

REFERENCE: P/16/128/FUL

APPLICANT: CELTIC ENERGY LIMITED

LOCATION: FORMER MARGAM SURFACE MINE, FFORDD-Y-GYFRAITH, BRIDGEND

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

Members will recall that Committee were minded to approve the above development following a special Development Control Committee meeting on the 4th May 2016 subject to the signing of a Section 106 agreement. A subsequent report was brought before the June meeting proposing some slight amendments to a number of planning conditions, which 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/documents/b8315/Amendment%20Sheet%2009th-Jun-2016%2014.00%20Development%20Control%20Committee.pdf?T=9&LLL=0>

The current draft conditions stipulate that works should be completed by July 2017 however, since June there have been a number of legal issues associated with the drafting of the Section 106 agreement and there has been some slippage in terms of the completion of the document and no decision notice has been issued. As a consequence the restoration process is almost two months behind the original programme of works and will not be completed within the originally envisaged timescale given the seasonal restrictions affecting some elements of the works.

Also, and perhaps more crucially, the further surveys undertaken as part of the proposed condition have highlighted the presence of Great Crested Newt across large areas of the site. These are a European Protected Species and enjoy a high level of protection. As such a European Protected Species Licence (EPS) to disturb a protected species from the Welsh Government (WG) is required before the works commence. Failure to comply with this requirement or any subsequent harm to the species or its habitat, could result in a criminal prosecution. This would have serious implications for the satisfactory completion of the scheme.

For large areas of the site within Bridgend the advice received from the applicant's Ecologist and NRW in consultation with the Councils' ecologist is that works in these areas will not be possible until the spring of next year after a licence has been granted. These works will also need to progress with extreme care so as not to adversely impact on Great Crested Newts. This will involve further surveys and on-site supervision by a qualified ecologist along with the strict licensing requirements likely to be imposed by WG.

Following a recent site meeting with the applicants, representatives from Natural Resources Wales (NRW) and officers from both Neath Port Talbot (NPT) and Bridgend it was discussed whether any works could be carried out in advance of the licence. It is possible to undertake limited works this year subject to the agreement of a management plan with specific measures to ensure no Great Crested Newts are present. If any are found then works will

need to stop and further advice sought from NRW. These works will be limited to the NPT part of the site and include the construction of the buttress in the west wall as well as the majority of the regrading operations on the west side of the surcharge mound. Members will note the main safety concerns surrounding this site were in relation to the potential collapse of this wall and subsequent risk of flooding. If these works are carried out in 2016 it will leave only the construction of the drainage channel, roads and limited regrading for the following year.

The widespread presence of Great Crested Newts will unfortunately leave little scope for works within the BCBC area during 2016.

The applicant has indicated its intention to apply for a licence as soon as possible to ensure there are no further delays to the works that would be carried out next year.

The previous report indicated that the July 2017 completion date was due to the restriction on access to the site from the landowner after that time and both Councils and the applicant were keen to see the development completed within that deadline. This restriction however will be lifted once the S106 is signed giving access to the site for as long as is necessary to carry out the works associated with the planning permission along with aftercare and extended aftercare. It is therefore no longer considered essential that this deadline is adhered to for this reason.

In view of the circumstances set out above it is clear that certain works will not now be commenced until 2017 and it is considered that there is sufficient justification to extend the end date for the completion of the restoration works by a further year. Whilst the Bridgend element of the scheme will be delayed, this is unavoidable due to the requirements of the licensing regime, which is intended to ensure the protection of Great Crested Newts. The essential safety works to the void area should be able to proceed in line with a detailed management plan.

RECOMMENDATION:-

That condition 2 be amended to read:-

2. 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: In order to comply with the timescales outlined in the application and to minimise the duration of disturbance.

MARK SHEPHARD
CORPORATE DIRECTOR COMMUNITIES

Background papers

None