

**REFERENCE:** P/16/128/FUL

**APPLICANT:** CELTIC ENERGY LIMITED

**LOCATION:** FORMER MARGAM SURFACE MINE, FFORD-Y-GYFRAITH, BRIDGEND

**PROPOSAL:** PROPOSED ALTERNATIVE RESTORATION AND AFTERCARE SCHEME IN RESPECT OF THE FORMER MARGAM SURFACE MINE

**Background:**

Members will recall that the Committee were minded to approve the above development following a special Development Control Committee meeting on the 4<sup>th</sup> May 2016 subject to the signing of a Section 106 Agreement. Subsequent reports were brought before the June (as an urgent item) and August 2016 meetings proposing minor amendments to a number of planning conditions and an extension of the time limit for completion of the works until 31<sup>st</sup> July 2018. These amendments were approved by Members.

The previous reports are available to view here:-

<https://democratic.bridgend.gov.uk/mgChooseDocPack.aspx?ID=2586&LLL=0>

<https://democratic.bridgend.gov.uk/mgChooseDocPack.aspx?ID=2618&LLL=0>

<https://democratic.bridgend.gov.uk/ieListDocuments.aspx?CId=164&MId=2645&Ver=4&LLL=0>

Officers have spent a considerable amount of time since May 2016 seeking to finalise the Legal Agreement with both Celtic Energy Limited and the landowner. The original draft Legal Agreement included the Landowner and Celtic Energy Limited ("Celtic") as parties along with the two Councils and the Coal Authority. Whilst Celtic was happy with the Draft Legal Agreement to include all these Parties, the Landowner was not happy with this form of draft.

This has necessitated the drafting of two separate agreements, one for the Landowner which provides for access to the site to complete the restoration works and access to the bond money, and a separate agreement for Celtic which relates to the restoration works required to be undertaken. The Legal Agreements have not been signed to date and the decision notice has not been released.

Whilst negotiations on the two agreements continued, Celtic has commenced work on site although technically no formal planning permission been issued. These works have taken place within NPT and include safety works to the void wall as well as some landscaping, which has significantly improved the visual impact of the site. The work has been monitored by officers from both authorities and in full co-operation with Celtic. As a result of works having commenced on site, Celtic has sought to provide the schemes required by the pre-conditions listed in the report to the Committee on 4<sup>th</sup> May 2016 – Condition 7 (Construction Method Statement), Condition 17 (Noise

Management Plan) and Condition 22 (Ecological Receptor Monitoring). The Council has carried out consultation on these schemes.

### **Statutory Consultees**

**Natural Resources Wales** – Initially indicated that it could not support the discharge of Condition 22 until clarifications are provided in relation to European Protected Species (EPS) and Great Crested Newt receptor sites. Additional information has since been submitted in respect to the works that affect the protected species, which will require a licence. No further response received to date.

**Destination & Countryside Management** – insufficient information is provided to discharge condition 22 and the information required is linked to other proposed conditions. Up to date information on dormice monitoring needs to be provided and information needs to reflect the European Protected Species Licence requirements and licence areas.

**Group Manager Public Protection** – the Noise Management Plan submitted is considered appropriate

**Head of Street Scene (Highways)** – the information provided in respect to the transport and highway aspects is acceptable

**Neath Port Talbot County Borough Council** – no observations to make as the impacts are being considered under the application made to the authority

### **Policy Context:**

The National Policy and Guidance is set out in detail in the 4<sup>th</sup> May 2016 Committee Report. However, since that time the Environment Act has come into force and replaced the biodiversity duty in the Natural Environment and Rural Communities Act 2006 (referred to as the NERC Act) which required that public authorities must have regard to conserving biodiversity.

The Environment Act enhances the current NERC Act duty to require all public authorities, when carrying out their functions in Wales, to seek to “maintain and enhance biodiversity” where it is within the proper exercise of their functions. In doing so, public authorities must also seek to “promote the resilience of ecosystems”.

The Act puts the ecosystem approach into statute through a set of Sustainable Management of Natural Resources (SMNR) principles, which are based on the 12 principles (Ecosystem Approach principles) contained in the UN Convention on Biological Diversity (CBD).

### **Local Policy**

#### **Local Development Plan (LDP)**

The Bridgend Local Development Plan (2006-2021) was formally adopted in September 2013 and is the Development Plan for the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004. Section 38(4) requires a planning application to be determined in accordance with the content of the development plan unless material considerations indicate otherwise.

The relevant policies of the Local Development Plan were laid out in detail in the Committee Report dated 4<sup>th</sup> May 2016. The following policies are relevant to the additional information submitted by the applicant.

Strategic Policy SP4 - Conservation and Enhancement of the Natural Environment.  
Policy ENV4 - Local/Regional Nature Conservation Sites  
Policy ENV5- Green Infrastructure  
Policy ENV6- Nature Conservation  
Policy ENV7- Natural Resource Protection and Public Health  
Strategic Policy SP6 – Minerals  
Policy ENV11 - Mineral Development  
Strategic Policy SP14 – Infrastructure

Supplementary Planning Guidance Note (SPG) 19: Biodiversity & Development – A green Infrastructure Approach. Adopted July 2014.

## **Appraisal**

In addition to considering the Construction Method Statement, the Noise Management Plan and the Ecological Receptor Monitoring proposals submitted by the applicant, consequential amendments to the planning conditions recommended in the report to the Planning Committee on 4th May 2016 (as amended by the reports in June and August 2016) need to be made as works have been undertaken on site. Discussions on the form and content of the Legal Agreements have also necessitated some amendments to conditions:

The proposed conditions that require amending are as follows, the proposed condition is shown in bold with an explanation below.

### **Condition 1**

**Notwithstanding the provisions of Section 91 of the Town & Country Planning Act 1990, the development to which this permission relates shall be begun not later than the expiration of two months beginning with the date of this permission. Written notification of the date of commencement shall be sent to the Local Planning Authority at least 2 days prior to commencement.**

**Reason: The alternative restoration is only acceptable based on the strict time limits identified within the application submission.**

As works have commenced on site a condition requiring a start within two months is no longer necessary. The condition can therefore be deleted.

### **Condition 4**

**Before beginning any development at the site, you must do the following:**

**a) Notify the Local Planning Authority in writing that you intend to commence development by submitting a Formal Notice under Article 24B of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (DMPWO) in the form set out in Schedule 5A (a newly inserted Schedule) of the DMPWO (or in a form substantially to the like effect); and**

**b) Display a Site Notice (as required by Section 71ZB of the 1990 Act) in the form set out in Schedule 5B (a newly inserted Schedule) of the DMPWO (or in a form substantially to the like effect), such Notice to be firmly affixed and displayed in a prominent place, be legible and easily visible, and be printed on durable material. Such Notice must thereafter be displayed at all times when development is being carried out.**

**Reason: To comply with procedural requirements in accordance with Article 24B of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (DMPWO) and Section 71ZB of the Town and Country Planning Act 1990.**

As development has commenced a condition requiring notification of commencement of development is no longer appropriate. The condition can therefore be deleted and included as a note – Note 7 within the recommended conditions below refers;

#### **Condition 5**

**For the duration of operations at the site until the completion of restoration, a copy of this permission including all documents hereby approved and any other documents subsequently approved in accordance with this permission shall be permanently maintained and be available for inspection at the site.**

**Reason: To ensure that the operators of the site and any site contractors are aware of the working programme and the conditions attached to carrying out the development.**

As development has already commenced on site, the reference to 'from the date of commencement of operations' needs to be replaced with 'for the duration of operations'. The reference to (as notified in accordance with Condition 1 above) also needs to be deleted for the same reason.

#### **Condition 7**

**The delivery of any plant/machinery, portable buildings or materials to the site shall be carried out in accordance with the Construction Method Statement received on 19<sup>th</sup> July 2016.**

**Reason: In the interests of highway safety**

The applicants have submitted a Construction Method Statement indicating that all heavy plant transport required for the delivery and removal of earthmoving and ancillary equipment will be via Fountain Road and through the Parc Slip Nature Reserve, crossing Law Street at a crossing point. No such machinery will travel along Law Street. In addition, wheel washing facilities will be provided and parking will be on an existing hardstanding area. Following clarification of the nature of the wheel washing facilities and further details of how HGV's will not be inhibited from accessing the site on delivery days the Head of Street Scene (Highways) considers the scheme to be acceptable.

## **Condition 9**

**The rights of way shall be re-instated on completion of restoration or prior to 31st July 2018 whichever is the earlier, in accordance with a scheme which shall first have been submitted to and approved in writing by the Local Planning Authority either as per those in shown on Figure 7 – Indicative Proposed Rights of Way or as per any subsequent confirmed Public Path Diversion Order.**

**Reason: To ensure that public access through the site is available from completion of the development.**

The condition previously referred to 31<sup>st</sup> July 2017 but to be in line with condition 2 (which was revised in August 2016) it needs to be revised to 31<sup>st</sup> July 2018. In addition, in order to ensure re-instatement of the public rights of way at the earliest possible opportunity the phrase 'on completion of restoration or prior to 31<sup>st</sup> July 2018 whichever is the earlier' needs to be included.

## **Condition 17**

**The Noise Management & Action Plan received on 19<sup>th</sup> July 2016 shall be implemented at the site for the duration of operations at the site until the expiry of the planning permission.**

**Reason: In the interests of the environment and local amenity**

The applicants have submitted a Noise Management & Action Plan which sets out the noise control measures, noise monitoring regime, problem response protocol, and the recording and review procedures. The scheme has been considered by the Group Manager Public Protection who has confirmed that the proposals are considered appropriate. The condition can therefore be amended to require implementation of the submitted scheme.

## **Condition 22**

**Prior to commencement of development, a scheme demonstrating how ecological receptors (particularly protected species and their habitats) will be monitored throughout the restoration process, shall be submitted to and agreed in writing with the Local Planning Authority. The restoration shall be completed in accordance with the agreed scheme.**

**Reason: In the interests of the protection of habitat which contributes to biodiversity on the site.**

The applicants have submitted a detailed scheme of Ecological Receptor Monitoring as required by the recommended condition 22. The scheme is concerned with pre-works and during-works monitoring of the presence of bats roosting in trees or buildings, the presence of dormouse in scrub and trees, the presence of Great Crested Newts, the presence of nesting birds, the presence of common reptiles and the presence of otter.

NRW have expressed some concerns about compliance with EPS legislation. They have also expressed concern about the receptor sites for GCN. The Council Ecologist also considers that there is insufficient information to fully discharge condition 22.

However, the requirements of the condition are linked to the requirements of other conditions as well as the requirement for an EPS Licence.

Further detail in the form of a comprehensive mitigation plan is required by current Condition 26 if GCN are found and by current condition 24 if Dormice are found. Both species have been found and work has stopped on site subject to a European Protected Species Licence being obtained from NRW. Although NRW's concerns can largely be addressed during the EPS Licence process there is still a necessity for a scheme of scrub/tree clearance to be submitted for the approval of the Authority as the Licence area may or may not cover the entire site. However, there is no longer a requirement for this scheme to be submitted prior to commencement and it can also be controlled by the other revised conditions..

A Test of Likely Significant Effects has already been undertaken and has concluded that no likely significant effects were identified for the considered elements of the Margam Mine Restoration proposals. Therefore, an appropriate assessment is not considered necessary.

#### **Condition 24**

**Prior to any clearance of scrub/trees the vegetation shall be checked for dormouse nests by a suitably trained and licensed ecologist. Notwithstanding the details submitted, scrub/tree clearance shall be carried out in accordance with a scheme to be submitted to and approved by the Local Planning Authority. If a nest is found works must cease until such time as details of comprehensive mitigation has been submitted to and approved by the Local Planning Authority. The approved mitigation shall be undertaken in full accordance with the approved details.**

**Reason: In the interest of nature conservation.**

The condition requires amendment to require a scheme for scrub and tree clearance to be submitted for the approval of the Local Planning Authority rather than following the phased approach in section 3.3.8 of the Supplementary Mitigation Report. This amendment is necessary as dormice have now been found in some parts of the site.

#### **Condition 26**

**Notwithstanding the details submitted in relation to the Reasonable Avoidance Measures for Great Crested Newt a scheme shall be submitted to and be approved by the Local Planning Authority detailing how all vegetation clearance, restoration work and outfall construction shall be carried out. If Great Crested Newt are found such works which may adversely affect this species must cease until such time as details of comprehensive mitigation have been submitted to and approved in writing by the Local Planning Authority. The approved mitigation shall be undertaken in full accordance with the approved details.**

**Reason: To protect against the possibility of Great Crested Newts being harmed.**

The condition requires amendment to require a scheme for vegetation clearance to be submitted for approval rather than following the Reasonable Avoidance Measures in section 3.3.24 and 3.3.25 of the Supplementary Mitigation Report. This amendment is necessary as Great Crested Newts have now been found in some parts of the site.

### **Condition 31**

**Where any species listed under Schedules 2 or 5 of the Conservation of Habitats and Species Regulations 2010 is present on the surface land and structures of the site in respect of which permission is hereby granted, such works adversely affecting this species shall cease unless a license to disturb any such species has been granted in accordance with the aforementioned Regulations and a copy provided to the Local Planning Authority.**

### **Reason In the interests of ecology and biodiversity**

Dormice and Great Crested Newts have been found so the operator already requires a European Protected Species Licence from NRW. The condition can therefore be deleted and the requirement referred to in a Note as it is covered by other legislation. Note 8 within the recommended conditions refers.

### **Condition 46**

**Within one month of the completion of restoration of the site the operator or its successor as contractor on site shall confirm in writing to the Local Planning Authority that they have completed the works required to restore the site in accordance with plan numbers**

- **Figure 3 – Proposed Alternative Restoration Strategy**
- **Figure 4-1 – Excavation and Re-profiling of Surcharge Mound**
- **Figure 4-2 – Re-profiling of Existing Batter Slopes**
- **Figure 4-3 – Additional Minor Re-grading**
- **Figure 4-4 – Proposed Alternative Restoration Strategy (Sections through surcharge and overburden mounds)**
- **Figure 5 – West Wall Stabilisation**
- **Drawing No. – 07A04559/A – Proposed Alternative restoration Strategy**

**Written confirmation shall be obtained from the LPA to confirm that the site restoration has been completed in accordance with the approved plans. The site shall be subject to aftercare from the date of completion of restoration as approved in writing by the Local Planning Authority, and in accordance with the approved aftercare details. The site shall be subject to aftercare from the date of completion of restoration as approved in writing by the Local Planning Authority, and in accordance with the approved aftercare details.**

**Reason: To ensure adequate treatment and management of the land to an appropriate timescale.**

This condition was added in June 2016. However, it requires amendment in order to align with the legal agreement. The condition needs to be expanded to refer to completion of restoration in accordance with the approved plans.

A revised list of planning conditions is included at the end of this report including consequential changes in the condition numbers.

## **Conclusion:**

The additional information submitted is considered to be acceptable in addressing the requirements of conditions 7 and 17 as set out in the Committee Report of 4<sup>th</sup> May 2016. The conditions therefore need to be amended to refer to these submitted schemes and are listed below in revised conditions as numbers 5 and 15. Condition 22 cannot be 'discharged' at this stage but the information is not now necessary prior to the commencement of the development. The condition can be reworded accordingly without conflicting with planning policy.

## **Recommendation:**

The planning application is approved subject to Two Legal Agreements, one with Celtic Energy Limited (the operator) and a separate one for Beech (the landowner) and subject to the following list of revised conditions:

## **CONDITIONS**

### **Conditions Time limits**

(1) The approved restoration shall be completed by 31st July 2018. For a period of five years from the date of completion of restoration the restored area shall be managed in accordance with the approved aftercare scheme. The planning permission shall expire following the complete restoration and aftercare of the site in accordance with the approved restoration and aftercare schemes.

Reason: The alternative restoration is only acceptable based on the strict time limits identified within the application submission and to minimise the duration of disturbance.

### **Working Programme, Phasing and Direction of Working**

(2) The development shall be carried out strictly in accordance with the following plans and documents

- Figure 1 – Site Location Plan
- Figure 2 – Existing Site Layout
- Figure 3 – Proposed Alternative Restoration Strategy
- Figure 4-1 – Excavation and Re-profiling of Surcharge Mound
- Figure 4-2 – Re-profiling of Existing Batter Slopes
- Figure 4-3 – Additional Minor Re-grading
- Figure 4-4 – Proposed Alternative Restoration Strategy (Sections through surcharge and overburden mounds)
- Figure 5 – West Wall Stabilisation
- Figure 6 – Suspended Rights of Way
- Figure 7 – Indicative Proposed Rights of Way
- Figure 8 – Typical Roadway Construction
- Drawing No. – 07A04567/A – Planning Application Plan
- Drawing No. – 07A04559/A – Proposed Alternative Restoration Strategy
- Planning Application – Supporting Information Volume 1
- Planning Application – Supporting Information Volume 2 – Appendices 1 to 8 • Supplementary Mitigation Report (Wardell Armstrong) April 2016



Reason: To comply with Section 71ZA (2) of the Town and Country Planning Act 1990.

(3) For the duration of operations at the site until the completion of restoration, a copy of this permission including all documents hereby approved and any other documents subsequently approved in accordance with this permission shall be permanently maintained and be available for inspection at the site.

Reason: To ensure that the operators of the site and any site contractors are aware of the working programme and the conditions attached to carrying out the development.

### **Hours of Working**

(4) Except in an emergency, which shall be notified to the Local Planning Authority as soon as practicable or in any event within 24 hours, no operations within site (other than water pumping, servicing, environmental monitoring, maintenance and testing of plant) shall be carried out on the site except between the following times:

0700 to 1900 hours Mondays to Fridays.

0800 to 1300 hours Saturdays

There shall be no development or other activities other than those in relation to water pumping, servicing, environmental monitoring, maintenance and the testing of plant undertaken on Sundays, Bank or Public Holidays.

Reason: In the interests of the amenity of local residents

### **Access and Parking**

(5) Prior to the delivery of any plant/machinery, portable buildings or materials to the site or any works of demolition/site clearance, a Construction Method Statement shall be submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide for:

- i. The routing of HGV construction traffic to/from the site in order to avoid Law Street.
- ii. the parking of vehicles of site operatives and visitors
- iii. loading and unloading of plant and materials
- iv. storage of plant and materials used in constructing the development
- v. wheel washing facilities
- vi. measures to control the emission of dust and dirt during construction

Reason: In the interests of highway safety.

(6) Notwithstanding the submitted details, prior to works commencing on its construction a scheme shall be submitted to and approved in writing by the local planning authority detailing the route of the proposed Bedford Road Byway at a scale of 1:500. The scheme should include the following:

- i. The road width shall be a minimum of 7.5 m across the surface made up of a 5.5m wide running surface with a 1m wide verge either side; OR the road remaining at its current width but including details of inter-visible passing bays, which shall be a minimum of 2.5m wide and 15m long; and

- ii. Details of drainage cut off points to prevent any surface water runoff from discharging onto the public maintained highway; and iii. Details of a management / maintenance plan. The road and passing bays shall be undertaken and thereafter maintained in accordance with the approved details.

Reason: In the interests of highway safety

### **Rights of Way**

(7) The rights of way shall be re-instated on completion of restoration or prior to 31st July 2018, whichever is the later, in accordance with a scheme which shall first have been submitted to and approved in writing by the Local Planning Authority either as per those in shown on Figure 7 – Indicative Proposed Rights of Way or as per any subsequent confirmed Public Path Diversion Order.

Reason: To ensure that public access through the site is available from completion of the development.

### **Dust**

(8) Dust associated with operations at the site shall be controlled in accordance with the recommended mitigation measures in Table 8 of the Air Quality Report submitted as part of the application and in accordance with the Dust Management Action Plan – January 2016 DMAP). The DMAP must be kept under review by the developer and if notified by the local planning authority of concerns that the DMAP is not effective in managing dust from the site an amended DMAP shall be submitted to the local planning authority for its approval in writing within one month of such request being made in writing.

Reason: In the interests of the environment and local amenity

### **Noise**

(9) Between 0700 and 1900 hours Monday to Friday and 0800 to 1300 hours on Saturday the noise levels arising from the development shall not exceed the following levels measured as dBLAeq (1 hour) freefield under the measurement criteria of BS4142:

37 Crown Road – 52dB  
28 Bedford Road – 44dB

Reason: In the interests of the amenity of the area

(10) Notwithstanding the provisions of Condition 11 above, between the hours of 1000 and 1600 hours Monday to Friday and 1000 to 1300 hours on Saturday, and for a maximum period of 8 weeks in any year, the noise levels arising from the development shall not exceed the following levels measured as dBLAeq (1 hour) freefield under the measurement criteria of BS4142:

37 Crown Road – 52dB  
28 Bedford Road – 47dB

The applicant shall advise the Local Planning Authority in advance of any operations likely to fall within the scope of this condition, detailing the nature and duration of the operations.

Reason: In the interests of the amenity of the area

(11) At all other times outside of the hours specified in condition 11 above the noise levels arising from the operations at the site shall not exceed 42 dBLAeq (1 hour) freefield under the measurement criteria of BS4142 and as measured at any noise sensitive property.

Reason: In the interest of the amenities of the area

(12) Unless otherwise agreed under the details required by condition 17, all reverse warning devices fitted to mobile plant and vehicles on site shall be of a white noise design or use best practicable measures to minimise noise.

Reason: In the interest of the amenities of the area.

(13) All vehicles, plant and machinery operated on the site shall be maintained in accordance with the manufacturer's specification at all times, and shall be fitted with and use effective silencers.

Reason: In the interest of the amenities of the area

(14) Noise shall be controlled in accordance with the mitigation measures specified in section 8 –'Mitigation and Noise Control' of the Noise Assessment- Appendix 6

Reason: In the interest of the amenities of the area

(15) The Noise Management & Action Plan received on 19<sup>th</sup> July 2016 shall be implemented at the site for the duration of operations at the site until the expiry of the planning permission.

Reason: In the interests of the environment and local amenity

### **Water Environment and Drainage**

(16) Within 3 months of the date of this permission the developer shall submit a scheme for the written approval of the Local Planning Authority outlining a management and maintenance strategy for all the proposed and retained watercourses, the overspill channel, culverts and surface water management features within the site. The scheme as approved shall thereafter be complied with.

Reason: In the interests of flood prevention.

(17) Until they are no longer required for operational purposes all drainage ditches, attenuation ponds, settling ponds and lagoons shall be regularly desilted and maintained in such a condition that they are able to perform effectively and efficiently the purpose for which they have been provided.

Reason: To ensure that these facilities continue to function effectively and efficiently throughout the operational, restoration and after care period.

(18) Any facilities for the storage of oils, fuel or chemicals shall be on impervious bases and surround by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vent, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All points and tank overflow pipes should be detailed to discharge downwards into the bund.

Reason: To prevent pollution of watercourses.

### **Lighting**

(19) Any lighting or floodlighting whether fixed or portable shall only be illuminated between the operating hours of 0700 and 1900 Monday to Friday and 0800 to 1300 hours on Saturday, except for security lighting activated by unauthorised entry by persons or vehicles.

Reason: The use of lighting at this location would have an adverse impact on the amenity of the area and would be detrimental to the environment unless hours of use are controlled.

### **Ecology and Biodiversity**

(20) The development shall be carried out in accordance with the Former Margam Surface Mine Monitoring of Ecological Receptors Plan dated December 2016.

Reason: In the interests of biodiversity

(21) Prior to any building or tree being removed/demolished they shall be subject to an updated inspection survey to determine whether they are used by bats. If any evidence of bats is discovered appropriate mitigation measures shall be submitted for the written approval of the Local Planning Authority. Mitigation measures shall be implemented as approved.

Reason: In the interests of biodiversity and the protection of bats.

(22) Prior to any clearance of scrub/trees the vegetation shall be checked for dormouse nests by a suitably trained and licensed ecologist. Notwithstanding the details submitted, scrub/tree clearance shall be carried out in accordance with a scheme to be submitted to and approved by the Local Planning Authority. If a nest is found works must cease until such time as details of comprehensive mitigation has been submitted to and approved by the Local Planning Authority. The approved mitigation shall be undertaken in full accordance with the approved details.

Reason: In the interest of nature conservation.

(23) The shrub/tree planting identified in 3.3.10 of the Supplementary Mitigation Report shall be implemented within the first planting season following the achievement of final contour levels in the planting location.

Reason: To minimise the fragmentation of potential dormouse habitat.

(24) Notwithstanding the details submitted in relation to the Reasonable Avoidance Measures for Great Crested Newt a scheme shall be submitted to and be approved by the Local Planning Authority detailing how all vegetation clearance, restoration work and outfall construction shall be carried out. If Great Crested Newt are found such works which may adversely affect this species must cease until such time as details of comprehensive mitigation have been submitted to and approved in writing by the Local Planning Authority. The approved mitigation shall be undertaken in full accordance with the approved details.

Reason: To protect against the possibility of Great Crested Newts being harmed.

(25) No restoration works shall be carried out within a buffer zone 25m either side of the Nant Craig yr Aber.

Reason: In the interests of the protection of habitat which contributes to biodiversity on the site.

(26) Within 3 months of the date this permission a scheme shall to be submitted to and approved in writing by the Local Planning Authority for the eradication of all invasive species listed under Section 9 of the Wildlife and Countryside Act 1981 that are located on the site. The scheme shall be implemented as approved.

Reason: In the interests of amenity, and to ensure that the treatment is carried out in accordance with recognised good practice.

(27) Prior to the removal of any vegetation on the site the operator shall check that there are no breeding birds or protected species on that part of the site. The results of the checks (which must be undertaken by a suitably qualified ecologist) shall be submitted to the Local Planning Authority, together with any mitigation proposals for approval if species are recorded. Mitigation shall be implemented as approved.

Reason: In the interests of the biodiversity

(28) Where habitat suitable for reptiles is to be removed the clearance works shall follow the phased method set out in 3.4.5 and 3.4.6 of the Supplementary Mitigation Report and shall be supervised by a suitably qualified ecologist.

Reason: In the interests of the protection of reptiles.

(29) All excavation trenches shall be covered overnight or a means of escape for wildlife shall be employed.

Reason: To prevent wildlife becoming trapped inside a trench.

## **Landscaping**

(30) Unless shown as being removed as part of the development, all existing deciduous trees, bushes and hedgerows within and bounding the site or within the developer/operators control (including their root systems) shall be retained and protected and shall not be lopped, topped, removed or felled without the prior written

approval of the Local Planning Authority. Any requests for approval to remove, lop, top or fell deciduous trees, bushes or hedgerows must be supported by an Arboricultural Method Statement.

Reason: The protection of the environment and protected species such as bats, in the interests of visual amenity and to ensure the development is adequately screened by natural vegetation.

(31) All trees and shrubs planted in accordance with an approved scheme shall be maintained and any plants which within 5 years of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

Reason: In the interests of amenity, the environment and to ensure the site is adequately restored.

### **Potential Land Contamination**

(32) In the event that contamination is found at any time when carrying out the approved development that was not previously identified, work on site shall cease immediately and shall be reported in writing to the Local Planning Authority. A Desk Study, Site Investigation, Risk Assessment and where necessary a Remediation Strategy must be undertaken in accordance with the following document:- Land Contamination: A Guide for Developers (WLGA, WAG & EAW, July 2006). This document shall be submitted to and agreed in writing with the Local Planning Authority. Following completion of the development, a verification report which demonstrates the effectiveness of the agreed remediation, shall be submitted to and agreed in writing with the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off site receptors.

### **Soil Stripping, Handling & Storage**

(33) All topsoil and subsoil shall be stripped from any undisturbed areas which are to be utilised for the approved operations. Wherever possible these resources shall be directly placed as part of the restoration; where this is not reasonably practicable, they should be stored separately in mounds within the site until required for restoration. Topsoil mounds shall not exceed 3m in height and subsoil mounds shall not exceed 4m in height as measured from adjoining ground.

Reason: To ensure satisfactory preservation, conservation and restoration of soil and peat resources.

(34) All topsoil, subsoil, and soil forming material shall remain on site for use in the restoration of the site.

Reason: To ensure satisfactory preservation, conservation and restoration of soils and peat resources.

(35) In any calendar year, soil stripping shall not commence until any standing crop of vegetation has been cut and removed

Reason: To avoid incorporation of concentrations of decaying vegetation in soil

(36) Topsoil, subsoil and soil making material shall only be stripped and/or used for restoration when they are in a dry and friable condition.

Reason: To ensure that the soils are not damaged during the process of their stripping and handling.

(37) All disturbed areas of the site and all topsoil and subsoil storage mounds shall be kept free of weeds.

Reason: To prevent a build-up of harmful weed seeds in soils

### **Restoration**

(38) Prior to any seeding or hydro-seeding on the site the developer shall obtain the written agreement of the Local Planning Authority for the species mix to be used. The seeding shall be implemented as approved.

Reason: In the interests of biodiversity and visual amenity.

(39) All plant, structures and buildings shall be removed from the site on completion of restoration

Reason: In the interests of the amenity of the local area

### **Aftercare**

(40) Within 3 months of the date of this permission the developer shall submit an aftercare scheme for the nature conservation after-use of the site for a period of 5 years following the date of completion of restoration. The scheme shall set out how the habitat is to be favourably managed during the aftercare period and shall be implemented as approved.

Reason: To ensure the beneficial after use of the site

(41) Before the 1st November of every year of the aftercare period the operator shall provide the Local Planning Authority with the following a) A record of the aftercare operations carried out on the land in the previous 12 months b) An assessment of losses and replacements to be provided in woodland areas c) Proposals for managing the land for the forthcoming 12 months including weed controls

Reason: To ensure the productive after-use of the site

(42) Before the 1st December of every year of the aftercare period, a site meeting shall be arranged by the developer, to which the Local Planning Authority and the landowner shall be invited, to monitor previous performance of aftercare requirements and to discuss future aftercare proposals. The meeting shall also be attended by the person(s) responsible for undertaking the aftercare steps.

Reason: To ensure the beneficial after use of the site

(43) Within one month of the completion of restoration of the site the operator or its successor as contractor on site shall confirm in writing to the Local Planning Authority that they have completed the works required to restore the site in accordance with plan numbers

- Figure 3 – Proposed Alternative Restoration Strategy
- Figure 4-1 – Excavation and Re-profiling of Surcharge Mound
- Figure 4-2 – Re-profiling of Existing Batter Slopes
- Figure 4-3 – Additional Minor Re-grading
- Figure 4-4 – Proposed Alternative Restoration Strategy (Sections through surcharge and overburden mounds)
- Figure 5 – West Wall Stabilisation
- Drawing No. – 07A04559/A – Proposed Alternative restoration Strategy

Written confirmation shall be obtained from the LPA to confirm that the site restoration has been completed in accordance with the approved plans. The site shall be subject to aftercare from the date of completion of restoration as approved in writing by the Local Planning Authority, and in accordance with the approved aftercare details. The site shall be subject to aftercare from the date of completion of restoration as approved in writing by the Local Planning Authority, and in accordance with the approved aftercare details.

Reason: To ensure adequate treatment and management of the land to an appropriate timescale.

## **Notes**

(1) The developer is advised to consider the implications of the Mining Waste Directive on their activities.

(2) Any culverting of a watercourse requires the prior written approval of the Local Authority under the terms of the Public Health Act 1936, and the prior written consent of the Natural Resources Wales under terms of the Land Drainage Act 1991/Water Resources Act 1991. Natural Resources Wales seeks to avoid culverting, and its consents for such works will not normally be granted except for access crossings.

(3) All trees to be felled during the course of development shall be checked for bats and nesting birds if felling is to take place during the period 1st January to 30th September inclusive. If bats are discovered in any trees or other structures the Natural Resources Wales shall be contacted and an appropriate licence for any works obtained before any works are undertaken.

(4) The term 'emergency' means any circumstance in which the site operator has reasonable cause to apprehend injury to persons or serious damage to property.

(5) This planning permission is the subject of an agreement under the terms of Section 106 of the Town and Country Planning Act 1990

(6) The developer's attention is drawn to the following in respect of rights of way network within Bridgend. The numbering of eight of the routes is incorrect and would appear to refer to the original numbering system that was in use prior to the publication of the updated Definitive Map and Statement for the Bridgend area on the 30th June



2005, which took into account Community Council boundary changes and which resulted in the paths being renumbered. The updated Definitive Map of 2005 also showed changes to the alignments of a number of public rights of way throughout the County Borough where these had been affected prior to that date by confirmed Public Path Orders.

One of those routes was Bridleway 38 Cefn Cribwr, which is actually shown as Bridleways 31 and 25 on Figure 6 of the submitted plans. It appears the diversion, which was confirmed on the 13th December 1999 removed those sections of the bridleway which are shown within the site boundary at the eastern end of the site to a route that is adjacent to, but south of, the southern site boundary of the application site from the eastern site boundary to just east of Bedford Road. A copy of the current Definitive Map for the Bridgend side of the planning application site and a copy of the Diversion Order plan can be provided upon request from the Rights of Way Section.

(7) Before beginning any development at the site, you must do the following:

- a) Notify the Local Planning Authority in writing that you intend to commence development by submitting a Formal Notice under Article 24B of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (DMPWO) in the form set out in Schedule 5A (a newly inserted Schedule) of the DMPWO (or in a form substantially to the like effect); and
- b) Display a Site Notice (as required by Section 71ZB of the 1990 Act) in the form set out in Schedule 5B (a newly inserted Schedule) of the DMPWO (or in a form substantially to the like effect), such Notice to be firmly affixed and displayed in a prominent place, be legible and easily visible, and be printed on durable material. Such Notice must thereafter be displayed at all times when development is being carried out.

(8) Where any species listed under Schedules 2 or 5 of the Conservation of Habitats and Species Regulations 2010 is present on the surface land and structures of the site in respect of which permission is hereby granted, such works adversely affecting this species shall cease unless a license to disturb any such species has been granted in accordance with the aforementioned Regulations and a copy provided to the Local Planning Authority.

**MARK SHEPHARD**  
**CORPORATE DIRECTOR COMMUNITIES**

**Background papers**

None