

Ceri Morris (Head of Planning and Public Protection)
Neath Port Talbot County Borough Council
The Quays
Brunel Way
Baglan Energy Park
Neath
SA11 2GG

25 September 2023

Dear Mr Morris

Application for Prior Approval and Environmental Impact Assessment Screening Request
Proposal: Erection of a revised new process building and treatment tanks as part of a replacement active mine water treatment scheme.
Location: Land Adjacent To Neath Road, Resolven, Neath

Town and Country Planning (General Permitted Development) (Wales) Order 1995

Town and Country Planning (Environment Impact Assessment) (Wales) Regulations 2017

I refer to the previous approval of an Application for Prior Approval for 'Proposed erection of a replacement active mine water treatment scheme, comprising a new process building, a repurposing of the existing process building for use as offices and welfare accommodation, minor drainage improvements to the retained passive reed beds and associated development'.¹

Since receipt of an Environmental Impact Assessment Screening Opinion and the granting of Prior Approval, the Coal Authority (hereafter 'the CA') and its consultants have progressed the detailed design of the scheme in advance of construction. During this process, it became apparent that the northern-most corner of the proposed new process building will encroach the public highway (the footpath that follows the edge of the layby on the B4242) by 0.8 metres. For indicative purposes, this is illustrated below on the image of the existing situation (**Figure 1**) and on one of the approved drawings comprising part of the previous submission (**Figure 2**).

¹ Minerals Planning Authority ref. P2021/0551 – as processed by Hugh Towns of Carmarthenshire County Council on behalf of Neath Port Talbot County Borough Council.



Figure 1 – Existing view identifying the broad location of the highway encroachment

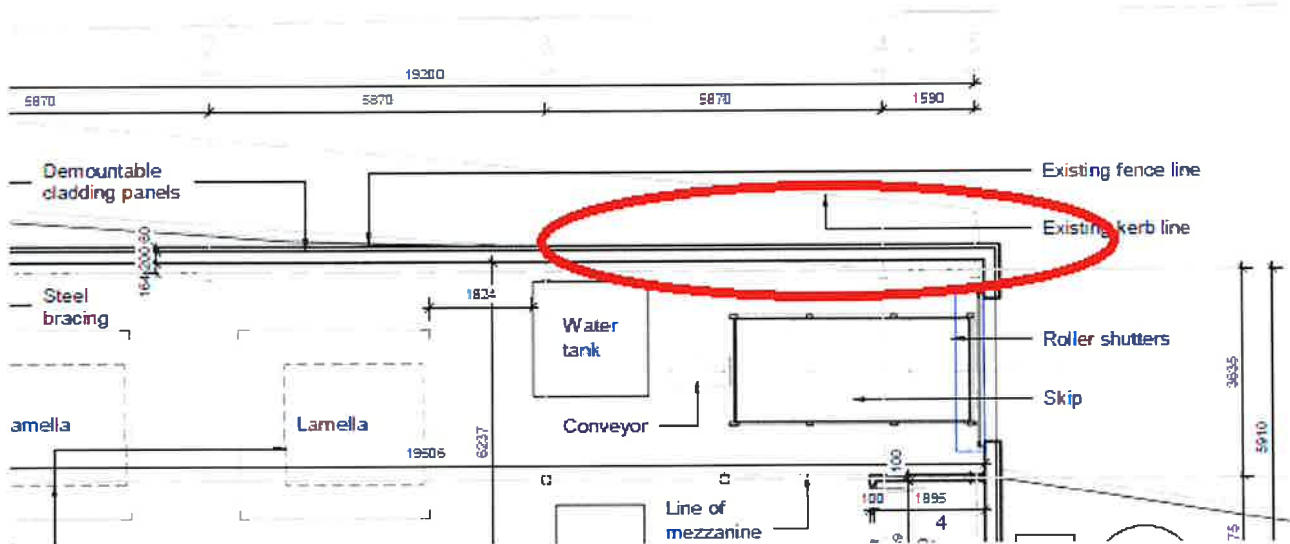


Figure 2 – Extract of the approved 'Proposed Internal Layout of the Treatment Building' (dwg no. MWTS-AEC-YN-GF-DR-A-3610 Rev P02) to identify broad area of encroachment

Whilst this is not a well-used footpath, which also terminates for a short distance at the point of the CA's existing operational facility, the approved scheme is undeliverable due to being partly on the public highway. In addition, the incursion would have a further impact on visibility splays to large vehicles exiting the site.

The CA has previously discussed the matter with Jon Griffiths, Rights of Way Officer at Neath Port Talbot County Borough Council (hereafter 'the Council'). He confirmed that the only way to deliver the approved scheme would be to either apply for full planning permission, including the area of land in question within the application site boundary, or proceed through a stopping up order with the Welsh Government. The CA decided it could not afford to progress either of these options, as



both would necessitate a protracted process with no certainty of a successful outcome. Moreover, the CA would not wish to relinquish its Permitted Development Rights (hereafter 'PDR').

In the meantime, the current mine water treatment scheme (hereafter 'MWTs') continues to operationally decline with unsatisfactorily high operational costs and frequent repairs to ensure ongoing and consistent treatment of the polluted mine water.

To complicate matters, intrusive site investigations have recorded significant gabbion structures underlying the site adjacent to the canal. To interfere with these by simply moving the treatment building, as it was previously proposed, further south to avoid the slight encroachment of the public highway would be costly with an unknown potential impact on the stability of the canal bank. A slightly narrower building design at the specific section of infringement is also not technically feasible due to the size and nature of the treatment process equipment/machinery within it, as well as minimum space standards. In addition, there is limited flexibility in adjusting an in-line treatment process. The site is constrained to say the least!

Accordingly, with all of the above in mind, the layout and design of the proposed new process building and treatment tanks have been revised.² The building is more elongated with a stepped north west facing elevation and the external process tanks have been relocated to facilitate a shift in the building to the south west end of the site. Owing to the constrained nature of the site and the resultant need to tighten up the space around the tanks, their dimensions have been altered from that previously approved resulting in an increase in the height by 4 metres. These measures, along with other various design tweaks will enable the essential treatment process to be safely accommodated on the existing site whilst, significantly, avoiding any encroachment of the public highway. To enable a simple comparison between the previously approved process building and the latest revised proposed layout, refer to **Figures 3 and 4** respectively.

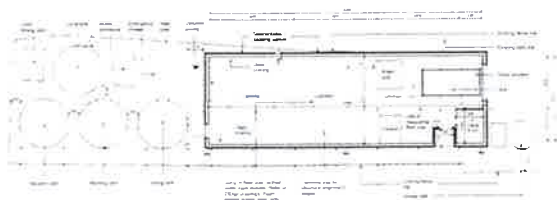


Figure 3 – Previously approved layout



Figure 4 – Revised proposed layout

Accordingly, this submission represents a further Application for Prior Approval for the '*Erection of a revised new process building and treatment tanks as part of a replacement active mine water treatment scheme*'.

Along with this letter, the following drawings are submitted to comprise part of the application:

- **Location Plan** (dwg no. YNYS-DBS-00-XX-D-A-0001_S2 Rev. P02);
- **Existing Site Plan** (dwg no. YNYS-DBS-00-XX-D-A-0002_S2 Rev. P02);
- **Proposed Site Plan** (dwg no. YNYS-DBS-00-XX-D-A-0003_S2 Rev. P02);
- **Isometric Proposed Site View 1** (dwg no. YNYS-DBS-00-ZZ-D-A-0141_S2 Rev. P02);

² the repurposing of the existing treatment building for office and welfare facilities will remain as previously approved.

- **Isometric Proposed Site View 2** (dwg no. YNYS-DBS-00-ZZ-D-A-0142_S2 Rev. P02);
- **Isometric Views Treatment Building** (dwg no. YNYS-DBS-01-ZZ-D-A-0140_S2 Rev. P01);
- **Proposed Drainage** (dwg no. 55-21006-DR-0102 Rev. P01);
- **Swept Path Analysis** (dwg no. 55-21006-DR-0103 Rev. P01);
- **Tree Retention Plan** (dwg no. 55-21006-DR-0101 Rev. P01);
- **Proposed Roof Plan Treatment Building** (dwg no. YNYS-DBS-01-RF-D-A-0102_S2 Rev. P01);
- **Proposed Elevations Treatment Building** (dwg no. YNYS-DBS-01-ZZ-D-A-0110_S2 Rev. P01);
- **Proposed Ground Floor Plan Treatment Building** (dwg no. YNYS-DBS-01-00-D-A-0100_S2 Rev. P01)

Furthermore, an **Update Preliminary Ecological Appraisal** (dated June 2023, prepared by EcoVigour Integrated Environmental Management Ltd) is provided to comprise part of the application documentation.

The previous written Application for Prior Approval, along with the Environmental Impact Assessment Screening Request are attached as **Appendix 1** and **2** respectively for ease of reference and to ensure brevity in this current submission.

This application is again made under Part 20 Class E (Coal Mining Development by the Coal Authority and Licensed Operators) of the Town and Country Planning (General Permitted Development) (Wales) Order 1995. In principle terms, the use of these rights for the erection of a revised new process building remain wholly applicable. i.e. the development to treat polluted mine water is ***'...required for the maintenance or safety of a mine or a disused mine or for the purposes of ensuring the safety of the surface of the land at or adjacent to a mine or a disused mine'***.

Owing to the relatively compact nature of the site, the relocation of the new process building and treatment tanks along with associated design alterations are considered negligible changes to that previously approved when considering wider visual amenity impacts. Existing mature surrounding landscaping and topographical differences will also continue to help assimilate the development into its setting, further supported by the fact that the site is already occupied and operational with regard to mine water treatment.

Accordingly, insofar as the content of Part 20 Class E of the GPDO is concerned, it is respectfully contended that the revised layout and design would not alter the Minerals Planning Authority's (hereafter 'MPA') previous conclusion that, ***'The proposed development would not injure the amenity of the neighbourhood and there is no evidence to suggest that the proposed development ought to be, and could reasonably be, sited elsewhere'***.

As previously mentioned, the proposed repurposing of the current treatment building for use as offices and welfare accommodation will remain unchanged from that already approved. Accordingly, this element of the overall proposal is excluded from this submission.

Turning to the MPA's previous Environmental Impact Assessment Screening Opinion that, ***'The proposal does not amount to EIA development'***, it is also the opinion of the CA that the proposed changes should not alter that conclusion. That is to say, **the current proposal is still unlikely to have a significant effect on the environment.**



With regard to Regulation 6.(2) of The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 (hereafter 'the Regulations') to determine whether the proposed development is likely to have significant environmental effects, taking into account, where relevant, the selection criteria in Schedule 3 ('*Selection criteria for screening Schedule 2 development*')³ to the Regulations, the proposal:

- Is in the same location as the proposal previously considered by the MPA;
- Is within the same site boundary, save the slight reduction to avoid the aforementioned encroachment of the public highway (footpath);
- Will not have any cumulative impact on the environment with any directly relevant developments that exist or are proposed in close proximity of the site;
- Once complete will be operated to a very high standard with consideration towards the environment, human health and prevention of accidents;
- Still seeks to effectively and efficiently treat polluted mine water for significant environmental benefit;
- Is on the same landholding as the *existing* active MWTS and therefore the land use remains as the status quo ensuring that the new replacement MWTS will be readily assimilated into the immediate environment with no material environmental impact;
- Will remain well-screened from wider vantage points by a combination of the surrounding topography, trees and canal-side landscaping;
- Will again represent a more visually acceptable form of development in the immediate setting owing to the currently operational scheme reaching the end of its operational life;
- Will remain a material distance away from sensitive receptors beyond intervening road side trees/vegetation such that odour nuisance will be no issue;
- Is arranged on site such that the extent of necessary tree removal is as per the previous proposal, that is to say it is limited⁴ and will have only a negligible effect on the visual amenity of the immediate vicinity;
- Is in a location where there are no ecological based environmental designations within the subject site and the site is '*previously developed*' land. Accordingly, the site is not in itself environmentally sensitive;
- Will not have a significant effect on protected fauna or flora as identified in the Update Preliminary Ecological Appraisal (dated June 2023, prepared by EcoVigour Integrated Environmental Management Ltd).

Notwithstanding the above, as previously mentioned, for more detail pertaining to the principle of the development, the former written Application for Prior Approval and the Environmental Impact Assessment Screening Request are attached as **Appendix 1** and **2**.

Given the reassessment of the proposal against criteria set under Schedule 3 of the Regulations, it is considered that the location and characteristics of the proposed development are such that it

³ Characteristics of the development, Location of the development and Types and characteristics of the potential impact.

⁴ the significant majority of the trees to be removed are categorised as Category 'C' or 'U' trees with only a very small area of Category 'B' trees to the south west of the site to be removed.

remains unlikely to have significant effects on the environment by virtue of factors such as its nature, size or location.

Having regard to the above, in conjunction with the supporting drawings and the updated Ecology Report, the Coal Authority respectfully contends that the MPA's assessment of the revised proposal should not alter from the previous decision that **the proposal is not an EIA development** and that **the proposal is Permitted Development**.

We trust that you have sufficient information to be able to formally reassess the proposal to allow the CA to deliver this important replacement active MWTS and continue to successfully manage the coal mining legacy.

If you require any further information in relation to this matter, please do not hesitate to contact me.

Yours sincerely

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Planning and Development Manager – Corporate Projects

Enc.

Cc. Mathura Pramekalan (Project Manager, Coal Authority)

25 September 2023



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and the environment **in mining areas**