

INTERNAL MEMORANDUM

To: David Cross

Reference: P/22/0237

From: Planning Policy and Implementation Section

Ask for: Craig Watkins

Extension: 6277

Date: 5th April 2023

1. Proposed Development

Variation of conditions 3 (Coal Extraction) and 4 (Final Restoration) of planning permission APP/U6925/A/10/2129921 to extend the life of the existing mine for a further 9 months at Ffos Y Fran Land Reclamation Scheme East of A4060 Slip Road Merthyr Tydfil

2. Development Plan Framework

The existing development plan framework in Merthyr Tydfil is provided by:-

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

The relevant LDP Objectives are:-

- *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 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 countryside.*
- *LDP Objective 12 Economic Development: To provide and safeguard appropriate land for economic and skills development.*
- *LDP Objective 17 Minerals: To ensure a sustainable supply of minerals.*
- *LDP Objective 18 Sustainable Resources & Waste: To promote the efficient use of materials and resources and ensure an integrated network of waste management facilities.*

The following development plan policies would apply:-

- *Policy SW4: Settlement Boundaries*
- *Policy SW9: Planning Obligations*
- *Policy SW11: Sustainable Design and Placemaking*
- *Policy CW1: Historic Environment*
- *Policy EnW1: Nature Conservation and Ecosystem Resilience*

- *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 EcW1: Provision of Employment Land*
- *Policy EcW8: Renewable Energy*
- *Policy EcW10: Sustainably Supplying Minerals*
- *Policy EcW11: Minerals Development*

The following supplementary planning guidance is applicable:-

- *SPG2: Planning Obligations*
- *SPG 5: Nature and Development*

National Planning Policy

Future Wales: The National Plan 2040 (February 2021)

The plan seeks to provide a strategy for addressing key national priorities through the planning system and covers strategic issues including the economy, housing and environment. Future Wales shows where nationally significant developments like energy, transport, water and waste projects should take place and where growth should happen. The plan also highlights what infrastructure and services are needed and how Wales can help fight climate change.

Planning Policy Wales (Edition 11, February 2021)

Planning Policy Wales provide guidance on matters relevant to this application, namely:

- Growing our economy in a sustainable manner
- Making best use of resources
- Facilitating accessible and healthy environments
- Creating & sustaining communities
- Maximising environmental protection and limiting environmental impact

Technical Advice Notes

- TAN 5: Nature Conservation and Planning (September 2009)
- TAN 11: Noise (October 1997)
- TAN 18: Transport (March 2007)
- TAN 23: Economic Development (February 2014)
- TAN 24: The Historic Environment (May 2017)
- MTAN2: Coal (January 2009)

3. Policy Considerations

The Ffos y Fran Land Reclamation Site (FLRS) amounts to approximately 400 hectares of land to the east of Merthyr Tydfil, approximately 1.5km east of the town centre. The majority of the site is located outside the defined settlement boundary, however a portion of land of approximately 20ha adjacent to the A4060 is situated within the settlement boundary (part of this area is also an Archaeologically Sensitive Area (ASA)). The majority of the site is a local search area for solar energy, and there are a number of ecological designations and items of historic interest either abutting or in close proximity to the site.

Policy SW9 considers the requirement for planning obligations. Due to the nature of the proposals Community Infrastructure Levy (CIL) is not chargeable.

Policy CW1 advises that the integrity of our historic environment assets will be conserved and enhanced. Development proposals will only be permitted where it can be demonstrated they would preserve or enhance the architectural quality, character or the historic or cultural importance of our designated historic environment assets. Development affecting undesignated historic environment assets including, Locally Listed Buildings or structures, Landscapes of Outstanding Historic Interest in Wales, Urban Character Areas (UCA) and Archaeologically Sensitive Areas should have regard to their special character and archaeological importance.

The application site lies within the Merthyr Tydfil Landscape of Outstanding Historic Interest. As such, the views of the appropriate Council Officer, or Heritage body, should be sought as required.

Policy EnW1 seeks to protect nature conservation and ecosystem resilience. Policy EnW3 states that development proposals likely to have an adverse impact on Regionally Important Geological Sites, Sites of Importance for Nature Conservation, Local Nature Reserves, or Priority Habitats and Species will only be permitted where it can be demonstrated that:

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.

There are a number of SINCs within close proximity, or abutting the site, and as such the views of the Council's Ecologist should be sought.

Policy EnW4 advises that development proposals will be required to demonstrate they will not result in an unacceptable impact on people, residential amenity, property and / or the natural environment from either:

- Pollution of land, surface water, ground water and the air;
- Land contamination;
- Hazardous substances;
- Land stability;
- Noise, vibration, dust, odour nuisance and light pollution; or
- Any other identified risk to public health and safety.

Where impacts are identified the Council will require applicants to demonstrate that appropriate measures have been incorporated to reduce, or minimise the impact identified to the lowest possible acceptable level. Planning conditions may be imposed or legal obligation entered into, to secure any necessary mitigation and monitoring processes.

Policy EcW1 provides land for employment uses within the County Borough, and the parcel of land at the North West of the site is allocated as '*EcW1.3 – Ffos y Fran*'. Ensuring that this area of land is restored in a manner that facilitates development of employment facilities is a key component of the FLRS.

Policy EcW10: Sustainably Supplying Minerals and *Policy EcW11: Minerals Development* are both key considerations in relation to this application. Policy EcW10 states that:

Proposals for mineral extraction and associated development will be allowed where:

- **There is a proven national, regional or local need for the mineral which cannot be met from existing sources or from secondary or recycled material;**
- **In the case of coal resources, there are wholly exceptional circumstances clearly demonstrated that justify its extraction;**
- **The potential for minerals to be transported by means other than road has been adequately assessed;**
- **They include acceptable proposals for progressive and final restoration, aftercare and beneficial after-use;**
- **They satisfy the other relevant policies of the Plan; and**
- **They maximise opportunities to re-use and recycle mineral waste.**

The production and use of alternative and recycled materials will be supported as substitutes for naturally occurring aggregates.

The key issue in respect of this application is the second criterion regarding “wholly exceptional circumstances”. National policy advises the use of coal for energy generation should not be permitted but recognises there are other specific non-energy uses for coal resources that may justify extraction in wholly exceptional circumstances. Should wholly exceptional proposals be put forward they would clearly need to demonstrate why they are needed in the context of climate change emissions reductions targets and for reasons of national energy security. Where exceptional circumstances are considered to exist, regard will also be had to paragraphs 49-51 of Mineral Technical Advice Note 2.

The Coal Policy Statement from Welsh Government (March 2021) also states that despite the presumption against coal extraction, in wholly exceptional circumstances, Welsh Government would consider the further extraction of coal for non-energy uses. Each proposal must be considered on its individual merits, but must clearly demonstrate:

- Why the extraction is required to support industrial non-energy generating uses for coal.
- Why the extraction is needed in the context of decarbonisation and climate change emission reductions targets, or to ensure the safe winding-down of mining operations or site remediation.
- How the extraction contributes to Welsh prosperity and our role as a globally responsible Wales.

The applicant has outlined two reasons to justify extending the life of the extraction:

- To allow for full extraction of the consented area (impacted by the working practices required by the COVID19 Pandemic)
- To allow for continued provision of coal to the Steel Industry in Port Talbot [TATA Steel] (to address security of energy supply arising from global market disruption and reduce the need to import coal from overseas)

Determining whether or not the proposals meet the test of wholly exceptional circumstances will be the key consideration for this application alongside the environmental acceptability test contained in MTAN2.