

17th March 2023
Our Ref: 23.8000

c/o Mr Chris Davies
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Dear Chris,

**SECTION 73 – TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)
APPLICATION TO VARY CONDITION 86 PURSUANT OF PLANNING PERMISSION, REF.
P2018/0636 - EAST PIT SURFACE MINE, TAIRGWAITH, AMMANFORD, NEATH**

1. Introduction

This letter is hereby submitted in support of a Section 73 application for the Variation Condition 86 of Planning Permission ref. P2018/0636, which seeks to extend the time limit for the submission of the first reserved matters application to be made to the Local Planning Authority.

The description of development reads:

“Variation of Condition No. 86 pursuant of Planning Permission ref. P2018/0636 to allow an extension of time for the first Approval of Reserved Matters application to be submitted to the Local Planning Authority for a further 36 months until 31st March 2026”.

2. Background and Overview

By way of background, the Section 73 Application (ref. P2018/0636) was granted permission 3rd March 2022 for the:

“Variation of Conditions 1, 2, 18 and 82 attached to planning permission reference P2012/1073 to extend coaling operations until 31st May 2019; to extend the period for removal of coal stocks until 1st March 2020; to extend the use of the GCG Railpad until 1st March 2020 and extend the time period for the submission of the final proposed buttress to be placed against the eastern high wall until 1st March 2019 (amended from 31st October 2018)”.

For reference, planning permission reference P2012/1073 was granted permission in June 2015 for:

“Matters of Outline with all matters reserved: leisure facilities to include: a 120-bedroom hotel (Use Class C1); 78 holiday lodges (Class C3) of 2, 3 and 4 bed-units; a campsite (Sui Generis) of 6.35ha. with facilities block of 210m2 and Visitors Centre (Class D1) of 300m2; dive centre with ancillary dive centre shop (Class D2) of 1630m2; all to include appropriate parking provision, recreational open space, internal access routes, services and drainage provision; and associated works including access, footpaths, cycle routes and bridleways, landscaping and layout details; Matters of Detail (as set out in the application at Annex 1:



Mineral Extraction and Processing) the proposed north eastern extension to East Pit East Revised for the purposes of coal extraction along with the completion of coaling at the existing site and the retention of associated ancillary development and Gwaun-Cae-Gurwen Railhead together with the development of a Country Park and recreational lake”.

3. Planning History

The planning history for the site is set out within the table below:

Application Reference	Description	Decision
P2021/0167	Discharge of Conditions 58 and 62 of Planning permission P2018/0636.	Approved March 2022.
P2021/0075	Application for Approval of Details under Conditions 69 a (Written Scheme for the setting up and running of a Nature Conservation Steering Committee) of Planning permission P2018/0636).	Approved February 2022.
P2020/0879	Application for Approval of Details under Conditions 69 b (Nature Conservation Steering Committee / Biodiversity Action Plan) and 74 (Aftercare Scheme) of Planning Permission P2018/0636 (Revised Cond. 74 Details Received December 2020 – Bridelways).	Approved February 2021.
P2019/5588	Discharge of Condition 82 on Planning permission P2018/0636.	Approved September 2020.
P2018/0636	Variation of Conditions 1, 2, 18 and 82 attached to planning permission reference P2012/1073 to extend coaling operations until 31 st May 2019; to extend the period for removal of coal stocks until 1 st March 2020; to extend the use of the GCG Railpad until 1 st March 2020 and extend the time period for the submission of the final proposed buttress to be places against the eastern high wall until 1 st March 2019 (amended from 31 st October 2018).	Approved July 2019.
P2015/0875	Discharge of Conditions 19 (Pumping Scheme), 26 (Noise Scheme), 32 (Blasting Scheme), 37 (Dust & Air Quality Scheme), 52 (Coal Transport Plan), 61 (Maintenance Programme for Water Treatment Areas), 64 (Pollution Prevention Measures), 73 (Restoration & Aftercare Phase 2) and 81 (Land Stability Scheme) of planning permission P2012/1073 (approved 18th June 15)	Approved November 2018.
P2017/0703	Condition No. 65 associated with Planning Reference No. P2012/1073, Approval required for Northern and Southern lake outfalls.	Approved September 2017.
2017/0147	Discharge of Condition 20 of Planning Permission reference P2012/1073 (Scheme for the demolition of 43 Ochr y Waun)	Approved May 2017.

P2016/0276	Application to discharge condition 68 (requiring an Ecological Monitoring and Management scheme, EMMS) of planning permission P2012/1073	Approved December 2016.
P2016/0389	Application for discharge of condition 71 (programme of archaeological works) of planning permission P/2012/1073	Approved July 2016.
P2011/0250	Proposed restoration and aftercare details under condition 61 (schedule B) and condition 62 (schedule C) of planning permission ref APP-185-07-14	Withdrawn January 2016.
P2011/0606	Proposed scheme under condition 36 of Planning Permission APP-185-07-14 for additional monitoring of groundwater levels & groundwater quality during restoration	Withdrawn January 2016.
P2015/0811	Discharge of Condition 79 attached to planning permission P2012/1073 - Technical Working Party	Approved October 2015.
P2015/0810	Discharge of Condition 80 attached to planning permission P2012/1073 - formation of a Site Liaison Committee	Approved October 2015.
P2013/0530	Planning Application pursuant to s73A of The Town and Country Planning Act(1990)(as amended) for the Variation of Condition 3 of Planning Permission A-PP185-07-014 to retrospectively enable the continuation of extraction of coal for three years from 30th November 2012 at East Pit East Revised Opencast Coal Site, Gwaun cae Gurwen, SA18 1UP.	Withdrawn June 2015.
P2012/1073	A planning application at the site currently known as East Pit East Revised OCCS, Gwaun-cae-Gurwen, SA18 1UP for development comprising: Matters of Outline with all matters reserved: leisure facilities to include: a 120-bedroom hotel (Use Class C1); 78 holiday lodges (Class C3) of 2, 3 and 4 bed-units; a campsite (Sui Generis) of 6.35ha. with facilities block of 210m2 and Visitors Centre (Class D1) of 300m2; dive centre with ancillary dive centre shop (Class D2) of 1630m2; all to include appropriate parking provision, recreational open space, internal access routes, services and drainage provision; and associated works including access, footpaths, cycle routes and bridleways, landscaping and layout details; Matters of Detail (as set out in the application at Annex 1: Mineral Extraction and Processing) the proposed north eastern extension to East Pit East Revised for the purposes of coal extraction along with the completion of coaling at the existing site and the retention of associated ancillary development and Gwaun-Cae-Gurwen Railhead together with the development of a Country Park and recreational lake.	Approved June 2015.
P2013/0291	Scoping Request under Regulation 10 of the Town & Country Planning Environmental Impact Assessment (England & Wales) Regulation 1999 as	Scoping Opinion May 2013.

	amended - For a Section 73A application to seek retrospective planning permission for continued coaling	
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As shown above, the following Conditions have been discharged under the most recent s73 (app ref. P2018/0636) (REVISION NUMBER 4, issued on 03/03/2022) are:

- **Cond 82:** Final proposed buttress to be placed against the high walls,
- **Cond 69b and 74:** (Nature Conservation Steering Committee / Biodiversity Action Plan) and 74 (Aftercare Scheme) of Planning permission P2018/0636 (Revised Cond. 74 Details Received December 2020 - Bridleways)
- **Cond 69:** A (Written Scheme for the setting up and running of a Nature Conservation Steering Committee)
- **Cond 58 and 62:** Surface water and groundwater monitoring programme (58) and monitoring of abandoned mine water discharges (62).

4. The Proposal

The amendment sought to Condition 86 seeks to extend the timeframe for the submission of the first Reserved Matters Approval (RMA) Application to be made to the Local Planning Authority (LPA) for a further 36 months.

The reason for the variation sought is to allow sufficient timeframe for the Applicant to collate the supporting information required to support the first RMA Application. The conditions to be submitted concurrently with the RMA are set out below for ease of reference:

- **Condition 91:** Prior to Submission of RMA: phased development areas together with strategic infrastructure phases
- **Condition 92:** Submitted with RMA: update/progress statement to the Design and Access Statement
- **Condition 96:** Submitted with RMA: phasing approach for the development reflecting the car parking requirement
- **Condition 97:** Submitted with RMA: details of the existing and proposed ground levels and finished floor level
- **Condition 98:** Submitted with RMA: site investigation report to establish if any ground precautions
- **Condition 107:** Submitted with RMA: hydraulic modelling assessment
- **Condition 109:** Submitted with RMA: Waste Management Plan
- **Condition 112:** Submitted with RMA: external materials, finishes and permanent and temporary means of enclosure
- **Condition 113:** Submitted with RMA: CEMP
- **Condition 116:** Submitted with RMA: Traffic Capacity Assessment

- **Condition 117:** Submitted with RMA: scheme of internal road layouts
- **Condition 119:** Submitted with RMA: Travel Plan
- **Condition 124:** Submitted with RMA: Landscape Management and Maintenance Plan (LMMP)
- **Condition 126:** Submitted with RMA: Ecological Impact Assessment
- **Condition 127:** Submitted with RMA: Ecological and Enhancement Receptor Area
- **Condition 128:** Submitted with RMA: Detailed design specification to avoid or minimise damage to surrounding habitats
- **Condition 130:** Submitted with RMA: Assessment for Contamination

The supporting information required to accompany the first RMA still ongoing and given the extensive nature of the investigations, reports and information required, it is considered that an extension of 36 months is reasonable. This, coupled with the recent change in Applicant for the site, alongside wider economic delays have further hindered the preparation of the first RMA. However, the Applicant is keen to progress the first RMA application and a submission is forthcoming by or before the 31st March 2026.

5. Revised Wording of the Condition

Current Wording of Condition 86

“Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of the final completion of restoration of the site or before the 31st March 2023 whichever is the sooner”.

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

Proposed Revised Wording of Condition 86

“Application for approval of the reserved matters shall be made to the Local Planning Authority before the ~~expiration of three years from the date of the final completion of restoration of the site or before the~~ 31st March 2026 ~~whichever is the sooner~~”.

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

6. Conditions

Circular WGC 016/2014: The Use of Planning Conditions for Development Management (2014) states at paragraph 5.21 that ‘as a general rule, applications for the renewal of permissions before the expiry of time limits should be refused only where:

- (a) there has been some material change in planning circumstances since the original planning permission was granted (eg. a change in some relevant planning policy for the area, or in relevant highway considerations, or the publication by the government of new planning policy guidance material to the renewal application);
- (b) continued failure to begin the development will contribute unacceptably to uncertainty about the future pattern of development in the area;
- (c) the application is premature because the permission still has a reasonable time to run’.

These criteria are considered in turn below.

(a) It is not considered that there has been a material change in planning circumstances after the approval of the original consent.

(b) The lack of progress in beginning the development to date is not sufficient to contribute to uncertainty, particularly bearing in mind that there is a new applicant who has been involved in ongoing conversations with the Council regarding the development of the site. There has also been further technical works required on site prior to any Reserved Matters submission.

(c) Whilst the approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of the final completion of restoration, the Condition also notes that the reserved matters should be provided before the 31st March 2023 as this is sooner date. Overall, it is considered that there are no justifiable reasons for refusal of the renewal of the consent, prior to the expiry of time limits.

7. Submission

This application includes the following:

- Application Form and Certificates;
- Approved Drawings:
 - Site Location Plan
- Environmental Compliance Statement

8. Conclusions

In the context of the information provided above relating to the lack of justifiable reason for refusal in accordance with Circular WGC 016/2014: The Use of Planning Conditions for Development Management, it is considered that planning permission should be granted for the Section 73 application to vary Condition 86 of Planning Permission (ref. P2018/0636).

The application has been submitted via planning portal, relevant reference no. PP- 12017091 and the appropriate fee has also been paid.

I look forward to receiving confirmation of the validation and registration of the application and request to arrange a meeting at the earliest convenience.

Yours sincerely



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