

Planning Department
The Quays
Brunel Way
Baglan Energy Park
Briton Ferry
SA11 2GG

18/06/2020

Dear Steve Ball,

PROPOSAL: Construction of complementary restoration earthworks to create 2 looped landform platforms (part in cutting and part on embankment) with associated drainage infrastructure and areas of landscaping and habitat creation to create a flexible and adaptable area of land that could be used for a variety of uses including agriculture, nature conservation, leisure, tourism and industrial, research and development/business uses (potentially including a proposed rail testing, research and development and storage facility).

LOCATION: Land at and surrounding Nant Helen Open Cast Coal Site

Thank you for consulting Natural Resources Wales (NRW) about the above, which we received 22/05/2020.

Our advice on the proposed scheme has changed because new information has been provided since we commented on the pre planning application consultation on 16/03/2020.

We have reviewed the information submitted including the following documents:

- Nant Helen Complementary Restoration Earthworks - Environmental Statement. Arup, April 2020 – in particular Chapters 5 and 6, 7, 9 and 11 with associated appendices and figures.
- Nant Helen Complementary Restoration Earthworks - Planning Statement - Arup, April 2020.
- Nant Helen Complementary Restoration Earthworks - Drainage Strategy - Arup, April 2020.

- Planning drawings CG1020 to CG1023 P01, Proposed Finished Levels - Arup, 06/12/2019
- Planning drawing CG1024 P01, Proposed track embankment and cuttings cross section - Arup, 06/12/2019

We continue to have significant concerns with the proposed development as submitted. As requested, we have provided landscape impact advice which will be material to your consideration of the application.

We recommend that you should only grant planning permission if you attach the following Condition to the permission and include the following document within the conditions identifying approved plans and documents on the decision notice:

- Arup, 4th May 2020, Environment Statement
- Arup, 29th April 2020, Appendix 3B, Outline Construction Environmental Management Plan.

Condition 1 – Construction Environmental Management Plan: No development or phase of development, including site clearance, shall commence until a site wide or phase Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority.

Landscape

Our advice relates to the potential impacts on the Brecon Beacons National Park (BBNP) which is located approximately 96 m away from the development at its closest point. The proposals would be prominent from several areas within BBNP which are of high scenic quality and sensitivity.

Visual Effects

The Environmental Statement (ES) confirms there would be significant adverse visual effects on views from the BBNP (specifically viewpoints 1, 2, 3, 4, 5 and 11) and towards the BBNP (specifically viewpoint 18) during construction. We understand (ES Chapter 3) construction is expected to last for 73 weeks. These effects are as a result of the removal of the conifer woodland, field boundaries, views of engineered cuttings, embankments and vegetation, movement of materials, excavations and formation of embankments and cuttings. Artificial lighting will be required during daytime hours in winter during construction, but none would be required on completion.

The ES also confirms that there would be significant adverse visual effects on views from BBNP (specifically viewpoints 2, 3, 4 and 5) immediately after completion of the 73 week construction period.

The mitigation planting proposed will help integrate the development into the surrounding landscape at approximately 15 years. Even after 15 years, assuming all mitigation planting has established successfully, this will leave an engineered rather than more naturalistic landform as the slopes of the overburden mound and the form of the void would be retained,

along with new earthworks. The earthworks will include embankment gradients of typically 1:3 and cuttings typically 1:2.5, with some 1:1 gradient cutting in rock. The northern embankment extends to over 30m in height and the cutting to the east to 15-20m deep. The materials for the earthworks would originate from within the existing open cast mining area.

The moderate (significant) beneficial visual effects from viewpoint 1, in our opinion, are overestimated as the complimentary earthworks combined with the revised restoration scheme for the Nant Helen surface mine retains the void and much of the overburden mound. Although we agree that the development would result in a beneficial effect from viewpoint 1, we predict that this is more likely a negligible effect and therefore non-significant. Therefore, even if not intended, this does not provide a balance against the significant adverse visual effects described above and in the ES.

ES Figures 9.5-9.15 present photographs from all viewpoints and wireframes from viewpoints 3, 7, 12, and 18 to indicate the size, extent and visibility of the development. The wireframes indicate that the effects could be more adverse than previously anticipated at the pre-application stage. Landscape Institute TGN 06/19 confirms that the purpose of the visualisation is to demonstrate the visual change that will be brought about if the development proceeds. The TGN confirms Type 2 wirelines (3D model) are for informed discussion, not for determining the application. Table 1 of the guidance confirms that Types 2-4 (including photomontages) are appropriate for this scale of development in a sensitive setting (i.e. the BBNP) and to inform a Landscape Visual Impact Assessment (LVIA) & for Environmental Impact Assessment (EIA).

Given that the ES confirms significant adverse visual effects to the BBNP are long-term, and we advised the importance of development visualisation in our pre-application advice, it would be prudent to complete the photomontages as specified in TGN06/19. The assessment of significant effects is based on established planting maturity at year 15, and year 30 has been excluded. The planting would reduce but not totally alleviate the significance of adverse effects until at least year 15. Therefore, it is unlikely that the photomontages will demonstrate the reduction of the predicted significant adverse visual effects to lesser ones. However, the photomontages will provide indication to your authority on the extent of the mitigation planting proposed and how it is likely to integrate the development into the surrounding landscape.

Photomontages at year 1 and year 15 will provide visualisation of mitigating effects over time. A range of visualisations within a 3 km arc to the north, where the most adverse effects on the BBNP would occur should be included in the photomontages. Viewpoints 2, 3 and 5 are likely to be the most appropriate and should include photomontages for both year 1 and year 15. Viewpoints 2 and 3 are elevated views at different angles looking towards the northern embankment & eastern cutting. Viewpoint 5 is a closer view from lower in the valley and from the edge of the settlement looking towards the northern embankment.

Establishment of Mitigation Planting

We understand that landscaping the earthworks would be limited to planting and seeding of embankments and cuttings. It is assumed that all embankments and cuttings would be treated with a suitable seed mix with an aim to establish at year one. An Ecological

Management and Monitoring Plan (EMMP) and a landscape strategy is to be developed for the site. These two documents are key to the establishment of the tree and woodland planting that ensure the successfulness of the mitigation planting becoming adequately established on colliery spoil at the year 15. It would be beneficial that these documents are combined into one Landscape Ecological Management Plan (LEMP) to ensure consistency in delivering the mitigation objectives.

We note that the ecology chapter of the ES suggests a five year period of monitoring and management, but the effectiveness of the planting to achieve a non-significant effect on the National Park needs at least 15 years to establish. This is largely due to the challenges of establishing trees and shrubs on colliery spoil. Therefore, should your authority consider the inclusion of a LEMP in a condition, it should provide for a 15 year period and have a mechanism for extension should the planting need longer term management to achieve the desired effect.

In conclusion, it is our opinion that these works would result in significant adverse impacts on the BBNP during construction and for at least 15 years (i.e. the long term). Aspects of the proposed engineered features will remain permanently but are likely to reduce to a residual lesser adverse impact after 15 years. This 15 year period could be extended as it is dependent on the establishment of the tree and woodland.

Protected Sites

Special Areas of Conservation (SAC)

As identified within the ES, there are three SAC within 15 km of the proposal, namely:

- Coedydd Nedd a Mellte SAC, 4.2 km to the south-east
- Cwm Cadlan SAC and, 9.5 km east
- Blaen Cynon SAC, 10.4 km east

We have reviewed the information provided within the ES and Appendix 7R part A and B (Habitat Regulation Assessment Screening Report). We consider that the proposal is not likely to have a significant effect on the SAC listed above.

Our advice may change should modifications be made to the proposed development prior to the determination of the application. If there are any changes to the development which may affect the consideration of potential environmental impacts, please consult us again before you determine the application.

Sites of Special Scientific Interest (SSSI)

We have considered the information within the ES submitted in support of the above application. The ES identifies the presence of 12 SSSIs within 15 km of the proposal and concludes that many of the sites will not be directly or indirectly affected by the proposal.

The only site that has been identified to be hydrologically connected to the development is the Nant Llech SSSI, which is located approximately 100m to the north east. The SSSI has been designated for its biological (deciduous woodland and bryophytes) and geological (Westphalian sedimentary rocks and fossils) features. Therefore, biological features of this site could be affected by pollution events and surface run-off with a high sediment load.

The ES clearly concludes that the effects would be temporary and reversible and the likelihood of any pollution incidents to occur would be minimised by adopting appropriate Pollution Control Measures as identified in the Construction Environmental Management Plan (CEMP). We have reviewed the outline CEMP (Appendix 3B) and based on the information submitted, and provided the outlined measures are implemented, we consider that the proposed development is not likely to damage the features for which Nant Llech SSSI is of interest.

Therefore, we advise your authority that the submission of a CEMP and associated supportive documents should be secured via appropriately worded planning condition to ensure necessary management measures are agreed prior to commencement of development, or phase of development and implemented for the protection of the environment during construction.

Condition 2 – Construction Environmental Management Plan: No development or phase of development, including site clearance, shall commence until a site wide or phase Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority.

The CEMP should include:

- Construction methods: details 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, containments areas, appropriately sized buffer zones between storage areas (of spoil, oils, fuels, concrete mixing and washing areas) and any watercourse or surface drain.
- Biodiversity Management: details of tree and hedgerow protection; Invasive Non-Native Species (INNS) management plan; species and habitats protection, avoidance 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
- 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.
- Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details

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

Protected Species

We have reviewed the information within the ES and associated species survey reports specifically appendices 7P part 1 and part 2 and 7J (Bats); 7I (riparian mammals); 7L

(dormouse); 7E part 1 and part 2 (amphibians); 7O (evaluation of impacts on important ecological receptors).

Based on the survey results and the mitigation measures proposed, we are satisfied that the proposal is unlikely to affect European Protected Species (EPS), however the potential for species such as bats and otters to be present could not be fully discounted. We also acknowledge that due to the nature and scale of the proposal, works will be carried out at different phases and agree with the recommendations made in section 7.20 of the ES that pre-construction surveys for bats and otter will be required to establish whether these species are going to be affected. Pre construction surveys will be detailed in the EPP as stated in section 4.3.16 of the outline CEMP.

Therefore, we advise you to secure the implementation of such recommendation by including the ES and outline CEMP document within the condition identifying approved plans and documents on the decision notice.

Biosecurity

We consider biosecurity to be a material consideration owing to the nature and location of the proposal. In this case, biosecurity issues concern Invasive Non Native Species (INNS) due to Extended Phase 1 Habitat Survey (ES Appendix 7A) confirming the presence of Japanese knotweed (*Fallopia japonica*), montbretia (*Crocsmia x crocosmiiflora*), wall cotoneaster (*Cotoneaster horizontalis*) and rhododendron (*Rhododendron ponticum*). We acknowledge that the locations of the INNS identified in the survey may be outside of the planning application boundary. However, it is likely time will lapse before the start of construction and the potential for some of these species to become established in the development site may occur. Therefore, it is necessary to consider the potential effects and prepare accordingly.

We note section 7.20 (Construction Mitigation) of the ES states an INNS Management Plan will be produced. The PAC report (Grasshoppers Communication Ltd, April 2020) states that such plan will be included in the outline CEMP to be submitted in support of the planning application. We have reviewed the outline CEMP (Arup, April 2020) and we note that no INNS Management Plan has been added the document. Section 4.3.18 refers to the INNS Management Plan being drawn up prior to site clearance. Therefore, the INNS Management Plan should be integrated within the CEMP and its submission and implementation secured via Condition.

We consider that this assessment must include

- (i) appropriate measures to control any INNS on site; and
- (ii) measures or actions that aim to prevent INNS being introduced to /allowed to disperse from the site for the duration of construction and operational phases of the scheme.

We refer you to the GB non-native species secretariat 'Check, Clean, Dry' guidelines which also apply to the use of machinery on construction sites.

<http://www.nonnativespecies.org/checkcleandry/index.cfm>

Land contamination & water quality

We have reviewed the information submitted within the ES, the Drainage Strategy (Arup April 2020) and the outline CEMP. We understand that surface water drainage from the site will be discharged via a variety of methods into the local water course network and infiltration to natural ground will occur on the rest of the site. We have no comments to make on site drainage.

From the Desk Study within the ES we note that further site investigation for land contamination will be undertaken. We suggest that targeted sampling in areas of known contamination risk, for example, area where tank have been located. However, we consider that the controlled waters at this site are not of the highest environmental sensitivity. Therefore, we will not be providing detailed site-specific advice or comments with regards to land contamination issues.

It is recommended that the requirements of Planning Policy Wales and the Environment Agency Guiding Principles for Land Contamination (GPLC 1, 2, and 3), March 2010, should be followed. GPLC can be downloaded from the Environment Agency website.

These comments are based on our assumption that gross contamination is not present at this location. If, during development, gross contamination is found to be present at the site your authority may wish to re-consult us.

We are satisfied the outline CEMP details all the latest guidance and we understand this will be updated as the works proceed. We are satisfied that details have been provided to address any likely environmental issues. We would advise your authority to secure the implementation of the CEMP via appropriately worded condition (refer to Condition 1 above).

Other Matters

Our comments above only relate specifically to matters included on our consultation topic list, *Development Planning Advisory Service: Consultation Topics* (September 2018), which is published on our [website](#). We have not considered potential effects on other matters and do not *rule out the potential for the proposed development to affect other environmental interests*.

We advise the applicant that, in addition to planning permission, it is their responsibility to ensure they secure all other permits/consents/licences relevant to their development. Please refer to our [website](#) for further details.

Yn gywir / Yours sincerely



Neil Parker
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