

This Scoping Opinion is provided on the basis of the information submitted to the Planning

Authority in support of the application, in addition to consultation responses received. The advice does not prejudice any recommendation made by an Authority in relation to the development, and does not preclude the Authority from subsequently requiring further information to be submitted during the course of the application under Regulation 24 of The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 (“The 2017 Regulations”).

1. Introduction

The Planning Authority received a request under Regulation 14 of the 2017 Regulations for a Scoping Direction.

The applicant has described the proposed operation of the development within the submitted Scoping Report as the development of up to 2,000 no. residential dwellings, the associated access, ecological mitigation, local employment, local retail, leisure and community facilities, land for education facilities and supporting amenity space, landscaping, green infrastructure, remediation and sustainable drainage systems.

An illustrative masterplan is provided

The request was accompanied by a Scoping Report (SR) that outlines the proposed scope of the Environmental Statement (ES) for the proposed development. Plus a Site Location Plan and Scoping Masterplan

This Opinion has taken into account the requirements of the 2017 Regulations as well as current best practice towards preparation of an ES. In accordance with the 2017 Regulations the Authority has consulted on the SR and the responses received from the consultation bodies have been taken into account in adopting this Opinion.

2. Site Description

The site is identified on the location plan at Appendix 2.1. The site is a former BP refinery and is predominately brownfield land.

The site is approximately 131 ha in size and comprises former post-industrial land which has previously been cleared under the extant

permission and has been subject to significant remediation since its previous use as an Oil Refinery. It therefore predominantly comprises bare land, which has been partially vegetated with patches of woodland and some existing landscaping at the site boundaries.

The site also includes the existing D'Arcy Business Park and existing building at Britannic House and William Knox House which accommodates office space. The site also includes the original contractor's yard, which is located to the south of the site boundary and to the north of Llandarcy Village, and is leased to a mix of businesses for open storage and industrial uses.

Around 300 homes have been delivered on the site already (i.e. Phase 1 Persimmon development) which lies outside of the site boundary. Furthermore, the 'Heritage Gate' development, comprising further residential development has been developed to the south west of the site, directly to the north of Llandarcy Village.

Further to the west of the site there are a number of commercial and leisure uses, including a hotel, restaurant and sports facilities.

The site is located to the east of the site is junction 43 of the M4 motorway. Swansea city centre lies 4km south-east of the site whilst Neath town centre lies circa 3.5km north-east. The site is currently accessed from the B4290 which feeds off of junction 43 of the M4 motorway via the Northern Access Road (which has been implemented under the existing planning permission).

The railway line dissects the northern and central part of the site. The far northern boundary adjoins the 'north site' reservoir (which lies outside of the site boundary) and the M4 abuts the eastern boundary of this part of the site.

The site is relatively steep in parts, with a number of topographical features. The high point of the site is identified immediately west of the existing residential development lying at approximately 77.0mAOD and falls from east to west towards the Crymlyn bog down to a level of approximately 9.0mAOD. Levels also fall from this high point to the railway to north, which is in a cutting, and towards the existing Coed Darcy Business Park where levels are approximately 29.0mAOD. The topography north of the railway has a plateau through the centre, where levels are approximately 55.0mAOD which falls away to approximately 40mAOD along the northern boundary and southern boundaries and approximately 25mAOD in the south-western corner of the Site.

The Crymlyn Bog Ramsar Site, Special Area of Conservation (SAC), Site of Special Scientific Interest (SSSI) and National Nature Reserve (NNR) abuts the western boundaries of the site.

Aside from infrastructure and remediation works (including the northern access road), phases 1A and 1B have been delivered by Persimmon Homes, and comprised the development of approximately 300 new homes which is built out and occupied.

3. Proposed Development

The scope of the EIA should include all elements of the development as identified in the SR, both permanent and temporary, and this Scoping Opinion is written on that basis. In line with the requirements of Regulation 17 and Schedule 4 to the 2017 Regulations, any reasonable alternatives considered should be presented in the ES. The reasons behind the selection of the chosen option should also be provided in the ES, including where environmental effects have informed the choices made.

Up to 2,000 new homes¹, comprising a mixture of market and affordable housing (Use Class C3) and extra care provision (Use Class C2);

Land for education (either a through-school or primary school only), with associated public open space (Use Class D1);

Circa 1.2 hectares of land for commercial uses (retail, employment, community, assembly and leisure uses facilities comprising a neighbourhood centre (assume A1, A2, A3, B1, D1 and D2 Uses);

Approximately 1.2ha of land to be used for employment uses as an extension to the existing Llandarcy Business Park (assume B2 and B8 Uses), in addition to retaining the existing Contractors Yard commercial uses;

An extensive scheme for ecological mitigation, including:

Adoption of appropriate construction safeguards to ensure that potential impacts on retained and off-site habitats are avoided. This to include consideration of all potential impact pathways on designated sites. It is further anticipated that potential impacts on sites of international importance (SAC, Ramsar) will be subject to appropriate assessment. The applicant anticipates producing a shadow Habitat Regulations Assessment in support of the EIA.

The creation of an extensive green infrastructure network for the site, with this to support a wide range of high quality habitats and with in-perpetuity biodiversity management secured.

The adoption of a site wide Landscape and Ecological Mitigation and Management Plan, detailing precise habitat creation and management proposals for the site. It is envisaged a draft / framework version of the document will be submitted with the planning application, with a formal version to be secured by condition.

The completion of any necessary protected species translocations, not least in respect of amphibians and common reptiles.

Adoption of appropriate construction practices in respect of faunal species. EIA Scoping Report Coed Darcy St Modwen Developments July 2021 17

The removal of undesirable and non-native species, such as Japanese Knotweed, where this is located within the site.

Open space, sports pitches, formal areas of play and informal amenity space including, a mix of informal 'greenways', landscaping, green infrastructure, walking and cycling routes and sustainable drainage systems; and

Associated highways works, including a new pedestrian footbridge across the railway line; new and improvements to active travel links, drainage works, ecology mitigation, landscaping, ground remediation and other engineering works.

At this stage, to inform the scoping exercise, a development framework plan has been prepared by Powell Dobson Architects – as enclosed at Appendix 3.1 of the submission.

4. History

Outline Planning Permission (OPP) for its redevelopment was granted in February 2008 (reference P2005/03983) to deliver 4,000 new homes, business and retail space and commercial, education and community facilities together with highways, drainage, services, infrastructure, car parking and landscaping. Since approval of the OPP, there have been a number of applications submitted for the site for various works.

- Full site history available at request.

5. Consultation

In line with Regulation 14(6) of the 2017 Regulations, formal consultation was undertaken with the following bodies:

Glamorgan Gwent Archaeological Trust (GGAT).

Natural Resources Wales (NRW).

Coal Authority.

Dwr Cymru Welsh Water.

National Grid.

Wales and West Utilities

Mid and West Wales Fire and Rescue Service

City and County of Swansea

Environmental Public Health.

National Grid

Network Rail

Welsh Government Transport.

Internal Consultees.

Public Rights of Way.

Biodiversity.

Highway Authority.

Drainage Authority.

Environmental Health including - Noise, Air Quality, Odours, and Contaminated Land.

Sustainable Transport.

Education

6. Environmental Impact Assessment Approach

The Applicants should satisfy themselves that the ES includes all the information outlined in Schedule 4 of the 2017 Regulations. In addition, the Applicant should ensure that the Non-Technical Summary includes a summary of all the information included in Schedule 4. Consider a structure that allows the author of the ES and the Decision Maker to

readily satisfy themselves that the ES contains all the information specified in Regulation 17 and Schedule 4 of the 2017 Regulations. Cross refer to the requirements in the relevant sections of the ES, and include a summary after the Contents page that lays out all the requirements from the Regulations and what sections of the ES they are fulfilled by. As the assessments are made, consideration should be given to whether standalone topic chapters would be necessary for topics that are currently proposed to be considered as part of other chapters, particularly if it is apparent that there are significant effects and a large amount of information for a particular topic.

There may also be topic areas scoped out of the ES where the developer may wish to include application documents that sit outside of the ES and provide information that will support their consultation(s) and the decision-making process. The developer is encouraged to liaise with key consultees regarding non-ES application documents which are not a legislative requirement.

The ES should focus on describing and quantifying significant environmental effects. Policy considerations / arguments relating to those impacts should be addressed in other documentation supporting the application (e.g. a Planning Statement), which cross references the ES where necessary.

6.1 Reasonable Alternatives

In line with the requirements of Regulation 17 and Schedule 4 to the 2017 Regulations, any reasonable alternatives studied by the Applicant should be presented in the ES. The reasons behind the selection of the chosen option should also be provided in the ES, including where environmental effects have informed the choices made. Even if these reasons are limited to the allocation within the Local Development Plan.

It is worth bearing in mind that under the Conservation of Habitats and Species Regulations 2017 (“the Habitats Regulations”) unless it can be clearly shown that the project would have no adverse effect on the integrity of any designated sites, it would have to be shown that there is no feasible alternative solution. Further advice regarding the Habitats Regulations is provided in the final chapter of this Screening Direction.

6.2 Currency of Environmental Information

For all environmental aspects, the applicant should ensure that any survey data is as up to date as possible and clearly set out in the ES the timing and nature of the data on which the assessment has been based.

Any study area applied to the assessments should be clearly defined. The impacts of construction, operation and decommissioning activities should be considered as part of the assessment where these could give rise to significant environmental effects. Consideration should be given to relevant legislation, planning policies, and applicable best practice guidance documents throughout the ES.

The ES should include a chapter setting out the overarching methodology for the assessment, which clearly distinguishes effects that are 'significant' from 'non-significant' effects. Any departure from that methodology should be described in individual aspect assessment chapters. Where professional judgement has been applied this should be clearly stated.

The ES topic chapters should report on any data limitations, key assumptions and difficulties encountered in establishing the baseline environment and undertaking the assessment of environmental effects.

6.3 Cumulative Effects

All of the other development considered should be documented and the reasons for inclusion or exclusion should be clearly stated. Professional judgement should be used to avoid excluding other development that is close to threshold limits but has characteristics likely to give rise to a significant effect; or could give rise to a cumulative effect by virtue of its proximity to the proposed development. Similarly, professional judgement should be applied to other development that exceeds thresholds but may not give rise to discernible effects. The scope of the cumulative assessment should be fully explained and justified in the ES.

6.4 Mitigation

Any mitigation relied upon for the purposes of the assessment should be explained in detail within the ES. The likely efficacy of the mitigation proposed should be explained with reference to residual effects. The ES should provide reference to how the delivery of measures proposed to prevent / minimise adverse effects is secured (through legal requirements or other suitably robust methods) and whether relevant consultees agree on the adequacy of the measures proposed.

Clear distinctions should be made between mitigation, compensation and enhancement initiatives. With clear identification within relevant sections of the ES of where each of these initiatives is being proposed.

6.5 Population and Human Health

The Applicant should ensure that the ES addresses any significant effects on population and human health, in light of the EIA Regulations 2017. This could be addressed under the separate topic chapters or within its own specific chapter.

6.6 Transboundary Effects

Schedule 4, Part 5 of the EIA Regulations requires a description of the likely significant transboundary effects to be provided in an ES. The ES should address this matter as appropriate.

7. Environmental Impact Assessment Topics

This section contains the Authority's specific comments on the scope and level of detail of information to be provided in the Applicant's ES. The comments provided refer to the description of the development, the Environmental Impact Assessment process, structure of the ES and any other matter deemed relevant in the preparation of the ES.

Environmental topics or features are not scoped out unless specifically addressed and justified by the Applicant and confirmed as being scoped out by the Authority. In accordance with Regulation 17(4)(c) the ES should be based on this Scoping Opinion in so far as the Proposed Development remains materially the same as the Proposed Development described in the Applicant's SR.

The Authority has set out in this Opinion where it has / has not agreed to scope out matters on the basis of the information available at this time. The Authority is content that the receipt of a SD should not prevent the Applicant from subsequently agreeing with the relevant consultees to scope such matters out of the ES, where further evidence has been provided to justify this approach. However, in order to demonstrate that the matters have been appropriately addressed, the ES should explain the reasoning for scoping them out and justify the approach taken.

7.1 Aspects scoped in

Subject to the comments provided the following aspects are scoped into the ES:

- Landscape and Visual Impact Assessment (LVIA)
- Ecology and Nature Conservation
- Archaeology and Cultural Heritage
- Noise and Vibration.
- Transport and Traffic

- Hydrology, Hydrogeology and Geology
- Health and Safety and Risk to Human Health
- Air Quality
- Socio-economic Assessment
- Climate
- Waste
- Land and Ground Condition

7.2 Landscape and Visual Impact Assessment (LVIA).

The proposal lies approx. 11km from the Gower Area of Outstanding Natural Beauty (AONB) at Mumbles Point.

We do not consider that the proposals would have any adverse landscape & visual impact on the Gower AONB and therefore impacts on the AONB can be scoped out.

The Environmental Statement makes no reference to the AONB and the Study Area for Landscape & Visual Impacts is 3km.

We note the reference to NRW's LANDMAP Guidance Note 046 and advise that LANDMAP updates have also been undertaken in recent years, which the consultants should note and be aware of. For updates on LANDMAP information, please contact

Jill.Bullen@cyfoethnaturiolcymru.gov.uk

7.3 Ecology and Nature Conservation.

The Authority must seek to maintain and enhance biodiversity in the exercise of functions in relation to Wales, and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of those functions, under the Environment (Wales) Act 2016. It is therefore essential that the above recommendations for the conservation of biodiversity be followed to ensure that the Planning Authority complies with this statutory requirement along with the adopted guidance in the Biodiversity supplementary planning guidance and TAN 5 (2009)

NRW offer the following comments;

Ecology: Key Habitats

A Phase I survey of the site should be undertaken to describe and map the key habitats of the site and species of particular importance. This should be undertaken in accordance with the NCC Phase 1 survey guidelines (NCC (1990). Handbook for Phase 1 habitat survey. NCC, Peterborough) and should be undertaken and completed during the summer to ensure the best chance of identifying the habitats present.

Protected Species

The site should be comprehensively assessed for its potential to support protected species. We note and welcome that bats and great crested newts will be considered.

In addition, we note that following nest tube surveys of the wider Coed Darcy area, the potential for impacts on dormouse have been scoped out. We further note that otters and water voles have been scoped out. Please note, while we may not be aware of records from the site for these species, there are records just outside the site boundary, we therefore advise that these species are scoped in.

Surveys for protected species should be undertaken by suitably qualified, experienced and where necessary, licensed surveyors in accordance with published guidance, where this exists, and best practice.

We advise the site is subject to assessment to determine the likelihood of protected species and that targeted species surveys are undertaken for all species scoped in.

These should comply with current best practice guidelines and in the event that the surveys deviate or there are good reasons for deviation that full justification for this is included within the Environmental Impact Assessment (EIA).

Should protected species be found during the surveys, information must be provided identifying the species-specific impacts in the short, medium and long term together with any mitigation and compensation measures proposed to offset the impacts identified. We advise that the EIA sets out how the long-term site security of any mitigation or compensation will be assured, including management and monitoring information and long term financial, tenure, and management responsibility. Where the potential for significant impacts on protected species is identified, we advocate that a Conservation Plan is prepared for the relevant species and included as an Annex to the Environmental Assessment.

Bats

We note from the scoping report that the EIA will be supported and informed by an assessment of mature vegetation for its potential to support bat roosts, and further surveys will be undertaken, if required. In addition, we note transit and static surveys have been undertaken across the wider Coed Darcy area, as opposed to the site specifically. We wish to draw to your attention the presence of a bat house, constructed to mitigate the loss of a brown long-eared roost within the former central works office 3a and lesser horseshoe roosts at air raid shelters 6a and 6d, which were demolished to facilitate clearance of the site under European Protected Species (EPS) licence.

The approximate location of the bat house is at GR: SS70699 96098. There is no reference to the building within the scoping report, the EIA Site Location Plan or the EIA Scoping Master Plan. We wish to be assured that the presence of the bat house, including the retention or establishment of flight lines to and from the bat house, its long-term security and maintenance are addressed in the submission.

Great Crested Newt (GCN)

As you are aware, a significant number of great crested newts have previously been translocated under licence, to a series of mitigation areas on the southern and western boundaries of the main development site. A number of mitigation measures, including extensive terrestrial and aquatic habitats, have previously been agreed to ensure there is no detriment maintenance of the favourable conservation status of the population.

We note that this new proposal appears to amend some of the, as yet, undelivered aspects. We therefore advise that in taking forward the EIA a comprehensive plan for great crested newts is prepared and submitted. This should ensure that the aims and objectives of the previous mitigation proposals within this scoping area are adequately delivered in the new proposals.

We note from the scoping report that a suite of six surveys were undertaken in 2021, confirmed great crested newt to be present in a further six ponds within the site. We therefore advise that the comprehensive plan referred to above, takes into account previously known records and new findings associated with the EIA, to ensure conservation of the wider meta population.

Our experience of the site is such that new waterbodies form frequently. Therefore, we also advise that you build into the EIA the provision to assess the presence of, and survey, waterbodies at frequent intervals,

i.e. not less than every year. We advise any conservation plan submitted covers the following points:

An assessment of impacts during the construction and operational phases of the scheme. This to include an evaluation of the nature, extent and duration of the likely direct and indirect impacts of the development. This assessment should include:

- Tabulated review of the extent, distribution and quality of GCN habitat to be removed, retained, enhanced and created, supported by drawings as appropriate;
- Risks of incidental injury or killing;
- Consideration of habitat functionality and connectivity during and post construction; and
- Ecological design considerations. This should include habitat enhancement for GCN within and outside of the development footprint on land within the applicant's ownership and should demonstrate how connectivity between habitats is to be maintained post construction.
- Submission of details and associated plans concerning principles of GCN avoidance and mitigation measures including, but not limited to fence specifications and proposed locations, fence monitoring and maintenance requirements and proposed timescales.
- Submission of further details concerning on-site and off-site GCN habitat compensatory proposals including plans, extent, access, as well as current and proposed tenure. Details shall identify areas of terrestrial and aquatic habitat to be retained, enhanced and created. In respect of aquatic habitats,
 - Pond and associated infrastructure design and fish management requirements; and
 - Flood risk assessments to be carried out for each proposed and existing water body
- Submission of the principles of a long term site management plan that includes defined aims and objectives; habitat management prescriptions; surveillance; contingency measures if fish or invasive non- native species (INNS) are detected; licensing requirements; current and any proposed changes to tenure of the dedicated ecology areas; persons or bodies responsible for undertaking management and surveillance together with required skills and competencies; reporting requirements; and proposed dates for updating or revising the management plan.

- Proposed mechanism for ensuring the long-term management and operation of the proposal. In this instance, we surmise that this will be delivered by a planning obligation such as a Section 106 to ensure long term conservation measures located outside the red line boundary of the proposal. We suggest the mitigation strategy includes a 'Heads of Terms' document that specifies funding mechanisms, tenure/, ensures delivery of management and provisions for updating the management plan.
- Submission of measures designed to ensure the installation and maintenance of an amphibian friendly surface water management system that does not include gully pots (or other similar features that could trap newts).
- Submission to include proposed timescales and reporting requirements and long-term financial considerations.

European Protected Species (EPS) Licence

Where a European Protected Species is identified and the development proposal is predicted to likely contravene the legal protection they are afforded, a licence should be sought from NRW. The EIA must include consideration of the requirements for a licence and set out how the works will satisfy the three requirements as set out in the Conservation of Habitats and Species Regulations 2017 (as amended). One of these requires that the development authorised will 'not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status (FCS) in their natural range'. These requirements are also translated into planning policy through Planning Policy Wales (PPW) December 2018, section 6.4.22 and 6.4.23 and Technical Advice Note (TAN) 5, Nature Conservation and Planning (September 2009). The local planning authority will take them into account when considering the EIA where a European Protected Species is present.

Breeding Birds

We note in paragraph 10.3.30 that three surveys were carried out between April and June 2020 in order to assess breeding bird activity across the site. We require clarity of survey times (i.e. what time of day) – were dusk survey conducted? If not, the applicant will need to provide justification for this. Clarity on whether or not winter bird surveys will be/have been done – if not then we will need to see justification as to why not.

Appendix 3.1 – EIA Scoping Parameter Plan (Coed Darcy – Illustrative Masterplan) the area marked “Dedicated Biodiversity Area for lapwing, invertebrates and Great Crested Newt” appears to be criss-crossed with pathways for public access.

Given that lapwing are highly susceptible to disturbance during nesting, we would question the validity of this mitigation for breeding lapwing. The scoping report suggests that five pairs of lapwing were recorded on site – given the habitat requirements of lapwing, the area mentioned above does not seem sufficient in size to support five pairs of lapwing. We would seek clarity from the applicant on the above points. This should include how they will prevent disturbance (and how this will be secured through the life of the plan). We also recommend they discuss with the LPA options for the provision of appropriate mitigation off-site. The provision and management of green roofs have also proven successful as mitigation for ground nesting species.

Local Biodiversity Interests

We recommend that the developer consults Neath Port Talbot’s local authority Ecologist on the scope of the work to ensure that regional and local biodiversity issues are adequately considered, particularly those habitats and species listed in the relevant Local Biodiversity Action Plan, and are that are considered important for the conservation of biological diversity in Wales.

NRW would expect the developer to contact other relevant people/organisations for biological information/records relevant to the site and its surrounds. These include the relevant Local Records Centre and any local ecological interest groups (E.g. bat groups, mammal groups).

Protected Sites

Although we welcome the consideration of potential impacts upon Crymlyn Bog Special Area of Conservation (SAC) within the EIA Scoping, we feel that the air quality impacts in particular need to be considered carefully, rather than using a blanket baseline figure used for all protected sites. The raised bog and transitional mire habitats in particular are extremely sensitive to nitrogen deposition, so accurate critical load calculations for these specific habitats are essential to avoid any future adverse impacts.

The habitat features of Crymlyn Bog SAC are also currently at risk from over-wetting within the bog environment, any water inputs from the new

development and construction phases must not contribute further to this issue. The Original Habitats Regulations Assessment for the first phase of the Coed Darcy development is now out of date, and does not take into account any potential in combination impacts upon the features of Crymlyn Bog SAC from other surrounding developments that have appeared in the time since its inception. As stated within the report, an up to date HRA will definitely need to be produced taking this into account, and to rule out any likely significant effects of this development either alone or in combination with other impacts on the condition of the protected site features.

7.4 Archaeology and Cultural Heritage.

Glamorgan Gwent Archaeological Trust have consulted the information provided and in the Historic Environment Record. The HER shows that the location is not within any designated landscape or park; although there are two Scheduled Monuments the setting of which may be a factor in understanding the impact of the development.

These are St Margaret's Chapel Cadw reference GM362 which may date from at least the 13th century and the area includes the remains of the chapel itself and additionally human remains; this is c1.3km south west of the nearest part of the site boundary (noted inaccurately as 4km in the Scoping Report). The Llandarcy Round Cairn, Cadw reference GM291 which is a prehistoric burial cairn likely to date to the Bronze Age, is approximately 250m south of the nearest part of the redline boundary, and 120m south east of the nearest part of the blue line boundary. The applicant should contact Cadw for their opinion as to any impact on the setting of these monuments and any mitigation which may be required to be undertaken.

The HER also notes the site was occupied previously by the early 20th century oil refinery and tank farm, and that the establishment, operation and subsequent closure and remediation has resulted in significant disturbance to the area. The HER shows LiDAR data noting potential enclosures, although there is a high probability that these relate to the tank bases and bunds and other related features.

Consequently, given our current understanding of the area, it is our opinion that it is unlikely that there would be an archaeological or historic environment restraint to any development; there is no requirement for pre-determination work apart from contacting Cadw regarding the designated sites named above. Given our current understanding of the historic environment and archaeology of the site,

it is unlikely that there would be a need for post-determination mitigation works, but this will also be dependent on the response of Cadw.

7.5 Noise and Vibration.

The Council's Environmental Health Officers have stated that:

As part of any Environmental Impact Assessment they would expect to see comprehensive detail outlining the potential contributions the development would have on the following:

- The impact of noise, dust and vibration during the construction phase should be covered, as well as potential impacts to air quality from all sources.
- The impacts of noise and vibration from the sites operation should also be outlined and assessed. These should also cover offsite factors such as increased road traffic, etc.
- Any submitted assessment should identify whether the proposed development would require piling during the construction process and assessment different possible piling techniques that could be used before identifying the proposed piling methodology that will be undertaken together with any required mitigation methods.

7.6 Transport and Traffic.

Chapter 5 Transport within the EIA Scoping report is noted by the Highway Section, and await the submission of the revised Transport Impact Assessment in accordance with TAN18.

Active Travel (Wales) Act 2013

The Wales Transport Strategy 2021 A new Wales Transport Strategy (WTS) was published in 2021, setting out WG's vision for an accessible, sustainable and efficient transport system, which can contribute to a more prosperous, green and equal society.

The WTS is centred around the principle of achieving an integrated approach to transport, which will ensure that transport can address key issues to deliver wider commitments, through the following four pathways:

- Decarbonisation;
- Equality;
- Integrated Journey Planning; and

- Rural Transport.

The WTS sets out three short-term key priorities and four longer-term well-being ambitions for the transport system in Wales. The priorities and ambitions of the WTS have been developed with reference to the Sustainable Transport Hierarchy.

Active Travel (Wales) Act 2013 In September 2014, the Active Travel (Wales) Act 2013 was introduced by WG, making it a legal requirement for Local Authorities to map and plan suitable routes for Active Travel (within certain settlements within PCC as designated by WG).

7.7 Hydrology, Hydrogeology and Geology.

The site of the proposed EIA development is located partly within the defined Development High Risk Area. The site is also located within the Surface Coal Resource Zone. The following provides a summary of the Coal Authority's information relating to the coal mining legacy affecting the site:

The site is within the potential zone of influence of former underground mine workings in three coal seams, including workings at shallow depth within the southern and western parts of the site.

A number of coal seams outcrop at or close to the surface within the southern part of the site. These coal seams may have been subject to historic unrecorded mining activity.

There are seven recorded coal mine entries (six shafts and an adit) and their associated zones of influence present within the site or within 20m of its boundary. We hold limited treatment details for two of the shafts and no information relating to the treatment of the remaining mine entries. Due to potential plotting inaccuracies, the actual positions of the mine entries could deviate from their plotted positions by several metres.

Consideration of Coal Mining issues in the Environmental Statement

There are a number of coal mining legacy issues that can potentially pose a risk to new development and therefore should be considered as part of an ES for development proposals within coalfield areas:

- The location and stability of abandoned mine entries
- The extent and stability of shallow mine workings

- Outcropping coal seams and unrecorded mine workings
- Hydrogeology, mine water and mine gas

In addition, consideration should be afforded as part of development proposals and the ES to the following:

- If surface coal resources are present, whether prior extraction of the mineral resource is practicable and viable
- Whether Coal Authority permission is required to intersect, enter, or disturb any coal or coal workings during site investigation or development work

We note that an Environmental Impact Assessment Scoping Report (July 2021, prepared by Savills) has been submitted to the LPA. Chapter 8 of the report considers ground conditions at the site and indicates that a Phase 1 geo-environmental desk study has been carried out. Paragraph 8.3.5 goes on to making brief reference to coal mining legacy present within the site.

The Coal Authority recommends that land instability and safety issues arising from coal mining legacy should be addressed within the Ground Conditions chapter of the Environmental Statement. Whilst not explicitly stated in the Scoping Report, we acknowledge that it may be the case that the Phase 1 report which has already been produced may include an assessment of the risk posed to the proposed development by coal mining legacy.

We wish to advise that any Coal Mining Risk Assessment, or equivalent report, prepared in relation to the proposed development should utilise up-to-date coal mining and geological information to assess the extent to which past mining activity poses any risk to the development proposal and, where necessary, propose mitigation measures to address any issues of land instability. This should include further intrusive investigations to establish the exact situation regarding coal mining legacy affecting the site, as necessary.

The Drainage Authority notes that SAB approval will be required prior to any work commencing.

To commence work is a breach of SAB approval required under Paragraph 7 (1) Schedule 3 of the Flood and Water Management Act 2010 whereby legal action will be taken by the Authority under The Sustainable Drainage (Enforcement) (Wales) Order 2018. Guidance and applications can be found on <https://www.npt.gov.uk/sab>

The submitted SAB Scheme will require sustainable drainage - built in accordance with mandatory standards for sustainable drainage published by Welsh Ministers - to manage on-site surface water. More information is available in Schedule 3 of the Flood & Water Management Act 2010.

The impacts of such a SAB scheme would have to be fully assessed under the appropriate sections of any EIA including the Hydrological, Ecological and Climate Change sections of the ES. This section should include the hydrological connection to the adjacent SAC and Ramsar designated site of Crymlyn Burrows.

This point is further clarified by NRW in their response.

Land Contamination and Groundwater

We note that land contamination and groundwater have been scoped within this project.

We note that from the previous overarching outline planning (Master Plan) that some of those areas have already been through the planning process and in other areas there have been elements of land contamination risk assessment, remediation, validation and verification.

Section 2.5 Environmental and Technical Considerations - Ground Conditions,

Paragraph 2.5.2. should specify that this refers to the central areas only and does not refer to the northern tank farm or the southern tank farm areas outside of the central plateau. This should be made clear in a diagram to prevent future confusion.

We note that the document refers to a section 106 Planning Obligation deed from 2008, with a specification for a RAP (Remedial Action Plan), which specifies RBSL risk based screening levels. These were derived for human health risk assessments only and on the basis that the site

was to be developed as a country park. The standards that these were based on have been updated in the 15+ years that this was written.

Paragraph 2.5.5. Monitor Certificates were provided in 2015, and should be supplied, if they are to be used as part of the evidence for this new application. However, as was specified to Neath Port Talbot Council, URS (as the Monitor) and St Modwen's at the time, this did not pre-empt any site-specific risk assessments that may be required for groundwater.

Paragraph 2.5.7 - In reference to the site wide site investigation, a very limited amount of this information has been supplied to NRW for comment, whether under a planning permission condition or a voluntary submission. We would welcome the submission of this information as part of the planning process in order to understand the conceptual site model of the wider site.

With regards to the treatment of contaminated material on site, if there is a stockpile of material, treated or otherwise on site, this may warrant a discussion with our South West Waste Team with regards to the need for a permit.

Paragraph 2.5.8- Please see comments on 2.5.5, for plots needing site specific risk assessments.

Any submission under Planning Permissions should seek to use current guidelines under WFD, using the Land Contamination Risk Management document (LCRM link).

For each phase of development that has not already been through the full steps of land contamination risk assessment, we would ask for conditions to address this.

Paragraph 3.1.1 - In terms of sustainable drainage on the site, these need to be carefully assessed to ensure that no contamination is mobilised within the groundwater.

Paragraph 8.2.1 – We agree that due to the changes in policy and guidance that an updated assessment on the impact of the proposed development on soils, hydrogeology and ground conditions is required.

Paragraph 8.2.5 - Our published Open Data can be downloaded from Lle Geoportal. This is the data portal for Wales, Natural Resources Wales / Access our data, maps and reports. DEFRA Magic maps are now out of date for the site. We would expect all the reports that the planning submission is to be based on to be supplied as part of the application.

Paragraph 8.3.15 - This statement is not accurate. As previously stated, the RAP standards are for Human health and each plot requires a site-specific risk assessment.

Not all of the site for controlled waters has had a regulatory review, via the planning process and it needs to be clear which area of the site that this statement refers to. For example, the North site tank farm (from the EIA Location plan) has been included but NRW have not commented on its remediation. We welcome the submission of the document for the RAP certificates that shows which sites had been through the RAP process (a map), but also it would be helpful if one was also provided for those area that have been through the planning process.

Paragraph 8.3.16 - we agree that further work is needed to understand some areas and risk management and remediation will be required.

Paragraph 8.5.1 - We agree with the comments in this section regarding envisaged mitigation.

Paragraph 8.7.1 - In terms of groundwater as a resource, this needs consideration, dependant on which catchment area that this falls within.

Water Quality

Paragraph 3.3.7 – We welcome the proposal in this section which includes the preparation of a Construction Environmental Management Plan (CEMP).

Due to the close proximity of Crymlyn Bog, the large area to be developed and the previous land use a CEMP is extremely important for this site. Pollution from runoff containing eroded soil during the construction phase is a very likely source of pollution from this site.

Paragraph 8.4.1 – There is a very high possibility of erosion or loss of soil during consecution which will need to be addressed by the CEMP.

Paragraph 8.5.1 – With regard to programming of earth works we would expect to see phased areas of construction in smaller blocks to enable effective management of risk associated with soil runoff. It would be preferable if the SUDS features (e.g. attenuation basins) were built in advance of significant areas of construction to assist with managing surface runoff from the site.

Paragraph 9.2.7 – Due to the proximity of the site to the highly sensitive and high conservation value Crymlyn Bog SUDS (incorporating features such as attenuation basins and swales) are extremely important at this

site. They could also provide useful habitat that could connect to the bog to allow green corridors.

Appendix 3.1 – EIA Scoping Parameter Plan (Coed Darcy – Illustrative Masterplan) -

We note there were not many ponds/wetland features or SUDS features (Swales/attenuation basins) marked on this map.

Health and Safety and Risk to Human Health.

They state that the end point of EIA population and human health analysis should, where possible, describe the predicted health and well-being outcomes as outlined in Planning Policy for Wales Edition 11. There should be appropriate cross referencing to population and human health in all chapters. Regarding environmental considerations, PPW11 highlights the need to consider aspects of climate change, including;

- Will the causes and impacts of climate change be fully taken into account through the location, design, build, operation, decommissioning and restoration; and
- Does it support decarbonisation and transition to a low carbon economy?

Noise and Vibration

We are in agreement with the proposed scope of the noise assessment. We understand that a monitoring exercise has been completed at the site but we are not in possession of any results so our comments are based on the outline approach presented within the Scoping Report.

We welcome the reference to the Noise and Soundscape Action Plan and will expect to see full consideration of soundscape within the Noise Chapter of the ES.

We are unable to agree the proposed construction working hours contained in section 3.3.4 (7am-7pm with 6.30 start 7.30 finish) as this is likely to have a detrimental effect on sensitive receptors within other phases of the Coed Darcy site boundary. We are likely to recommend a condition on the application restricting the hours of construction to

8am-6pm Mon – Fri and 8am – 1pm Sat with no Sunday or Bank Holiday working.

7.8 Air Quality.

The applicant will need to provide information so the Local Authority to carry out a Habitat Regulation Assessment (HRA) under regulation 63 of the Conservation of Habitats and Species Regulations 2017 prior to the determination of the planning application. The HRA should determine whether there will be an adverse effect on the integrity of the European sites.

The Air Quality Chapter does not refer to the “Clean Air Plan for Wales: Healthy Air, Healthy Wales” setting out Welsh policy for the reduction of impacts of air pollution.

The assessments must be mindful of emerging Welsh strategies and policies following the imminent passage of the Environment Bill.

Paragraph 6.2.31 states that “Additional air quality survey work is required as there is a limited number of local authority operated monitoring sites within the air quality study area that may be used to verify the dispersion modelling. - If no monitoring data from the monitoring survey are available in time to inform the air quality assessment to be delivered in October 2021, a suitably conservative adjustment factor will be used to adjust the air quality model in lieu of verification.” We have concerns about this approach and would prefer to have site specific monitoring data used in the assessment of air quality.

As the Scoping document rightly identifies there will shortly be a requirement to comply with new PM_{2.5} air quality objectives and targets, however, as this has not previously been a requirement on Local Authorities local background data is not available. The scale of this development may result in additional monitoring duties for the Local Authority as a direct result of the development and as such there is a possibility that we will request Section 106 contributions towards additional monitoring sites if they are required.

There is no mention of biomass or CHP plants within the air quality chapter and as such we assume that none are proposed.

We will expect to see ongoing monitoring of construction dust on site due to the fact that some of the phases are now occupied locating

sensitive receptors close to proposed areas of construction. Dust control will be critical in light of the previous use of the site and the known contamination.

7.9 Socio-economic Assessment.

7.10 Climate.

Public Health.

Regarding environmental considerations, PPW11 highlights the need to consider aspects of climate change, including;

- Will the causes and impacts of climate change be fully taken into account through the location, design, build, operation, decommissioning and restoration; and
- Does it support decarbonisation and transition to a low carbon economy?

Ground Conditions human health

The site has previously been subject to significant site investigation and remedial works to address contamination associated with the former use of the site. An essential element of the ES will be to collate and present this information in a clear and transparent way to update and inform future work on site. We note the proposal for additional ground investigation as part of the ES and welcome an updated assessment of the site due to the age of some investigation and remedial works.

The report states that RAP works have been completed, however, it is my understanding that formal sign off of the RAP works has not taken place and the applicant is required to provide evidence that the RAP works have been completed. I have attached a letter to the applicant in which there was a technical discussion of proposed changes to the RAP works and the Section 106 but this was not formally approved. The proposed application will need to carry out a full assessment of the status of any relevant RAP works and conditions may be required to secure any outstanding works if this site will no longer be delivered with the existing Section 106.

We have some concerns as to the status of the wider site area that does not form part of the red line boundary for this application and any impact

that residual contamination in these areas could have on the development site and surrounding areas. We would be keen to understand how this will be addressed going forward.

We are in negotiation with the applicant about the possible updates to the Risk Based Screening Levels (RBSLs) to replace those within the Section 106 RAP works. It is expected that these screening levels will form part of the submission with the ES in order that they can be included within the decision notice for the application.

As stated in the Scoping Report there are two elements of the remediation the first being those required under the RAP works and the second those required during redevelopment. The latter has proved difficult to track and a clear mechanism will be required to ensure that redevelopment remediation is completed.

As part of the proposed CEMP we recommend the reinstatement of vapour and dust monitoring during remedial works on the site due to the proximity to sensitive receptors that have now occupied earlier Phases of Coed Darcy.

7.11 Waste.

Full consideration should be given to appropriate waste management systems throughout the design, construction and operation of the proposed development. Policy W3 of the Neath Port Talbot Development Plan will require the submission of a Site Waste Management Plan. This plan should consider both the construction and Operational stages of the development and should be used to inform the content of the EIA and subsequent ES.

Waste Management

NRW also raise this issue;

Waste produced during construction

Waste produced during the construction phase of your development must be dealt with appropriately and be in line with all relevant waste legislation including Duty of

Care Regulations and Hazardous Waste Regulations. As part of your waste duty of care you must classify the waste produced:

- before it is collected, disposed of or recovered
- to identify the controls that apply to the movement of the waste
- to complete waste documents and records
- to identify suitably authorised waste management options
- to prevent harm to people and the environment.

Any waste removed from site will be subject to waste management controls. The links below provided information on how to classify waste and register as a waste carrier or hazardous waste producer:

<http://naturalresources.wales/permits-and-permissions/waste/?lang=en>

Further guidance can be found on the GOV website here:

<https://www.gov.uk/managing-your-waste-an-overview/duty-of-care>

7.12 Land and Ground Condition

See previous sections for comments.

8. Other Matters

This section does not constitute part of the Scoping Opinion, but addresses other issues related to the proposal it is good practice to develop a Construction Environment Management Plan (CEMP) to be included in the ES. CEMPs 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 species management; species and habitats protection, avoidance and mitigation measures.
- 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.
- Control of Nuisances: details of restrictions to be applied during construction including timing, duration and frequency of works; details of measures to minimise noise and vibration from piling activities, for example acoustic barriers; details of dust control measures; measures to control light spill and the conservation of dark skies.
- 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.
- Traffic Management: details of site deliveries, 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.
- Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details
- Landscape/ecological clerk of works to ensure construction compliance with approved plans and environmental regulations.

8.1 Habitats Regulation Assessment

The Conservation of Habitats and Species Regulations 2017 require competent authorities, before granting consent for a plan or project, to carry out an appropriate assessment (AA) in circumstances where the plan or project is likely to have a significant effect on a European site (either alone or in combination with other plans or projects). The competent authority in respect of an application is the Planning Authority in consultation with Natural Resources Wales. It is the

Applicant's responsibility to provide sufficient information to the competent authority to enable them to carry out an AA or determine whether an AA is required. When considering whether or not significant effects are likely, applicants should ensure that their rationale is consistent with the CJEU finding that mitigation measures (referred to in the judgment as measures which are intended to avoid or reduce effects) should be assessed within the framework of an AA and that it is not permissible to take account of measures intended to avoid or reduce

the harmful effects of the plan or project on a European site when determining whether an AA is required ('screening').

The screening stage must be undertaken on a precautionary basis without regard to any proposed integrated or additional avoidance or reduction measures. Where the likelihood of significant effects cannot be excluded, on the basis of objective information the competent authority must proceed to carry out an AA to establish whether the plan or project will affect the integrity of the European site, which can include at that stage consideration of the effectiveness of the proposed avoidance or reduction measures.

Where it is effective to cross refer to sections of the ES in the HRA, a clear and consistent approach should be adopted.

NRW has stated in their response in relation to Air Quality and water quality and supply that the applicant will need to provide information so the Local Authority to carry out a Habitat Regulation Assessment (HRA) under regulation 63 of the Conservation of Habitats and Species Regulations 2017 prior to the determination of the planning application. The HRA should determine whether there will be an adverse effect on the integrity of the European sites.

8.2 Well-being of Future Generations Act

The Well-being of Future Generations (Wales) Act 2015 places a duty on public bodies to carry out sustainable development. It is the responsibility of the decision maker 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. Under the Well-being Act, the planning system is required to deliver an improvement in all four aspects of well-being: social, economic, environmental and cultural. In order to demonstrate that appropriate consideration has been given to the Well-being goals and sustainable development principle in the decisionmaking process, public bodies are required to have regard to the 'five ways of working' contained in the Well-being Act.

These require consideration of: involvement; collaboration; integration; prevention; and long term factors. It will be for each decision-making body to demonstrate how they have operated in this manner. Whilst not a legislative requirement, as part of the application documentation, the applicant may wish to consider submitting a statement to illustrate their

view on how proposed developments contribute to the goals set by the Well-being Act. Information in relation to crime.

8.3 SuDS Consent

Whilst a separate legislative requirement from planning permission, the Applicant's attention is drawn to the statutory SuDS regime that came into force in Wales in January 2019. The requirement to obtain SuDS consent prior to construction may require iterative design changes that influence the scheme that is to be assessed within the ES and taken through to application. As such, it is recommended that the applicant contact the local SuDS Approval Body (SAB) early on.

The Drainage Authority (SAB) states that these systems must be approved by the Council's Highway Development Control service acting in its SuDS Approving Body (SAB) role before construction work begins. In this respect it is essential that a developer of any such project gains SAB approval of its surface water drainage alongside any relevant planning permission. You will not be allowed to start construction until both permissions have been approved.²⁶ EIA Scoping Opinion.

If you have not done so already, and your development would not fall into any of the relevant exceptions, you are therefore strongly encouraged to request further advice from the SAB.

Involving the SAB Officers in pre-application discussions will allow for SuDS drainage matters (to ensure suitability of proposed SuDS design in line with national standards and adequate site layout) to be considered alongside the assessment of planning merits. There is an additional charge of £250 for this service. This can be as part of any agreed further pre-application submissions with the Planning Authority (recommended) or independently/ direct with the SAB.

You are advised, however, that failing to engage in joint pre-application discussions has the potential to lead to delays and, most notably, the potential need to obtain further planning permission should any agreed SuDS design not be compliant with any relevant planning permission. Further details are available at www.npt.gov.uk/sab.

Dwr Cymru Welsh Water have also stated that the proposed development is subject to Schedule 3 of the Flood and Water Management Act 2010. The development therefore requires approval of Sustainable Drainage Systems (SuDS) features, in accordance with the 'Statutory standards for sustainable drainage systems – designing, constructing, operating and maintaining surface water drainage

systems'. It is therefore recommended that the developer engage in consultation with Neath Port Talbot County Borough Council, as the determining SuDS Approval Body (SAB), in relation to their proposals for SuDS features. Please note, Dwr Cymru Welsh Water is a statutory consultee to the SAB application process and will provide comments to any SuDS proposals by response to SAB consultation.