

Superseded

**NEATH PORT TALBOT COUNTY BOROUGH COUNCIL
CYNGOR BWRDEISTREF SIROL CASTELL-NEDD PORT TALBOT**

**TOWN AND COUNTRY PLANNING ACT 1990
THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT
PROCEDURE) (WALES) ORDER 2012**

APPROVAL OF FULL PLANNING PERMISSION

Name and address of the applicant
Mr Richard Bowen
Swansea Valley Holiday Cottages
Plas Farm
Lane From Church Road To Plas Farm
Rhos
Pontardawe
SA8 3JQ

Name and address of the agent
Mr Adam Cropper
Elements Energy Ltd
17 Caynham Avenue
Penarth
CF64 5RR

DATE REGISTERED: 2 August 2024

APPLICATION NO: P2024/0496

LOCATION: Plas Farm , Lane From Church Road To Plas Farm, Rhos,
Pontardawe, SA8 3JQ

PROPOSAL: Micro hydroelectric installation (11kw) including intake
structure, underground and overground pipeline, detached
turbine house incorporating turbine and electrical control
system, buried electrical cable together with discharge pipe and
outfall structure

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL as the Local Planning Authority
in pursuance of its power under the above mentioned Act and Order hereby **GRANTS
PLANNING PERMISSION** for the development as described above to be carried out in
accordance with the application and the plans submitted therewith, subject to compliance
with the following conditions:

Conditions:-

This decision notice is REVISION NUMBER 1, issued on 17/12/2024

Time Limit Conditions

- 1 The development shall begin no later than five years from the date of this decision.

Reason:
To comply with the requirements of Section 91 of the Town and Country Planning
Act 1990.

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List of Approved Plans

- 2 The development shall be carried out in accordance with the following approved plans and documents:

- Drawing number: PFH-DWG-Blueboundary-B-240924-AC
- Drawing number: PFH-DWG-SitePlan-B-240924-AC
- Drawing number: PFH-DWG-GeneralLayout-A-270224-AC
- Drawing number: PFH_TURBINE_HOUSE REV B
- ~~-Drawing number: PF-DWG-Intake-C-220524-ARC Rev D~~
- Drawing number: DWG-Outfall-D-160724-ARC Rev D

Reason:
In the interests of clarity.

Drawing number: PF-DWG-Intake-C-220524-ARC Rev D was superseded by
Drawing number: PF-DWG-Intake-D -021224-ARC Rev D by planning permission ref
P2024/0783 approved on 17/12/2024

Pre-Commencement Conditions

- 3 Notwithstanding the submitted information, no development or site clearance shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of tree replanting. The scheme shall include a compensation planting ratio of 3 replacement trees for every 1 tree lost, native tree species that grow to a similar size as sycamore and a full specification for the supply, ground preparation, planting and post planting maintenance in accordance with BS3936:1992 and BS8545:2014.

All trees comprised in the approved tree planting scheme shall be planted in the first planting and seeding seasons following first use of the development or the completion of the development, whichever is the sooner; and any trees which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason:
In the interests of maintaining a suitable scheme of landscaping to protect the visual amenity of the area, to maintain the special qualities of the landscape and habitats through the protection, creation and enhancement of links between sites and their protection for amenity, landscape and biodiversity value, and to ensure the development complies with Policies SP15 and BE1 of the Neath Port Talbot Local Development Plan.

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

- o Construction methods: details of materials, how waste generated will be managed;

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- o 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. Any water that comes into contact with wet concrete must be treated as contaminated and must not be allowed to discharge into any watercourse.
- o 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.
- o 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
- o 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.
- o Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details

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

Reason:

In the interests of ecology and biodiversity and to ensure necessary management measures are agreed and implemented for the protection of the environment during construction and to accord with Policy SP15 of the adopted Neath Port Talbot Local Development Plan.

Action Conditions

- 5 Prior to the occupation of the development hereby approved, the approved biodiversity enhancement measures shall be completed, as approved, and retained as such thereafter.

Reason:

In the interest of Biodiversity and to ensure compliance with Policy BE1 of the Neath Port Talbot Local Development Plan.

- 6 If the approved hydroelectric installation fails to produce electricity for a continuous period of 12 months, the hydroelectric installation and its associated ancillary surface equipment shall be removed from the site in accordance with a scheme that shall have been submitted to and agreed in writing with the Local Planning Authority within 28 days of the end of such 12 month period. The scheme shall include provisions for the decommissioning of the hydroelectric installation and associated equipment and the restoration and aftercare of the relevant land (herein referred to as the restoration scheme). The submission shall also include a timetable for the aforementioned and the works shall be completed in accordance with the approved restoration scheme.

Reason:

In the interest of the visual amenity of the area and to ensure the development complies with Policy BE1 of the Neath Port Talbot Local Development Plan.

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- 7 The development hereby approved shall be carried out in strict accordance with British Standards BS5837:2012 Trees in relation to design, demolition and construction - Recommendations and the approved arboricultural method statement by Tree Check dated 06.03.24.

Reason

In order to protect the retained trees and so to accord with Policy SP15 of the adopted Neath Port Talbot Local Development Plan.

- 8 The materials used in the construction of the external surfaces of the turbine house shall be in accordance with the approved details on drawing number: PFH_Turbine_House Rev B

Reason:

In the interest of the visual amenity of the area and to ensure the development complies with Policy BE1 of the Neath Port Talbot Local Development Plan.

- 9 Within 1 month of the completion of the works for the burying of all pipework and wiring, the land shall be re-instated to its original condition.

Reason:

In the interest of the visual amenity of the area and to ensure the development complies with Policy BE1 of the Neath Port Talbot Local Development Plan.

Regulatory Conditions

- 10 No construction work shall be undertaken outside the hours of 0730 - 1800 hours on weekdays (Monday - Friday) and 0730 - 1200 hours on Saturdays and at no time on bank holidays and Sundays.

Reason

In the interests of residential amenity

- 11 The noise rating level emitted from the plant hereby approved shall not be greater than the existing background noise level as measured in the approved Aether Acoustics Noise Impact Assessment dated 1st August 2024, reference AE083. The noise levels shall be determined at the nearest noise-sensitive premises or at another location that is deemed suitable by the Local Planning Authority.

Measurements and assessments shall be made in accordance with "BS 4142:2014 Method for rating and assessing industrial and commercial sound".

Reason: To protect the amenity of the locality, especially for people living and/or working nearby, in accordance with Local Planning Policy EN8.

Informatives:

1 When undertaking works near water that you should refer to the GPP 5 guidance for pollution prevention, which can be found here <https://www.netregs.org.uk/media/1418/gpp-5-works-and-maintenance-in-or-nearwater.pdf>

2 NPTCBC Drainage notes to developer: 1. Should any springs or ground water seepage be encountered, the on site works in that area shall cease until a scheme for collection and disposal of the water has been submitted to and approved in writing by the

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Local Authority. No ground water shall ever be discharged into the proposed drainage scheme.2. Adequate provision shall be made for the drainage of the site, to ensure that the drainage of any adjoining land is not interrupted or otherwise adversely effected by the development during the life time of construction.3. Ordinary Watercourse Consent is required for the installation of any permanent or temporary structures and/or features within the watercourse.

3 NPTCBC DRAINAGE NOTES TO APPLICANT

1. If the existing track access is resurfaced, this could take the construction area over 100m² and therefore would require SAB Approval. It is a breach of approval required under Paragraph 7 (1) Schedule 3 of the Flood and Water Management Act 2010 whereby action will be taken by the Authority under The Sustainable Drainage (Enforcement) (Wales) Order 2018. The required SAB permission is separate from any planning permission that might be granted and any works commenced without SAB approval will be deemed a breach of approval required under Paragraph 7 (1) Schedule 3 of the Flood and Water Management Act 2010 whereby action will be taken by the Authority under The Sustainable Drainage (Enforcement) (Wales) Order 2018, which could mean removing any work that has commenced. As such under this legislation you are not permitted to start work on site until SAB approval has been granted for your proposed development. You can search the Authority's web site for further information using the link <https://www.npt.gov.uk/sab> or contact the Highway Development Control Section using SAB-HDC@npt.gov.uk or 01639 686850.

2. Prior to commencement of any works within a watercourse, hereby approved, permanent and/or temporary Ordinary Watercourse Consent under Section 23 of the Land Drainage Act 1991 must be obtained from the Authority. You are therefore advised to contact Mrs Delyth Thomas - SAB & Highway Development Control Team Leader at The Quays, Brunel Way, Baglan Energy Park, Neath, SA11 2GG d.a.thomas@npt.gov.uk 01639 686404 . Please note such consents can take up to 8 weeks to be processed after registration and early application is advised.

3. Notwithstanding the necessary consent required under section 23 of the Land Drainage Act 1991. The applicant must note that any culverts/ditches/open watercourses that conveys water through their land are to remain free from obstruction at all times. All tributary watercourses (culverted or not) located within the applicants land would be riparian responsibilities whereby the responsibility to sustain the flow of watercourse would remain with the land owner and subsequently passed on to the respective landowners you can access the riparian booklet online using the following web-link <https://www.npt.gov.uk/2867>

4 Welsh Water Advisory notes The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the

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applicant may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times. Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation. If you have any queries please contact on 0800 917 2652 or via email at developer.services@dwrcymru.com

5 Natural Resources Wales notes to developer: -Any works in, over, under or within 8m of the main River Clydach may require a Flood Risk Activity Permit (FRAP), we would advise that the applicant discusses this with the DFRteam on DFRSouthPermitting@naturalresourceswales.gov.uk. Further information can be found on our website Natural Resources Wales / Flood risk activity permits. We note the development will require an abstraction and impoundment licence applications with Natural Resources Wales and that talks are currently being held with our permitting team regarding this 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. Pollution Prevention Wherever possible clean or uncontaminated water should be intercepted and diverted around the working area. This should help minimise the volume of dirty water generated and therefore requiring treatment (if reasonably practicable). The early establishment of buffer strips during surface restoration work can filter runoff and reduce soil erosion - such measures are particularly important on steep slopes and bare soil vulnerable to runoff. The installation of pollution control products within a watercourse should be the last stage of mitigation measures; the principles of the pollution control hierarchy should always be followed:

1. Contain at source
2. Contain close to source.
3. Contain on the surface.
4. Contain in the drainage system.
5. Contain on the watercourse. Metal pins/rods should not be used to support silt fencing or sedi-mats as they don't provide sufficient support, resulting in the products sagging or collapsing. Wooden stakes should be used in accordance with the manufacturer's installation recommendations.

6 The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is also available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority

CONCLUSION

The decision to grant planning permission has been taken in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Neath Port Talbot Local Development Plan adopted January 2016

The application concerns a small hydroelectric scheme, National policy continues to support renewable energy projects such as this and as such the key issue is whether the

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development gives rise to material issues that have such an adverse impact that the overarching policy support for renewable energy should be set aside in this particular case. It is considered that that the principle of the development is acceptable in relation to current planning policies and guidance, and that having regard to consultee responses, the impact of the scheme would not be unacceptable, subject to suitable controls through planning conditions.

As such it is considered that the development would have no unacceptable impacts and accordingly, the proposed development is considered to accord Policies SP1, SP2, SP3, SP4, SP6, SP14, SP15, SP16, SP17, SP18, SP20, SP21, SC1, I1, EN7, EN8, M1, M3, RE1, TR2, EN2 and BE1 of the Neath Port Talbot Local Development Plan, and National Guidance in Planning Policy Wales and TANs 5, 12 and 15

Signed:



Ceri Morris – Head of Planning & Public Protection

Date: 26 September 2024

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IMPORTANT:

(1) Please note that for all decisions issued after 16th March 2016 for outline or full planning permission, a revised decision notice will be issued whenever a subsequent consent is given, for example providing details of any Reserved Matters approvals (outline applications only) and/or approval of conditions (including on Reserved Matters). This will ensure that the current status of the conditions applied to a consent is clear. Accordingly you are advised to visit www.npt.gov.uk/planning to view the application documentation to see if this is the current version, or whether it has been superseded by a more up-to-date revision of this Decision Notice. For Reserved Matters approvals the revised Decision Notice will only be shown under the Outline approval.

(2) Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.

(3) In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition). Please note that any works carried out without compliance with the conditions attached to this approval will be entirely at the risk of the persons involved and may result in formal action being taken by the Local Planning Authority.

(4) The developer should have regard to Sections 4, 7, 8 and 8A of the Chronically Sick and Disabled Persons Act 1970 and to the British Standards Institution's Code of Practice for "Design of buildings and their approaches to meet the needs of disabled people" (BS 8300:2009+A1:2010).

(5) From 1st October 2012 it has been an offence to install a public sewer or lateral drain without having an adoption agreement in place. From the 1st October 2012 the vast majority of all existing private sewers and lateral drains which link with the public sewer network were transferred to Welsh Water. For further details on how this will affect your development please contact: Welsh Water Developer Services, PO Box 3146, Cardiff, CF30 0EH. Telephone No. 0800 9172652 or email: developer.services@dwrcymru.com.

(6) Welsh Water Dwr Cymru advise that the planning permission hereby granted does not extend any rights to carry out any works to the public sewerage or water supply systems without first having obtained the necessary permissions required by the Water Industry Act 1991.

Please note, in accordance with Construction and Design Management (CDM) Regulations, it is the applicant's responsibility to ensure that any proposed works within their curtilage do not conflict with any underground services and is recommended they review their land registry title deeds for any legal covenants. For Sewers or Watermains that may be present and affected by your proposals, you are advised to contact Dwr Cymru Welsh Water who will be able to explain whether your proposed works will be acceptable as well as any consent required. Prior to commencing works, it is also recommend the applicant review the information and guidance on Building Over Sewers

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available on Welsh Water's website at

<https://developers.dwrcymru.com/en/applications/planning/build-over-or-near-to-sewers>

The applicant is also advised that some public sewers and lateral drains may not be recorded on Welsh Water maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

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IMPORTANT INFORMATION: TOWN AND COUNTRY PLANNING ACT 1990

The applicant's attention is drawn to the notes below.

- (1) If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Welsh Government under Section 78 of the Town and Country Planning Act 1990 (as amended).
- (2) You can also appeal to the Welsh Government against a decision to refuse permission or grant subject to conditions in respect of applications made for :- Listed Building or Conservation Area Consent; Consent under a Tree Preservation Order; Advertisement Consent.
- (3) You can also appeal If your application for a Certificate of Lawful Existing Use or Lawful Proposed Use is partly or wholly refused or is granted differently from what you asked for (under Section 195/196) of the Town and Country Planning Act 1990 (as amended).
- (4) If you are aggrieved of the LPAs decision, the following deadlines apply for appeals to be submitted to the Welsh Government (from the date of the Council's decision):-
 - (1) Planning Permission (with the exception of Minor Commercial and Householder applications – see below) Within 6 Months
 - (2) Householder Appeal see endnote i Within 12 weeks
 - (3) Minor Commercial Appeal see endnote i Within 12 weeks
 - (4) Listed Building or Conservation Area Consent appeals Within 6 months
 - (5) Tree Preservation Order (TPO) Consent Within 28 days
 - (6) Advertisement Consent Within 8 weeks
 - (7) Certificate of Lawfulness of Existing (Section 191) or Proposed (Section 192) Use or Development Within 6 months
 - (8) Hazardous Substances Consent Within 6 months
- (5) Appeals must be made on a form which is obtainable from the Planning & Environment Decisions Wales, Crown Buildings, Cathays Park, Cardiff, CF10 3NQ – Tel 0300 060 4400, or online at <https://planningcasework.service.gov.wales/>.
- (6) The Welsh Government has power to allow a longer period for the giving of notice of appeal but they will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- (7) The Welsh Government is not required to entertain an appeal if it appears to them that permission for the proposed development could not have been granted having regard to the statutory requirements to the provisions of the development order, and to any directions given under the Order. They do not in practice refuse to entertain appeals solely because the decision of the Local Planning Authority was based on a direction given by them.
- (8) If permission to develop land is refused or granted subject to conditions, whether by the Local Planning Authority or by the Welsh Government, and the owner of the land claims that the land has become incapable of reasonable beneficial use in its existing state and cannot be rendered capable of reasonable beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the County Borough Council, in which the land is situated, as the case may be, a **purchase notice** requiring that Council purchase his interest in the land in

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accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Making an Appeal

- (9) Please note that for all applications received by the LPA after 5th May 2017, it is now a requirement that any appeal made to the Planning Inspectorate (other than Householder and Minor Commercial Appeals, and appeals against refusal to grant advertisement consent) must be accompanied by all the information and evidence you intend to rely upon (a **“full statement of case”**). You must also send a copy of the notice of appeal and full statement of case to the LPA.
- (10) In addition, for ‘planning appeals’ an amendment to an application following notice of appeal may only be made to correct an error.
- (11) Additional details and information on making an appeal to the Welsh Government is available from the Planning Inspectorate at the above address and website. The relevant documents are entitled “making your planning appeal” and “planning appeals Public Local Inquiries”.
- (12) Further correspondence regarding this application should bear the reference number quoted on the top of the decision notice.

THIS NOTICE RELATES ONLY TO A PLANNING DECISION AND DOES NOT RELATE TO OTHER LEGISLATION INCLUDING ANY LEGISLATION UNDER:

- BUILDING REGULATIONS – Please contact buildingcontrol@npt.gov.uk or 01639 686820 to discuss all aspects of the service that is offered by Building Control
- HIGHWAY LEGISLATION

IF PLANNING CONSENT HAS BEEN GRANTED IT IS ADVISABLE TO ESTABLISH WHETHER ANY OTHER FORM OF CONSENT IS REQUIRED AND TO OBTAIN SUCH CONSENT BEFORE COMMENCING DEVELOPMENT

ⁱ Please see the [Town and Country Planning \(Referred Applications and Appeals Procedure\) \(Wales\) Regulations 2017](#) for appeal procedures and for full definitions of:

- *“householder application”* (essentially an application for the enlargement, improvement or other alteration of a dwellinghouse, or development within the curtilage of such a dwellinghouse, or change of use to enlarge the curtilage of a dwelling house)
- *“householder appeal”* means an appeal in relation to a householder application, but excludes an appeal against conditions on the grant of planning permission; or an appeal which is accompanied by an enforcement or listed building consent appeal.
- *“minor commercial application”* (essentially relates to existing buildings of no more than 250 square metres gross external floor space at ground floor level, currently in use for any of the purposes set out in Schedule 1A to The Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2015 which is an application for change of use from Class A1 to A2 or A3; or Class A2 to A3); or the carrying out of building or other operations to a shop front.
- *“minor commercial appeal”* means an appeal in relation to a minor commercial application but excludes an appeal against conditions on the grant of planning permission; or an appeal which is accompanied by an enforcement or listed building consent appeal.