council's Head of Engineering and Highways expressed concerns that the development would have an unacceptable adverse impact on highway safety. Subsequent discussions with the applicant led to the submission of additional details to address these concerns. Following review there were still concerns that a number of issues remained unaddressed including concerns over the single access to the site, the adequacy of the width of the emergency access, lack of details in terms of active travel options, shuttle bus frequency and scheduling, concerns over traffic data, no disaggregation of staff and visitor parking and no link between trip rates and parking demand, resulting in concerns over the adequacy of the parking provision proposed.

Further discussions and negotiations have taken place and following confirmation from the Fire Service, it has now been agreed by both the Head of Engineering & Highways and Welsh Government Highways that concerns in relation to the adequacy of the emergency access at Abercanaid can be addressed by a condition requiring the submission of an Emergency Traffic Management Plan.

Similarly, the Head of Engineering & Highways now considers the proposed development to be acceptable in principle subject to a number of conditions (should planning permission be granted) including those relating to:

- The provision of a bus lane at the site access to ensure the shuttle bus is not delayed in any traffic congestion.
- The submission of a car parking plan showing how visitor and staff parking will be segregated, as well as a car parking management plan setting out details of any booking system and how parking will be managed across the site.
- Submission of a cycle parking plan, and details of EV car and cycle charging points throughout the site.
- Submission of details relating to an on-site Active travel route from the main access to buildings within the development.
- The provision of a Travel Plan in perpetuity secured by a section 106 agreement to address how the number of private vehicle journeys to the site will be limited and how sustainable travel modes will be promoted along with targets, timescales and details of annual reporting mechanisms to demonstrate progress and the financial penalties to be applied. The travel plan should provide details of a package of measures to encourage modal shift in line with Llwybr Newydd including (but not limited to) details of the proposed free shuttle bus, including pick up/drop off points, booking system etc with consideration given to a separate bus for staff and visitors to encourage staff to use it for journeys to work; cycle to work and bike pool arrangements, and details of public transport provisions to the site.
- The Travel Plan will also include details of identified offsite Active Travel routes which have been fully audited in line with the Active Travel Wales Act audit tool and upgrades implemented, along with details of how routes are to be monitored for use and continued suitability.

In response to WG Highways initial concerns and subsequent requests for further information being met by the applicant, they have directed that a number of conditions (as set out in the 'Consultation' section of this report) be attached to any permission granted. Many of those conditions replicate the conditions requested by the Head of Engineering & Highways.

Llwybr Newydd (new path) sets out the Welsh Government's vision for the transport system in Wales. The document aligns transport policy with Planning Policy Wales, TAN 18 Transportation and the Wellbeing of Future Generations Act and aims to set out an approach for dealing with transportation across Wales moving into the future. Modal Shift lies at the heart of Llwybr Newydd, as part of a pathway to reduce carbon emissions in Wales. The document proposes that up to 45% of journeys in Wales be made by public transport cycling or walking by 2040. This represents an increase of 13 percentage points over current levels.

This application relies heavily upon car borne transport which makes it difficult to fully embrace the objectives of Llwybr Newydd. However, the applicant has committed to the provision of a shuttle bus and improvements to active travel routes, which would provide some contribution towards reducing the reliance on car borne transport and encourage the use of other sustainable modes of transport to access the site.

Accordingly, subject to conditions and the entering into a legal agreement, the proposal would be acceptable in principle as it meets the criteria of LDP policies SW11 (5) and SW12.

Economic Impact

The economic impact of the proposal is set out in detail in Chapter 5 of the Environmental Statement and in a document titled 'Strategic Economic Benefits'.

The submitted information evaluates the impact of the development on the local and regional economies during its construction and operational phases. Key findings include:

Study Area: Impacts are assessed across a Direct Impact Area and a Wider Impact Area. The Direct Impact Area shows socio-economic challenges, including fewer economically active residents, lower education levels, and higher deprivation compared to the Wider Impact Area and Wales overall.

Standards and Judgement: The assessment aligns with UK standards (HM Treasury, Homes and Communities Agency) where Welsh equivalents are not available. Expert judgement is used where formal standards are lacking.

Deprivation: The Direct Impact Area is among the 43% most deprived areas in Wales. Challenges in education, economic activity, and income are noted.

Employment and Training Commitments: The applicant sets out how they will enhance positive socio-economic effects by targeting local training and employment through commitments secured by a Section 106 agreement. This includes collaboration with local institutions (Merthyr College, Job Centre Plus, local schools, etc.).

Employment Impact:

- **Construction Phase:** Expected to create 1,549 jobs annually over a three-year period, with 1,219 jobs within the local area.

- **Operational Phase:** Will generate 842 direct jobs (755 net jobs), with 663 jobs locally.
- **GVA Impact:** The construction phase will contribute an additional £317.6 million in Gross Value Added (GVA), while the operational phase is expected to contribute £38.1 million annually, surpassing other notable projects like the Principality Stadium in Cardiff.

The applicant concludes that the development will have a 'highly significant positive impact' on the local economy through employment creation and economic growth, with further ripple effects on regional and national levels.

It is not disputed that the proposed development would likely generate an economic benefit for the local area as it would create a significant number of jobs both during its construction and its subsequent operation, provide the opportunity for upskilling/training and attract visitors to the area.

In response to the publicity exercises carried out, a number of letters and emails have been received supporting the proposal due to its perceived economic benefits. In addition, the Chief Executive of GB Snowsport has expressed her strong support for the proposed development.

Due to the scale and nature of the proposal it is uncontested that the development would attract visitors to the area, many of which would likely require overnight accommodation and food and drink etc, which could have a ripple effect to the local economy as visitors avail themselves of the local services/amenities. However, the proposed location is not well connected to the nearby settlements in a way that would encourage visitors to make trips off site. Additionally, the offering as proposed includes overnight accommodation on site as well as a number of facilities that would not require visitors to go into the nearby settlements. This diminishes the potential wider economic benefit as it is highly likely that a high number of visitors would be catered for on-site to an extent that they would not need to leave and therefore the economic benefit would be limited to the owner/operator of the site and the perceived benefits to the local economy would not be realised. Due to its location and the extent/nature of the proposal it is not certain that the economic benefit of the development would meet its full potential in respect of impact upon the local economy. As highlighted by the Design Commission for Wales in their consultation response:-

"The proposals are for a self contained facility that is remote from the town centre. The scheme has not attempted to spread its potentially positive influence over a wider area, such as locating some hotel accommodation in the town itself, resulting in an insular design".

The Welsh Government's Town Centre Position statement sets out that:

"The basic aim of any policy related to out of town development must be to encourage financial advantage and development opportunities towards the town centre, or to ensure out of town developments are socially and spatially connected to town centres".

The statement therefore recognises that, in some instances, out of town development may be required or unavoidable and in such cases the development must be well connected and a benefit to the existing town centre.

Details within the submission has outlined an intention for a partnership with the local college to provide a benefit to local students to find employment, gain skills and experience. The detail on how this would operate in practice is limited at this stage, but it is acknowledged that it could be developed to secure such an arrangement through a S106 agreement.

The comments received as part of the publicity exercise in relation to the proposed development encouraging further investment into the area are noted and the potential for this is not disputed.

The applicant, in their planning statement has cited various sections of PPW12 which promote economic development. However, PPW12 must be read and applied holistically and it is explicit that development must be directed to the most sustainable locations and should not, as a matter of principle, be allowed on a SSSI. Therefore, the potential economic benefit that may be generated by the scheme, would not outweigh the ecological harm caused. This approach is consistent with a recent appeal decision for development on a SSSI as detailed within the 'Recent Relevant Decisions' section of this report.

Historic Environment

As stated in the 'Application site' section of this report, the land has previously been used for industrial activities with the remnants of the sites former use being present on site with a number of features benefiting from statutory protection. In support of this application the applicant has provided documents outlining their proposed approach in dealing with such measures both during and post construction which in part outline the proposed mitigation and compensation measures for the features present, details of this can be found within the submitted Archaeology and Cultural Heritage Environmental Statement (ES) Chapter prepared by The Environmental Dimension Partnership Ltd (EDP) and the Archaeology and Heritage Baseline Assessment (Appendix 10.1; EDP, 2021a); and ASIDOHL2 Assessment (Appendix 10.2; EDP, 2021b).

LDP Policy CW1 relates to the historic environment and states that development proposals will only be permitted where it can be demonstrated that they would preserve or enhance the architectural quality, character or the historic or cultural importance of our designated historic environment assets. It also covers undesignated historic environment assets including Landscapes of Outstanding Historic Interest and requires development to have regard to the special character of the landscape designation.

It is noted that objections have been received raising concern that allowing the proposed development might lead to damage to the canal or other archaeological artefacts.

In this respect, Cadw and Heneb (previously GGAT) have been consulted on this application. Cadw advise that they have significant concerns over the proposed development and its impact upon the scheduled monuments and listed building. However, they consider that if mitigating measures were undertaken, their concerns would be reduced. Cadw concur with the findings of the surveys/reports that have been submitted in support of this application in relation to the historic environment/assets of the site, that the proposed mitigation/compensation which includes improvements to the physical condition of the designated heritage assets, would outweigh the indirect adverse impact to their settings.

On the basis that a condition is attached to any subsequent planning consent ensuring that the Heads of Terms for a Conservation Management Plan as submitted is secured and implemented, they raise no objection to the proposed development in respect of its impact upon the historic environment.

Heneb advise that they are content with the mitigation outlined in the Archaeology and Cultural Heritage chapter of the ES and refer to the ASIDOHL2 and baseline assessment which they have reviewed. They have requested a condition for a detailed written scheme of investigation for a programme of archaeological work to be attached should planning permission be granted

Accordingly, the proposed development is not considered to conflict with LDP Policy CW1.

Noise, Air Quality & Lighting

The submitted supporting Environmental Statement included a dedicated chapter on the issue of noise. This involved undertaking a noise impact assessment of the proposed development in accordance with accepted practice and guidance. The study took account of potentially sensitive receptors including residential property that might be affected by any noise emanating from the proposed development during both the construction and operational phases of development. The study found that the development would generate no significant noise impacts and proposed no additional mitigation measures. Though there is a minor adverse effect during the construction phase this can be adequately mitigated by a planning condition requiring the agreement of a Construction Environmental Management Plan (CEMP). The Council's Environmental Health Section have been consulted in respect of the proposals and have made no comment on the approach taken or the findings of the study.

Similarly, the submitted Environmental Statement also gives detailed consideration to the issue of air quality in both the construction and operational phases of the development. The study uses conventional practice and guidance and considers the current baseline situation and future baseline situations with and without the proposed development. The study found that no additional air quality management measures were required beyond inherent good practice, particularly with regard to the construction phase, which would be controlled through a CEMP planning condition. The Council's Environmental Health Section have not commented on the findings and recommendations.

Turning to the issue of lighting, the Environmental Statement is clear that the impact of lighting at the construction phase is most likely to be temporary and negligible and can be adequately controlled though a CEMP condition. In the operational phase of the development, the applicant is proposing a number of measures to reduce and limit the impact of any additional lighting including: -

- Internal lights designed away from windows;
- Use of dark sky bollards, temperature luminaries, and directional luminaries to limit upward glow;
- Use of warmer temperature lights to protect any roosting or foraging bats nearby; and

- Maintenance of existing natural features such as trees and hedgerows to reduce the spread of light.

The operational phase of the proposed development has been assessed on the worst case scenario and concluded that even in such circumstances the impact on sensitive residential receptors, ecological receptors and dark sky receptors would be negligible. The Council's Environmental Health Section have been consulted and have made no comment on these findings. The Council's ecologist has reviewed the ES chapter on light and has raised a number of concerns around levels of lighting at the proposed development. However, these concerns relate to matters of detail rather than the principle of the proposed development and could be addressed as part of a reserved matters application.

Hydrology and Hydrogeology

Chapter 11 of the submitted Environmental Statement (ES) deals with the impact of the development on the hydrology and hydrogeology of the site and its surrounding area and outlines mitigation measures that would reduce or eliminate any adverse effects that would result from the construction and operational phases of the proposed development. The chapter includes a detailed and accurate description of the water features within and across the site including streams, ponds, springs and aquifers, how they operate in relation to and interact with the underlying geology and how the development is likely to impact on them. The chapter also takes account of the presence of made ground and tips across the development site that are remnants of the coal and iron industry era. The chapter concludes that the impact of the proposed development without mitigation would be negligible to moderate. However, mitigation is proposed in the form of further ground investigation as part of the detailed design process, the formulation of a remediation strategy, the gathering of site specific qualitative ground water data (level and water quality), production of a dewatering risk assessment and adherence to the Construction Environment Management Plan.

Chapter 11 concludes that the implementation of mitigation measures in the construction and operational phases of the proposed development, in conjunction with good environmental controls will ensure that any impacts or effects on hydrology and hydrogeology can be quickly controlled and have minor to negligible residual risks. It also concludes that the incorporation of SuDS features and/or the proposed realignment of the Nant Melin Cannaid would bring beneficial impacts by preventing the continued erosion of the Cwm Pit and Head of Railway stone masonry wall. Finally, this chapter concludes that with regard to the water environment that there are no cumulative impacts identified in the surrounding area.

Natural Resources Wales (NRW) has indicated that the issues can be managed through the application of appropriate conditions to any permission that might be granted.

Drainage & Flood Risk

The issue of drainage and flood risk is dealt with in Chapter 13 of the Environmental Statement. The chapter characterises the existing storm drainage arrangements and local water bodies accurately. The chapter then goes on to promote a series of mitigation measures that would come forward with the proposed development and the require SuDS drainage proposals.

Whilst the majority of the development lies outside of any significant flood risk zones, it has been identified by NRW that the proposed emergency access road (in the southern part of the site) serving the development lies within a C2 Flood Zone as identified on the Development Advice Maps (DAM) contained in Technical Advice Note (TAN) 15: Development and Flood Risk (2004). The site is also situated within Zone 2 and 3 (Rivers) of the Flood Maps For Planning (FMFP). The FCA indicates the ground levels of the access road within the flood plain would not be altered to ensure no flood water displacement and there would be an alternative route to the north to provide safe access/egress to the site.

Chapter 13 takes full account of the existing water features which are accommodated adequately within the proposed development. The drainage strategy which supports the application has been developed in accordance with mandatory SuDS standards using a hierarchical approach of: -

- Re-use of water (rainwater harvesting)
- Conveyance/mitigation/attenuation at the surface (swales and detention basins), and:
- Piped or tanked drainage solutions as a last resort.

NRW have been consulted on this matter and raise no objection to this aspect of the proposed development. Given the extent of the flood risk, its location, expected extent of flooding and as the development would not exacerbate flood risk off site no issue is raised in this respect. Therefore, the proposal accords with LDP Policy EnW4.

Geology and Ground Conditions

Chapter 7 of the supporting Environmental Statement addresses the issue of geology and ground conditions. It considers the impact of the proposed development in terms of both ground stability and contamination considering the underlying geology, the impact that mining has had on that, and the impact of the residual surface features. The ES acknowledges the need for further intrusive investigation if the site comes forward for development and the remedial measures that would be required, such as matters of foundation design. The ES assesses the likely risk associated with the geotechnical parameters of the site including coal mining legacy and ground contamination. It identifies potential receptors, baseline conditions and the mitigation procedures that would reduce or minimise residual effects from the development.

The site forms part of an area previously used for coal mining, the Coal Authority have been consulted on this application and have reviewed the supporting survey work submitted. They highlight that the site lies in their defined High Risk Area. They raise no objection to the proposed development subject to conditions to secure the investigation & remediation of coal mining legacy affecting the site. Similarly, NRW, have considered the submitted documents and advised that risks from the development to contaminated land and groundwaters can be managed through the application of appropriate planning conditions attached to any planning permission granted. Accordingly, no concerns are raised in this respect.

Other Matters

Prior to the submission of this planning application under the Pre-Application Consultation procedure, Welsh Water relayed their concerns regarding the capacity of the water supply system to serve the development. They advised that the application would need to be supported by a hydraulic assessment to understand the impact it would have on the existing water supply system. The applicants have not provided a hydraulic assessment as part of the current planning application.

It has been highlighted in Welsh Waters consultation response that there remain concerns with the existing water supply system to accommodate the proposal. In the absence of a hydraulic assessment, conditions have been requested to be attached to any subsequent planning consent relating to the provision of a hydraulic assessment that demonstrates the site can be served with a potable water supply along with details of foul and surface water drainage.

Planning history / Inspector's report on previous Called in application.

Previous appeal decisions on an application site are material to the consideration of subsequent applications. Whilst it is acknowledged that this proposal is different to that previously considered (Application ref: P/02/0260, as noted in the Planning History section of this report), the fundamental concerns that the Inspector highlighted in his report (ref APP/U6925/X/03/514357) and the National Assembly for Wales decision letter (dated 17/1/07) in relation to the following issues are still relevant:-

- The unsustainable location of the site
- The visual importance of the site
- The impact on the SSSI (which has increased in size since this decision)
- Impact on the historic landscape
- Large scale loss of biodiversity habitat
- Economic benefits

RECENT RELEVANT APPEAL DECISIONS

The following appeal decisions are included for reference as they relate to development within or impacting on a SSSI, which also reflects changes in national planning policy that have been introduced since the submission of this application.

DNS/3216558

ERECTION OF A RENEWABLE ENERGY HUB COMPRISING GROUND MOUNTED SOLAR PANELS, BATTERY STORAGE UNITS (160 UNITS) WITH A COMBINED INSTALLED GENERATING CAPACITY OF UP TO 125MW - LAND ON THE WENTLOOGE LEVELS TO THE WEST OF HAWSE LANE, NEAR MARSHFIELD, NEWPORT.

The application was refused by Welsh Government in the exercise of their functions as they deemed that development within a SSSI was unacceptable/unjustified even though it was a 125MW renewable energy proposal of national significance. The decision was issued prior to the implementation of PPW12 which has further strengthened the Planning Policy

position relating to development and its impact upon ecology/biodiversity and specifically development impacting land subject to a SSSI designation.

The application failed to follow National and Local Planning Policy and consider reasonable alternative sites with less impact on biodiversity and historic landscape. Whilst the proposed development would generate economic benefits it is clearly contrary to the Section 6 duty in the Environment (Wales) Act 2016 to maintain and enhance biodiversity and the requirement in Planning Policy Wales to seek to avoid environmental harm in the first place through site choice.

CAS-02298-X2Q2Q2

CARDIFF PARKWAY - CONSTRUCTION OF A BUSINESS PARK (UP TO 90,000M² - USE CLASSES B1, B2 AND B8), AND THE CONSTRUCTION OF A NEW TRANSPORT HUB FACILITY, COMPRISING RAILWAY STATION BUILDINGS (UP TO 2,500M² – USE CLASS SUI GENERIS), LAND TO THE SOUTH OF ST MELLONS BUSINESS PARK

A combination of locational and policy factors described in the Inspectors Report are considered by the Inspector to be unique; constitute wholly exceptional circumstances; and comply with PPW12. These factors include:

- A railway station between Cardiff and Newport capable of accommodating inter-city trains is one of the measures identified by the Burns Commission necessary to address the congestion problems on the M4 and the adverse impact that has on the Welsh economy. Almost all the land between Cardiff and Newport is SSSI and, for the technical reasons outlined in the application, there are no reasonable alternative sites able to accommodate inter-city services.
- With regard to the proposed business park, the Inspectors of the Cardiff LDP were satisfied that it had been shown that there were no brownfield sites capable of accommodating the proposed development. Therefore, the site was allocated for employment use in Cardiff's LDP having been thoroughly assessed through the LDP Candidate Site process, with the site deemed as being in accordance with the strategy of the Cardiff LDP and also appropriately contributing to the employment needs identified within the Cardiff LDP.
- The proposed development presents a unique opportunity to co-locate employment floorspace and sustainable transport infrastructure necessary to meet the LDP's economic strategy in a nationally designated growth area, with sustainable transport.
- If the need for a railway station here is accepted to meet local, regional and national objectives, the inspector stated that it would make little sense not to grasp the opportunities that would provide for the sustainable co-location of jobs. This approach follows the recommendations of the Burns Commission and accords with FW Policies 11 and 12 and Llwybr Newydd and would apply whether the station be capable of accommodating inter-city trains or only local commuter services.

The Inspector also considers the proposal is appropriate as it accords with the development plan, Llwybr Newydd and the National Transport Plan. Welsh Ministers agreed with the conclusions of the Inspectors Report and approved the application on 30th January 2025, subject to conditions and completion of a S106 agreement.

Section 106 Contributions / Planning Obligations

Section 106 of the Town and Country Planning Act (as amended) enables Local Planning Authorities and developers to agree to planning obligations to require operations or activities to be carried out on land (in-kind obligations) or require payments to be made (financial contributions), to mitigate any unacceptable impacts of development proposals.

The Community Infrastructure Levy (CIL) Regulations 2010, with effect from 6 April 2010, state that a planning obligation (under S.106) may only legally constitute a reason for granting planning permission if it is:

1. necessary to make the development acceptable in planning terms;
2. directly related to the development; and,
3. fairly and reasonably related in scale and kind to the development.

In support of the application, in order to address some of the issues raised, the applicant has submitted a document containing potential 'Section 106 and Condition Benefits' which sets out the planning obligations, which could be secured by means of a Section 106 Agreement or planning conditions. In summary this would include the following:

- Local labour provisions, including local construction workforce, local suppliers, running costs spent with local suppliers and involvement of SME's
- Supplier charter to embed responsible practice in the supply chain
- Joint marketing and promotion strategies with existing local businesses
- Schedule of likely employment training opportunities at the site and associated partner organisations
- Biodiversity management plan and associated funding
- Free shuttle bus provision
- Preferential rates and tariffs for local residents to promote the health and wellbeing elements of the proposed development
- Green Energy Tariff
- Travel Plan
- A suite of planning conditions that would address issues such as a Construction Management, SSSI development method statement, Lighting, Landscaping, Materials, Land Contamination, Historic Environment Mitigation and Water Supply.

Whilst these obligations would bring some benefit and help to address some of the issues raised, they would not overcome the fundamental concerns in relation to the impacts it would have on the environment.

Conclusion

The proposed development contains several components which, in other circumstances on a different site would be well received due to the significant private investment, the range of leisure facilities and associated employment potential. It would comprise a large-scale mixture of leisure uses on a greenfield site possessing a high degree of ecological, historical/archaeological value that also makes a significant and substantial contribution to the landscape, local amenity and the visual character of the area.

The proposal would have the potential to adversely impact the interests of acknowledged importance, in particular ecology and landscape. The application site is located outside of the defined settlement boundaries where countryside policies apply and where development is strictly controlled.

The proposed development is large scale and would be a readily visible feature within a Special Landscape Area. It is considered that due to the scale, mass and changes to the landform, the development would fail to appropriately integrate with its surrounding context and would be unsympathetic to the historic environment resulting in an adverse visual impact that would be harmful to the character of the area. Overall, there would be significant harm to the Merthyr West Flank SLA, its special qualities and landscape components, adversely affecting the distinctive wooded mosaic setting of Merthyr Tydfil and its historical features and patterns.

The site is ecologically rich as demonstrated by its numerous designations (SSSI, SINC, Ancient Woodland and TPO) as well as hosting European Protected Species. Given the SSSI designation the proposal is considered to be unacceptable in principle as it fails to meet the requirements outlined in chapter 6 of PPW12 and doesn't support the aims of Policy 9 of Future Wales relating to Resilient Ecological networks and green Infrastructure. Furthermore, the proposed development has failed to demonstrate that there would be no unacceptable impact upon the European Protected Species on site, and the applicant has failed to demonstrate that there are no other suitable sites available that would not result in the loss of SSSI land and have an adverse impact on a LOHI.

Para 6.4.25 of PPW states that *“Development in a SSSI which is not necessary for the management of the site must be avoided. This is a matter of principle to ensure these sites can continue to fulfil their role at the heart of resilient ecological networks”*.

This means that notwithstanding the potential economic benefit that may be generated by the scheme, this would not outweigh the fundamental conflict with the requirements of Chapter 6 in Planning Policy Wales regarding the protection of SSSI's and is contrary to the Section 6 duty in the Environment (Wales) Act 2016 to maintain and enhance biodiversity.

Whilst it is accepted that purely in terms of the sequential test for town centre uses a location outside of a town centre or edge of centre would be appropriate for accommodating a development of this scale and nature, it is not accepted that the chosen countryside location is justified, having regard to the failure to demonstrate the wholly exceptional circumstances necessary for development within a SSSI and the specific harm caused by its particular landscape impacts.

The duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (“the WBFG Act”) has been taken into consideration when determining this application. In reaching the following recommendation, the ways of working set out at section 5 of the WBFG Act have been considered, as well as the Welsh Ministers well-being objectives set out in section 8 of the WBFG Act.

On balance the potential economic and social benefits including employment creation, significant private investment, and enhanced leisure facilities would not outweigh the harm

identified to the important ecological and landscape value of the site. Therefore, the following recommendation is made:

RECOMMENDATION: BE REFUSED for the following **REASONS:**

1. The proposed development would result in the loss of part of the Cwm Glo and Glyndyrus SSSI, it is not necessary for the management of the SSSI and there is no agreed position in the development plan. Therefore, it fails to demonstrate wholly exceptional circumstances as required by paragraphs 6.4.25 - 6.4.27 of PPW 12. The proposal therefore fails to support the aims of Policy 9 of Future Wales: Resilient Ecological Networks and Green Infrastructure and is contrary to Chapter 6 of PPW 12 and Replacement LDP Policies EnW1 and EnW2.
2. The proposed development does not provide appropriate mitigation and compensation measures in relation to the impact on the Rhydycar West SINC, by virtue of insufficient and out of date information, which fails to demonstrate a net benefit for biodiversity and ecosystem resilience and fails to satisfy the requirements in relation to obtaining an EPS licence. Therefore, the proposal is contrary to the Section 6 duty in the Environment (Wales) Act 2016 to maintain and enhance biodiversity, and to paragraph 6.4.5 of PPW 12 and Replacement LDP Policies EnW1 and EnW3.
3. The proposed development by virtue of its scale, mass and changes to the landform would fail to effectively integrate with the surrounding context resulting in an unacceptable adverse visual impact on the landscape setting of the County Borough and the character of the Merthyr Tydfil Landscape of Outstanding Historic Interest, including a direct impact on the Merthyr West Flank SLA, contrary to the requirements of the Replacement LDP Policies SW11 and EnW5.