



## **PLANNING & DEVELOPMENT COMMITTEE**

**2 SEPTEMBER 2021**

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

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

Members are asked to determine the planning application outlined below:

**APPLICATION NO:** 21/0001/15 (GD)  
**APPLICANT:** Welsh Government on behalf of the Welsh Ministers  
**DEVELOPMENT:** Variation of condition 1(c) and 1(d) of planning permission 09/0386/13 to allow an extension to the permitted time frames for the application of reserved matters by a further 10 years and the extension of the permitted time frames for the commencement of development by a further 12 years, or by 2 years from the date of the last reserved matters to be approved whichever is the later. Additional environmental information, planning policy update and site masterplan received 9<sup>th</sup> July 2021.

**LOCATION:** LAND AT FORMER COED ELY COLLIERY, OFF THE A4119, COED ELY.  
**DATE REGISTERED:** 04/01/2021  
**ELECTORAL DIVISION:** Llanharan

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**RECOMMENDATION:** Approve, subject to conditions and a Section 106 Deed of Variation.

**REASONS:** The principle of the proposed development is well established in the initial grant of outline planning permission and the subsequent planning applications and approval of reserved matters in relation to the development of this site.

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#### **REASON APPLICATION REPORTED TO COMMITTEE**

- The proposal is not covered by determination powers delegated to the Director of Prosperity & Development
- Three or more letters of objection have been received;

#### **APPLICATION DETAILS**

This application seeks to vary some of the terms of condition 1 applied to planning permission 09/0386 relating to the timeframes allowed for the submission of reserved matters relating to the development of the site. Condition 1 in its totality currently states the following –

1.(a) Approval of the details of the layout, scale and appearance of the building(s), and the landscaping of the site (hereinafter referred to as "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

(b) Plans and particulars of the reserved matters referred to in (a) above relating to the layout, scale and appearance of any building to be erected, and the landscaping of the site shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

(c) Applications for the approval of reserved matters shall be made before the expiration of ten years from the date of this permission.

(d) The development hereby permitted shall be begun before whichever is the latter of either (i) the expiration of 12 years from the date of this permission or (ii) the expiration of 2 years of the final approval of the reserved matters or in the case of approval on different dates the final approval of the last such matter to be approved.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990.

The original planning application granted outline planning permission for employment development of up to 30,937 square metres gross floor area: non-residential institutions (use class D1, up to 3716 square metres); outdoor recreation up to 0.71 hectares with ancillary changing room facilities and an energy centre.

The current application aims to extend the lifespan of the planning permission in the terms described above, i.e. allowing a further 10 years for the submission of reserved matters and up to 12 years for the commencement of development.

The application is accompanied by the following:

- Planning Statement;
- Ecology, Landscape & Habitat Management Explanatory Note (December 2020).
- Environmental Statement Addendum – Volume 1 (December 2020).
- Environmental Statement Addendum Appendices & Figures – Volume 2 (December 2020).
- Environmental Statement Addendum Non-Technical Summary – Volume 3 (December 2020).
- Phase 1 Ecology Report (December 2020)
- Bat Survey Report (December 2020), and,
- Drainage Strategy (December 2020)

- Supplementary Fungi Report to Environmental Statement Volume 1 (December 2020) Ecology Chapter 10 – February 2021
- Site wide Landscape and Habitat Management Plan (July 2021)
- Updated Illustrative masterplan A039057drgUD\_PA04 Rev H
- Environmental Statement Addendum Update – Cumulative Impact Assessment (July 2021)
- Environmental Statement Addendum update – Ecology Chapter (July 2021)
- Future Wales: The National Plan and PPW11 Update Note (April 2021)
- Water Resources Detailed Quantitative Risk Assessment (June 2021)

## SITE APPRAISAL

The site measures approximately 31 hectares in size and runs along the west side of the A4119, parallel with the village of Coedely. It is a former colliery and coke works site that though still substantially vacant has experienced some development in recent years with the construction of a factory unit on unit C3 and the completion of road improvements and a waste water pumping station. The wider site is already split into development plateaux as a result of extensive reclamation works that took place before the first application was submitted. As part of these works, a previously built access road has already been improved from the roundabout junction on the A4119 at the southern end of the site, along the eastern side of the site terminating at the turning facility close to the northern boundary of the site just to the south of the access track that leads to Graig Fatha Farm. Three access points are already provided from this road into the central and southern plateaux. The existing cycleway runs alongside the access road, and continues to the north of the access road, past the northern plateau.

The plateaux themselves are largely clear of vegetation, but landscaping exists at their edges, including the provision of stone walling at the existing access points into the plateaux. The site is also used at present for informal recreational purposes such as dog walking and cycling.

## PLANNING HISTORY

20/0246	4no. landscape bunds	Approved 09/04/2020
19/0901	Sewage pumping station, odour control unit and motor control centre kiosk	Approved 02/10/2019
19/0688	NMA alterations to highway detail approved under 18/0737	Approved 12/07/2019
18/1074	Reserved matters for plot access, appearance landscaping layout and scale relating to plot C3 for the construction of a B1/B2/B8 employment unit with ancillary offices	Approved 14/11/2018

18/0737	Reserved matters layout of highway works	Approved 10/08/2018
09/0386	Employment development of up to 30,937 square metres gross floor area, non-residential institutions (use class D) up to 3,716 square metres, outdoor recreation up to 0.71 hectare with ancillary changing rooms and energy centre (outline application)	Approved 27/01/2011
06/2159	Construction of permanent bund of excavated material with a topsoil covering	Approved 14/05/2007
06/1148	Construction of underground foul pumping station and storage tank with above ground control kiosks	Approved 20/08/2006
04/1285	Construction of new factory and warehouse offices, access road parking, landscaping and other site works	Withdrawn 30/09/2005
94/0912	750,000 square foot of B1, B2 and B8 and 15,000 square foot of A1, A2 and A3 service retail	Approved 08/01/1999
94/0911	750,000 square foot of B1 or B2 , associated uses and new access road to the A4119	Approved 08/01/1999
94/0798	Coedely (top tip) reclamation scheme and coedely colliery and coke works scheme (observations requested by MGCC)	Raise no objection 23/01/1995
93/0433	Land reclamation works including extension of existing access to form service road and roundabout with comprehensive landscaping	Raise no objection 02/08/1993
91/0364	Land reclamation work including new access extension of existing access and landscaping	Raise no objection 05/08/1991

## PUBLICITY

The application has been advertised by means of press notice, site notices and neighbour notification letters. Subsequent to the submission of additional detail relating to

- Planning policy update (PPW11 & FW2040) April 2021
- Water resource detailed quantitative risk assessment June 2021
- Updated illustrative masterplan July 2021
- Landscape & Habitat management Plan July 2021
- Environmental Statement updated chapter 10 ecology July 2021
- Environmental Statement update cumulative impact assessment July 2021

The proposals were given further publicity by means of press notice and site notices this has resulted in the submission of 34 letters raising the following concerns in respect of the current proposals.

- The approach adopted to updating the Environmental Impact Assessment through an addendum is considered inadequate and/or inappropriate.
- The conclusions drawn from the original environmental impact assessment can no longer be relied upon and the ecological information presented in the environmental statement addendum is inadequate to enable an informed assessment of the impacts of the development on ecology and biodiversity.
- Up to date, detailed and reliable ecological information should be used to inform development proposals at Coedely Colliery and Coke works and not a desk study
- Since the publication of the original environmental statement the site has been subject to natural regeneration including stands of Devil's bit scabious which is the larval food plant of the Marsh Fritillary Butterfly and the development of the site should not benefit from a further consent until further work to fully characterise the impact of the development on this and other Lepidoptera has been undertaken.
- We are losing wildlife nationally at a great rate and it is vital that we protect the valuable areas for wildlife that we still have.
- The application site is an area of outstanding natural beauty which is testament to the capacity of nature to heal and recover from the blight of industrialisation.
- Unless we reverse the trend of habitat loss and wildlife extinction we could be facing a 5<sup>th</sup> mass extinction.
- The Council has a duty of care to protect the environment that give us life, and invest in our environment particularly old spoil heaps and to provide a green environment that will draw people back to the area to live.
- The green space that the site currently represents is beneficial to people's physical and mental health.
- Amphibian and reptile mitigation plans are inadequate and no invertebrate surveys have been undertaken. This compromises the validity of the impact assessment and makes it impossible for the planning authority to make an informed decision on the impacts of the proposals.
- Any new road drainage should not include gully pots which are a death trap for reptiles and amphibians – enkamat retro fitting as a ladder escape should only be used as a last resort. SUDS options should be utilised where possible to avoid the need for gully pots.

- Reptile habitat is to be lost to development according to the documentation submitted with the application, and the only mitigation is the retention of some existing habitat and some hibernacula log pile creation. This is not maintaining and enhancing biodiversity there must be no net loss of reptile habitat.
- Natural regeneration of this site means it now has high ecological value supporting grass snake (*Natrix natrix*), common lizard (*Zootoca vivipara*), Slow worm (*Anguis fragilis*), Common Frog (*Rana temporaria*), Common toad (*Bufo bufo*), Palmate newt (*Lissotriton helveticus*), Grey wagtail (*Motacilla cinerea*), Hedgehog (*Erinaceus europaeus*), Dingy skipper butterfly (*Erynnis tages*), Greyling butterfly (*Hipparchiasemele*), Brown-banded carder bee (*Bombus humilis*) and over 720 species of fungi including Holly parachute (*Marasmius hudsonii*) and red spored dapperling (*Melanophyllum haematospermum*).
- The survey work undertaken in respect of bats is inadequate as it failed to provide spring and summer surveys.
- The environmental statement addendum has also failed to address the construction and operational phase effects of the proposals on fungi.
- The environmental statement addendum has failed to fully consider the environmental effects of the proposed development on ecology and biodiversity and as such has failed to demonstrate that the residual environmental effects would be successfully minimised.

## **CONSULTATION**

*Members should note that following the submission of additional detail between April and July a further round of consultation was undertaken with all consultees listed below.*

Transportation Section – no objections subject to conditions and the continuation/updating of the S106 agreement

Flood Risk Management – No objection

Public Health & Protection – No objections

Countryside- No objections subject to conditions and the maintenance of the habitat management plan for a 25-year period through the S106 agreement

Natural Resources Wales – Raise no objection and offer comments in respect of flood risk, protected species and ground conditions, recommending that original conditions be carried forward into any new permission where appropriate.

Dwr Cymru Welsh Water – No objection subject to conditions

Western Power Distribution – No observations received

South Wales Fire & Rescue Service – No observations received

Cadw – No objections

The Coal Authority – Raise no objections to the variation of conditions in light of the information reviewed and the professional opinions of the report authors set out therein.

South Wales Police – raise no objection to the proposals and advise on security details that might be appropriate at the detailed design stage.

Glamorgan Gwent Archaeological Trust – there is unlikely to be a historic environment constraint and the archaeological resource will not be impacted upon by the current application. Therefore, as archaeological advisors to your Members we have no objections to the positive determination of the planning application.

## **POLICY CONTEXT**

### **Rhondda Cynon Taf Local Development Plan**

**Policy CS2** - sets out criteria for achieving sustainable growth including, promoting and enhancing transport infrastructure services.

**Policy CS6** – sets out employment requirements for the Local Development Plan and though primarily concerned with strategic sites it also states that land for the provision of 47 hectares of new B1, B2 and B8 local employment development is allocated in accordance with ...policies SSA7 and SSA14.

**Policy CS10** – seeks to protect resources and contribute to the local, regional and national demand for a continuous supply of minerals, without compromising environmental and social issues.

**Policy AW5** - sets out criteria for new development in relation to amenity and accessibility.

**Policy AW6** - requires development to involve a high quality design and to make a positive contribution to place making, including landscaping.

**Policy AW8** – aims to preserve and enhance the distinctive natural heritage of the County Borough

**Policy AW10** – mitigates against development that cause harm to public health, and/or local amenity as a result of air pollution, noise pollution, light pollution, contamination, landfill gas, land instability, water pollution or flooding.

**Policy AW14(2)** - requires that mineral resources should be safeguarded from any development which would unnecessarily sterilise or hinder their extraction.

**Policy SSA4** - supports commercial development in the key settlement of Tonyrefail which is of a high standard of design and integrates positively with existing development, supports the provision of local services and promotes accessibility to local services by a range of sustainable modes of transport.

**Policy SSA14(1)** – in accordance with policy CS6 allocates 14.32 hectares at Coed Ely for B1/B2 development.

**Policy SSA21(6)** promotes the extension and enhancement of cycle paths and community routes, including the Pontypridd to Tonyrefail via Llantrisant cycle route.

## **Supplementary Planning Guidance**

Design and Placemaking

Nature Conservation

Planning Obligations

Access Circulation and Parking  
Employment Skills

### **National Guidance**

In the determination of planning applications regard should also be given to the requirements of national planning policy which are not duplicated in the Local Development Plan, particularly where national planning policy provides a more up to date and comprehensive policy on certain topics.

Planning Policy Wales Edition 11 (PPW) was issued on 24<sup>th</sup> February 2021 in conjunction with Future Wales: The National Plan 2040 (FW2040). PPW incorporates the objectives of the Well-being of Future Generations (Wales) Act into town and country planning and sets out Welsh Government's (WG) policy on planning issues relevant to the determination of all planning applications. FW2040 sets out the National Development Framework for Wales (NDF), Welsh Government's current position on planning policy at regional and national level.

It is considered that the proposed development is consistent with the key principles and requirements for placemaking set out in PPW; and is also consistent with the Well-being of Future Generations (Wales) Act's sustainable development principles through its contribution towards the Welsh Ministers' well-being objectives of driving sustainable development and building healthier communities and better environments.

It is also considered the proposed development is compliant with the NDF, with the following policies being relevant to the development proposed:

- Policy 1 – Where Wales will grow – Employment/Housing/Infrastructure
- Policy 2 – Shaping Urban Growth – Sustainability/Placemaking
- Policy 3 – Supporting Urban Growth – Council land/Placemaking/developers/regeneration/sustainable communities'/exemplar developments.
- Policy 9 – Resilient Ecological Networks – green infrastructure/ecology  
SE Wales Policies
  
- Policy 33 – National Growth Areas Cardiff Newport & the Valleys –  
SDP/LDP/large schemes.

PPW Technical Advice Note 5: Nature Conservation and Planning;  
PPW Technical Advice Note 12: Design;  
PPW Technical Advice Note 16: Sport Recreation and Open Space;  
PPW Technical Advice Note 18: Transport;  
PPW Technical Advice Note 19: Telecommunications;  
PPW Technical Advice Note 23: Economic Development.

Manual for Streets

### **REASONS FOR REACHING THE RECOMMENDATION**



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 this instance the applicants are submitting an application under Section 73 of the Town & Country Planning Act 1990 to vary the time limiting conditions imposed under conditions 1(c) and (d) of planning permission 09/0386/13 to allow for further time for the submission of reserved matters in the development of the site. In such circumstances the Local Planning Authority are required to consider only the conditions subject to which the planning permission should be granted and in doing so the Local Planning Authority must consider whether there has been any change in policy or any other material circumstance that might affect the proposal. If the application is successful, this results in the grant of a new permission.

The Local Planning Authority may grant the permission subject to conditions differing from those to which the previous permission was granted or refuse the application. The Local Planning Authority however do not have the power to impose conditions which could not have been imposed on the original permission nor impose conditions that would result in a fundamental alteration to the development approved by the original application. Whether the application is granted or refused the original grant of planning permission would remain.

The key determinants in this case will be the change in planning policy that has occurred at the local and national level since planning permission was first granted for the development of the site in 2011 along with any other change in material circumstances that might have arisen in the intervening period that affects the consideration of these proposals.

Applications made under Section 73 of the Town & Country Planning Act 1990 allow the Local Planning Authority to do one of two things when an applicant seeks to vary the condition, it can: -

- (a) Grant consent either with or without conditions; or,
- (b) Refuse.

In that the Council can approve with or without conditions, it is also appropriate to consider the extent and nature of all the previous conditions attached and if the application is to be granted amend them to reflect current circumstances and requirements

Members will note that the objections raised in respect of the current application cover a limited number of topic areas though clearly there is a concentrated focus on the impact of the development on local ecology. Keeping in mind the nature of the current application and the process that has to be followed in its determination as described above, the following comments are offered.

## **Main Issues:**

### **Procedural matters**

The 2009 outline planning permission (09/0386/13) has been implemented inasmuch as development has occurred at the site with the new access road, factory unit on plot C3 and the provision of the foul pumping station, and the site is an active development site.

### **Principle of the proposed development**

The application site lies within the Southern Strategy Area in Tonyrefail as defined in the Local Development Plan. The site is allocated for employment development in its totality under LDP policy SSA14.1 for use class B1 and B2 (light and general industrial) uses. The purpose of the policy designation is the support of the key settlement of Tonyrefail by promoting growth in the local economy. The proposal is only partially compliant with the LDP allocation and policies CS6 and SSA14.1 as when outline planning was first granted, before the formal adoption of the LDP other uses were included as part of the development. As such the D1 use classes previously approved are now, strictly speaking contrary to the LDP allocation though they might also be considered compatible or even complimentary if for example they included something in the nature of a training facility.

Issues relating to LDP policies AW5, AW6, AW8 and AW10 are addressed under individual subject headings below. Policies CS10 and AW14.2 relate to the protection of the sandstone mineral resource, and given that the site has been reclaimed and in parts redeveloped it is not considered they are relevant in the consideration of the current planning applications as access to them in the immediate vicinity of the site would be compromised by existing development. The cycle path requirement subject of LDP policy SSA21.6 has already been met in the improvements to the site access that were completed in 2020.

National policy encourages local planning authorities to support development that generates economic prosperity and regeneration but also requires that consideration be given to maintaining and enhancing biodiversity. Given that the site is intended to deliver a substantial amount of employment related development over a 30-year period it will undoubtedly contribute to the regeneration and economic prosperity of the County Borough as well as LDP policies CS2, CS6 and SSA4. Additionally, and notwithstanding the concerns expressed by local residents and those from further afield, the site remains capable of national sustainable place making outcomes and its obligations under the Wellbeing of Future Generations Act providing that it is developed in a sensitive manner developing ecological resilience and how the recreational element of the approval is put to use.

### **Ecology and environment**

In dealing with this application to renew planning permission for the redevelopment of this brownfield site the changes to ecology and environmental requirements have been the most marked in terms of how the site has to be managed moving forward

and it is the subject that has also generated the greatest concern from interested groups and the public in consultation.

Objectors have called for up to date detailed and ecological information and not a desk study. The Addendum to the environmental statement has been prepared using a combination of desk study and field survey information collected during 2020 along with historical data on ecological receptors derived from data accumulated between 2008 and 2020. Ecological value at the site increased between 2009 and 2015 and decreased between 2016 and 2020 due to clearance works in 2016 followed by enabling works in 2018. The applicants have adopted a precautionary approach where a higher value based on historic information is assigned to ecological receptors providing robust results even where data is more than 2 years old the applicants consider the impacts to have been correctly identified and appropriate mitigation proposed.

The site is acknowledged as a brownfield site and a legacy of the coal mining industry. Brownfield habitat will be lost as a result of the employment development notwithstanding the provision of pockets of retained and enhanced brownfield habitat on each plot and within the northern area of public open space. This though is balanced against significant retention and beneficial ecological management of a significant expanse of woodland and hedgerow, additional landscape planting and the provision of public open space /designated retained habitat proposed, which is specifically designed to build ecological resilience in the long term and to provide enhanced biodiversity connectivity.

Further survey work has taken place through 2021 to supplement the findings of the Environmental Statement. This will inform the design approach to be adopted on a plot by plot basis as prescribed by the Landscape and Habitat Management Plan (LHMP) submitted in July 2021. The LHMP will provide a basis for ensuring the continuous assessment and management of site biodiversity. The mechanism for delivering this will be a suite of one, five and ten yearly surveys undertaken in consultation with the County Ecologist to establish accurate data for monitoring purposes and to inform management decisions. Extended ecological surveys will be undertaken where necessary. The LHMP will be subject to annual review by a management liaison group.

The environmental statement in its ecology section identifies that there would as a result of the proposals potentially be an adverse effect on marshy grassland and invertebrates that equate to significant effects at the local level and are considered minor adverse effects in EIA regulations terminology. However, it also identifies some significant beneficial effects at the local level for amphibians, bats, dormice and reptiles which equates to minor beneficial effects in EIA regulations terminology. Neither impact is considered significant. If Marsh Fritillary colonise the site as a result of habitat management and the encouragement of Devil's Bit Scabious on the site this would be considered a significant effect at County level and a significant moderate beneficial effect of the scheme.

One of the criticisms of the current proposal is the lack of a spring or mid-summer survey for bats. The applicants point out that the autumn 2020 survey did not reveal any significant difference in the use of the site by bats when compared with the 2008

surveys. They also note that NRW have not raised this as an issue. Bat boxes have been installed in the southern and western mitigation areas of the site as a result of recent on site works and that this along with additional planting provided as a requirement of the LHMP means that active management of the woodland areas will provide significant benefits to bat species. The plot by plot lighting approach as a requirement of planning conditions will limit the negative impacts of any light spillage.

Whilst the criticism that the proposals failed to evaluate the impacts of development on fungi were at the time legitimate, the applicants have subsequently provided a supplementary fungi report to the ES addendum report. The report evaluates the fungi presence across the site and outlines the implications for development of the site generally and in respect of specific plots and sets out a series of mitigation measures for fungi as follows

- Retention and protection of key areas.
- Update the existing LHMP to include specific prescriptions relating to fungi including retention of deadwood, prohibition of fungicides and stem injection of Japanese Knotweed. (this has been addressed within the LHMP submitted in July)
- Public open space habitat on the upper plateau to be managed for fungi (e.g. Waxcaps).
- On-going spring and summer surveys to be carried out in 2021; and
- Resultant monitoring programme to be agreed with the County Ecologist in the updated site wide LHMP. (this has been addressed within the LHMP submitted in July)

Based on the survey findings and mitigation measures proposed it is concluded that the rarer fungi can be maintained and that with ongoing management through the LHMP there are no residual impacts for fungi. Members should note that the fungi value of the site is highly significant and the LHMP must be required to incorporate specific long term management and monitoring objectives in order to maintain current interest and encourage further enhancement. (this has been addressed within the LHMP submitted in July)

The original 2009 environmental statement did not include an assessment of invertebrates and the 2020 assessment provides a list of invertebrate species recorded at the site based on a SEWBREC review. The 2020 environmental statement concludes that during the construction phase and as a result of the precautionary approach adopted as a result of the lack of data there is considered to be a risk of significant adverse effects at a County level. Consequently, the environmental statement takes a precautionary approach with regard to this issue. The environmental statement recognises a significant residual adverse effect on invertebrates as a result of the loss of colliery spoil habitat and promotes mitigation and management to address the issue through habitat creation and management changes to be implemented through the LHMP. The Butterfly Conservation Trust have expressed specific concerns relating to the Marsh Fritillary Butterfly and its habitat suggesting that the proposals should be supported with up to date data. The applicants point out that Devils Bit Scabious has been incorporated into the infrastructure landscape works which along with improved management of grassland habitats will also ensure suitable habitat for adults is also present. Data relating to the Marsh Fritillary butterfly will be

collected as part of the 2021 invertebrate surveys and will be used to inform site specific Wildlife Protection Plans and development briefs. To maintain invertebrate interest in the site the LHMP will have to ensure the protection, restoration and management of a network of the brownfield/ colliery spoil habitat.

Concerns have also been expressed by objectors in terms of the general botanical interest across the site, particularly with regard to coal spoil flora. The applicants point out that the plots at the northern end of the site will largely be retained for ecological mitigation in one form or another. As a result, the 2020 environmental statement concludes that the loss of marshy grassland on the upper plateau which is the area of greatest interest is not significant. Similarly, the margins of the plateaux areas will be retained for the coal spoil related flora through the LHMP and appropriate development briefs for individual sites. The Council's ecologist is also concerned that in addition to what the applicants will be promoting for the botany of the area that the LHMP also needs to include and address the lower plant and lichen surveys/assessments. (this has been addressed within the LHMP submitted in July)

If the site is to continue in development it is clear that ecological and environmental considerations need to be given greater attention. The applicants aim to achieve this through the strict implementation of a site wide LHMP (submitted July 2021) and through specific development briefs for each plot as it comes forward for development, alongside a regime of surveying on an annual or five yearly basis as per the requirements of the LHMP (submitted July 2021) with a capacity for immediate action as and when specific needs are identified. Given the circumstances this would seem a reasonable approach that could meet the needs of all concerned whilst delivering biodiversity maintenance and enhancement alongside the sustainable development of this site, and as such the proposals are considered compliant with Local Development Plan Policies AW6(14) and AW8.

### **Socio-economic considerations**

When originally considered for redevelopment between 2009 and 2011 it was considered that the redevelopment of the site would take place over a period of time spanning approximately 30 years. Current estimations are that the site could be built out within the next 10 – 15 years and the agent also advises that Welsh Government have a number of investors ready to bring detailed proposals for the site forward should this application prove successful. As well as the jobs created through the construction phase at the site when fully complete it is envisaged that the site could provide up to 1100 full time jobs, helping to address deprivation and social inequality in the heart of the valleys. As such the current proposals are well aligned with the objective of Local Development Plan Policies CS2 and SSA4 which aim to promote large scale regeneration schemes in the key settlement of Tonyrefail in a manner that supports and reinforces that role

### **Transportation**

The agent takes the view that there has been no change in circumstances since the original Transport Assessment and Environmental Statement that could lead the Local Planning Authority to conclude that the transportation impacts of the proposed development are anything other than acceptable. The Councils, Transportation

Section acknowledges the improvements that have been made to the site access road and sustainable transport provisions in particular in recent years and subject to appropriate conditions and Section 106 provisions have no objections to the proposed development. The proposals are therefore considered compliant with Local Development Plan Policy AW5(2). Members should also note that the highway improvements implemented at the site in recent years have addressed some of the original planning conditions which will no longer need to be applied.

### **Cultural Heritage and Archaeology**

The cultural heritage and archaeological value of the site has not altered since the original grant of planning permission. It still presents no barrier to the comprehensive redevelopment of the site, as such the proposals are compliant with national policy and Policy CS2(7) of the Rhondda Cynon Taf Local Development Plan

### **Air Quality**

The original environmental statement identified a medium risk from dust during the construction phase of the site this though it was concluded could be adequately controlled through a construction environmental management plan and that remains the case now. The other potential source of pollution identified were the biomass boilers proposed at the time, the impacts of which were also deemed to be acceptable. Members should note that the provision of biomass facilities at the site are dependent upon there being sufficient demand within the site for such facilities. It is not considered therefore that there would be any case to resist the current proposals and as such they are compliant with the requirements of Local Development Plan policy AW10(1).

### **Landscape and Visual Impact**

The redevelopment of the site with buildings at an industrial scale will inevitably result in impact on the landscape generally and the visual amenity of the locality in particular. However, this is a matter that can be addressed through quality design at the detailed proposals stage. Furthermore, the western boundary of the site retains much of its woodland and elements of screening between the site and the residential areas of Coedely are retained. In this respect there has been little or no change since the 2011 permission where the consequences of the redevelopment of the site in landscape and visual terms were deemed acceptable, and they remain so. As such it is considered the current proposals remain compliant with the visual amenity requirements set down in Local Development Plan Policies AW5 & AW6 insofar as its requirements relate to the landscape and visual impact requirements are concerned.

### **Noise**

The 2009 environmental statement evaluated noise from construction and from vehicular traffic and in the worst case scenario, noise levels from the development would be below the noise levels already experienced by the nearest residential properties from existing activity and the bypass road in particular. Though the study also acknowledged that there was also potential for a slight adverse effect at the site entrance. The applicants take the view that this remains the case and that there is no need for an update with regard to this issue. Members should note that Public Health

and Protection have not objected to the proposals and have not flagged up noise as a potential issue in the redevelopment of the site. As such the proposals are considered compliant with the requirements of Local Development Plan Policy AW10(2).

### **Flood Risk**

The addendum to the environmental statement submitted as part of the current application has been updated to reflect the changes made to Natural Resources Wales' Development Advice Maps (DAMs) and to take account of the requirement for SUDs when considering the drainage of the proposed development. Members should note that even though small parts of the site lie within flood zones B and C the less vulnerable nature of the development serves to make it acceptable, particularly as it relates only to peripheral undevelopable areas of the site for the most part. Furthermore, Members should note that neither Natural Resources Wales nor the Council's own Flood Risk Management section have raised objection to the development on this or any other basis relating to flooding. As such the proposals are considered compliant with the requirements of Local Development Plan Policy AW10(8).

### **Ground Conditions**

The environmental statement addendum submitted in support of this application presents an update on the 2009 document recording changes that have resulted from further remediation and updated surveys. In respect of the redevelopment of the site appropriate mitigation at the construction and operational phase of development remains the appropriate approach and that will result in no significant adverse impacts arising. Consequently, the proposals are considered acceptable in principle in terms of the requirements of Local Development Plan policy AW10(4) & (6).

### **Impact on the character and appearance of the area**

The site is west of the A4119 on the site of the former colliery and coke works at Coedely. The site has been reclaimed in a series of plateaux areas which is a natural consequence of its elongated nature. The site also possesses planted areas between plateaux and at its boundaries. The site was reclaimed for the specific purpose of redevelopment so within the site, particularly as it has been partially redeveloped, it is fully expected that the character and appearance of the area will alter as it is redeveloped. This is an outline application so matters of detail will be left to the approval of reserved matters and as long as the standards set in the initial development of plots at the site are met or bettered when the balance of the site comes forward the impacts of development on the character of the site itself will be acceptable.

The site is distinct from the residential areas of Coedely as was the colliery and coke works before it and its development would be discreet and set within its own boundaries and clearly distinguishable and separated from the residential areas by the A4119 and river Ely. It currently presents the appearance of a site that has been prepared and is ready for redevelopment. The layout which is already to a large extent established presents a linear and legible site that offers the potential for a mixture of commercial developments of varying size and type. As such and in principle the

proposals satisfy the requirements of Local Development Plan Policies AW5 and AW6 insofar as they relate to the character and appearance of the area.

### **Impact on residential amenity and privacy**

As mentioned above the application site lies to the west of the village of Coedely with a flat wooded area, the river Ely and the A4119 lying between the two. As such it is considered that there is sufficient separation between the application site and the main residential area to ensure that there are no impacts on the residential amenity and privacy of existing residents of Coedely that would result from the development proposed, particularly when the above findings relating to such matters as noise and air quality are also taken into account. To the west or south west of the site there are a few isolated residential properties ranging in distance from 118m to 360m from the site boundary, this taken together with the fact that these properties are well elevated above the site means that they are sufficiently distant that the redevelopment of the site would have acceptable impacts in terms of their privacy and amenity. As such the application is considered acceptable in terms of Local Development Plan policies AW5 and AW6 insofar as they relate to this issue.

### **Community Infrastructure Levy (CIL) Liability**

The Community Infrastructure Levy (CIL) was introduced in Rhondda Cynon Taf from 31 December 2014.

As this is a section 73 application which solely relates to the extension of time limits for the submission of reserved matters and the commencement of development, no CIL is payable.

### **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.

The Welsh Government Development Management Manual and Welsh Office Circular 13/97 Planning Obligations provides procedural guidance on the role of planning obligations in mitigating the site-specific impacts of unacceptable development to make it acceptable in planning terms. The Welsh Government Development Management Manual also advises planning obligations should only be used where it is not possible to address unacceptable impacts through a planning



condition and when it meets the three tests above. Further guidance regarding what types of obligations developers may be expected to contribute towards is also contained within Policy AW4 of the Local Development Plan and the Council's SPG on Planning Obligations, however it is made clear that this is intended to form the basis of negotiations between all parties.

### **The Section 106 requirements in this case**

In this instance, the original planning application was subject to a section 106 agreement and this will need to be updated/varied in relation to the current application specifically the requirements for the Section 106 agreement are –

Highway contributions payed on a phased basis as follows –

- interest at 4% above the base lending rate of Barclays Bank plc from time to time
- £197,000 payable prior to the beneficial occupation of 12,150 square metres of floorspace;
- £184,000 payable prior to the beneficial occupation of 24,000 square metres of floorspace;
- £42,250 payable prior to the beneficial occupation of 26,500 square metres of floorspace;
- £42,250 payable prior to the beneficial occupation of 29,000 square metres of floorspace;
- £42,250 payable prior to the beneficial occupation of 31,500 square metres of floorspace;
- £42,250 payable prior to the beneficial occupation of 34,000 square metres of floorspace.

Public Transport & infrastructure contributions payed on a phased basis as follows –

- £9,000 payable prior to the beneficial occupation of 12,150 square metres of floorspace;
- £8,000 payable prior to the beneficial occupation of 24,000 square metres of floorspace;

- £2,000 payable prior to the beneficial occupation of 26,500 square metres of floorspace;
- £2,000 payable prior to the beneficial occupation of 29,000 square metres of floorspace;
- £2,000 payable prior to the beneficial occupation of 31,500 square metres of floorspace;
- £2,000 payable prior to the beneficial occupation of 34,000 square metres of floorspace.

The designation of Plot N2 for outdoor recreational space

The payment of a public right of way contribution of £16,000

The agreement and implementation of a landscape and habitat management plan for period of 25 years from the date of the planning permission.

## **Conclusion**

The application is considered to comply with the relevant policies of the Local Development Plan and national planning policy as described in PPW11 and Future Wales 2040. Though not allocated as a strategic site in the current Local Development Plan the site given its overall size shares similar characteristics. Spatially and strategically the site is appropriately located to fulfil its intended function of encouraging inward investment, jobs and addressing the socio economic inequality that has been characteristic of the locality for too long. In the years since the original grant of planning permission the capacity for movement within as well as to and from the site has been improved including the capacity to reach the site via sustainable transport modes. The planning application seeks to promote the site as a whole as a place for industry to develop and thrive whilst at the same time better respond to the growing ecological importance of the site through the development of the landscape and habitat management plan building greater ecological resilience beyond what has already been re-established at the site.

- Sustainable places which are attractive, sociable, accessible active, secure welcoming, healthy and friendly
- Socioeconomic duty
- Achieving wellbeing through placemaking.
- Strategic and spatial choices
- Active and social places
- Productive and enterprising places
- Distinctive and natural places

**RECOMMENDATION: Grant**

1. a) Approval of the details of layout, scale and appearance of the building(s), and the landscaping of the site (hereinafter referred to as “the reserved matters”) shall be obtained from the Local Planning Authority in writing before any development is commenced.  
  
(b) Plans and particulars of the reserved matters referred to in (a) above relating to the layout, scale and appearance of any building to be erected, and the landscaping of the site shall be submitted in writing to the Local Planning Authority and shall be carried out as approved  
  
(c) Applications for the approval of reserved matters shall be made before the expiration of ten years from the date of this permission.  
  
(d) The development hereby permitted shall be begun before whichever is the latter of either (i) the expiration of 12 years from the date of this permission or (ii) the expiration of 2 years of the final approval of the reserved matters or in the case of approval on different dates the final approval of the last such matter to be approved.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990.

2. The development hereby approved shall be undertaken in accordance with the approved Site-Wide Landscape & Habitat Management Plan (Arcadis, 300-RP-C0002 July 2021). Prior to the occupation of each development plot, a plot specific landscape management plan and habitat management plan shall be submitted to and approved in writing by the Local Planning Authority. The landscape management plan shall be carried out as approved, unless otherwise agreed in writing by the Local Planning Authority”.

Reason: In the interests of maintaining and enhancing biodiversity in accordance with policies AW5 and AW8 of the Rhondda Cynon Taf Local Development Plan

3. No development on any plot, as shown on drawing PA04 rev. H, shall take place until a scheme for foul drainage arrangements for that plot have been submitted to and approved in writing by the Local Planning Authority”.

Reason: to ensure adequate disposal of foul and surface water drainage in accordance with policy AW10 of the Rhondda Cynon Taf Local Development Plan.

4. No plot as shown on drawing PA04 rev H shall be occupied until the approved foul drainage works have been completed in accordance with the approved plans”.

Reason: to ensure adequate disposal of foul and surface water drainage in accordance with policy AW10 of the Rhondda Cynon Taf Local Development Plan.

5. No infiltration of surface water drainage into the ground is permitted other than with express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

Reason: There is an increased potential for pollution of controlled waters from inappropriately located infiltration systems such as soakaways, unsealed porous pavements systems such as soakaways, unsealed porous pavement systems or infiltration basins, and to ensure compliance with policy AW10 of the Rhondda Cynon Taf Local Development Plan.

6. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: There is an increased potential for pollution of controlled waters from inappropriate methods of piling, and to ensure compliance with policy AW10 of the Rhondda Cynon Taf Local Development Plan.

7. The development of each plot, as shown as shown on drawing PA04 rev. H shall not begin until a scheme to deal with contamination of that plot has been submitted and approved by the Local Planning Authority. The scheme shall include all of the following measures unless the Local Planning Authority dispenses with any such requirement specifically and in writing.

1. A desktop study carried out by a competent person to identify and evaluate all potential sources and impacts of contamination relevant to the site. The desktop study should contain a Conceptual site model. A copy of the desktop study shall be submitted to the Local Planning Authority without delay upon completion.
2. A site investigation shall be carried out by a competent person to fully and effectively characterise the nature and extent of any contamination and its implications. The site investigation shall not be commenced until a desktop study has been completed satisfying the requirements of paragraph (1) above
3. A written method statement for the remediation of contamination affecting the site shall be agreed in writing with the Local Planning Authority prior to commencement and all requirements shall be implemented and completed to the satisfaction of the Local Planning Authority by a competent person. No deviation shall be made from this scheme without the express written agreement of the Local Planning Authority.

Reason: In the interest of health and safety and environmental amenity and so as to accord with policy AW10 of the Rhondda Cynon Taf Local Development Plan.

8. Each plot, as shown as shown on drawing PA04 rev. H, shall not be occupied and/or operated until the measures approved in the scheme (referred to in Condition 7) have been implemented. A suitable validation report of the proposed scheme is to be submitted and approved by the Local Planning Authority.

Reason: In the interest of health and safety and environmental amenity and so as to accord with policy AW10 of the Rhondda Cynon Taf Local Development Plan.

9. If, during development, contamination not previously identified is found to be present on any plot, as shown on drawing PA04 rev. H, then no further development of that plot (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Reason: Given the previously identified potential remaining uncertainties at the site after the remediation, it is considered possible that there may be unidentified areas of contamination at the site that could pose a risk to controlled waters if they are not remediated, and to ensure compliance with policy AW10 of the Rhondda Cynon Taf Local Development Plan.

10. No building shall be brought into use until a report has been submitted advising whether acoustic insulation measures are required for that building, along with measures to provide such insulation where necessary has been submitted to and approved in writing by the Local Planning Authority and the building has been acoustically insulated as appropriate.

Reason: To ensure that noise emitted from this development is not a source of nuisance to occupants of nearby residential properties in accordance with policy AW10 of the Rhondda Cynon Taf Local Development Plan.

11. Notwithstanding the submitted layout plans, the approved roundabout junction improvements on the A4119 (COD-ARC-XX-000-SK-C-0001 P01) serving the proposed development site shall be completed prior to the completion of 12,150 square metres of floorspace within the site, in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

Reason: to ensure the adequacy of the proposed development in the interest of the safety of all highway users in accordance with policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan

12. Notwithstanding the submitted layout plans, full engineering design and details of the access to each plot as shown on drawing PA04 rev. H shall be submitted to and approved in writing by the Local Planning Authority prior to works commencing on the plot to which they relate. The approved details shall be implemented prior to beneficial occupation of the plot to which they relate.

Reason: To ensure the adequacy of the proposed development, in the interests of highway safety, in accordance with policy AW5 of the Rhondda Cynon Taf Local Development Plan

13. No obstruction or planting when mature, exceeding 0.9 metres in height shall be placed within the required vision splay areas.

Reason: To ensure that adequate visibility is maintained, in the interests of highways safety, in accordance with policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan

14. Prior to the beneficial occupation of each plot as shown on drawing PA04 rev. H space shall be laid out within that plot for vehicles to be parked in accordance with details to be first submitted to and approved in writing by the Local Planning Authority prior to the commencement of development of that plot. The parking areas shall not thereafter be used for any purpose other than the parking of vehicles.

Reason: To ensure that adequate facilities are provided within the curtilage of the site and retained thereafter, in accordance with policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

15. Prior to the commencement of development of each plot as shown on drawing PA04 rev. H, including any works of site clearance, a construction method statement relating to that plot of the development shall be submitted to and approved in writing by the Local Planning Authority to provide for,

- a) the means of access into the site for all construction traffic,
- b) the parking of vehicles of site operatives and visitors,
- c) the management of vehicular and pedestrian traffic,
- d) loading and unloading of plant and materials,
- e) storage of plant and materials used in constructing the development,
- f) wheel washing facilities,
- g) the sheeting of lorries leaving the site.

The approved Construction Method Statement shall be adhered to throughout the development of that plot unless agreed otherwise in writing by the Local Planning Authority.

Reason: In the interests of highway safety, in accordance with policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

16. Prior to the beneficial occupation of each plot as shown on drawing PA04 rev. H a Travel Plan relating to that plot shall be submitted to and approved in writing by the Local Planning Authority. The travel plan shall include proposals for physical works including details of footpaths, footways, cycle ways, cycle parking, bus lay-bys shelters and signage, and monitoring compliance with the proposed targets set out in the travel plan. The details as approved shall be implemented in accordance with a timescale to be agreed with the Local Planning Authority.

Reason: To ensure a satisfactory provision of alternative travel modes in accordance with policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

17. No development of any plot, as shown on drawing PA04 rev. H, shall take place until a Wildlife Protection Plan for Construction for that plot has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

a) an appropriate scale plan showing 'Wildlife Protection Zones' where construction activities are restricted and where protective measures will be installed or implemented;

b) Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;

c) A timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife could be harmed (such as nesting bird season, hibernating and breeding amphibians and reptiles, etc.);

d) Persons responsible for:

i) Compliance with legal consents relating to nature conservation;

ii) Compliance with planning conditions relating to nature conservation;

iii) Installation of physical protection measures during construction;

iv) Implementation of sensitive working practices during construction;

v) Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction;

vi) Provision of training and information about the importance of the 'Wildlife Protection Zones' to all construction personnel on site.

All Construction activities shall be implemented with the approved details and timing of the plan unless otherwise approved in writing by the Local Planning Authority.

Reason: To afford protection to animal and plant species in accordance with policy AW8 of the Rhondda Cynon Taf Local Development Plan.

18. Prior to the beneficial occupation of each plot, as shown on drawing PA04 rev. H, a lighting scheme shall be implemented for that plot in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

Reason: To avoid any impacts on bats, in accordance with policy AW8 of the Rhondda Cynon Taf Local Development Plan.

19. Foul flows from the proposed development shall connect to the 600mm public combined sewer at a maximum discharge rate of 13.5 litres/second in to manhole ref: ST02851401 on the statutory sewer plan

Reason: In the interests of amenity and to prevent pollution in accordance with policy AW10 of the Rhondda Cynon Taf Local Development Plan.

20. The development hereby approved shall be carried out in accordance with the approved plans and documents received by the Local Planning Authority, unless otherwise to be approved and superseded by details required by any other condition attached to this consent:

1. Drawing No. PA 04 Rev H
  - Site Location plan
  - Ecology, Landscape & Habitat Management Explanatory Note (December 2020).
  - Environmental Statement Addendum – Volume 1 (December 2020).
  - Environmental Statement Addendum Appendices & Figures – Volume 2 (December 2020).
  - Environmental Statement Addendum Non-Technical Summary – Volume 3 (December 2020).
  - Phase 1 Ecology Report (December 2020)
  - Bat Survey Report (December 2020), and,
  - Drainage Strategy (December 2020)
  - Supplementary Fungi Report to Environmental Statement Volume 1 (December 2020) Ecology Chapter 10 – February 2021
  - Site wide Landscape and Habitat Management Plan (July 2021)
  - Environmental Statement Addendum Update – Cumulative Impact Assessment (July 2021)
  - Environmental Statement Addendum update – Ecology Chapter (July 2021)
  - Future Wales: The National Plan and PPW11 Update Note (April 2021)
  - Water Resources Detailed Quantitative Risk Assessment (June 2021)

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