

PLANNING & DEVELOPMENT COMMITTEE

20 OCTOBER 2022

REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT

PURPOSE OF THE REPORT

Members are asked to determine the planning application outlined below:

APPLICATION NO: 22/0600/08 (CHJ)
APPLICANT: Service Director - Highways and Engineering
DEVELOPMENT: Relocation of colliery material from the Llanwonno Upper Tip to a site adjacent to Tylorstown Tip, involving the formation of a new landform and reprofiling/stabilisation of the upper tip site, plus new drainage, formation/improvement of access tracks/paths, vegetation regeneration and associated ancillary works.
LOCATION: LAND AT LLANWONNO UPPER TIP AND LAND TO THE REAR OF TYLORSTOWN TIP, TYLORSTOWN, CF43 4UF
DATE REGISTERED: 01/06/2022
ELECTORAL DIVISION: Tylorstown and Ynyshir

RECOMMENDATION: Approve

REASON: The removal of the tip will significantly reduce the likelihood of a landslide that could have a devastating effect on the surrounding area. The resulting landform, while impacting on a local landmark, is acceptable and will not have any significant impact on the landscape quality or amenity of the area.

REASON APPLICATION REPORTED TO COMMITTEE:

The Council is the applicant, and the scale and nature of the proposed development is such that Committee determination is considered necessary.

BACKGROUND INFORMATION

In February 2020, Storm Dennis caused the Llanwonno Upper Tip to fail near the village of Tylorstown. This resulted in a large landslide, followed by a smaller, secondary event.

The landslide resulted in approximately 60,000 cubic metres of colliery tip material sliding down the hillside of which, about half, filled the valley floor from the toe of the slope outwards in an extremely low angled and widely distributed envelope, filling the Afon Rhondda Fach channel and diverting its course to the western side of the valley floor. The diverted river began eroding the western bank creating a 5-metre-high

unstable face which threatened to undermine the Rhondda Fach Leisure Centre overflow car park adjacent to the top of the bank.

The slipped material also damaged and breached a main sewer beneath the leisure centre, downstream of the landslide toe, felled numerous trees in its wake and covered a water main below the former railway line used as a “leisure route”.

Emergency works were undertaken to address the threats and damage from the landslide and Committee may recall determining (approving) two Planning applications (Phases 1, 2 & 3) for the temporary storage of the slipped material. A further application will be submitted shortly which will propose the final contouring, landscaping and after-use of that site.

APPLICATION DETAILS

This is a detailed application for further land reprofiling / tip removal in Tylorstown (Phase 4). The site area covers an area of approximately 30 hectares (74 acres)

The proposal involves:

- The removal of circa 195,000 cubic metres of material that remains within the Llanwonno Upper Tip, involving amended drainage and landscaping works.
- The re-profiling of the upper tip with approximately 35,000 cubic metres being re-used to “smooth-out” the current landscape “bowl” and providing associated drainage and landscaping works.
- The transportation of approximately 160,000 cubic metres of material along the disused tramway to be deposited on the nearby receptor site.
- Widening of the existing tramway in order to allow access for trucks and plant between the donor site and the receptor site and,
- Re-profiling, drainage and landscaping of the receptor site.

The application is subject to Environmental Impact Assessment (EIA) and has been submitted with an Environmental Statement (ES). The ES covers the following chapters / subject areas:

- Air Quality
- Cultural Heritage & Archaeology
- Landscape & Visual Effects
- Biodiversity & Nature Conservation
- Geology, Soils & Waste
- Noise
- Water Environment & Flood Risk
- Major Accidents & Disasters

- Pedestrians, Cyclists and Equestrians, and
- Cumulative Effects.

The nature and scale of the application means that a Pre-Application Consultation (PAC) has taken place and the application has been accompanied by a (statutory) PAC Report.

It is anticipated that the project, from start to finish, will take approximately 6 months to complete (from Spring to Autumn 2023).

The proposed “finished” land profile will be one of a flattened hillslope. It will require dealing with 195,000 cubic metres of deposited soil. Of this, 35,000 cubic metres will be used to infill features as the slip scar. The remainder material (160,000 cubic metres) will be deposited at the receptor site located to the east of Old Smokey. The donor site to be excavated covers the majority of the Llanwonno Upper Tip which will be reprofiled to match the surrounding terrain. It will have a maximum height of 7.8 metres. The sides will be engineered to provide a maximum slope of a 1 in 3 gradient. A small proportion of the Upper Tip beyond the northwest will be left in-situ as it falls outside the ownership of the Council. The applicant has advised that it is considered safe to leave this section as, in isolation, it will not pose a landslide threat.

The land area is irregularly shaped measuring approximately 500 metres long and between 70 metres and 130 metres wide.

Following completion of the deposition of the material, the scheme will rely on a natural regeneration process which is being trialled as part of this scheme, offering the potential to promote and conserve important and iconic Valley’s habitats in a way that will maximise ecological and social benefits.

Additional permanent drainage works will be required to ensure that the reformed hillside will remain stable. These will involve works to existing drainage features plus additional drainage mainly consisting of shallow ditches formed within the reprofiled embankment to convey run-off to existing drainage ditches, streams and runnels.

The majority of staff and smaller delivery vehicles will arrive from the west having travelled on the A4233. All vehicles will pass through the centre of Ferndale. Access to the site by larger vehicles, such as the low loaders delivering the vehicles to move the colliery material within the site, will be through the forestry road linking to the A4223 to the north of the site. The applicant has advised that, if required, a lead vehicle will be provided for the low loaders along with stop and go provision as they access the site from the haul road.

Minor alterations to the kerb line at the Blaenllechau Road junction will be required and the existing access to the site will be widened and improved. The scheme as been designed that allows the recovery of all materials to be undertaken without having to access the public road network. The haulage route used between the site will be along the disused tramway. The use of this route is estimated to save around 15,000 HGV road journeys on the local road network.

It is estimated that there will be an average of 135-140 HGV movements per day.

To facilitate the works, the tramway will be widened to approximately 5 metres at its widest (and dependent on vehicle size) with an overall length of 550 metres. It will be surfaced in crushed stone.

There is a construction compound proposed covering an area of approximately 0.57 hectares (1.4 acres) to the east of the haulage route, north-west of the receptor site. The compound will be floodlit purely for reasons of safety and security. Lighting will be “hooded” such that it is directed within the compound and not to surrounding areas. No other lighting is proposed to the remainder of the application site.

It has been estimated that there will be an average of 20 workers present on site over the 16-week duration. Site hours are anticipated to be 0800 to 1800 hours (8-6) from Monday to Friday and (potentially) 0800 hours to 1300 hours (8-1) on Saturdays.

SITE APPRAISAL

The proposal is located to the north of the settlement of Tylorstown, in the Afon Rhondda Fach valley. This is a steep sided valley. The lower valley sides are generally covered by woodland with open moorland typical at higher elevations. The area has historically been used in the extraction of coal and was previously occupied by numerous colliery sites. The area is, therefore, characterised by remnants of this past industry, most significantly, by the many landforms of deposited colliery material.

The site itself is relatively isolated with only a few properties in the immediate vicinity. There is significant built development to the west, north-west and south-west of the application site and its elevated position means that the site is highly visible from the densely populated opposite side of the valley.

The application site and its environs include several designations including the Old Smokey Slopes Site for Importance of Nature Conservation (SINC), St. Gwynno Forest SINC, Taff & Rhondda Rivers SINC and Blaenllechau Woodland SINC.

A number of protected species, including bats, reptiles, Great Crested Newts and breeding and wintering birds are also present within and around the site area.

There are 7 routes and areas of public access identified within and in the vicinity of the development site. They consist of a network of informal footpaths, 2 Public Rights of Way (which crosses through the development site), areas of open access land and public forest. There are also 2 cycle paths.

PLANNING HISTORY

There is no relevant Planning History **within** the application site that is considered material to the consideration / determination of this application. However, the following are considered to be of significance (and referred to within the report):

20/1312/08 - STATION ROAD, FERNDALE

Temporary deposit and storage of approximately 8,000m³ of material from Tylorstown landslip consisting of the formation of stockpiles, material consolidation, drainage, habitat/ecological mitigation measures and associated works.

Granted 11/02/2021

20/1313/08 - LAND ACROSS FROM OAKLANDS BUSINESS PARK, FERNDALE

Temporary deposit and storage of approximately 22,000m³ of material from Tylorstown landslip consisting of the formation of stockpiles, material consolidation, drainage, habitat/ecological mitigation measures and associated works.

Granted 11/02/2021

PUBLICITY

As part of the application process, the application was publicised by way of notices being placed in the vicinity of the site and a Notice in the local Press. A number of isolated properties were also notified by letter.

As a result of this exercise, **no correspondence** (objection or support) has been received.

CONSULTATION

As part of the application process, the following were also consulted in respect of the proposal. A brief precis of responses have been included for Committee's information:

NRW – no objection subject to condition

The Coal Authority – no objection

Fire Safety Officer – no response received.

Cadw (Welsh Historic Monuments) – no objection.

Glamorgan Gwent Archaeological Trust (GGAT) – no objection

Western Power Distribution – advises on the location of apparatus.

Dwr Cymru / Welsh Water (DC/WW) – no objection subject to condition

RCT Countryside (Ecology) – no objection subject to condition

RCT Public Health & Protection – no objection

RCT Public Rights of Way – PROW affected

RCT Highways & Transportation – no objection

RCT Flood Water and Tip Risk Management – no objection subject to condition.

POLICY CONTEXT

Shortly after the landslip at Tylorstown, the First Minister of Wales and the UK Government's Secretary of State for Wales met and agreed to establish a joint taskforce to assess, as a matter of priority and urgency, the status of coal tips in Wales and review the existing policy and legislative framework relating to disused coal tip management. Subsequently, the Coal Tip Safety Taskforce (CTST) was set up to undertake this work in co-operation with key partners such as the Coal Authority, Local Authorities, the Welsh Local Government Association (WLGA) and Natural Resources Wales.

National Planning Policy

Planning policy at a national level consists of the following documents which are material considerations that must be taken into account where they are relevant to the planning application:

- Planning Policy Wales - Edition 11 (Welsh Government, February 2021)
- Future Wales: The National Plan 2040;
- Technical Advice Note 5: Nature Conservation and Planning (Welsh Government, 2009);
- Technical Advice Note 11: Noise Planning (Welsh Government, 1997);
- Technical Advice Note 15: Development and Flood Risk (Welsh Government, 2004);
- Technical Advice Note 21: Waste (Welsh Government, 2014);
- Technical Advice Note 24: The Historic Environment (Welsh Government, 2017).

Future Wales: The National Plan 2040

Future Wales is Welsh Government's top-tier (overarching) national development framework. It is a strategy for addressing key national priorities through the planning system over the next two decades, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities.

It is a spatial strategy which does not seek to take decisions that are most appropriately taken at the regional or local level but does provide a strategic direction for all scales of planning and sets out policies and key issues to be taken forward at the regional scale.

The document follows a sequential structure, with each section building on the previous one as follows,

- Wales: An Overview,
- Setting and Achieving Our Ambitions,
- Strategic and Spatial Choices:
- Future Wales Spatial Strategy and The Regions.

Planning Policy Wales (PPW)

PPW provides the overarching land use planning policies of the Welsh Government. It is supplemented by a series of Technical Advice Notes (TANs) and Welsh Government Circulars. Together these documents provide the framework for the development and operation of local planning policy and development management discussed further in this section.

It states that the PPW objective is to “*ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales*” (para. 1.2).

The principle of sustainable development runs throughout the document, and it emphasises that there should be a “*presumption in favour of sustainable development*” (para. 1.18) when making decisions and accepts that they will be a balance of social, economic, environmental and cultural sustainability issues.

The PPW recognises that “*The health and well-being of people and places and the need to address climate change and its consequences provide added impetus for proactive action through the planning system*” (para. 3.37).

Walking and Cycling

PPW encourages both walking and cycling as sustainable modes of transport, leisure activities and also recognises their contribution towards healthier lifestyles.

Nature Conservation and Trees

The protection of species and habitats and the promotion of nature conservation interests generally are key themes of PPW. This is reinforced by additional guidance provided within TAN.5.

PPW recognises that “*Differentiation should be given to the relative significance of the designation within the hierarchy, when considering the weight to be attached to nature conservation interests*” (para. 6.4.13).

The effect on trees is an important consideration in any planning application and it is highlighted in PPW which states that the “*Where woodland or trees are removed as part of a proposed scheme, developers will be expected to provide compensatory planting.*” (para. 6.4.25).

Air Quality and Noise

The PPW requires developers to “*minimise population exposure to air and noise pollution...where it is practical and feasible to do so.*” (para. 6.7.4) and specifically in connection with temporary construction activities “*Where appropriate...require a construction management plan, covering pollution prevention, noisy plant, hours of operation, dust mitigation and details for keeping residents informed about temporary risks.*” (para. 6.7.26).

Historic Environment and Landscape

PPW states that “*decisions made through the planning system must fully consider the impact on the historic environment and on the significance and heritage values of individual historic assets and their contribution to*

the character of place.” (para. 6.1.9). This approach is supported by detailed guidance contained in TAN.24: The Historic Environment.

PPW encourages the consideration of landscape impacts as an integral part of the development planning process in order to preserve and enhance their qualities, it states *“All the landscapes of Wales are valued for their intrinsic contribution to a sense of place, and local authorities should protect and enhance their special characteristics, whilst paying due regard to the social, economic, environmental and cultural benefits they provide, and to their role in creating valued places.”* (para. 6.3.3).

Minerals and Waste Minimisation

Sections 5.12-14 of PPW describe the short and long-term goals for planning policy relating to waste and minerals in Wales and are supported in TAN.21. Minimising waste generated from development activity and minimising future mineral extraction to essential need only are key planks of the policy document. Further advice, specifically relating to coal deposits, is provided in paragraph 5.10.17 which states *“The safeguarding of primary coal resources is not required.”*

Local Planning Policy (the LDP)

The RCT development plan consists of the Rhondda Cynon Taf Local Development Plan up to 2021 (LDP). The LDP was adopted in March 2011 and currently forms the basis for taking development management decisions in the County Borough.

The LDP is still in effect, however, a review has concluded that a replacement plan is required, and the authority have set out a timetable for its preparation.

Given that the LDP was adopted in 2011, it is likely to contain policies and allocations that have been overtaken by events and/or desired changes in emphasis. Where they exist these instances should be recognised, however, as the new plan preparation is at the early stages it is considered that, with the above proviso, the adopted plan should retain its full weight in the determination of the application.

The Council has also produced Supplementary Planning Guidance – **Nature Conservation** (adopted 2011) which is also considered to be a material consideration in the determination of the application.

The most relevant text and policies contained in the LDP are listed and considered below.

LDP Objectives

Included in the LDP list of objectives is that seeking to deliver a better quality of life by encouraging *“a healthy and safe lifestyle and promotes well-being through improvement in access to green space in the north, ...and the protection of recreational space throughout the County Borough.”* (LDP Objective 5).

Core Policies:

Policy CS 1 – Development in the North

Sets out criteria for development in the Northern Strategy Area.

Area Wide Policies:

Policy AW 5 - New Development & Policy

Sets out criteria for development in relation to amenity and accessibility.

Policy AW 6 - Design and Placemaking

Requires development to involve a high-quality design and to make a positive contribution to placemaking, including landscaping.

Policy AW 8 - Protection and Enhancement of the Natural Environment

This policy seeks to protect the natural environment from non-sustainable development. It set out a number of tests against which development proposals will be judged. These will be acceptable where the proposal:

“...would not cause harm to the features of a Site of Importance for Nature Conservation (SINC) ...unless it can be demonstrated that:-

(a)The proposal is directly necessary for the positive management of the site; or

(b)The proposal would not unacceptably impact on the features of the site for which it has been designated; or

(c)The development could not reasonably be located elsewhere, and the benefits of the proposed development clearly outweigh the nature conservation value of the site.

There would be no unacceptable impact upon features of importance to landscape or nature conservation, including ecological networks, the quality of natural resources such as air, water and soil, and the natural drainage of surface water”

The policy further requires that:

“All development proposals...that may affect protected and priority species will be required to demonstrate what measures are proposed for the protection and management of the species and the mitigation and compensation of potential impacts. Development proposals must be accompanied by appropriate ecological surveys and appraisals”

Sets out criteria for the protection and enhancement of the natural environment.

Policy AW 10 - Environmental Protection and Public Health

Does not permit proposals where they would cause or result in a risk of unacceptable harm to health and/or local amenity.

Policy AW 14 – Safeguarding of Minerals

Safeguards minerals from developments that would sterilise them or hinder their extraction.

Strategy Area Policies:

Policy NSA 23 - Cycle Network Improvements

Promotes the extension, improvement and enhancement of the existing network of cycle paths. It specifically highlights the route from Pontygwaith to Maerdy.

Policy NSA 27 - Land Reclamation Schemes

Promotes a series of potential land reclamation schemes, one of which is identified as "*Tylorstown and Llanwonno land reclamation scheme*".

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.

Committee is advised that the application is relatively simple in what it seeks to achieve. There is a tip which has previously demonstrated that it has the potential to be unstable and result in a landslide. This was evidenced during Storm Dennis when an event caused significant disruption and resulted in the river being blocked and a sewer being damaged. The proposal seeks to remove the unstable elements of the remaining tip and store and redistribute the colliery material such that it removes the likelihood of any further landslips.

While it may be technically challenging (and expensive) to undertake this operation, there is no Planning policy that seeks to prevent developments of this type subject to the proposal not causing any significant harm to acknowledged areas of importance such as the water environment, highway safety considerations, noise, air quality, etc. expressed through policies at either a local or national level.

The principal issues in the consideration of this application are considered to be visual amenity (including landscape), the designation of the historic landscape, surface water drainage and ecology. There are issues such as highway safety, public access, noise and air quality, etc. that are also relevant.

Ecology (RCT)

The site has benefited from ecological assessments set out in Chapter 9 of the EIA, the Phase I habitat survey work of the PEA and a suit of additional surveys.

Habitat: The redline boundary of the site is contained within the Old Smokey Slopes SINC (Number 65), and the detailed Phase I habitat survey and the ES very accurately records and assesses the mosaic of fridd, heath, acid grassland, marshy grassland,

colliery spoil, flush and woodland/scrub within the SINC area affected (amounting to 8 Priority habitats and 27 different Phase I habitat types). The Priority Habitats identified being: Upland Oakwood River, Open Mosaic Habitat, Rock and Scree, Acid Grassland, Dwarf Shrub Heath, Purple Moor-grass and Rush Pasture and Fen and Swamp.

The habitat surveys have correctly identified areas of habitat in better condition within the SINC as including heathland and flush/raised bog habitat and areas of fringing woodland, and other areas of priority important habitat which are in poorer management condition but are still key habitat components of the SINC (and which crucially can be enhanced through better ecological management).

A significant area of SINC habitat affected by this application has already been disturbed and partially lost through the land slip. Works to remedy the land slip involve the removal and remodelling of the slipped area (with the need for some additional habitat impacts on adjacent SINC areas), the widening/forming of a haul route, the deposition of material into the receptor area and temporary areas set aside for construction works. The ES sets out there are impacts on areas of all 8 priority habitat types, this includes direct habitat losses, indirect impacts and, in the cases of wetland areas, hydrological impacts. The ES correctly identifies that without effective mitigation, there would be significant ecological implications. However, there is significant potential to minimise impacts during construction, and implement biodiversity mitigation and enhancement through careful design, site restoration and aftercare management. As a result, there has been considerable dialogue and design iteration related to drainage provisions, incorporation of biodiversity features within drainage features, the micro-topography of the receptor area, and restoration measures that maximise natural regeneration of habitats.

Of key importance in the delivery of ecological mitigation and enhancement is the commitment to a 25-year habitat management plan to run from the completion of the 5-year aftercare condition requirement of the Biodiversity Management Strategy and Ecological Method Statement). This long-term habitat management and monitoring area is on RCT-owned land which encompasses a large area that includes the red-line boundary of the application. The proposal is for that area to become a Colliery Spoil and Ffridd Nature Reserve. There is significant potential to therefore deliver effective long term ecological mitigation for restored ground and the receptor area, and a large-scale biodiversity enhancement through the better conservation management of the hillside SINC immediately adjacent to and adjoining the redline boundary.

With a 25-year HMP provision, the mitigation measures (as set out in Table 9.10 and 11), and enhancement opportunities (Table 9.12) are very deliverable. As such, the applicant's conclusion that there will be a *moderately beneficial* biodiversity outcome is a justified one

Breeding Bird Survey: 54 species are recorded with 59 individually confirmed breeding bird territories comprising 13 confirmed breeding species and 10 probable or possible breeding species. 11 are species of high conservation concern. Key to the ffridd/colliery spoil/marshy grassland (which are the main habitats affected by the

application) the survey recorded a suit of typical ffridd indicator species, these were skylark (7 territories), meadow pipit (6), tree pipit (2), stomechat (3) and whitethroat (5), in addition two territories of reed bunting (a species of marshy grassland) were also recorded, and grey wagtails were recorded nesting in riverbank debris. The site is assessed as being of 'local nature conservation value' for its breeding birds, which accords with the SINC designation which identifies breeding birds are a contributory designation feature (as opposed to a primary designation feature). Section 7 of the report identifies a series of precautionary nesting bird measures relating to sensitive site clearance works, and mitigation and enhancement in the form of nest boxes and long-term site management and aftercare. Through the long-term habitat management plan requirement for a colliery spoil/ffridd nature reserve there is significant potential to successfully mitigate nesting bird impacts and to deliver long-term enhanced nesting bird habitat through improved site management and habitat restoration.

Winter Bird Survey: 38 bird species were recorded, 3 being 'Schedule 1 Species' and 10 classed as species of 'principal importance in Wales'. 5 birds of prey were recorded, of which (in the context of the site) Kestrel was the most important. Bird box provision for kestrel is identified as a mitigation/enhancement measure and can be secured through the Biodiversity Mitigation Strategy planning condition. A number of the ffridd specialist species that nest at the site were also recorded. There are no over-riding winter bird constraints, but the report recommends the same precautionary measures of the CEMP requirement and the long-term enhancement opportunity of the HMP/Nature Reserve.

Great Crested Newt Survey: Two ponds identified as being 500 metres from the active site works were surveyed for great crested newt evidence. Both ponds were found to have average habitat suitability for great crested newts, and DNA assessment recorded evidence of Great Crested Newt in one of the ponds. The assessments concludes that the ponds are sufficiently far from the active site works that no further action/or licencing for Great Crested Newt is required. It is understood that NRW have not required Species Licencing and no specific mitigation or enhancement measures are required. The long-term habitat management proposals for the wider mitigation and enhancement proposal are likely to be beneficial for the great crested newt colony present in the pond, creating better structured terrestrial foraging habitat in enhancement areas closest to the pond.

Lower Plant Survey: The detailed lower plant survey recorded a range of semi-natural lower plant habitats, and a diversity of lichens and bryophytes (mosses and liverworts). However, the report identifies both the receptor site and the trackway/haul road as generally poor for lichens and bryophytes. The survey recorded the nationally rare lichen *Lecidea promixta* on stones in an area north of the slip and the nationally scarce liverwort *Scapania lingulate* (a possible first record for Glamorgan) a pioneer species dependant on disturbed habitats, which probably explains its present at this site. The survey also found assemblages of Cladonia lichens which in my experience are good indicator of colliery spoil and open heath, and in areas of peat bog an assemblage of Sphagnums including the peat forming *Sphagnum papillosum*. This area of bog has been retained in the detailed design lying adjacent to, but outside the receptor area.

The report identifies a number of mitigation/enhancement management requirements. These are.

- The retention of creation of lower plant habitats.
- The specific recreation of disturbed/pioneer habitat for *Scapania lingulate*
- In the Receptor area to creation of microtopography to encourage a diversity of lower plant habitat opportunities.
- No wide scale fertilizer or herbicide application.
- The implementation of conservation grazing to prevent tree colonisation of lower plant habitats and to maintain and enhance the diverse lower plant communities of the site.

All of the above measure will need to be integrated into the long-term Habitat Management requirements of the nature reserve. With the successful delivery of these measures, mitigation for lower plant impacts should be successfully achieve, and there is a realistic potential through the site management plan commitment for long term enhancement for at least some components of the current lower plant interest, and opportunities for new species colonisation.

Badger: No evidence of badger setts were found; however, badger can occasionally turn up on sites, and as part of sensitive site works precautionary badger measures as identified in the Biodiversity Mitigation Strategy need to be incorporated into the CEMP condition provision.

Bats: The PEA identified the potential need for bat roost survey if mature trees were affected by works. It appears that a few potentially suitable trees were assessed, and no bat roosts found. It is understood that NRW have not identified the need for any further bat work or licence requirement. The long-term habitat management of the nature reserve has the potential to create a more diverse and structured habitat mosaic than current, which may benefit night flying insects, which together with the presence of grazing animals is likely to benefit bat foraging habitat.

Otters: Evidence of otter use (with resting place) of the adjacent section of the Rhondda Fach was recorded, with mitigation delivered through the earlier phases of riverbank restoration. Phase 4 should have very little addition impact on the river. NRW have not identified the need or any specific further otter survey work or mitigation. However, as part of sensitive site works, precautionary otter measures need to be incorporated into the CEMP.

Reptiles: The ES identifies the presence of slow worm, common lizard and grass snake on site and the requirements for precautionary measures to avoid impacts to these species through the CEMP and the opportunities for beneficial site management and enhancement through the 5-year aftercare provision and the 25-year HMP. Given the huge area of potential reptile habitat available and the capacity to manage site works, it is considered that this is a justified approach.

Ecology Conclusion: The detailed habitat and species assessment work has provided a robust assessment of ecological impact. Significant ecological mitigation and enhancement is needed to off-set the ecological impacts of the proposal and

provide for betterment. Within certain engineering constraints, the new landform, drainage and receptor area design have been subject to ecological design, with measures to incorporate a degree of micro-topography, ecological sensitive drainage, and restoration that maximises the opportunity for natural regeneration of priority habitats. Coupled with the implementation of a CEMP, a 5-year aftercare restoration and the subsequent delivery/provision of a 25-year Habitat Management Plan, as part of a nature reserve development, there is a significant capacity to effectively manage ecological impacts, restore ecological interest and deliver long term biodiversity enhancement.

In addition to the CEMP (see later section) the following condition is considered necessary to secure the ecological mitigation being proposed as part of the application: to the commencement of any works, details to secure the provision of a 5 year after-care programme and a long term (25-year) Habitat Management Plan.

Prior to the commencement of any works, details to secure the provision of a 5 year after-care programme and a long term (25-year) Habitat Management Plan shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be carried out in accordance with any approval.

Reason: In the interests of the ecological importance of the area and to accord with Policies AW5 & AW6 of the Rhondda Cynon Taf Local Development Plan.

and also:

No works on site shall commence until a Landscape Ecological Management Plan (LEMP) for the long-term mitigation, and enhancement management plan has been submitted to, and approved in writing, by the Local Planning Authority. The LEMP must include:

- *Details of key species and habitats.*
- *Details of the desired condition of key habitats required to deliver effective species and habitat mitigation and enhancement.*
- *Details of the scheduling and timings of after-care, mitigation and enhancement measures.*
- *Details of management and monitoring requirement for the short term, as defined by the initial 5-year aftercare period.*
- *Details of how the plan will reviewed after the initial 5 years of contractor aftercare is completed, and how the long-term management and monitoring plan will be developed and taken forward as a ffridd/colliery spoil nature reserve.*
- *Details of management responsibilities and delivery mechanisms for short and long-term delivery.*
- *Details of the periodic review and iteration process for the plan, including the role ecological monitoring and other appropriate feedback.*
- *Details of a costed programme of works.*

Reason: To ensure that necessary management measures are agreed and implemented for the protection of the environment during and following construction

and to comply with Section 6 of PPW 11 and Policy AW8 of the Rhondda Cynon Taff Local Development Plan.

Surface Water Drainage: Clearly, surface water and how it manoeuvres throughout a site comprising colliery spoil, is a fundamental consideration as part of this process.

The scale and nature of the development is such that the proposal will be the subject of a SAB/SuDS application. The applicant has provided a description of how surface water will be managed and disposed of through the site which, in principle, is considered acceptable.

As part of the application, consultation was undertaken with colleagues in the Council's Flood Water and Tip Risk Management Section. While this will be the subject of a separate consenting regime, no objections have been received subject to the inclusion of a condition that seeks to ensure that surface water created as part of the development does not cause any unacceptable risk to those properties downstream from the development. A condition to this effect has been included for Committee's consideration.

No development shall commence until such time as the applicant evidence how the development is compliant with the requirements of Section 8.3 of Technical Advice Note 15 (Development & Flood Risk).

Reason: *To ensure that drainage from the proposed development does not cause, or exacerbate, any adverse condition on the development site, adjoining properties, environment and existing infrastructure arising from inadequate drainage in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.*

Consultation was also carried out with Dwr Cymru / Welsh Water. Similarly, no objection was received subject to the imposition of a condition requiring that no surface water or land drainage is allowed to connect to the public sewerage network. The consultation response also confirmed that the application site and its environs is crossed by a trunk distribution water main. A condition is proposed below.

No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

Reason: *To prevent hydraulic overload of the public sewerage system to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment and to comply with Policy AW5 of the Rhondda Cynon Taf Local Development Plan*

Subject to the inclusion of these conditions, it is considered that the surface water regime proposed as part of this application is acceptable and would not have any adverse impacts outside of the application site.

Ecology & the Water Environment (NRW).

Committee is advised that Natural Resources Wales were consulted as part of this application. NRW was also consulted (by the applicant) as part of the PAC process and that additional information was provided following PAC as part of the application which has eased some of NRW's concerns. NRW, while continuing to "have concerns" over the application as submitted, are satisfied that the inclusion of an appropriate condition regarding the submission of a Construction Environmental Management Plan (CEMP) would address any outstanding concerns.

No phase of development, including site clearance, shall commence until a site-wide Construction Environmental Management Plan (CEMP) has been submitted to, and approved in writing by, the Local Planning Authority. The CEMP shall include:

- **Construction methods:** detail of materials, how waste generated will be managed
- **General site management:** details of the construction programme including timetable, details of site clearance, details of site construction drainage, containment areas, appropriately sized buffer zones between storage areas (of spoil, oils, fuels, concrete mixing and washing areas, etc.) and any watercourse surface drain.
- **Soil management:** details of topsoil strip, storage and amelioration for re-use.
- **CEMP Masterplan:** details of the extent and phasing of development, location of landscape and environmental resources, design proposals and objectives for integration and mitigation measures.
- **Resource management:** details of fuel and chemical storage and containment, details of waste generation and its management, details of water consumption, wastewater and energy use.
- **Ecological Mitigation Delivery;** details of all species and habitat mitigation measures as identified for the construction phase of development within Chapter 9 Biodiversity of the Environmental Statement, and the associated supporting species and habitat assessment reports submitted as part of the planning application. To include details of how during the construction period, progress and issues related to the on-going delivery of ecological mitigation will be regularly reported to the LPA and how liaison between the Ecological Clerk of Works and the LPA will be managed.
- **Traffic management:** plant on site, wheel wash facilities.
- **Pollution prevention:** demonstrate how relevant guidelines for pollution prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan.
- **Landscape/Ecological Clerk of Works** to ensure construction compliance with approved plans and environmental regulations.

The CEMP shall be implemented as approved during the site preparation and construction phases of the development:

Reason: To ensure that necessary management measures are agreed and implemented for the protection of the environment during construction and to comply with Section 6 of PPW 11 and Policy AW8 of the Rhondda Cynon Taff Local Development Plan.

Flood Risk

A very small area within the application site is located within Zone C2 of the Development Advice Map (DAM) as contained in TAN15 identifies the site as being at risk of flooding. It is considered that there is a limited risk of flooding at the site and the applicant is proposing development in the “less vulnerable” category. It is not considered that a Flood Consequence Assessment is required. NRW has simply advised that the applicant be made aware of this fact.

Landscape Impact & Historic Environment

The proposed works are located inside the registered Y Rhondda landscape of special historic interest and specifically inside historic landscape character areas (HCLA) **23 Rhondda Fach Eastern Enclosed Valley Sides** and **30 Rhondda Uplands**. The impact of the development on these HCLAs has been produced using the ASIDOHL assessment process. This concluded that the impact on HCLA 23 will be “fairly severe” whilst on HCLA it will be “moderate”. An ASIDOHL result of “fairly severe” is normally determined to constitute that the proposed development will have a “significant” effect on the registered historic landscape. However, the ASIDOHL process is a relatively mechanical one and does not take into account damage that has occurred to the HCLA since the original characterisation was completed. In this case, the landslide that was caused by Storm Dennis has caused considerable damage to the Llanwonno Upper Tip resulting in over 20% of the tip having already been damaged.

This, along with the proposed mitigation measures outlined in the Environmental Statement reduces the impact of the proposed works on the HCLA to a level which Cadw DOES NOT constitute a significant effect on the Y Rhondda landscape of special historic interest.

NRW, who are the Welsh Government’s advisors on the landscape of Wales have not offered any comments or objections.

While there will be some considerable impact to the landscape in the short term it is considered that when the area naturally regenerates (following completion of the development) any impact will be minimised. It is also considered that, in landscape terms, the controlled removal and redistribution of the tip is infinitely better than an uncontrolled landslide and subsequent emergency remediation.

Accordingly, it is considered that the impact on the landscape is acceptable.

Highway Safety & Access (including Public Accessibility)

The Council's Highway & Transportation Section have not offered any objection to the development nor offered any recommendations for conditions. There is limited interaction with the public highway network and the numbers of staff present on site at any one time (estimated to be around 20) is unlikely to have any significant impact.

It is not possible to have designed-out all impacts on the local public access network. The main adverse effects on the development will be on those assets within the development site (the PRow that currently runs through the development site adjacent to Old Smokey (Footpath TYL/9/1), the informal footpaths, the open country public access land and public forest. Access to these will be directly impacted by the scheme through severance of the routes or removal of access to the land. In mitigation, appropriate temporary diversions and signage for footpaths and open access land closed during construction will be installed and there are alternative routes and areas that local amenity users can readily access.

The line of the PRow runs through some of the proposed drainage elements for the receptor site and therefore a permanent as well as a temporary diversion of approximately 80 metres will be required. The final alignment of the diversion will be agreed prior to the formal application to divert being made.

There is an informal vehicular access to the site via an existing track to the north of Old Smokey which connects to the Blaenllechau Road and is used to access informal parking at the receptor site. However, it is one of the points of entry for people using motor vehicles including "scrambler" motor bikes and 4x4s which cause considerable nuisance to residents and businesses in the area as well as users of the PRow within and adjoining the application site. In addition to causing noise disturbance and safety issues it also causes scarring of the landscape and damage to the integrity of the land's surface creating bare areas and extensive rutting from erosion caused by vehicle wheels. Within the application site there are large areas, particularly north of Old Smokey that have been subject to such damage. Old Smokey itself has extensive rutting and erosion to all of its slopes and summit caused by these vehicles. Continued use of this area would also put in jeopardy the successful establishment of the proposed natural regeneration of both the donor and receptor sites and the implementation of the Biodiversity Management Plan. The applicant is therefore proposing to implement physical measures to prevent unauthorised vehicular access to the receptor site which is considered to be the most vulnerable part of the proposal. There is unlikely to be one single solution that can prevent unauthorised access and it is intended to form part of a wider discussion, outside the scope of the current application however a condition is proposed to help secure this provision.

Within 6 months of the date of permission, a scheme to prevent unauthorised vehicular access to the application site shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be completed in accordance with the approval prior to the completion of works on site and retained thereafter. Should the scheme fail to prevent unauthorised vehicular

access, further measures shall be submitted and implemented in accordance with a timescale to be agreed.

Reason: *To prevent unauthorised vehicular access in the interests of the amenities of the area and to prevent the erosion of the landscape and biodiversity measures provided as part of the proposal in accordance with Policies AW5 of the Rhondda Cynon Taff Local Development Plan.*

PPW recognises that “*The health and well-being of people and places and the need to address climate change and its consequences provide added impetus for proactive action through the planning system*” (para. 3.37).

The consequences of climate change and the need to deal with the aftermath of the Storm Dennis and the resulting landslip are at the heart of this application. This application will deal with the threat posed by the remaining material on the tip site and remove the danger of this material on the top of the hillside slipping down the valley slope.

Air Quality and Noise

The PPW requires developers to “*minimise population exposure to air and noise pollution...where it is practical and feasible to do so.*” (para. 6.7.4) and specifically in connection with temporary construction activities “*Where appropriate...require a construction management plan, covering pollution prevention, noisy plant, hours of operation, dust mitigation and details for keeping residents informed about temporary risks.*” (para. 6.7.26). Both noise and air quality are considered in detail within the ES in separate chapters which fulfils the requirements of PPW and those of TAN.11: Noise. The previous section summarised the design approach adopted, and the mitigation measures proposed to address both issues including the preparation and implementation of a CEMP. Neither issue, with appropriate mitigation, is considered a potential impediment to development.

Other Policy Considerations

Walking and Cycling: PPW encourages both walking and cycling as sustainable modes of transport, leisure activities and also recognises their contribution towards healthier lifestyles. Removing the majority of the remaining tip material to the receptor site will allow the previously well-used cycleway and informal footpath in the valley bottom to be reopened to the public.

Nature Conservation and Trees: The protection of species and habitats and the promotion of nature conservation interests generally are key themes of PPW. This is reinforced by additional guidance provided within TAN.5. The application sets out in detail how these interests have been protected through the development and implementation of an ecological methodology and other protection strategies within the ES. Part of the application site lies within a (non-statutory) SINC and the PPW recognises that “*Differentiation should be given to the relative significance of the*

designation within the hierarchy, when considering the weight to be attached to nature conservation interests” (para. 6.4.13).

The effect on trees is an important consideration in any planning application and it is highlighted in PPW which states that the “*Where woodland or trees are removed as part of a proposed scheme, developers will be expected to provide compensatory planting.*” (para. 6.4.25). A strategy to promote the most ecologically beneficial restoration of the two sites has been prepared and agreed with relevant stakeholders and this does not include the replacement of the low ecological value, self-seeded conifer trees to be lost as part of the proposed development.

A group of small deciduous native species trees and a large birch to be removed from the donor site will, however, be replaced. The main focus of the site’s restoration will be on natural regeneration and therefore, the area of replacement planting is likely to be limited to that which will be lost plus an additional compensatory area to the west. In terms of policy compliance, PPW does not place an absolute requirement on applicants to replace lost trees and the decision, in part, not to so, is considered to be fully justified.

Minerals and Waste Minimisation: Sections 5.12-14 of PPW describe the short and long-term goals for planning policy relating to waste and minerals in Wales and are supported in TAN.21. Minimising waste generated from development activity and minimising future mineral extraction to essential need only are key planks of the policy document. Further advice, specifically relating to coal deposits, is provided in paragraph 5.10.17 which states “*The safeguarding of primary coal resources is not required.*” The application will meet the requirement of national policy in this area by minimising waste generation through construction best practice following the guidance to be provided in the CEMP. Any remaining coal deposits whilst not completely prejudiced will not be ‘safeguarded’ or provided protection as part of the scheme in line with national policy.

Summary and Conclusion

The applicant proposes Phase 4 of the Llanwonno Upper Tip removal / remediation. Phases 1, 2 & 3 were largely a *fait accompli* due to the landslide in 2020. This application seeks to eliminate the possibility of a similar landslide occurring at this site and its environs. Clearly, public safety is a paramount consideration and the “fear” that a further landslide could occur is a material consideration.

The works involved are relatively short term in respect of any noise and nuisance that the works may cause and the natural regeneration of the landscape would not take long to hide the impact to the landscape that the earthworks would entail.

There are no objections received as part of the application and the responses from consultees were largely positive, and, where concern still exists, the inclusion of a condition would alleviate such concern.

In light of the above comments, it is considered that the proposal is in accord with policies both at a local and national level and the following RECOMMENDATION is made:

RECOMMENDATION: APPROVE SUBJECT TO THE FOLLOWING CONDITIONS:

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason: To comply with Section 91 & 93 of the Town & Country Planning Act 1990.

2. The development hereby approved shall be carried out in accordance with the approved plans and documents listed in the letter (e-mail) from Neil Griffiths of WSP dated 27th September 2022 unless otherwise to be approved and superseded by details required by any other condition attached to this consent.

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

3. Within 6 months of the date of permission, a scheme to prevent unauthorised vehicular access to the application site shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be completed in accordance with the approval prior to the completion of works on site and retained thereafter. Should the scheme fail to prevent unauthorised vehicular access, further measures shall be submitted and implemented in accordance with a timescale to be agreed.

Reason: To prevent unauthorised vehicular access in the interests of the amenities of the area and to prevent the erosion of the landscape and biodiversity measures provided as part of the proposal in accordance with Policy AW5 of the Rhondda Cynon Taff Local Development Plan.

4. No phase of development, including site clearance, shall commence until a site-wide Construction Environmental Management Plan (CEMP) has been submitted to, and approved in writing by, the Local Planning Authority. The CEMP shall include:

- **Construction methods:** detail of materials, how waste generated will be managed
- **General site management:** details of the construction programme including timetable, details of site clearance, details of site construction drainage, containment areas, appropriately sized buffer zones between storage areas (of spoil, oils, fuels, concrete mixing and washing areas, etc.) and any watercourse surface drain.

- **Soil management:** details of topsoil strip, storage and amelioration for re-use.
- **CEMP Masterplan:** details of the extent and phasing of development, location of landscape and environmental resources, design proposals and objectives for integration and mitigation measures.
- **Resource management:** details of fuel and chemical storage and containment, details of waste generation and its management, details of water consumption, wastewater and energy use.
- **Ecological Mitigation Delivery:** details of all species and habitat mitigation measures as identified for the construction phase of development within Chapter 9 Biodiversity of the Environmental Statement, and the associated supporting species and habitat assessment reports submitted as part of the planning application. To include details of how during the construction period, progress and issues related to the on-going delivery of ecological mitigation will be regularly reported to the LPA and how liaison between the Ecological Clerk of Works and the LPA will be managed.
- **Traffic management:** plant on site, wheel wash facilities.
- **Pollution prevention:** demonstrate how relevant guidelines for pollution prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan.
- Landscape/Ecological Clerk of Works to ensure construction compliance with approved plans and environmental regulations.

The CEMP shall be implemented as approved during the site preparation and construction phases of the development:

Reason: To ensure that necessary management measures are agreed and implemented for the protection of the environment during construction and to comply with Section 6 of PPW 11 and Policy AW8 of the Rhondda Cynon Taff Local Development Plan.

5. No development shall commence until such time as the applicant evidence how the development is compliant with the requirements of Section 8.3 of Technical Advice Note 15 (Development & Flood Risk).

Reason: To ensure that drainage from the proposed development does not cause, or exacerbate, any adverse condition on the development site, adjoining properties, environment and existing infrastructure arising from inadequate drainage in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

6. No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

Reason: To prevent hydraulic overload of the public sewerage system to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment and to comply with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

7. No works on site shall commence until a Landscape Ecological Management Plan (LEMP) for the long-term mitigation, and enhancement management plan has been submitted to, and approved in writing, by the Local Planning Authority. The LEMP must include:

- Details of key species and habitats.
- Details of the desired condition of key habitats required to deliver effective species and habitat mitigation and enhancement.
- Details of the scheduling and timings of after-care, mitigation and enhancement measures.
- Details of management and monitoring requirement for the short term, as defined by the initial 5-year aftercare period.
- Details of how the plan will reviewed after the initial 5 years of contractor aftercare is completed, and how the long-term management and monitoring plan will be developed and taken forward as a ffridd/colliery spoil nature reserve.
- Details of management responsibilities and delivery mechanisms for short and long-term delivery.
- Details of the periodic review and iteration process for the plan, including the role ecological monitoring and other appropriate feedback.
- Details of a costed programme of works.

Reason: To ensure that necessary management measures are agreed and implemented for the protection of the environment during and following construction and to comply with Section 6 of PPW 11 and Policy AW8 of the Rhondda Cynon Taff Local Development Plan.