

**Cyngor Sir Caerfyrddin  
Carmarthenshire County Council**

**PWYLLGOR CYNLLUNIO  
PLANNING COMMITTEE**

**Adroddiad Pennaeth Lle a  
Chynaliadwyedd  
Lle a Seilwaith**

**Report of the Head of Place  
and Sustainability  
Place and Infrastructure**

**14/09/2023**

**I'W BENDERFYNU  
FOR DECISION**

**Mewn perthynas â cheisiadau y mae gan y Cyngor ddiddordeb ynddynt un ai fel ymgeisydd/asiant neu fel perchennog tir neu eiddo, atgoffir yr Aelodau fod yna rhaid iddynt anwybyddu'r agwedd hon, gan ystyried ceisiadau o'r fath a phenderfynu yn eu cylch ar sail rhinweddau'r ceisiadau cynllunio yn unig. Ni ddylid ystyried swyddogaeth y Cyngor fel perchennog tir, na materion cysylltiedig, wrth benderfynu ynghylch ceisiadau cynllunio o'r fath.**

**In relation to those applications which are identified as one in which the Council has an interest either as applicant/agent or in terms of land or property ownership, Members are reminded that they must set aside this aspect, and confine their consideration and determination of such applications exclusively to the merits of the planning issues arising. The Council's land owning function, or other interests in the matter, must not be taken into account when determining such planning applications.**

<b>COMMITTEE:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>14.09.2023</b>
<b>REPORT OF:</b>	<b>HEAD OF PLACE AND SUSTAINABILITY</b>

<b>REF.</b>	<b>APPLICATIONS RECOMMENDED FOR APPROVAL</b>	<b>PAGE NOS</b>
<b>PL/03083</b>	<b>Conversion of former school building into residential dwelling and the erection of 20 affordable dwellings on former school grounds, including all associated works at Former Coedmor School, Cwmann, Lampeter, SA48 8ET</b>	<b>9 - 23</b>
<b>PL/05250</b>	<b>Proposed change of use from B1 (offices) to D1 use (wellbeing centre) at Dragon 24, Traeth Ffordd, Llanelli, SA15 2LF</b>	<b>24 - 35</b>
<b>PL/05354</b>	<b>Retention of detached dwelling at Pantbach, Heol Treventy, Cross Hands, Llanelli, SA14 6TE</b>	<b>36 - 43</b>
<b>PL/05493</b>	<b>Three detached dwellings at Land near Plas Y Fforest Farm, Plas Y Fforest, Fforest, Swansea, SA4 0TT</b>	<b>44 - 57</b>

<b>REF.</b>	<b>APPLICATIONS RECOMMENDED FOR REFUSAL</b>	<b>PAGE NOS</b>
<b>E/39917</b>	<b>Bryn Bach Coal is applying for permission to mine, by surface mining operations, 110000 tonnes of premium quality anthracite from the proposed glan lash extension. The extension covers 10.03ha of land, to the north of the current Glan Lash Mine site and is centred at e261560, n213900 at Glan Lash Mine, Shands Road, Llandybie, Ammanford, SA18 3ND</b>	<b>59 - 112</b>

**APPLICATIONS RECOMMENDED FOR APPROVAL**

<b>Application No</b>	<b>PL/03083</b>
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<b>Application Type</b>	Full planning permission
<b>Proposal</b>	Conversion of former school building into residential dwelling and the erection of 20 affordable dwellings on former school grounds, including all associated works
<b>Location</b>	Former Coedmor School, Cwmann, Lampeter, SA48 8ET

<b>Applicant(s)</b>	Barcud - Mr Alex Dawson
<b>Agent</b>	Geraint Roberts
<b>Officer</b>	Gary Glenister
<b>Ward</b>	Llanybydder (Historical)
<b>Date of validation</b>	25/11/2021

## Reason for Committee

This application is being reported to the Planning Committee following the receipt of seven or more objections from third parties. Members will note that the application was on the agenda on the 3rd March 2022 and was deferred for further assessment due to phosphates.

## Site

The application site is a 0.95ha parcel of land including the former Coedmor School situated in the rural village of Cwmann in the North of the County. The village is approximately 7km North East of Llanybydder and less than one km to the South East of Lampeter which is in the neighbouring county of Ceredigion.

Cwmann as a settlement is takes the form of an inverted 'U' with development off three road corridors. The site is close to the edge of the settlement on the South Eastern arm. The former school is in a predominantly residential area which consists of a mix of single and two storey dwellings.

The site has residential properties to the North and West that front onto the A482.

A small water course is evident along the western boundary of the site following the line of an established mature hedgerow of trees with a house and garden beyond. The site has open countryside to the South which is at a higher level.

The replacement school is approximately 140m away to the North of the former school house. The new school access is diagonally opposite the application site entrance. The site was temporarily used as a business centre when the current owners needed office accommodation.

The part of the site with the former school house and one demountable class room is within the settlement development limits of Cwmann, however the school yard and the remainder of the site which is set at an elevated level to the South of the school is outside limits. The site was originally owned by the County Council and was sold to the applicant with a development brief that included the possibility of an affordable housing exception site subject to justification.

There is an existing access to the site which serves the former school.

## Proposal

The application seeks full planning permission for the conversion of the former school house to a four bedroom market dwelling along with the removal of the existing school related development and the construction of 20 affordable dwellings. All of the new dwellings are proposed to be affordable housing under Policy AH2 exceptions as a site outside but immediately adjacent to a settlement.

The development is made up of three distinct elements.

Firstly the restoration and conversion of the school house to a market dwelling. The proposal includes four bedrooms and a large open plan kitchen and living space with separate utility room and bathrooms. Externally the school house would remain largely unaltered so the character would remain as existing.

Secondly, 2No. single storey disabled bungalows, these are strategically situated in the North East and South West corners to reduce the impact on neighbouring properties. One bungalow is proposed to be sold as a low cost home ownership unit, the other one as a social rental property. The Head of Housing states that there is a specific need for a disabled bungalow for a local family who are not satisfactorily housed and there are no suitable Council homes available.

Thirdly, 18No. two storey dwellings. These comprise 2No. 3 Bedroom Low cost home ownership units, 8No. 2 Bedroom socially rented units and 8No. 1 Bedroom socially rented units.

Given the topography, a 2.4m high 'crib lock' retaining wall system is proposed which runs in an East-West direction separating the school and the low cost home ownership units from the elevated section of the site which formed the yard and the elevated land to the East of the yard. A smaller retaining structure is proposed in the North East corner of the site which defines the garden for the single storey unit. This is a change from the original submission which saw an additional home and a much larger retaining structure. Through negotiation, the scheme is now more sensitive to the topography and is therefore likely to have less impact on third parties.

The nearest existing dwelling to the North has a minimum rear garden of 12m so is set off from the site boundary. The nearest unit on the site to the closest frontage dwelling is a

bungalow which is also off set from the boundary to ensure a reasonable separation distance.

Access is proposed via the existing former school access which is located in the North West corner of the site.

Surface water is subject to an application to the Sustainable Drainage Approval Body. However, the design concept of a surface water attenuation pond is shown in the North East corner of the site. The existing pattern of drainage along the southern and Western boundaries is to remain, so that the watercourse is not adversely affected.

The scheme is designed to Development Quality Requirements (DQR) for affordable housing. The applicant has a significant housing grant for the scheme from the Welsh Government, subject to planning permission being approved.

Foul water is proposed to use the existing connection from the former school.

Members will note that this scheme was on the agenda for Planning Committee dated 3rd March 2022 however was deferred at officer's request for further consideration of the foul water in light of the phosphate issue that affects the both the RiverTowy and Teifi catchment areas which are both designated Special Areas of Conservation (SAC).

An assessment of the scheme has been carried out using the phosphate calculator that has been developed for Carmarthenshire. An initial mitigation proposal involving a phosphate trade off with a scheme in Ceredigion was discounted as it was elsewhere in the Teifi catchment area so was not deemed to have a comparable impact on the SAC. However, Dwr Cymru Welsh Water has now confirmed that phosphorus removal at the Lampeter treatment works is scheduled by 31st March 2025 and therefore the phosphorus from the site will be removed before the foul water enters the SAC. NRW has confirmed that a Grampian condition is a suitable mechanism for ensuring that none of the dwellings are occupied prior to the improvements to the treatment works. Therefore, an appropriate assessment has concluded that there will be no impact on the SAC.

## **Planning Site History**

The following previous applications have been received on the application site:

W/39398 - Change of use from school classrooms to offices - Full Granted - 14/11/2019

W/19668 - Placement of a demountable classroom with toilet facilities - Full Granted - 9/10/2008

W/11145 - Reinforcement work on existing overhead line 10km - Electricity Approval - 8/11/2005

TMT/04371 - Overhead electricity line - Electricity Approval - 25/7/2003

TMT/03128 - Siting of demountable classroom building for educational purposes - Full Granted - 20/2/2003

D4/10175 - Erection of an indoor toilet block - Historic Decision - 21/12/1982

D4/9886 - Siting of a mobile unit for use as a nursery school - Historic Decision - 19/8/1982

D4/1890 - Erection of mobile classroom - Historic Decision - 26/11/1975

## Planning Policy

[Carmarthenshire Local Development Plan](#) (Adopted December 2014) ('the LDP')

SP1 Sustainable Places and Spaces  
SP2 Climate Change  
SP16 Community Facilities  
SP18 The Welsh Language  
GP1 Sustainability and High Quality Design  
GP2 Development Limits  
GP3 Planning Obligations  
H2 Housing within Development Limits  
AH1 Affordable Housing  
AH2 Affordable Housing – Exceptions Sites  
EMP1 Employment – Safeguarding of Employment Sites  
TR3 Highways in Developments - Design Considerations  
EQ4 Biodiversity

[Carmarthenshire Supplementary Planning Guidance](#)

Biodiversity and Nature Conservation

National Planning Policy and Guidance is provided in [Future Wales: The National Plan 2040, Planning Policy Wales \(PPW\) Edition 11](#), February 2021 and associated [Technical Advice Notes](#) (TANs) published by Welsh Government

## Summary of Consultation Responses

**Head of Transportation & Highways** – Has no objection subject to the imposition of appropriate conditions. However, a sum of £44,000 is sought for Active Travel and sustainable travel infrastructure in the local area.

**Head of Leisure Services** – An on site play facility is not considered appropriate, however the Community Council should be consulted to see if a contribution is needed towards an existing open space. It is noted that pedestrian improvements are required to provide safe access. This is reflected in the Head of Transport's comments above.

**Pencarreg Community Council** - Objects to the proposal for the following reasons:

1. Sewerage capacity – there are existing capacity issues.
2. Surface Water – the area is already over capacity.
3. Current Developments – there is no need for additional housing.
4. The Welsh Language – more housing would dilute the language.
5. School capacity – the local school is already over subscribed.
6. Local Facilities – Lack of post office pub etc
7. Phosphates.
8. Ground stability – there is a buried water course and infilling which makes the ground unstable.



The community council has re-iterated its objections during the re-consultation period.

**Local Member(s)** – (Former) Councillor IW Davies did not comment on the application.

**Dwr Cymru/Welsh Water** – has no objection to the proposal and confirms that the Waste Water Treatment Works at Lampeter will be improved by the installation of phosphorus removal by the 31st March 2025.

**Natural Resources Wales** – has no objection to the proposed development and has signed off the Appropriate Assessment on condition that none of the proposed dwellings are occupied prior to the improvement of the Lampeter Waste Water Treatment Works in terms of phosphorus removal.

It is also noted that there are bats present and a European Protected Species licence is therefore required.

All representations can be viewed in full on our [website](#).

## Summary of Public Representations

The application was the subject of consultation by way of Site and Press Notices.

Seven representations were received during the first consultation, objecting to the proposal and the matters raised are summarised as follows:

- The principle of Development
- Levels
- Amenity
- Privacy
- Noise
- Highways
- Scale (demand)
- Welsh Language
- Land Stability
- Surface Water
- Sewerage
- Layout
- Local Facilities
- Open space

Further consultation with the Local Member, Community Council and the objectors, was carried out on receipt of amended plans and the Welsh Language Action Plan. Six responses have been received to date, stating that the changes have not addressed the issues raised and repeating the initial concerns.

All representations can be viewed in full on our [website](#).

# Appraisal

## Principle of Development

The proposal seeks to change the use of a former school to residential. Part of the site was used as a business centre temporarily when the school closed. Policy EMP1 of the LDP seeks to safeguard allocated and existing employment land, however it is noted that the business centre permission was for the two demountable classrooms and the user was the current applicant who needed office space whilst an office suite was being developed in nearby Lampeter. It is understood that the end user has moved to permanent offices elsewhere and the site is no longer required so is currently vacant.

Policy AH2 of the LDP refers to exception sites for affordable housing schemes being acceptable where justified. The following response has been received from Housing. "The Housing Service can confirm that the ward of Llanybydder is an area of housing need. There is under-supply of social rented homes across all house types in Llanybydder ward, which results in people in urgent housing need having to wait an unacceptable length of time to be rehoused." The scheme has been designed to accommodate the greatest need locally, including a disabled person who cannot find a suitable bungalow. It is considered that there is local need for affordable housing and that an affordable housing exception site is justified in this instance.

## Levels / Over Bearance / Privacy

There is concern locally that the ground levels will result in development at a higher level than the properties along the road and that this will result in loss of privacy and over bearance.

The site slopes down to the county road and has been formed by the process of cut and fill to create a level school yard at the back of the site that is set at a higher level than the school buildings but lower than the adjacent countryside to the South. Further elevated and uneven land is included to the East of the yard. This has resulted in a steep slope which cuts across the site and therefore makes development challenging. In order to develop the site and achieve the DQR standards for affordable homes, there must be a minimum amount of level garden area and minimal gradient for drives, parking etc. In order to achieve this, the rear plateau is proposed to be lowered further and a crib lock retaining structure is proposed so that the top plateau can be developed safely. The result is that even with ground lowering, the majority of units are proposed to be on a development plateau at a higher level than the school house.

In respect of the concerns of residents, the design has been amended to reduce the height of the crib lock wall to 2.4m with a landscaped batter slope below, and a unit has been removed so that the development is further from the boundary. A house type has been chosen which has velux type roof windows in a cat-slide roof to the rear rather than upstairs windows serving bedrooms, so any impact is proposed to be minimised. It is considered that there is a reasonable distance from the higher units to the houses along the highway, and given the amendments, there is not likely to be an unacceptable over bearing impact or loss of privacy.

## **Noise**

A residential scheme would have different noise characteristics compared with a school, however there are safeguards under public health legislation, so any statutory nuisance can be investigated and action taken if necessary outside planning legislation. There would be noise during construction, however this would be temporary.

## **Scale (demand)**

There is concern over the scale of development being excessive and that there is no demand for such a number of affordable homes locally.

The site is an affordable exception site which can only be justified for 100% affordable units immediately adjacent to the settlement development limits. In this case, the scheme for 20 affordable homes is being backed by the Housing section and would be drawing down a housing grant. The demand for small low cost social housing in a rural area is evident in order to secure the housing grant and the scale is therefore considered appropriate.

## **Welsh Language**

The site is in the Pencarreg Welsh Linguistic Area which indicates that over 60% of the population speak Welsh. The applicant was asked to submit a Welsh language appraisal, and has duly submitted a "Welsh Language Action Plan". It is considered that an affordable scheme would provide opportunities for people to secure a foot on the housing ladder in the rural North of the County so would avoid local people in need having to move away. The applicant is a housing association with a local letting policy which has prioritised local Welsh speakers elsewhere, in neighbouring counties. A copy of the applicant's local letting policy has been submitted, however this is not a material planning consideration. Policy SP18 of the LDP requires a phasing plan to ensure that communities are not overwhelmed, however given the small scale and nature of the development, it is not likely to have a detrimental impact. The language appraisal concludes the following:

*"The development is predominately for affordable dwellings and the occupiers of the dwellings will be selected from the Council's Common Housing Register and be subject to Barcud's Local Lettings Policy, it is therefore highly likely that the occupiers of the dwellings will have a strong connection with Cwmann. This can include people currently in the village that want to move to smaller or more accessible accommodation, young people currently living at home and wanting their first own accommodation, or persons employed locally that require accommodation. As such, the level of in-migration as a result of the development is likely be minimal.*

*In view of the above, the new residents of the dwellings are likely to come from the existing local community. The development will increase the number and type of affordable accommodation available to the local community and allow for the retention of existing Welsh speakers within a community where this a strong percentage of people with Welsh language skills.*

*When new residents are not Welsh speakers they may wish to learn the language and take part in village and other local cultural events and Barcud will promote this opportunity through its mitigation measures. Furthermore, any children occupying the dwellings will learn the language at school. Both these factors will help reduce the overall number of non-Welsh*

*speaking households in the community and result in a positive contribution on the Welsh language.”*

The language appraisal includes the following mitigations as quoted from the appraisal:

*“Despite the impact assessment’s conclusion that the proposed development is unlikely to have a significant impact on Welsh Language, Barcud as part of its core principles always seeks to promote the Welsh language and provide added community benefits through its housing developments and it has therefore put together the following package of measures to safeguard and promote the Welsh Language through this development:*

- 1. Barcud will adopt a Local Lettings Policy for the development which gives priority to people with a local connection.*
- 2. The name of the finished development (place name) will be Welsh and relate to the local historic context. The name will be chosen in collaboration with the Community Council.*
- 3. All signage to be Welsh or bilingual.*
- 4. The marketing of the development will be bilingual and published in local Welsh language publications.*
- 5. A Welcome Pack will be provided for new residents providing information on Welsh language and culture in the local area.*
- 6. Barcud will provide a Welsh medium learning activity for local children in collaboration with the local school. This will take the form of a visit/tour to the development site by a Welsh speaking Development Officer.*
- 7. All new residents that are not Welsh speakers will be provided with an opportunity to attend Welsh language course through Barcud.”*

Given the above, the development is not likely to have a detrimental impact on the Welsh language.

## **Land Stability**

It is noted that the topography of the site has been altered in the past and the design has been modified through negotiation so that the layout better reflects the existing topography. A crib lock retaining wall system is proposed in order to formalise the break in slope and ensure the safe and efficient development of the site. This retaining wall system will need to be fit for purpose and engineered to suit the ground conditions. As a housing association, the applicants are duty bound to carry out due diligence and ensure the wall is engineered to the correct standards. Any buried water course as identified by the Community Council would need to be addressed in the surface water scheme which is governed by the Sustainable Drainage Approval Board (SAB).

## **Surface Water**

The scheme is subject to a sustainable drainage scheme which needs to be approved by the SAB team. It is noted that a SAB pre application submission has been received and a suitable solution has been agreed subject to a formal application. A surface water pond is proposed, which will need to be fit for purpose. It is noted that a water course runs along the western boundary. The proposed surface water scheme shows existing arrangement being retained for this water course, however surface water from the houses and road is proposed to be directed to the proposed pond and not add to the flow in the water course. Excess water from the pond is proposed to be drained at a controlled rate into an existing surface water sewer, so there is no additional impact from the development.

## **Sewerage**

The site has traditionally been a School and more recently been partially used as a Business Centre. The sewer connection and capacity is considered acceptable and no objection has been received from Dwr Cymru/Welsh Water. As stated above, the phosphate issue has been addressed and there will be sufficient capacity in the treatment works to accommodate the development no later than 31st March 2025.

## **Traffic**

The Head of Transport has no objection to the scheme for 20 new houses along with the conversion of the school. It is noted that a crossing improvement is proposed between the site and the new School. The access and parking is considered acceptable, however a contribution has been sought towards Active Travel, so that residents can access the village open space and the wider network by non motorised means.

## **Layout**

As mentioned above, the units are affordable and there are Development Quality Requirements (DQR) that have to be applied in order to get the housing grant. The layout has been designed in order to comply with these standards. It is considered that whilst gardens are relatively small, there is sufficient space to satisfy the DQR, so they are considered fit for purpose.

## **Local Facilities**

The village does not benefit from a wide range of facilities, however is approximately 7km from Llanybydder and less than a kilometre from Lampeter in neighbouring Ceredigion, which both have a greater range of facilities. An increase in population will increase demand for facilities which may make it more viable to introduce provision in the future.

## **Open space**

There is an open space in the village which would serve the development. The County Council parks department has been consulted and they recommended that an on site facility would not be appropriate and that the Community Council be consulted as they own the open space in the village. The Community Council has however objected to the scheme and has not sought a contribution. Active travel from the site to the village is proposed to be improved through the contribution sought by highways, so as a consequence, the open space will be more accessible.

## **Phosphates**

The site would produce phosphates through foul drainage and general residential land use. NRW have introduced guidelines for development which has to date precluded development within the River Towy and River Teifi catchments that produce phosphorus. A calculator has been developed so that the magnitude of the issue can be assessed for each site and work has been carried out to find mitigation options on a regional basis to allow development. In parallel, Dwr Cymru Welsh Water has been carrying out an assessment of it's assets and identifying treatment plants that can accommodate phosphorus removal.

This site is proposed to drain into the Lampeter Waste Water Treatment Works which is earmarked for improvement by the 31st March 2025. A habitat regulations assessment has been carried out in the form of a test of likely significant effect and an appropriate assessment. These documents have been signed off by NRW with the conclusion that provided none of the dwellings are occupied before the improvements to the treatment works are carried out or 31st March 2025 whichever is sooner, then the development would have no negative effect on the SAC.

Two conditions are therefore recommended in the form of a Grampian Condition precluding occupation until 31st March 2025 and the submission of a Construction Environmental Management Plan prior to works commencing.

## **Planning Obligations**

The site is proposed to have 20 new affordable dwellings in addition to the conversion of the School House to a market dwelling. This is secured by a condition as set out below. There is also a contribution of £44,000 towards active travel to be secured via S106 agreement.

## **Well-being of Future Generations (Wales) Act 2015**

The decision considers the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act). The decision takes into account the ways of working set out at section 5 of the WBFG Act and it is considered that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.

## **Conclusion**

After careful consideration of the scheme as submitted it is concluded on balance that whilst the site is challenging, the proposal has been adapted to make the best use of the existing topography and has resulted in the minimisation of impact to neighbouring properties. The design and appearance is considered to be acceptable.

The proposal is a significant rural affordable housing scheme in an area which is said to be in local housing need. The housing section support the proposal stating that there are currently significant delays in finding families affordable homes in the Llanybydder ward.

One consequence of the current shortage of affordable housing is the potential loss of local people to other wards and the diluting of the concentration of the Welsh language usage. The applicant is seeking to address this through retention of local people as a priority in their local letting policy.

The site is in the River Teifi SAC catchment area which is affected by the phosphate issue, however improvements have been confirmed at the Lampeter Waste Water Treatment Works in the form of phosphorus removal by the 31st March 2025. Therefore, appropriate conditions are recommended in order to satisfy NRW's concerns.

The site is primarily affordable housing as an exception site and this is conditioned, however a legal agreement is required for the active travel improvements so the recommendation is

for approval subject to the signing of a Section 106 legal agreement or payment of the commuted sum.

If no legal agreement is signed or payment of the contribution is received within 12 months of any Committee resolution to approve, the Head of Place and Sustainability requests delegated powers to refuse the application.

## **RECOMMENDATION - East - Approval**

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### **Conditions & Reasons**

#### **Condition 1**

The development hereby permitted shall be commenced before the expiration of five years from the date of this permission.

Reason:

Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

#### **Condition 2**

The development hereby permitted shall be carried out strictly in accordance with the following schedule of plans dated 23 November 2021:

- 1:2500 & 1:250 scale Location Plan, Topo/Survey Data, Sections. Drawing No. R533-S-01-B
- 1:50 & 1:100 scale Semi-Detached House Floor Plans, Elevations & Section. Drawing No. R533-P-05
- 1:50 & 1:100 scale Disabled Bungalow Floor Plan, Elevations and Section. Drawing No. R533-P-06
- 1:50 & 1:100 scale Floor Plans, Elevations & Section. Drawing No. R532-P-07
- 1:50 & 1:100 scale Semi-Detached House Floor Plans, Elevations and Building Section. Drawing No. R532-P-08
- 1:100 scale Floor Plans, Elevations & A-A Building Section. Drawing No. R533 P-09
- 1:200 scale Offsite Highways Plan. Drawing No. LAM-HYD-XX-XX-DR-C-1201
- NTS Proposed Finishes. Drawing No. R533 P-10

and the following plans dated 1 February 2022:

- 1:250 scale Block Plan. Drawing No. R533 P-01A
- 1:200 scale Proposed Levels – Strategy Layout. Drawing No. LAM-HYD-XX-XX-DR-C-2100 P02
- [Scale as shown] Site Sections – Sheet 1 of 2. Drawing No. LAM-HYD-XX-XX-DR-C-201-P03
- [Scale as shown] Site Sections – Sheet 2 of 2. Drawing No. LAM-HYD-XX-XX-DR-C-202-P03
- 1:200 scale Contour Plan Showing Site Sections. Drawing No. LAM-HYD-XX-XX-DR-C-200-P03
- 1:200 scale Proposed Site Sections/Street Views. Drawing No. R533 P-03A

Reason:

In the interests of visual amenity in accordance with Policy GP1 of the LDP.

### **Condition 3**

Prior to commencement of development a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN 2 or any future guidance that replaces it. The scheme shall include:

- i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 100% of the new build housing units on the site (i.e. not including the converted School House);
- ii) the arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing (if no RSL involved)];
- iii) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- iv) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing.

Reason:

To ensure that the affordable units are retained as such in perpetuity in accordance with Policy AH2 of the LDP.

### **Condition 4**

Prior to its use by vehicular traffic, the new access road shall be laid out and constructed with 5.5 metre carriageway, 1.8 metre footways, and 6.0 metre kerbed radii at the junction with the A482 road.

Reason:

In the interests of highway safety in accordance with Policy TR3 of the LDP.

### **Condition 5**

The vehicular access into the site shall at all times be left open, unimpeded by gates or any other barrier.

Reason:

In the interests of highway safety in accordance with Policy TR3 of the LDP.

### **Condition 6**

The gradient of the vehicular access serving the development shall not exceed 1 in 20 for the first 15 metres from the edge of the carriageway.

Reason:

In the interests of highway safety in accordance with Policy TR3 of the LDP.



### **Condition 7**

Prior to any use of the access by vehicular traffic, a visibility splay of 2.4 metres x 90 shall be formed and thereafter retained in perpetuity, either side of the centre line of the access in relation to the nearer edge of carriageway. In particular there shall at no time be any obstruction above 0.9 metres within this splay area.

Reason:

In the interests of highway safety in accordance with Policy TR3 of the LDP.

### **Condition 8**

Other than as shown on the approved plans referenced above, there shall at no time be any growth or obstruction to visibility over 0.6 metres above the adjacent carriageway crown, over the site's whole internal estate road frontage within 2.0 metres of the near edge of the carriageway.

Reason:

In the interests of highway safety in accordance with Policy TR3 of the LDP.

### **Condition 9**

The access, visibility splays and turning area required, shall be wholly provided prior to any part of the development being brought into use, and thereafter shall be retained unobstructed in perpetuity. In particular, no part of the access, visibility splays, or turning area, is to be obstructed by non-motorised vehicles.

Reason:

In the interests of highway safety in accordance with Policy TR3 of the LDP.

### **Condition 10**

Prior to the occupation of any of the dwellings herewith approved, the required access roads and footways from the existing public highway shall be laid out and constructed strictly in accordance with the plans herewith approved, to at least the base course levels, and with the visibility splays provided.

Reason:

In the interests of highway safety in accordance with Policy TR3 of the LDP.

### **Condition 11**

The parking spaces and layout shown on the plans herewith approved shall be provided prior to any use of the development herewith approved. Thereafter, they shall be retained, unobstructed, for the purpose of parking only. In particular, no part of the parking or turning facilities is to be obstructed by non-motorised vehicles.

Reason:

In the interests of highway safety in accordance with Policy TR3 of the LDP.

## **Condition 12**

The mitigations set out in the approved Welsh Language Action Plan shall be implemented in full for each occupant/purchaser of the affordable housing units.

Reason:

To support the Welsh language in accordance with Policy SP18 of the LDP.

## **Condition 13**

No development shall commence until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. All works shall take place strictly in accordance with the approved plan.

Reason:

To ensure the construction of the site has no adverse environmental impacts in accordance with Policy GP1 of the LDP.

## **Condition 14**

None of the residential dwellings hereby approved shall be occupied until 31st March 2025, or the successful installation and operation of phosphorus removal plant at Lampeter Waste Water Treatment Works, whichever is the sooner.

Reason:

To ensure there is no impact on the River Teifi SAC from the development in accordance with Policy SP14 of the LDP.

## **Notes / Informatives**

### **Note 1**

A European protected species (EPS) Licence is required for this development.

This planning permission does not provide consent to undertake works that require an EPS licence.

It is an offence to deliberately capture, kill or disturb EPS or to damage or destroy their breeding sites or resting places. If found guilty of any offences, you could be sent to prison for up to 6 months and/or receive an unlimited fine. To undertake the works within the law, you can obtain further information on the need for a licence from Natural Resources Wales on 0300 065 3000 or at:

<https://naturalresources.wales/permits-and-permissions/species-licensing/when-you-need-to-apply-for-a-protected-species-licence/?lang=en>

### **Note 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.

In addition, any Conditions which 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).

The commencement of development without firstly meeting in full the terms of any Conditions which require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.

Failure on the part of the developer to observe the requirements of any other Conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice

### **Note 3**

Comments and guidance received from consultees relating to this application, including any other permissions or consents required, is available on the Authority's website ([www.carmarthenshire.gov.uk](http://www.carmarthenshire.gov.uk)).

### **Note 4**

The applicant/developer's attention is drawn to the signed Section 106 Legal Agreement which secures a contribution of £44,000 towards Active Travel which is considered to be reasonably necessary to serve the development.

<b>Application No</b>	<b>PL/05250</b>
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<b>Application Type</b>	Full planning permission
<b>Proposal</b>	Proposed change of use from B1 (offices) to D1 use (wellbeing centre)
<b>Location</b>	Dragon 24, Traeth Ffordd, Llanelli, SA15 2LF

<b>Applicant(s)</b>	C/O Agent Hywel Dda University Health Board
<b>Agent</b>	Asbri Planning - Richard Bowen
<b>Officer</b>	Paul Roberts
<b>Ward</b>	Glanymor
<b>Date of validation</b>	05/01/2023

## Reason for Committee

This application is being reported to the Planning Committee following the receipt of more than two letters of objection from third parties and a request by the two local members for the ward, Cllrs S Rees and L Roberts.

## Site

The application site consists of a vacant office building located at Units 8 and 9 within the Dragon 24 development in North Dock, Llanelli. It is a two-storey office building that was previously occupied by WRW Construction prior to going into administration in the summer of 2021 and has remained vacant since this time. It has a gross floor space of approximately 700 square metres set over two floors. The site includes part of the adjacent car park that currently serves the building and the neighbouring commercial buildings within the wider Dragon 24 development. In total, some 24 spaces are included in the site. Access is achieved via Traeth Ffordd that extends from a roundabout off the B4304 to the south-east of the site.

North Dock is a former industrial dock in Llanelli located approximately 900 metres to the south-west of the town centre with the Dragon 24 development being located on the eastern side of the dock and consisting of a mix of office and commercial units. The Pentre Doc y Gogledd residential development consisting primarily of flats is located to the west of the site on the opposite side of the Dock, with Llanelli Beach located beyond this. The St Elli's

Bay café/bistro is located to the south of the residential development together with the Millennium Quay car park which provides parking for visitors to the area and a children's play area. To the east of the site is the Afon Lliedi and B4304 and beyond these are the residential areas of Seaside and the south-western part Llanelli. Llanelli train station is located approximately 700 metres to the east of the site, while the nearest bus stop can be found a short distance from the site close to the roundabout between Traeth Ffordd and the B4304.

## Proposal

The application proposes the change of the use of the building from its current B1 office use to a D1 wellbeing centre.

By way of background, the application has been submitted by the Hywel Dda University Health Board who, together with its partner agencies that include the Council and Dyfed Powys Police, have a statutory duty to ensure they contribute to the health and wellbeing of the local population and that essential health and wellbeing services are available and accessible to those who need them. These include services in relation to smoking cessation, children and young people's early intervention and prevention services, psycho-social support, and drug and alcohol misuse. In terms of the latter, the partner agencies have a statutory duty to ensure there is a local strategy and adequate service provision in place for the prevention and treatment of drug and alcohol use/misuse. This duty is discharged via the Dyfed Area Planning Board for Drug and Alcohol Misuse which is a multi-agency partnership mandated by the Welsh Government that leads on the joint strategic planning and commissioning of services and interventions to tackle drug and alcohol misuse.

These services are currently provided by the Health Board and partner agencies at different locations in both Llanelli and Carmarthen and the proposal seeks to consolidate them in a single wellbeing centre in the town that will address existing deficiencies in service provision to enable the effective delivery of a multi-agency approach in providing essential treatment interventions. It will enable the delivery of clinical services for Llanelli based clients and provide the administrative base for the following services :

**Smoking Cessation & Wellbeing Service** (Health Improvement & Wellbeing Team, Public Health) – The service is currently provided in Prince Phillip Hospital, however, there is no existing provision for those who are unable to be seen in a hospital setting. The wellbeing centre will provide a base for Llanelli smoking cessation staff and the delivery of clinical services for Llanelli based clients unable to be seen in hospital settings.

**Health Coaching** – Supporting individuals with lifestyle behaviour change in nutrition, physical activity, smoking and alcohol.

**Prevention & Early Intervention Service, Children and Young People** - This service is currently provided on a regional basis at Glangwili Hospital with no current provision to see children and young people in the Llanelli area. The wellbeing centre will provide a specialist psychological team in the town to support children and young people who have experienced ACES (Adverse Childhood Experiences) and are at risk of future problematic drug and / or alcohol use.

**Dyfed Drug and Alcohol Service (DDAS)** - Third Sector Single Point of Contact Service for Drug and Alcohol Services which is currently based in Vaughan Street in Llanelli.

**Health Board Community Drug and Alcohol Team** which is currently based in Ty Elwyn in Llanelli.

**Health Improvement & Wellbeing Team** within the Public Health Directorate at Hywel Dda. The service is currently based in Prince Phillip Hospital and Parc Dewi Sant in Carmarthen and the new wellbeing centre will provide the administrative base for the Carmarthenshire and Llanelli based strategic planning and population health improvement team.

The Health Board is required to provide these essential health services to meet the relevant Health and Care Guidelines and the specialist services provided at the site will include, amongst others, counselling, care planning, cognitive behavioural therapy, harm reduction advice, crisis intervention and care planning. The centre will be open on weekdays between 9am and 5pm with weekend clinics being operated between 9am and 2pm on a needs basis when required. Evening or out of hours clinics may also be operated up until 8pm when required to cater for those who are employed and unable to attend during working hours. Services will be provided on an appointment only basis and the centre will not provide a 'drop in' service, however, it will operate an open access arrangement to allow clients to access help when needed and encourage engagement, with this being followed with an appointment for initial assessment. All evening and weekend visits will be by appointment only and the overall delivery of the service will be via a number of mediums including face-to-face meetings at the site, virtual meetings and sessions, as well as home visits in order to provide a range of service delivery options.

Staffing levels at the centre will vary depending on the number of appointments, however, the centre will accommodate up to 51 employees across the various services provided who will operate on a rota basis as and when the services dictate. Staff will adopt a hybrid working arrangement consisting of a mix of home and centre-based working while also being encouraged to use sustainable means of transport to work as part of a staff travel plan.

The application has been accompanied by a Transport Statement which provides an assessment of the transport impacts of the proposal. It includes an assessment of the accessibility of the proposal by both public transport and active travel with particular regard to bus and rail services, cycling and walking. The statement highlights the site is located a short distance from existing bus services on the B4304, while being just a 10 minute walk from Llanelli Train Station. In terms of car parking, the proposal will be served by 24 parking spaces located within the existing parking area located to the front of the building, and the statement also highlights the availability of a public car park within 400 metres of the site. 10 of the parking spaces are to be allocated to clients visiting the wellbeing centre on an appointment basis, while the remaining 14 will be allocated to the staff of the various services provided in the building who, as indicated above, will adopt a hybrid model of working whereby it is anticipated there will only be 20-25 staff in the building at any one time.

Finally, the application has been accompanied by a relocation options report which provides details of potential alternative sites considered by the applicant prior to proceeding with the proposal to relocate the wellbeing centre to the application site.

## **Planning Site History**

The following previous applications have been received on the application site:-

S/28059 - Variation of condition no 3 of S/18032 to extend the time period for the submission of reserved matters and the commencement of development - Withdrawn - 15/11/2013

S/22162 - Powder coated aluminium cut out sign fixed to side of tower indicating name of development - Advertisement Granted - 11/01/2010

S/17526 - 16 Unit office development. small & start up businesses - Full Granted - 23/04/2008

S/18032 - The redevelopment of land to create a mixed use urban development comprising: a range of new homes including apartments and houses (use class C3); a hotel (use class C1); offices (use class B1); commercial uses including small scale retail/local shops - Outline Granted - 15/04/2008

S/15663 - Provision of new landscaped walkway and plaza area along river - Full Granted - 15/10/2007

LL/01107 - Mixed use development comprising residential, commercial and leisure around the impounded dock - Outline Granted - 06/06/2002

## Planning Policy

[Carmarthenshire Local Development Plan](#) (Adopted December 2014) ('the LDP')

SP1 Sustainable Places and Spaces  
SP2 Climate Change  
SP3 Sustainable Distribution - Settlement Framework  
SP9 Transportation  
SP16 Community Facilities  
GP1 Sustainability and High Quality Design  
GP2 Development Limits  
EMP1 Employment – Safeguarding of Employment Sites  
TR2 Location of Development – Transport Considerations.  
TR3 Highways in Developments – Design Considerations

### National Planning Policy

National Planning Policy and Guidance is provided in [Future Wales: The National Plan 2040, Planning Policy Wales \(PPW\) Edition 11](#), February 2021 and associated [Technical Advice Notes](#) (TANs) published by Welsh Government.

## Summary of Consultation Responses

**Head of Transportation & Highways** – Has no objection.

**Head of Public Protection** – Has no objection.

**Llanelli Town Council** – Have objected to the application on the following grounds :

- The proposal will be out of keeping with the adjacent business, residential uses and tourism uses and be in conflict with Policy GP1 of the LDP.
- The impact upon the amenity of the occupiers of adjacent properties, residents and the community means it is in conflict with Policy GP1.

- Insufficient parking facilities and public transport links for the likely number of service users.
- Inappropriate location for the proposed use with regard to the service users themselves, the community, adjacent businesses and tourism uses.
- Potential to draw crowds of individuals to the site leading to anti-social, criminal or abusive behaviour in the local area.
- Location near to the river and dock will result in possible dangers for the service users.

**Local Members** - County Councillor S Rees has requested that the application be presented to the Planning Committee for determination highlighting specific concerns regarding the proposed relocation of the DDAS to the North Dock area. Reference is made to the sensitivity of the location in a residential, recreational, tourist and business area with nearby playgrounds and water-based activities. Cllr Rees opines that the proposal would be out of character with the surrounding area and impact upon the amenity of adjacent land uses, properties, residents and the community. He also refers to inadequate parking at the site and lack of public transport in the area. On this basis, he suggests that the proposal is at odds with the objectives of Policy GP1 of the LDP.

Councillor Rees also refers to the need to provide a copy of the risk assessment of the development, the community impact survey and the lack of public consultation undertaken. He also highlights the need to provide details of the other locations that have been explored to enable an assessment of their suitability.

County Councillor L Roberts also requests that the application be presented to the Planning Committee and opines that it is an inappropriate area for the DDAS. Cllr Roberts objects to the proposal on the basis of a lack of parking, inadequate road capacity as well as safety concerns relating to the proximity of the proposal to the water bodies either site, namely the river and dock. Reference is also made to the impact of the proposal upon the surrounding area, the disturbance in the surrounding area and proximity to recreational uses.

**Dyfed Powys Police** – Support the proposal, highlighting that the North Dock area is not of high policing demand with no current underlying antisocial or crime related issues, and that they do not anticipate that the new wellbeing centre will result in an increase in policing demand in the area. They refer to the separation of the site from surrounding residential properties and the recreational facilities located along the coastal path and nearby beach, and the current low levels of footfall through the Dragon 24 development wherein the centre will be located. Reference is also made to the lack of public facilities such as seating, shops or cafes in the Dragon 24 development which contributes to the lack of footfall and use of the area by members of the public.

They recommend that the applicant should seek to meet a Secured by Design Award in creating safer places and sustainable development in relation to crime prevention and designing out crime and that the appropriate use of CCTV as part of the development may aid the prevention and detection of crime and assist in allaying any community concerns within the area of the wellbeing centre. They highlight that local neighbourhood policing teams work closely in partnership with a variety of the support services and that the provision of easily accessible support services are essential in the success of reducing drug and alcohol related issues in the Llanelli area.

All representations can be viewed in full on our [website](#).



## Summary of Public Representations

The application has been publicised with the posting of a site notice within the vicinity of the site. In response, a significant volume of objection letters have been received from local residents and interested parties which raise the following issues of concern :

- The site is not an appropriate location for the DDAS. It attracts an anti-social minority who will impact upon the attractiveness of the North Dock area as a tourist destination with its wide range of recreational facilities such as the beach, coastal path, restaurant, café, ice cream parlour, children's playground and water sports activities.
- Lack of public transport facilities and buses run infrequently.
- Lack of parking facilities in the site which would not meet the demands of the proposal with the majority of employees likely to travel by car and lack of parking in the wider area.
- Out of keeping with surrounding business uses.
- Lack of risk assessment.
- Potential congregation of service users around the site including nearby benches and grassed areas.
- Potential intimidation of families, children and the elderly visiting and living in the area.
- Impact upon the wellbeing of local residents.
- Proximity to water and safety risks to service users who may be under the influence of any substance or alcohol when visiting the site.
- Safety risks of abandoned needles, tablets and other drug taking apparatus to visitors.
- Risks of the relocation of the drug and alcohol service to families and children using the nearby park.
- Lack of consultation and the applicant has failed to provide a community impact and risk assessment of the proposal.
- Increased crime in the area.
- Negative economic impacts.
- Other buildings available in the town centre with better transport links.
- Anti-social behaviour.
- Poor lighting in the area and lack of police presence.
- The location of the substance misuse service in the town centre has resulted in increased crime, violence and antisocial behaviour and the proposal will result in the same impact in North Dock.
- Contradicting statements in the application relating to the use of the proposal as a 'drop in' service.
- There is already a drop-in centre in the ward.
- Lack of CCTV.
- Create problems in north dock further away from police support than the existing facility in the town centre.
- Proximity to nearby charity (CYCA) in North Dock that provides support services to children, young people and families.
- Negative impact upon the character of the surrounding area due to the clients it will support.
- Unsustainable location that is not easy to get to.
- The proposal should be located in one of the empty properties in the town centre or the proposed new Wellness village at Pentre Awel.

- The police are currently able to respond to incidents associated with the existing DDAS in the town centre a lot quicker than they would if it was relocated to the proposed site in North Dock.
- Potential to set a precedent for other similar uses in an area designated for business use.
- The railway station is a 15 minute walk away from the site whereby DDAS users would need to walk through residential areas which includes housing for the elderly and vulnerable adults with associated risks to these existing residents.
- Granting permission would run the risk of litigation against the Council in the form of a judicial review and other action against the Council for breaching its duty of care to young children given its proximity to existing play areas.
- Lack of provision for the likely increased crime at North Dock.
- Anomalies in the submission with regard to proposed opening hours and nature of drop-in service to be provided.
- Errors in the response received from Dyfed Powys Police where they indicate there are no seating areas around the site.

All representations can be viewed in full on our [website](#).

## Appraisal

The principal policy context for the proposal is provided by policies EMP1 – ‘Employment - Safeguarding of Employment Sites’, SP16 – ‘Community Facilities’, TR3 – ‘Highways in Developments – Design Considerations’ and GP1 – ‘Sustainability and High Quality Design’ of the adopted LDP.

The site currently has planning permission for its use as a B1 office use and, together with the neighbouring office buildings, is designated as an existing employment site under Policy EMP1 of the LDP. Whilst the policy seeks to safeguard such sites for employment uses, it does permit proposals which would result in their loss subject to them meeting a number of qualifying criteria. These include, amongst others, instances where the site or premises are no longer required for employment use, the proposed use could not reasonably be located elsewhere in accordance with the policies of the LDP, and where there is sufficient quantity, quality and variety of employment land or premises to meet the employment needs of the County or local area. Other criteria include where there is no economically viable employment use for the site or premises, and where the proposed use is complementary to the employment use of the surrounding area.

Policy SP16 of the LDP supports the provision of new community facilities in accordance with the settlement framework of the Plan based upon evidence of need. Policy GP1 is a general policy relating to the sustainability and design of developments and permits proposals that do not have a significant impact upon the amenity of adjacent land uses, properties, residents and the community, and do not give rise to any parking or highway safety concerns. The latter is supported by Policy TR3 which requires that proposals should be served by a suitable access and parking provision that accord with the Council’s parking standards, while also being accessible by public transport and walking and cycling.

### Principle of the development

The application site is located within the development limits of Llanelli which is identified as a Growth Area under Policy SP3 – ‘Sustainable Distribution – Settlement Framework’ of the LDP in recognition of its high population levels, extensive range of services and facilities,

and its sustainable location on or close to strategic transport routes. Its role as a Growth Area in the Plan includes the provision of strategic employment, education and healthcare provision in the interests of providing economic growth and contributing to the health and wellbeing of its wider population. The site is located in a well-established commercial area of North Dock with large areas of undeveloped land surrounding the Dock, including the land immediately to the north of the application site, having been designated for mixed-use development purposes under Policy EMP5 – ‘Mixed Use Sites’ with potential uses including employment, commercial, leisure and residential developments.

The application site has been vacant for two years since it was last used as an office building in 2021, and its proposed use as a wellbeing centre by the Health Board and its partner agencies will provide a new beneficial community use for the building that will address existing deficiencies in the provision of essential health improvement and wellbeing services in the surrounding area. It’s location within the Growth Area is in accord with the healthcare provision and sustainability objectives of the LDP, while the use will be compatible with neighbouring office developments and the wide mix of development types proposed for the North Dock area in the LDP. In this regard, the proposal is in accord with the objectives of Policy SP16 of the Plan in relation to the provision of new community facilities.

Whilst Policy EMP1 of the LDP seeks to safeguard existing employment sites for B1, B2 and B8 employment uses, it does not preclude their use for other purposes that do not fall within this ambit of uses subject to compliance with the qualifying criteria referred to above. In terms of the needs test of the Policy, despite being vacant for two years and having been marketed for B1 office purposes since this time, there has been no demand for the building for this or any other employment purpose and consequently it remains vacant today. Although this may to an extent be reflective of the emergence of hybrid working practices since the pandemic, nonetheless, the lack of interest in the building despite having been actively marketed for a two-year period demonstrates there is no current demand for its use for employment purposes. An online search of commercial properties indicates there is currently a good availability of a wide range of office space in the Llanelli area as well as further afield in Carmarthen, whilst the LDP has also allocated approximately 30 hectares of land for employment purposes in Llanelli which includes the land at North Dock referred to above which is allocated for mix use purposes. The demand for office space is not therefore exceeding the current supply and the extent of B1 office space that would be lost as a result of the proposal would be neither significant nor strategically important in the context of the overall provision of employment sites in the LDP and would not unacceptably harm the Council’s objective of promoting economic growth in the Llanelli area.

It is noteworthy that prior to the submission of the application, the applicant together with its partner agencies considered a number of alternative sites in Llanelli for the wellbeing centre, however, these were not considered suitable for a variety of reasons. Further, although the wellbeing centre will consist of a D1 use in contrast to the permitted B1 office use of the site, its use for both clinical and office purposes by the Health Board and its partner agencies will nonetheless provide employment in its own right whereby some 51 staff will be working in the building. The proposal is therefore considered to be in accord with the objectives of Policy EMP1 in that its use as a wellbeing centre will not result in any unacceptable employment or economic impacts.

### **Impact upon amenity and fear of crime and antisocial behaviour**

A common ground of concern amongst respondents is the proposed relocation of the current DDAS facility from Vaughan Street in the town centre to the site and the perceived impacts

arising from the behaviour of the users of the facility in terms of increased levels of crime and anti-social behaviour. The respondents suggest that the proposal will have a detrimental impact on the attractiveness of the North Dock area as a tourist destination, while also highlighting safety concerns regarding the proximity of the DDAS facility to, amongst other things, nearby playgrounds and residential properties.

Concerns regarding the behaviour of the users of the DDAS facility and the fear of crime resulting from the proposal is a material consideration. Nevertheless, previous case law relating to the matter has established that to be given weight in the consideration of planning applications, the fear of crime and anti-social behaviour must be real, well founded and evidenced.

The DDAS is a substance misuse service that provides support to those who have drug and alcohol dependency problems, as well as their friends and families. The service provides recovery orientated care which seeks to reduce and overcome their dependence on drug and alcohol use and ultimately improve their health, wellbeing and quality of life. Whilst the link between crime and anti-social behaviour and drug and alcohol misuse is acknowledged, users of the DDAS actively seek help and treatment to resolve their dependency issues and the applicant refers to evidence that the effective treatment of drug and alcohol misuse provides benefits to the wider community by way of reduced crime and anti-social behaviour, as well as reducing the health costs on public services. The respondents do not dispute this with many acknowledging the need for the service in Llanelli and the valuable work it does in improving the quality of life of its users.

There is no substantive evidence to demonstrate that the wellbeing centre will directly result in increased levels of crime and anti-social behaviour in the local area, and Dyfed Powys Police fully support the proposal. In doing so, they refer to the distance of the proposal from residential properties and confirm that they do not anticipate it will result in an increase in policing demand in the North Dock area. Moreover, they highlight that the local neighbourhood policing teams work closely in partnership with the DDAS and its partners. The service will operate primarily on an appointment only basis being open during the day whereby it is unlikely to result in service users congregating at the site or frequenting the area beyond daylight hours. The applicant has confirmed that they will be following the advice of the Police in including their Secure by Design Standards in the design of the centre such as the use of CCTV cameras around the building. They will also continue to collaborate with the community and elected members for the ward on a regular basis through, for example, the establishment of a 'Community Resilience Hub' that will seek to work with the local community to address any concerns they may have regarding the new wellbeing centre.

Based on the foregoing and the absence of any cogent evidence linking the wellbeing centre with increased crime and anti-social behaviour, the proposal is considered to be acceptable and in accord with the objectives of Policy GP1 in that it will not have an unacceptable impact upon the amenity of surrounding properties, residents and the community. Further, it is not considered that the proposal will compromise the attractiveness of North Dock as a tourist destination.

## **Highways and Transport**

A number of respondents have raised concerns regarding the potential highway impacts of the proposal suggesting that it is located in an unsustainable location with poor access to

public facilities and a perceived lack of parking provision. Concerns have also been raised regarding the adequacy of the road network to accommodate the proposal.

As indicated above, the site is located in Llanelli which has been identified as a Growth Area under Policy SP3 of the LDP in recognition of, amongst other things, its extensive range of services and facilities and sustainable location on or close to strategic transport routes. The wellbeing centre will be located a short distance from Llanelli town centre and its surrounding residential areas, while also being within a short walking distance of existing bus stops and services along the B4304, and Llanelli train station. The latter is located just some 700 metres from the site. Whilst certain of the respondents suggest the existing bus service is inadequate to serve the development, nonetheless, there is currently a regular bus service along the B4304 close to the site that will provide opportunities for staff and service users to travel to the site via sustainable means of travel. Moreover, it is noteworthy that the level of bus services in the local area are to be increased in the future as part of proposals to improve the sustainable transport links to the new Pentre Awel Wellness facility which is currently under construction.

It is not considered that vehicular movements generated by the proposal will result in any unacceptable highway impacts with the traffic generated not being significantly greater than those associated with the lawful use of the site as a B1 office. Further, in terms of parking provision, the applicant has provided a Transport Statement in support of the application in accordance with a request from the Head of Transport which demonstrates that the level of parking facilities provided accords with the Councils adopted parking standards based upon the hybrid working arrangements of staff working at the site, the availability of nearby public car parking facilities at Millenium Quay car park, and its sustainable location close to public transport facilities and the population it is intended to serve.

The Head of Transport has accepted the findings of the assessment and raised no objection to the application from a highway perspective subject to the imposition of a suitable condition requiring the submission of a Travel Plan to promote the use of sustainable travel options as part of the development. The proposal is therefore considered to be in accord with Policies GP1 and TR3 in that it will be served by a suitable access and parking provision while being accessible by public transport and walking and cycling.

### **Other matters**

Concerns regarding the proximity of the proposal to the neighbouring river and dock and possible dangers to the users of the wellbeing centre are unfounded and is a matter that would have been considered by the applicant as part of the site selection process. Whilst certain respondents refer to the need for both a community impact and risk assessment of the proposal, there is no statutory requirement to provide these in support of the application.

## **Well-being of Future Generations (Wales) Act 2015**

The decision considers the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act). The decision takes into account the ways of working set out at section 5 of the WBFG Act and it is considered that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.

## Conclusion

After careful examination of the site, together with the representations received to date, the proposed development is considered to be acceptable and in compliance with the key policy objectives of the Authority's LDP.

For these reasons, the application is put forward with a favourable recommendation.

## RECOMMENDATION - Approval

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### Conditions & Reasons

#### Condition 1

The works hereby granted consent shall be commenced before the expiration of five years from the date of this permission.

Reason:

Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

#### Condition 2

The development shall be carried out in accordance with the following approved plans and documents, unless otherwise stipulated by conditions:-

- Proposed first floor plan (DR-A-UNI-A101-S00)
- Proposed ground floor plan (DR-A-UNI-A-103-S00)
- 1:1250 scale location plan

received on 21 December 2022

- Transport Assessment – LvW Highways dated 18 February 2023

received on 23 June 2023

Reason:

In the interest of clarity as to the extent of the permission.

#### Condition 3

The parking spaces shown outlined in red on the 1:1250 scale location plan received on the 21 December 2022 herewith approved shall be provided prior to the use of the development and thereafter be retained, unobstructed, for the purpose of parking only. In particular, no part of the parking and turning facilities is to be obstructed by non-motorised vehicles.

Reason:

In the interests of highway safety.

#### **Condition 4**

The premises shall be used as Wellbeing Centre and for no other purpose (including any other purpose in class D1 of the schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that class or any statutory instrument revoking and re-enacting that order with or without modification).

Reason:

In order to restrict the use as a Wellbeing Centre and to prevent the premises being used for other uses within Class D1.

#### **Condition 5**

Prior to the use of the development hereby approved, a Travel Plan setting out ways of reducing car usage and increasing walking and cycling and sustainable means of travel to and from the development, and a timescale for its implementation, shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.

Reason:

In the interests of promoting sustainable means of travel.

### **Notes / Informatives**

#### **Note 1**

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.

In addition, any Conditions which 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).

The commencement of development without firstly meeting in full the terms of any Conditions which require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.

Failure on the part of the developer to observe the requirements of any other Conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.

#### **Note 2**

Comments and guidance received from consultees relating to this application, including any other permissions or consents required, is available on the Authority's website ([www.carmarthenshire.gov.uk](http://www.carmarthenshire.gov.uk)).

<b>Application No</b>	<b>PL/05354</b>
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<b>Application Type</b>	Full planning permission
<b>Proposal</b>	Retention of detached dwelling
<b>Location</b>	Pantbach, Heol Treventy, Cross Hands, Llanelli, SA14 6TE

<b>Applicant(s)</b>	ADEL Construction - Craig Lloyd
<b>Agent</b>	Thomas Gronow
<b>Officer</b>	Hugh Towns
<b>Ward</b>	Gorslas
<b>Date of validation</b>	26/01/2023

## Reason for Committee

This application is being reported to the Planning Committee following a call-in request by Cllr Aled Vaughan Owen and Cllr Darren Price on the grounds that they would like the committee to have the opportunity to consider the impacts raised by the objectors and there are 3 or more third party objectors.

## Site

The application site is a plot of land immediately to the south-west of the property known as Pantbach, Heol Treventy and was formerly part of the curtilage of that property. The site is accessed along an unmade lane running from Heol Treventy which also serves as access to two other properties and fields to the west. To the north are residential properties fronting onto Heol Rhosybonwen, and to the south are the gardens of properties fronting onto Heol Treventy. The dwelling the subject of this application is under construction and is weatherproof with external walls, roof and windows/doors in place.

## Proposal

The application seeks to retain the dwelling 'as built' as it has been constructed in a different position to that shown on the plans previously approved in September 2017 (W/34183). The original plans submitted with W/34183 showed the dwelling in the position that it has been built but the position was subsequently amended so as to move the property away from the



boundary and to realign it slightly. Unfortunately, the applicant has mistakenly built the dwelling in accordance with the original submitted plans rather than the amended approved plans.

## Planning Site History

D4/21372 - Siting of residential development - Outline Refusal - 22/10/1991

W/34183 - Detached dwellinghouse - Full Granted - 5/10/2017

## Planning Policy

[Carmarthenshire Local Development Plan](#) (Adopted December 2014) ('the LDP')

SP1 Sustainable Places and Spaces  
SP5 Housing  
SP6 Affordable Housing  
GP1 Sustainability and High Quality Design  
GP2 Development Limits  
GP3 Planning Obligations  
H2 Housing within Development Limits  
AH1 Affordable Housing  
EP1 Water Quality and Resources  
EP2 Pollution  
EP3 Sustainable Drainage

[Carmarthenshire Supplementary Planning Guidance](#)

Affordable Housing  
Planning Obligations  
Caeau Mynydd Mawr

National Planning Policy and Guidance is provided in [Future Wales: The National Plan 2040, Planning Policy Wales \(PPW\) Edition 11](#), February 2021 and associated [Technical Advice Notes](#) (TANs) published by Welsh Government.

## Summary of Consultation Responses

**Gorslas Community Council** - Has not commented to date.

**Local Members** - Cllr Aled Vaughan Owen has responded advising that residents are concerned that the property has been built too close to the boundary wall of properties along Heol Treventy. Specifically, to the rear of the property, there is less than 2 metres between the property's rear external wall and the boundary wall. Residents feel that this is an unacceptable development that has negative impacts on their properties. Residents also note that many of the upstairs windows overlook their properties which has significant negative privacy impacts on their homes. Cllr Darren Price has not commented to date.

## Summary of Public Representations

The application was the subject of neighbour notification to two adjoining properties. In response, letters of objection from 5 separate households have been received which raise the following issues of concern.

- Loss of privacy/amenity primarily from overlooking
- Loss of light
- Concerns over sewage disposal
- Concerns about consultation on the previous application
- Devaluation of property

All representations can be viewed in full on our [website](#).

## Appraisal

### Principle of the development

The site lies inside the development limits of Cefneithin as identified in the Carmarthenshire Local Development Plan although it is not specifically allocated for development. Policy H2 of the Local Development Plan therefore applies and states that proposals for housing developments on unallocated sites within the development limits of a defined settlement will be permitted, provided they are in accordance with the principles of the Plan's strategy and its policies and proposals.

The applicant argues that the planning permission for a dwelling on this plot granted in October 2017 establishes the principle of development. However, that permission lapsed in October 2022 as it had not been implemented in accordance with the approved plans. The development that has been undertaken is unauthorised as it does not accord with the approved plans and cannot be considered to implement the planning permission. Therefore at the point of making this decision there is no extant permission. The principle of development of the site has therefore not been established by the 2017 permission and the principle has to be considered afresh.

### Loss of Privacy/Amenity

One of the main causes for concern expressed by the objectors in this case is whether the positioning of the dwelling causes significant adverse effects which cannot be mitigated in any other way. Irrespective of the location of the dwelling, the rear dormer window in the roof does overlook the adjacent gardens, but so do the first floor windows of the properties in Heol Treventy. In addition, the dormer window in this dwelling serves a bathroom so the windows are obscure glazed. The impact of the re-positioning of the dwelling from first floor level is therefore not significant.

At ground floor level, the positioning does potentially have an impact if it is not mitigated. However, the applicant is proposing a 1.8m high blockwork wall along the southern boundary and a 1.8m feather edge fence along the eastern boundary with Pantbach. This will screen direct views over the adjoining gardens provided the 1.8m is measured from floor level of the dwelling rather than adjoining ground level. It should be noted that the existing gardens overlook one another, a person in their garden can see clearly into neighbouring gardens.

The resident of 22 Heol Treventy has claimed loss of light as a result of the erection of the dwelling. However, 22 Heol Treventy lies 30m to the east and over such distance the argument of loss of light cannot be sustained.

On the basis of the above, any amenity impacts associated with the dwelling can be adequately mitigated and refusal on the basis of amenity impact and loss of privacy cannot be sustained.

### **Foul Drainage**

This is another significant cause for concern expressed by the objectors. The previous report to the Planning Committee on 22 June 2023 recommended that the application be refused as the applicant had failed to demonstrate, with reference to the sequential approach set out in Circular 08/2018, that the use of a septic tank is a satisfactory means of foul drainage in this case. The applicant submitted late information which resulted in the application being withdrawn from the Agenda.

The additional information submitted by the applicant shows that there is an existing septic tank on the application site which serves the existing property at Pantbach. The proposal is to connect this property into the existing septic tank which has been demonstrated to have adequate capacity to deal with the additional foul flows. As the means of foul drainage is an existing system with adequate capacity, a refusal on drainage grounds cannot be sustained.

### **Other Matters**

As Members will be aware concerns about consultation on a previous application and devaluation of property are not material planning considerations.

## **Planning Obligations**

The developer has paid an Affordable Housing Contribution of £8,904 and the Caeau Mynydd Mawr Contribution of £1,043 under the terms of the previous 2017 permission. A Deed of Variation would therefore be required in order to reference any new permission granted.

## **Well-being of Future Generations (Wales) Act 2015**

The decision considers the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act). The decision takes into account the ways of working set out at section 5 of the WBFG Act and it is considered that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.

## **Conclusion**

The proposed development is located inside the development limits of Cefneithin. The applicant has demonstrated to the satisfaction of the Local Planning Authority that an existing septic tank on the site has sufficient capacity to deal with the foul drainage from the

development. A refusal on drainage grounds cannot therefore be sustained. Concerns have also been expressed by neighbours in relation to loss of privacy and amenity but refusal on these grounds cannot be sustained as the development has no greater impact on amenity than is already experienced from existing dwellings.

## **RECOMMENDATION - Approval**

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### **Conditions & Reasons**

#### **Condition 1**

Notwithstanding the time limit given to implement planning permissions as prescribed by Sections 91 and 92 of the Town and Country Planning Act 1990 (as amended) this permission, being a retrospective permission as prescribed by Section 73A of the Act, shall have been deemed to have been implemented on 25 January 2023.

Reason:

To comply with Section 73A of the Town and Country Planning Act (as amended).

#### **Condition 2**

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

- Site Location Plan (001)
- Ground Floor Plan (HT001 Revision A)
- First Floor Plan (HT002 Revision A)
- Elevations (HT003 Revision A)
- Pictorial (HT005 Revision A)
- Planning Note

received 25 January 2023

- Site Plan (01)

received 27 June 2023

Reason:

For the avoidance of doubt as to the extent of the permission hereby granted and to secure an acceptable development in accordance with Policy GP1 of the Carmarthenshire Local Development Plan 2014.

#### **Condition 3**

Prior to the beneficial occupation of the dwelling herewith approved the dormer window in the southern roof slope must be-

- (i) obscure-glazed;

- (ii) non-opening unless any part of the window which can be opened is, when measured at any point along the lowest edge of that part, at least 1.7 metres above the internal floor or stair of the dwellinghouse directly below that point; and
- (iii) permanently maintained in compliance with the requirements of paragraphs (i) and (ii) above

Reason:

In the interests of amenity.

#### **Condition 4**

Prior to the beneficial occupation of the dwelling herewith approved, a 1.8 metre high vertical close boarded fence or a solid wall shall be erected along the southern and eastern boundaries of the application site. The measurement of height shall be taken from the slab level of the dwelling.

Reason:

In the interests of amenity.

#### **Condition 5**

The parking spaces and layout shown on the plans herewith approved shall be provided prior to any use of the development herewith approved. Thereafter, they shall be retained, unobstructed, for the purpose of parking only.

Reason:

In the interests of highway safety.

#### **Condition 6**

All planting, seeding or turfing comprised in the approved details of landscaping shown on the submitted plans shall be carried out in the first planting and seeding seasons following the occupation of the dwelling. Any trees or plants 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, unless the Local Planning Authority gives written approval to any variation.

Reason:

To ensure biodiversity net benefit is achieved.

## **Notes / Informatives**

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.

It is considered that the proposed development complies with the following policies:

- The proposed development accords with Policy H2 of the LDP in that the land is situated within the settlement limits and the proposal does not conflict with other Policies within

the plan; furthermore amenity or utility service provision objections can be adequately mitigated.

- The proposed development accords with Policy GDP1 of the LDP in that the proposed development represents an acceptable form of development which is appropriate to the character and appearance of the surrounding area; furthermore it will not have an unacceptable impact upon the residential amenity of nearby properties. It is considered the proposal makes good use of vacant / under-utilised land within development limits.

#### **Note 1**

The planning permission hereby granted is subject to the Unilateral Undertaking between the landowner and Carmarthenshire County Council signed under the provisions of Section 106 of the Town and Country Planning Act 1990, to give effect to a commitment to the following:-

- A financial contribution, which equates to £8,904.00, towards the provision of affordable housing in the County area, in accordance with Policy AH1 of the Carmarthenshire LDP.
- A financial contribution, which equates to £1,043.00, towards the completion by the Council of existing studies into the marsh fritillary population within the Cross Hands area and the management by the Council of the Caeau Mynydd Mawr Special Area of Conservation and adjacent areas. This in accordance with Policy EQ7 of the Carmarthenshire LDP.

#### **Note 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.

In addition, any Conditions which 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).

The commencement of development without firstly meeting in full the terms of any Conditions which require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.

Failure on the part of the developer to observe the requirements of any other Conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice

**Note 3**

Comments and guidance received from consultees relating to this application, including any other permissions or consents required, is available on the Authority's website ([www.carmarthenshire.gov.uk](http://www.carmarthenshire.gov.uk)).

<b>Application No</b>	<b>PL/05493</b>
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<b>Application Type</b>	Full planning permission
<b>Proposal</b>	Three detached dwellings
<b>Location</b>	Land near Plas Y Fforest Farm, Plas Y Fforest, Fforest, Swansea, SA4 0TT

<b>Applicant(s)</b>	Linda Phillips
<b>Agent</b>	S W Owen
<b>Officer</b>	Hugh Towns
<b>Ward</b>	Hendy
<b>Date of validation</b>	31/03/2023

## Reason for Committee

This application is being reported to the Planning Committee as there are 3 or more third party objectors.

## Site

The application site covers an area of approximately 0.32 hectares and is located at the eastern end of the Plas Y Fforest Housing Estate. The Housing Estate has been developed in three separate phases in a north west to south east direction and comprises of executive detached 4 or 5 bed dwellings either side of a central estate road. The application site formed part of the final phase of 10 plots, 7 of which have been built. The dwellings are all of similar construction with brickwork external walls and concrete tile roofs. The remaining three plots (20, 21 and 21A) approved on this site in 1995 have not been built. A subsequent planning permission for a substantial dwelling on Plots 20 & 21 combined, also granted in 1995, has been implemented with the concrete base of the dwelling and the approved detached garage being in situ - the permission for the swimming pool extension has however lapsed. There is therefore existing planning permission for two dwellings on this site - Plot 20/21 combined and plot 21A.

To the east of the application site are residential properties fronting onto Llanedi Road, which are located at a significantly lower level, and to the north is Plas Farm. The boundaries to the rear of the properties fronting Llanedi Road and the boundary with Plas Farm have



significant screening from existing trees and hedges. The southern boundary with 42 Plas Y Fforest is not screened by vegetation and sections of the western boundary with 33 Plas Y Fforest are not screened by vegetation. Three ash trees covered by a Tree Preservation Order have been permitted to be removed in March 2023. Despite some clearance of vegetation on the site there is evidence of revegetation to scrub.

## Proposal

The proposal is to construct three two storey dwellings on the site instead of the two currently permitted. The proposed dwelling on Plot 1 (previously Plot 20) to the north part of the application site is a substantial two storey, 4 bedroom dwelling with a bedroom, office and orangery within the attic space on a third floor. The dwelling measures approximately 14.3m in length, 11.2m in width and 9.5m in height and is orientated with the front elevation facing north west and the rear elevation facing south east facing towards the plots to the south, orientated away from the rear of the properties along Llanedi Road. A side elevation faces 33 Plas y Fforest with the only first floor window being to an ensuite which can be obscure glazed and non-opening. A large single storey triple garage is also proposed to the north of the proposed dwelling with enough space to garage 6 classic cars.

The proposed dwellings on plots 2 (previously 21) & 3 (previously 21A) are also 4-bedroom and largely two-storey, measuring 9.9m in length, 11.6m in width and 8.5m in height. There are single storey projections attached to the side to incorporate a garage and to the rear as part of the kitchen. The front elevation faces almost due west and the rear elevations due east, only slightly offset from the orientation of the existing adjacent dwelling at 42 Plas y Fforest. The side elevation of the proposed dwelling on Plot 3 faces the north side of the dwelling at 42 Plas y Fforest. The only first floor windows in the side elevation of the proposed dwelling are for a bathroom and wardrobe which can be obscure glazed and non-opening windows. In addition, the only window of the side elevation of 42 Plas y Fforest is a ground floor window to the garage.

The external walls are proposed to be rendered white with natural stone cladding detailing on sections of the front elevations, with the rooves covered in natural slate tiles

The three proposed properties are accessed via a private drive running from the existing estate road and along the western boundary of the application site.

## Planning Site History

PL/05656 - Application for Tree works to trees subject to TPO (S23) 3x Ash Trees to be felled and removed from site. Trees will be replaced with 3 hornbeam sapling as per WPA Tree Officer's Requirement - TPO Consent - 15 March 2023

S/01487 - Swimming Pool Extension - Full Granted - 16 November 1998

D5/17278 - Boundary Gabion Walling (Plots 20 & 21) - Full Granted - 4 January 1996

D5/17215 - Dwelling House (Plots 20 & 21) - Full Granted - 2 November 1995

D5/16092 - 10 Executive Houses on Final Phase - Full Granted - 17 May 1995

D5/12311 - 16 Detached Dwellings (Phase 2) - Full Granted - 11 December 1989

D5/9528 - 13 Executive Houses (Phase 1) - Approval of Reserved Matters - 16 December 1986

D5/8947 - Residential Development - Outline Granted - 13 February 1986

D5/4353 - Residential Development - Withdrawn - 14 November 1979

D5/3727 - Residential Development - Outline Granted - 12 September 1973

## Planning Policy

[Carmarthenshire Local Development Plan](#) (Adopted December 2014) ('the LDP')

SP1 Sustainable Places and Spaces

SP5 Housing

SP6 Affordable Housing

SP14 Protection and Enhancement of the Natural Environment

GP1 Sustainability and High Quality Design

GP2 Development Limits

GP3 Planning Obligations

H2 Housing within Development Limits

AH1 Affordable Housing

TR3 Highways in Developments - Design Considerations

EQ4 Biodiversity

EP1 Water Quality and Resources

EP2 Pollution

EP3 Sustainable Drainage

### [Carmarthenshire Supplementary Planning Guidance](#)

Affordable Housing

Planning Obligations

National Planning Policy and Guidance is provided in [Future Wales: The National Plan 2040, Planning Policy Wales \(PPW\) Edition 11](#), February 2021 and associated [Technical Advice Notes](#) (TANs) published by Welsh Government.

## Summary of Consultation Responses

**Llanedi Community Council** - The Council has received observations from neighbours to the proposed development with concerns regarding the following matters:

- Due to the levels of adjacent land, the proposed design will involve a significant degree of overlooking especially as there will be 3 storeys to the property. This will also affect the amount of light on the adjacent properties.
- There are concerns that trees which have tree preservation orders on them are proposed to be removed as part of the development. The site also has a significant amount of other flora and fauna which will be displaced as part of this proposal.

**Local Member** - Cllr Gareth Thomas is a Member of the Planning Committee and has made no prior comment.

**Natural Resources Wales** - Do not have any comment to make on the proposed development.

**Dwr Cymru Welsh Water** - Surface water flows from the development shall only connect with the public surface water sewer through an attenuation device that discharges at a rate not exceeding 5 l/s as shown on drawing number 21647-03 in order to prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

**Coal Authority** - No objection.

**Head of Highways & Transportation** - Recommend approval subject to conditions.

**SAB Officer** - Advises that this project requires a full SuDS application and an Advisory Note is recommended.

All representations can be viewed in full on our [website](#).

## Summary of Public Representations

The application was publicised by display of a site notice at the entrance to the site in accordance with the requirements of Article 12 of The Town and Country Planning (Development Management Procedure) (Wales) Order 2012. In response, letters of objection from 9 separate households have been received which raise the following issues:

- Inadequate consultation
- Scale of development is not in keeping with the area
- Overlooking and loss of privacy
- Loss of Light
- Loss of trees and wildlife
- Noise and disturbance from construction
- Highway Safety
- Inadequate foul and surface water drainage infrastructure
- Devaluation of Property
- Land Ownership

All representations can be viewed in full on our [website](#).

## Appraisal

### Principle of Development

As outlined above, planning permission for three houses was granted on this site in 1995 as part of a wider development of 10 dwellings, the permission being implemented by the construction of the initial 7 dwellings. Later in 1995, permission was granted for a single dwelling on two of the plots, this permission also being implemented. Therefore, two dwellings continue to benefit from the planning permissions granted even though they were granted in 1995 and could therefore be completed in accordance with the approved plans. It should be noted that that the dwelling approved on the southern plot, adjacent to 42 Heol y Plas is a 6-bedroom dwelling. The dwelling approved on the combined plots to the north is a 4/5 bed property.

The application site is located inside the development limits of Hendy/Fforest although it is not allocated for development in the Carmarthenshire Local Development Plan. Policy H2 of the LDP therefore applies. It states that proposals for housing developments on unallocated sites within the development limits of a defined settlement will be permitted, provided they are in accordance with the principles of the Plan's strategy and its policies and proposals. The main question therefore is whether the proposal to increase the number of dwellings from 2 dwellings with an extant planning permission to the three dwellings proposed is acceptable having regard to amenity, environmental, highway safety and public service provision considerations.

### **Amenity Considerations**

The vast majority of the objectors consider that the scale of development is overbearing and not in keeping with the area, it leads to overlooking and loss of privacy as well as loss of light and there will be noise and disturbance from construction. The starting point when considering amenity issues where there is an extant planning permission is whether the proposed development has impacts which are significantly worse when compared to the development with planning permission.

The orientation of the proposed dwelling on Plot 1 has been turned through 90 degrees compared to the approved dwelling so that the front elevation faces north west towards Park Farm, rather than south west towards 33 Plas Y Fforest. The result being that there is a significant reduction in the number of windows facing directly onto 33 Plas y Fforest which has a positive impact on the amenity of the residents. There is no consequent reduction in the amenity of residents of Park Farm due to the distance between windows and the significant intervening vegetation.

The proposed dwelling on Plot 1 also has a smaller footprint than the approved dwelling and is not significantly different to the footprint of surrounding properties in terms of scale. The properties proposed on plots 2 and 3 also have similar footprints to surrounding properties.

The proposed dwelling on plot 1 has also been moved further away from the eastern boundary with the properties along Heol Llanedi. The window to window distance from the proposed dwelling relative to 32 Heol Llanedi is approximately 45m, an increase of some 5m compared to the approved dwelling. The properties along Heol Llanedi are at a significantly lower ground level but notwithstanding that, there would not be a significant overlooking issue over such distances, window to window distances of 22m or more are generally considered to be acceptable distances. It should also be noted that there are existing trees and hedges along the intervening boundary which screen intervisibility to some extent. It is acknowledged that the proposed property on plot 1 is some 1.7m higher than the approved property but with the additional set-back the change in impact would not be significant. The proposed properties on Plots 2 & 3 also have window to window distances of approximately 30m to the properties along Heol Llanedi and will be set some 3.5 - 4m lower than the property proposed on Plot 1 due to difference in height and ground levels.

Loss of privacy within gardens is often cited by objectors although frequently their gardens are already overlooked by adjoining development within the street scene. Where that already occurs, in most cases, it is not possible for the LPA to construct a case for significant additional amenity impacts that are great enough to warrant a refusal of planning permission.

In terms of loss of light, the general rule of thumb is to take an angle of 45 degrees from the centre of a window and only development that encroaches into this 'zone' would be considered to have any impact on light. The potential impact will decline over distance and also with relative orientation. Given the distance to properties in Heol Llanedi in particular, loss of light as a result of the proposed dwellings, is unlikely to be significant. On that basis it is also unlikely that the proposed development will be significantly overbearing, even though it is likely to be visible.

Objectors also consider the design of the houses and external finishing materials to be out of character with existing development in the vicinity. The proposed dwellings have rendered external walls and stone cladding for certain sections of the front elevations. This contrasts with the brickwork external walls and concrete tile roofs of the existing dwellings on Heol Y Plas. However, the application site is sufficiently separated from the estate, primarily by boundary vegetation to mitigate the change in design and materials. It also has to be noted that dwellings of a similar design have been approved and built only 85m to the north fronting onto Heol Llanedi.

There is always noise associated with the construction phase of any development. However, it is customary to require the developer to produce a Construction Environmental Management Plan to demonstrate how it is intended to mitigate the potential impacts of the construction phase. This is usually required by a condition attached to any planning permission.

On the basis of the above it is considered that it is unlikely that the amenity impacts of the proposed development, when compared to the existing position, would be of such significance to justify a refusal of planning permission. The proposal is therefore considered to comply with Policy GP1(d) of the LDP.

## **Biodiversity**

Concerns have been expressed by objectors in relation to loss of trees and wildlife on the site. Some site clearance works have been undertaken prior to the application being submitted but the applicant has submitted a comprehensive suite of documents in relation to biodiversity such as a Tree Condition Survey, Ecological Appraisal Report, Bat Survey Report, Biodiversity & Landscape Plan, Biodiversity Enhancement Scheme, Reptile Mitigation Strategy, Nett Benefits holistic biodiversity and integrated landscape plan and a scheme for the protection of trees during the construction phase of the development.

Bats were found to be using the garage building and mitigation for bats is proposed so as to have no adverse impact on their favourable conservation status. A Permit will also be required from NRW prior to any disturbance of bats at the site. Other than bats and existing trees/hedgerows, the Ecological Appraisal Report did not identify significant biodiversity loss. It does however recognise that the Environment (Wales) Act 2016 introduced an enhanced biodiversity and resilience of ecosystems duty (Section 6 Duty) applicable to Local Authorities. This duty filters through to all those participating in the Planning process. Planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity. The Report therefore recommended, that in order to provide a net enhancement for biodiversity as a result of the development, new native planting should be incorporated into the development using species of local provenance. and new dwellings should include artificial habitats such as bat bricks/boxes, bird boxes/bricks or Swift/Swallow

cups. Details are contained in the Biodiversity Enhancement Scheme and Biodiversity & Landscape Plan. The Planning Ecologist has been consulted and has recommended conditions to be attached to any grant of planning permission.

It is therefore considered that there is a net benefit for biodiversity which satisfies the biodiversity duty. The development therefore complies with policies SP14, GP1 & EQ4 of the LDP.

### **Highway Safety**

A number of objectors have expressed concerns about highway safety and the capacity of the existing estate road to accommodate the additional traffic associated with an additional dwelling. However, the Head of Highways and Transportation has advised that the Plas y Fforest Estate Road and its junction with the A48 are both suitably formed and can accommodate the additional traffic. The proposal therefore complies with Policy GP1 and TR3 of the LDP.

### **Inadequate foul and surface water drainage infrastructure**

Objectors have expressed concerns regarding issues with the the existing foul and surface water drainage systems. However, neither DCWW nor the SAB Officer have indicated any such concerns regarding linking the development to the existing foul and surface water drainage systems. The SAB Officer has also advised that a separate SAB approval is required for this project. The proposal is therefore not considered to conflict with policies EP1, EP2 or EP3 of the LDP.

### **Inadequate consultation**

A number of objectors have expressed disappointment and dissatisfaction with the publicity of the application. As indicated above, the LPA has followed the correct procedure as set out in the Town & Country Planning (Development Management Procedure)(Wales) Order 2012.

As members are aware, devaluation of property is not a material planning consideration. The issue of land ownership has been queried with the applicant to ensure the correct procedure has been followed.

## **Planning Obligations**

The developer has agreed to an affordable housing contribution of £41.98 per sqm for the additional dwelling (Plot 2). A Section 106 Agreement is therefore required to secure the contribution, to be completed prior to any decision being issued in order to comply with Policy AH1 of the LDP and the Affordable Housing SPG.

## **Well-being of Future Generations (Wales) Act 2015**

The decision considers the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act). The decision takes into account the ways of working set out at section 5 of the WBFG Act and it is considered that this decision is in accordance with the sustainable development principle

through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.

## Conclusion

Policy H2 of the LDP states that proposals for housing developments on unallocated sites within the development limits of a defined settlement will be permitted, provided they are in accordance with the principles of the Plan's strategy and its policies and proposals. The site, being within development limits is considered to be in a sustainable location as well as there being extant planning permission for two dwellings on the site. The potential amenity, environmental, highway safety and public service provision impacts have been assessed and it is not considered that any of these issues have impacts so significant that they justify refusal of the application. Therefore, it is recommended that the application be approved subject to conditions and subject to the applicant entering into the required Section 106 Agreement.

## RECOMMENDATION - Approval

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### Conditions & Reasons

#### Condition 1

The works hereby granted shall be commenced before the expiration of five years from the date of this permission.

Reason:

Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

#### Condition 2

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

- Location Plan (22-006/L1)
- Existing Site Plan (22-06/S1)
- Elevations (22-06/M2)
- House Type 1 Floor Plan (22-06/P4)
- House Type 1 Elevations (22-06/P5)
- Detached Garage Plans & Elevations (22-06/P6)
- House Type 2 Floor Plans (22-06/P7)

received 22 February 2023

- Coal Mining Risk Assessment by Rhondda Geotechnical Services dated 21 March 2023

received 21 March 2023

- Engineering Site Plan (21647-03)

received 22 March 2023

- Reptile Mitigation Method Statement by I&G Ecological Consultants dated July 2023
- Construction Environmental Management Plan by I&G Ecological Consultants dated July 2023
- Tree Condition Survey dated March 2023
- Biodiversity Enhancement Scheme dated May 2023
- Ecological Appraisal Report

received 13 July 2023

- Proposed Site Plan (22-06/S2a)
- Nett benefits holistic biodiversity and integrated landscape plan
- Biodiversity & Landscape Plan (22-06/S3)

received 24 July 2023

- Bat Survey Report

received 8 August 2023

Reason:

For the avoidance of doubt as to the extent of the permission hereby granted and to secure an acceptable development in accordance with Policy GP1 of the Carmarthenshire Local Development Plan 2014.

### **Condition 3**

Prior to its use by vehicular traffic, the new shared use private driveway shall be laid out and constructed with minimum 4.1 metre carriageway.

Reason:

In the interests of highway safety.

### **Condition 4**

The access and turning areas required, shall be wholly provided prior to any part of the development being brought into use, and thereafter shall be retained unobstructed in perpetuity. In particular, no part of the access, visibility splays, or turning area, is to be obstructed by non-motorised vehicles.

Reason:

In the interests of highway safety.

### **Condition 5**

The parking spaces and layout shown on the plans herewith approved shall be provided prior to any use of the development herewith approved. Thereafter, they shall be retained, unobstructed, for the purpose of parking only. In particular, no part of the parking and turning facilities is to be obstructed by non-motorised vehicles.

Reason:

In the interests of highway safety.



### **Condition 6**

All surface water from the development herewith approved shall be trapped and disposed of so as to ensure that it does not flow on to any part of the public highway.

Reason:

In the interests of highway safety.

### **Condition 7**

Unless approved by SAB no surface water from the development herewith approved shall be disposed of, or connected into, existing highway surface water drains.

Reason:

In the interests of highway safety.

### **Condition 8**

The new shared use private drive shall be hard-surfaced in a bonded material for a minimum distance of 10.0 metres behind the near edge of highway, prior to any part of the development approved herewith being brought into use and thereafter maintained in perpetuity.

Reason:

In the interests of highway safety.

### **Condition 9**

The detached garage hereby approved on plot 1 shall not be used for any form of business or commercial purposes.

Reason:

In the interests of the amenity of residents.

### **Condition 10**

The Biodiversity and Landscape Plan [22 - 06/S3] and Net benefits holistic biodiversity and integrated landscape plan shall be implemented on each plot in the first planting or seeding season following occupation of the dwelling on that plot.

Reason:

In the interests of the amenity of the local area, biodiversity and to ensure the development is adequately screened.

### **Condition 11**

Trees, shrubs and hedges planted in accordance with the approved Biodiversity and Landscape Plan [22 - 06/S3] and Net benefits holistic biodiversity and integrated landscape plan shall be maintained and any plants which within five years of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

Reason:

In the interests of the amenity of the local area, biodiversity and to ensure the development is adequately screened.

### **Condition 12**

Written reports must be submitted to the LPA to show how the Biodiversity and Landscape Plan [22 - 06/S3] and Net benefits holistic biodiversity and integrated landscape Plan have been implemented. The first report must be submitted within 1 year of the commencement of occupation on each plot to demonstrate implementation. A further report must be submitted 2 years after the first report to show establishment. These reports should include:

- Photos of the whole site.
- A brief written report describing any major management (it should be clear in the later report that any failures or losses that would affect ecological integrity have been replaced).

Reason:

To ensure the biodiversity benefits of the scheme are delivered.

### **Condition 13**

The existing trees, bushes and hedgerows on the boundary of the site shall be retained and shall not be (felled, lopped, topped or removed) without the prior written permission of the Local Planning Authority. Any such vegetation removed without consent, dying, being severely damaged or becoming seriously diseased shall be replaced with trees or bushes of such size and species as may be specified by the Local Planning Authority, in the planting season immediately following any such occurrences.

Reason:

In the interests of amenity and biodiversity.

### **Condition 14**

Prior to the commencement of operations hereby permitted, measures shall be taken for the protection of trees and hedgerows from damage in accordance with precise details which shall be submitted to and approved by the Local Planning Authority. The means of protection shall include:

- Measures to prevent disturbance to, soil levels within the root spread of the tree or hedgerow.
- Protective fencing erected at a distance of not less than the root protection zone. The means of protection shall be retained until all plant equipment and surplus materials have been removed from the site. Nothing shall be stored or placed in any area protected and the ground levels within these areas shall not be altered without the prior written agreement of the Local Planning Authority.

Reason:

In the interests of the amenity of the local area, biodiversity and to ensure the development is adequately screened.

## Condition 15

No development shall take place (including demolition, ground works, vegetation clearance) until a detailed Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP must include (but not be limited to) the following:

- Risk assessment of potentially damaging construction activities.
- 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, containment areas, implementation of appropriately sized buffer zones between storage areas (of spoil, oils, fuels, concrete mixing and washing areas) and any watercourse and surface water drain.
- Resources Management: details of fuel and chemical storage and containment, details of waste generation and its management, details of water consumption, wastewater, and energy use.
- Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- Pollution Prevention Plan: demonstrating how relevant Guidelines for pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan.
- Invasive Non-Native Species Management Plan.
- Details of task and security lighting to avoid disturbance of habitats of importance to crepuscular or nocturnal species.
- Responsible persons and lines of communication and emergency contact details.
- Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the site preparation and construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason:

In the interests of amenity and the prevention of pollution.

## Notes / Informatives

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 proposed development complies with Policies SP1, SP5, SP14, GP1, GP2, GP3, H2, AH1, TR3, EQ4, EP1, EP2 and EP3 of the Carmarthenshire Local Development Plan Adopted 2014 ('the LDP') in that the proposed development would have an acceptable scale and design and would not have a significant adverse impact on the character and appearance of the site or area within which it is located. In addition, there are no adverse effects to residential amenity, biodiversity or highway safety.

## **Note 1**

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.

In addition, any Conditions which 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).

The commencement of development without firstly meeting in full the terms of any Conditions which require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.

Failure on the part of the developer to observe the requirements of any other Conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.

## **Note 2**

Comments and guidance received from consultees relating to this application, including any other permissions or consents required, is available on the Authority's website ([www.carmarthenshire.gov.uk](http://www.carmarthenshire.gov.uk)).

## **Note 3**

Warning: a European protected species (EPS) Licence is required for this development.

This planning permission does not provide consent to undertake works that require an EPS licence. It is an offence to deliberately capture, kill or disturb EPS or to recklessly damage or destroy their breeding sites or resting places. If found guilty of any offences, you could be sent to prison for up to 6 months and/or receive an unlimited fine. To undertake the works within the law, you can obtain further information on the need for a licence from Natural Resources Wales on 0300 065 3000 or at <https://naturalresources.wales/conservation-biodiversity-andwildlife/european-protected-species/?lang=en>

## **Note 4**

The Sustainable Drainage Approval Body (SAB) has identified that this project application requires a full SuDS Application because the proposed development has a construction area greater than 100m<sup>2</sup>. Therefore, the development, as required under Schedule 3 of the Flood and Water Management Act 2010, must implement SuDS infrastructure in accordance with Statutory SuDS Standards. As such, a full SuDS application for this development must be submitted for assessment and approved by the Sustainable Drainage Approval Body (SAB) at Carmarthenshire County Council. Further information can be found at [www.carmarthenshire.gov.wales/sab](http://www.carmarthenshire.gov.wales/sab).

Please be advised that under Schedule 3 of the Flood and Water Management Act 2010 construction work must not be commenced unless the drainage system for the work has been approved by the SAB.

**APPLICATIONS RECOMMENDED FOR REFUSAL**

<b>Application No</b>	<b>E/39917</b>
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<b>Application Type</b>	Full planning permission
<b>Proposal</b>	Bryn Bach Coal is applying for permission to mine by surface mining operations, 110,000 tonnes of premium anthracite from the proposed Glan Lash Extension. The extension covers 10.3 hectares of land, to the North of the current Glan Lash Mine site and is centred at E261560, N213900
<b>Location</b>	Glan Lash Mine, Shands Road, Llandybie, Ammanford, SA18 3NA

<b>Applicant(s)</b>	Bryn Bach Coal Limited
<b>Agent</b>	Rob Chichester – c2j planners
<b>Case Officer</b>	Thomas Boothroyd
<b>Ward</b>	Llandybie
<b>Date registered</b>	19 <sup>th</sup> December 2019

## Reason for Committee

This application is being reported to the Planning Committee

Request for call in by local councillor.

## Site

The existing Glanlash O.C.C.S is located some 800m to the south of Llandybie, 700m to the East of Blaenau and 1Km to the North West of Ammanford. Access to the site is along Shands road, which joins the B4556 (Blaenau Road) between Blaenau and Llandybie. The site is bounded by agricultural fields, and Shands road forms the South Western boundary to the site. The nearest group of properties to the existing site are approximately 140m from the site boundary to the East, along Waunfarlais Road. Llwynceilyn is approximately 120m from the site boundary to the south. The site is mostly bounded by a mixture of agricultural land and woodland with residential areas further afield, as detailed above.

The proposed extension site is to the north of the current site and would extend to some 10.03 hectares in surface area, with a maximum depth of 52 metres below original ground level. The excavation area of the site would not extend all the way to the application boundary and there would be a stand-off between the two boundaries. This would be of varying size as there are also numerous areas of soils storage proposed as part of the operations. The excavation limit of the site would extend approximately 290 metres north of the boundary of the current site (including the essential safety operations that were required to be carried out outside of the permitted boundary). To the east of the proposed site boundary there is a residential street, Waunfarlais Road, which leads to the settlement of Llandybie, approx. 500 metres north-east of the proposed excavation boundary. The properties along this street which are closest to the site are those at the northern extent of the proposed site, the nearest residential property would be approximately 200 metres distant (from the excavation limit) and approx. 210 metres from the site boundary. From the southern end of the site the nearest properties along Waunfarlais road are approximately 250 metres away from the excavation boundary, the site boundary is approximately another 30 metres to the east. The intervening land would consist of sub and topsoil's storage so once in place there would be no operations here for the majority of the lifetime of the site.

To the north the nearest residential property is approximately 165 metres from the site boundary and approx. 185 metres from the excavation limit, there is also a stables and stable yard that is approximately 165 metres to the north of the site excavation limit at the closet point. There are very few residential properties to the west of the proposed site boundary and the area is dominated by agricultural fields and woodlands. Blaenau Road (B4556) lies approximately 150 metres from the western boundary of the proposed site – access to the current site is gained via a junction off Blaenau Road. There is also a Dwr Cymru apparatus, located adjacent to the existing access to the site and lies approx. 240 metres to the west of the proposed site boundary. There are a handful of isolated properties approx. 330 metres to the south west of the proposed site boundary, however, part of the existing site would form the intervening land, further to the west, approx. 650 metres, lies the settlement of Blaenau.

The existing mine workings and washery would be immediately south of the proposed extension area, there are few residential properties to the south of the proposed site, the nearest being y Garth, approx. 160 metres distant, again, areas of the existing site would form the intervening land. The Afon Lash, a tributary of the Llwrchr flows from west to east, approximately 350 metres south of the proposed site, again, the existing site would form much of the intervening land. The Tir Y Dial tip (since restored by the applicant) lies approximately 330 metres to the south west, public access to this is gained via the Shands road which is a private lane (and is currently used by the mining operations).

The application site is mostly flat, albeit with a gentle slope to the north-west. Much of the extension site currently consists of a mixture of 4 semi improved neutral grassland fields mostly bounded by a mixture of hedgerows and trees/shrubbery. The remaining land use consists of a mixture of broadleaved woodland (totalling 2.52 of the 10.03 hectares), areas of rush dominated grasslands and some small areas of purple moor grass dominated mires. Again, these distinct areas are bounded by a mixture of hedgerows and dense bushy growth, but are also fenced, with post and wire, that is, for the most part, stock proof. The aforementioned woodland is considered to be a wet woodland and consists of a characteristic mix of species, including common alder, hazel, willow and birch, it is also noted that thinning operations have been carried out within this woodland, following the issue of a felling license by the Council.



There are no designated sites for ecology within the site boundary but the Caeau Mynydd Mawr SPG area is approx. 180 metres to the south of the proposed site, at its closest point. The aforementioned Afon Lash flows into the Llŵchwr, which forms part of the Carmarthen Bay and Estuaries SAC, the boundary of this SAC being some 10 KM'S from the site where the Afon Lash flows into the Llŵchwr. There are no public rights of way within the proposed site boundary, public footpath 51/118 is approx. 160 metres to the east of the site. A further footpath, 51/120 is approximately 150 metres to the north west of the proposed site boundary, footpaths 51/28 and 51/29 are approx. 400 metres to the south of the proposed site, with the existing site in the intervening landscape.

## Proposal

The initial proposal was for a northern extension to the existing open cast coal site (OCCS), this extension would total 10.03 hectares, this includes areas for soils storage, with a total excavation area of 7.98 hectares, and an output of approx. 110,000 tonnes of premium quality anthracite in total. However, due to potential issues relating to hydrology and the impact this might have on marsh fritillary habitat the applicant amended the previously proposed extraction boundary to create more of a 'standoff' between the excavation area and this sensitive habitat area. This has effectively moved the extraction area further south, leaving the purple moor grass (to be retained and managed) in situ, the amended layout has reduced the number of proposed working panels from 29 to 24, and the proposed output reduced to 95,038 tonnes.

There has been no proposed change to working methods. The applicant has calculated the overburden to coal ratio of the site, and taking into account meal breaks, breakdowns, weather and bank holidays it is anticipated that overburden movement can be achieved for an average of 38 hours per week. Having taken into account the capabilities of the various items of plant on site the applicant estimates that overburden should average 7068 m<sup>3</sup> per week, taking into account the overburden to coal ratio this would result in coal production of 325 tonnes of coal per week. Maintaining this level of production (there are many variables which can affect production, weather and mechanical breakdowns in particular) should result in a production period of 292 weeks, or 6.1 years, as opposed to the previous proposals which would have been for 6.5 years.

Operations at the site (such as soil stripping /movement /storage and the extraction and movement of coal) would remain much the same as the previously approved operations at the site. There would be no requirement for additional plant on site and any coal extracted would continue to be washed at the existing plant just south of the current site. Working hours would remain the same, as would the output from the site, as well as the haul route from the site to the washery, and then from the washery to customers (via the Shands road).

The phasing of the development would commence with an extension to the north followed by a series of box cuts (7 in total), operations within the box cuts would work from the north to the south, the site would then extend from the western side towards the east, the final box cut being cut 7 in the north eastern end of the site. Each cut would be approximately 30 metres wide at the base and the proposed phasing would be carried out in a manner to allow for the formation of adequate haul roads from the base of the void. Full details of the phasing is shown on the following plan '*Glan Lash Extension – Method statement plan amendment 5/1/2022, GLE-03*'. Whilst the overall site boundary is 10.03 hectares, the area of excavation is smaller at 6.68 hectares, this is to allow for soils

storage, along the western, northern and eastern boundaries of the site, these soil storage bunds will be no higher than 5 metres (for subsoils) and 3 metres (for top soils).

Given the compact nature of the site there would be limited progressive restoration of the site and the majority of the backfilling would take place during the final cut (cut 7). The current operational void will be of sufficient size to allow for the safe working of the site until the completion of Cut 3D. From this point, until the completion of Cut 5C, the additional 114,388m<sup>3</sup> of overburden will be gradually placed above restoration level as an easterly extension to the existing overburden mound, on top of the backfilled void of the existing Glan Lash site. The maximum operational void would occur during the completion of phase 5c and this would consist of 590,193m<sup>3</sup> which is when the Local Authority would be most exposed to the risk of failure to restore the site should there be any problems with the site operations.

The applicant has stated that due to the loose nature of the material to be excavated, and the short haulage distances involved, the main void could be backfilled in 40 weeks. The bulk of backfilling at depth would be mudstones and silt stones, with the top 5 metres of the backfill profile formed of glacial drift and approximately 0.62 metres of topsoils. Overburden and soils would be replaced in accordance with best practice measures.

Due to the use of overburden/soil material from the existing operations for the restoration of the Tir Y Dial tip there would be a shortage of materials for the overall restoration of the site. In light of this the applicant has put forward a restoration profile that includes a valley feature, this valley feature would incorporate streams and other water bodies. The remainder of the site would be restored in order to encourage a mix of habitats, replicating the existing habitats as much as possible, and, where possible, to extend and enhance the present range of habitats and the diversity of vegetation, this would include

- Neutral grass lands enclosed with hedge banks and hedgerows reflecting the existing patterns
- Broadleaf woodland and scrub
- Open marshy grasslands and glades
- The creation and management of a pond feature

Following the achievement of the restoration ground levels the site would enter a period of aftercare, for 5 years, where the land will be planted and managed to encourage the habitats mentioned above. The woodland areas would be subject to an extended 10 year period of aftercare to give any woodland planted the best chance to succeed. Aftercare of the site would be closely monitored, and annual reports and visits would be arranged with the operator to discuss restoration and aftercare operations and to take a joint approach in managing the future of the site.

## Planning Site History

E/38658	Variation of condition 1 (time limit for the winning and working of coal be changed) – Pending
E/37603	Variation of condition 1 (time limit) of planning permission E/24681 - Full Granted - 07/09/2018

- E/34763 Variation of condition 1 on e/24681 (extension of time) - Full Granted - 21/03/2017
- E/26827 Removal of condition 22 and variation of condition 23 on E/24681 - Full Granted - 30/08/2012
- E/24681 To mine by surface mining operations 92,500 tonnes of anthracite coal. Development includes the full restoration of mine site and adjacent Tir Y Dial colliery tip. Provision for Blaenau Ammanford cycle track and footpath has also been allowed for - Full Granted - 25/01/2012

There is also a planning history for the nearby Tir Y Dial tip

- E/01337 Reclamation of Derelict Land - Full Planning Permission - 29 April 1999
- C6/291 Variation of Condition on C6/257 to allow an extension of the period of working by 1-year - Full Planning Permission - Not determined
- C6/281 Additional Barrel Washer - Full Planning Permission - 10 September 1992
- C6/257 Reclamation of Tir-y-dail Tip - Full Planning Permission - 19 April 1991
- C6/234 Reclamation of Tir-y-dail Tip - Full Planning Permission - 22 February 1990
- C6/198 Removal of Colliery waste and Coal recovery - Full Planning Refused – 5 September 1988

## Planning Policy

[Carmarthenshire Local Development Plan](#) (Adopted December 2014) ('the LDP')

- SP1 Sustainable Places and Spaces
- SP2 Climate Change
- SP10 Sustainable Mineral Development
- SP14 Protection and Enhancement of the Natural Environment
- GP1 Sustainability and High Quality Design
- GP2 Development Limits
- TR2 Location of Development – Transport Considerations
- TR3 Highways in Developments - Design Considerations
- EQ5 Corridors, Networks and Features of Distinctiveness
- EP2 Pollution
- MPP4 Coal Extraction Operations
- MPP6 Restoration and Aftercare of Mineral Sites

National Planning Policy and Guidance is provided in [Future Wales: The National Plan 2040, Planning Policy Wales \(PPW\) Edition 11](#), February 2021 and associated [Technical Advice Notes](#) (TANs) published by Welsh Government. Also, the 'Coal Policy Statement' for Wales was adopted during the consideration period of this application (22/3/2021)

Other relevant planning policy includes Minerals Technical Advice Note (MTAN) 2: Coal (2009) The Wellbeing of Future Generations Act (Wales) 2015, and the Environment (Wales) Act 2016.

Other relevant policies include;  
Clean Air Plan for Wales - Healthy Air, Healthy Wales, 2020  
Prosperity for all: A Low Carbon Wales, 2019

## Summary of Consultation Responses

**Head of Highways & Transportation** – No formal comments received to date.

**Sustainable Drainage Approval Body (SAB)** – Advised that the proposals may require SAB approval.

**National Grid** – No objections.

**Dyfed Archaeological Trust** – No objections and suggested a condition relating to the requirement for a Written Scheme of Investigation (WSI).

**Llandybie Community Council** – Supports approval of the application.

**Local Members - Cllr Anthony Davies** – Fully supports approval of the application, there has been no response from the other Cllr for Llandybie to date. On the 30<sup>th</sup> August this year Cllr Tandy for the neighbouring Penygroes ward wrote in to object to the application based on climate change, hydrology, coal policy and the climate emergency.

**Public Rights of Way** – No objections, footpath 51/118 goes close to the site and the operator will need to take care not to obstruct this footpath.

**Dwr Cymru** – ‘The proposed extension to the Glan Lash Mine is in the vicinity of a 250mm trunk water main. We would request that prior to any work commencing on site, details of a construction design method statement and risk assessment for the protection of the structural condition of the strategic water main in the vicinity of the site has been submitted to the local planning authority as part of the planning application and approved.’

### **Head of Public Protection -**

**Dust** – No objections, stated the applicant needs to adhere to the proposed mitigation measures and this be re-enforced by condition.

**Noise** – Suggested a number of conditions relating to working hours, noise limits, silencers on machines and the use of ‘smart’ reversing alarms.

**Air Quality** – Notes that ‘it is not considered that the proposed development will have a significant adverse impact on air quality as regulated under the Environment Act 1995 and in relation to the requirements of Local Air Quality Management.’ Also suggested that a condition relating to a dust management plan prior to the commencement of development, be included should planning permission be granted – also noted the general thrust of Welsh Government policy in relation to reducing greenhouse gas emissions.

**Forward Planning** – No objections but notes that there is further clarity needed regarding Welsh Government policy on coal (in PPW 10 at the time) also notes that the development would be within 500 metres of settlements so MTAN 2 would apply.

**The Coal Authority** - Initially asked for more information relating to ‘ a formal comprehensive Geotechnical Site Report being compiled prior to any operations being undertaken on site identifying any potentially hazardous areas and present operational

methodologies to mitigate any risks posed to on-site personnel' this information was subsequently provided and they withdrew their concerns in a response dated **24/1/2020**. Within this response they also requested a condition relating to a geo-technical report for the site and the subsequent compliance with any measures identified in this report.

**Natural Resources Wales** – There has been protracted correspondence between NRW, the Authority and the applicant, and numerous requests for further information, relating to protected species and hydrological impacts. Following the submission of various reports and other information NRW withdrew their objection to the application on 11/3/2022. Although they still had concerns relating the application, the inclusion of several conditions would help allay these concerns.

**Ecology Department** – Have objected to the development, on the following grounds

- Potential adverse impact on the Caeau Mynydd Mawr SPG and the meta population of marsh fritillaries, in the most part due to potential hydrogeological impacts
- Loss of woodland and hedgerow
- Does not comply with the Environment Act duty to maintain and enhance biodiversity

All representations can be viewed in full on our [website](#).

## Summary of Public Representations

The application was the subject of publicity by way of letters to neighbouring properties and 2 site notices were erected, one at the site entrance and one at the kissing gate on the nearby public right of way. The application was also advertised in the press.

In total, to date, 663 letters of objection have been received, (some are still being received at the time of writing this report) the majority of these were exactly the same 'template' letter which cited the following objections;

- The fact that the Council have declared a climate change emergency and coal extraction would be against this
- Rise in greenhouse gas emissions resulting from the development
- Against planning policy in PPW 10 (this was the relevant plan at the time, it is now version 11)
- The need to look for more renewable energy alternatives

The remaining, 'non template' letters cited similar reasons as above, but also cited the following objections/observations, as below

- Contravenes the well being of future generations act
- The loss of woodland and other habitats and the impacts this would have on ecology
- Potential for noise and dust
- The fact the site would be within the 500 m buffer zone established in MTAN 2
- Exacerbation of existing health conditions caused by dust and particulate matter
- Wider landscape issues
- Pollution of the river

There was 1 letter of support submitted directly to the council, and further letters of support were appended within the ES and the PAC report. The letters of support provided were from the various companies who have been utilising coal from the site, as well as potential future customers if permission were granted. These companies all cited the need for this anthracite for their products in support of the application.

All representations can be viewed in full on our [website](#).

## Appraisal

After carefully reviewing the planning application, the policy background and from visiting the application site, it is considered that the principal issues are as follows:

### **Planning Policy Considerations, regarding PPW 11 and Welsh Governments Coal Policy Statement**

The most recent iteration of PPW 11 already has a strong general presumption against proposals for the extraction of coal, whether via surface means or via deep mines. The proposal is an extension to an existing site, section 5.14.47 of PPW 11 states the following

*Extensions to existing mineral working, whether they be time, lateral or depth extensions should be considered in the same manner as applications for new sites.*

Clearly then, whilst the proposal is for an extension to an existing site, it needs to be considered as an entirely new site, in terms of policy considerations and where it fits into PPW. Whilst PPW has a general presumption against coal extraction, there are exceptional circumstances that may allow for further extraction;

For example, at para 5.10.13 PPW highlights the importance of targets that seek to ensure the phasing out of coal fired generation by 2025 and states the following

*It is part of UK and Welsh Government energy policy to remove coal from energy generation. Current UK Government plans seek to phase out coal fired generation by 2025 and in Wales demanding targets to limit carbon emissions are enshrined in the Environment Act.*

In the following paragraph it states that:

*Proposals for opencast, deep-mine development or colliery spoil disposal should not be permitted. Should, in wholly exceptional circumstances, proposals be put forward they would clearly need to demonstrate why they are needed in the context of climate change emissions reductions targets and for reasons of national energy security.*

During the consideration of this application the Welsh Government released its Policy Statement on coal and this has built upon the stance within PPW and has effectively introduced a moratorium on any new coal sites, although again, there are exceptions. The following extract is taken directly from the policy statement .

*Welsh Ministers therefore do not intend to authorise new Coal Authority mining operation licences or variations to existing licences.*



However, in wholly exceptional circumstances, Welsh Government would consider the further extraction of coal. Each proposal would be considered on its individual merits, but must clearly demonstrate:

- Why the extraction is required to support industrial non-energy generating uses for coal.
- Why the extraction is needed in the context of decarbonisation and climate change emission reductions targets, or to ensure the safe winding-down of mining operations or site remediation.
- How the extraction contributes to Welsh prosperity and our role as a globally responsible Wales.

Decisions will be made on the specific circumstances of each case based on its climate impact, with the presumption being against extraction.

**Why the extraction is required to support industrial non-energy generating uses for coal.**

To address the requirements of the coal policy (which came into effect on 22<sup>nd</sup> March 2021) and to evidence why the extraction is required to support industrial, non-energy generating users of coal, the applicant has confirmed that all coal from site would go to industrial end users. The applicant has provided letters to this effect, from numerous different companies, all of which have sought to retain coal supplies from the Glan Lash site. These companies include Ibstock (whereby coal is used in brick manufacture as a colourant) numerous companies involved with the water filtration industry and a company that would be looking to produce carbon bushes for electric cars. The details of proposed tonnages are below

Company name	Tonnages required (per annum)
Ibstock	13,000
Puracite	1-2,000
Western Carbons	2,500
LCC Group	6,000
Filtercite	7,500

The tonnages above total an annual demand of 30,000 tonnes of coal, which over the proposed period of coaling of 6.1 years would result in an overall demand of 183,000 tonnes, some 88,000 tonnes greater than the proposed 95,000 tonnes extraction. Clearly then, in this case there is sufficient demand so that all the coal extracted could be put to an industrial end use, and not burnt. Whilst at this current time the evidence provided is in the form of letters of intent, not actual binding contracts this is considered sufficient to demonstrate a realistic prospect of non-fossil fuel use for energy generation. It would be unrealistic to expect any actual contracts as without a planning permission for the proposed operations, it is unlikely that any of the end users would enter into a binding contract with the applicant. So, in this case the letters are considered sufficient. Whilst it would not be possible to impose conditions to ensure that all coal went to industrial uses, as any conditions imposed may not meet the tests for conditions, there is no reason to doubt that all the coal would be going to industrial markets. There would be a possibility for an Section 106 Agreement to be reached with the applicant, should permission be granted but enforcement would be particularly difficult.

In terms of the second part of the coal policy, **Why the extraction is needed in the context of decarbonisation and climate change emission reductions targets, or to ensure the safe winding-down of mining operations or site remediation'** one of the proposed end users is a supplier to a manufacturer of parts for electric cars. Demand for electric cars has been on the rise in recent years and are seen as having a lot of potential for reducing harmful

emissions, which are impacting on climate change. By potentially aiding in the construction of electric vehicles, the site has the potential to help reduce climate change emissions, although it is not clear exactly what the potential contribution would be. The applicant also maintains that where there is demand for this high specification coal (as demonstrated in the letters submitted) that cannot be met by more 'local' sources the alternative would be to import coal from other countries, such as China, Brazil or Vietnam.

The applicant argues that the overall extraction and shipping of these products would have a larger carbon footprint than the extraction and transportation of coal within the domestic markets. In this way, the applicant argues, his proposal would help to reduce the overall carbon footprint of this high specification coal by reducing the distances that the coal would need to travel from alternative providers. There is potential merit in this argument, but specific figures in terms of the carbon footprint for both types of coal (domestic and imported) and the difference between the two remains unknown. A similar argument was put forward by several parties during the consultation phase of the Coal Policy, whereby they questioned the overall carbon footprint of importing these resources, the importance of taking responsibility for the overall emissions generated by importing this coal, and not just the emissions occurring in the UK was also highlighted. There is clearly doubt over this issue and no-one would appear to have a clear answer to this, in light of this doubt the Welsh Government decided to take a precautionary approach (instead of a complete ban) in the coal policy. In their response to these points raised they confirmed the following

*There appears to be no decisive evidence about the influence of supply or demand on global coal consumption. We consider, as a globally responsible Government, we must address both as far as our policy levers permit, minimising further extraction in Wales and reducing consumption. There is no consensus on the emissions associated with indigenous versus imported coal as the scale, nature, coal markets, and therefore impact of individual mines varies considerably. Therefore, a precautionary approach is reasonable. This would support the previously proposed position, which is for Ministers to consider future applications on their individual merits.*

Having reviewed the coal policy, the consultation responses document and, in particular, the report compiled by Wardell Armstrong on behalf of the Welsh Government ('Coal Extraction in Wales, the existing impact evidence' dated September 2019) it is clear that there is little information available relating to the impacts that anthracite extracted for water filtration media will have in terms of decarbonisation and emission reduction targets.

Most of the coal produced from the proposed operations would go to the water filtration industry (which is acknowledged as a market in the Wardell Armstrong report) and would not be burnt, so the emissions relating to this coal would be from its extraction and transport only, not from burning. In looking at whether the emissions from imported coal would outweigh emissions from domestic coal the current information appears to be largely based around coking coal, or other industrial coal that is burned, and would not appear to have considered the situation whereby domestically won coal would not be burned (or, at least, not in any great detail).

The applicant maintains that the coal won from the site will contribute to reducing greenhouse gas emissions due to the reduction in distance the coal would have to travel compared to imported coal. However, no solid evidence has been provided to back up this claim in terms of actual comparisons between imported coal and domestic coal and the relative gas emissions. Having said this, as already identified, in the Coal Policy and its supporting documents there is a lack of data, and debate around the available data. So, it



would be difficult, for the applicant to prove, beyond scientific doubt, the assertion that the domestically won coal would give off less emissions in comparison to imported coal, there are so many variables in such a comparison.

The coal policy and its supporting documents expand on this argument further and one point of view is that even if the coal produced and used domestically were to produce less emissions in terms of transport, this is not to say that the coal that may have been imported to meet this domestic demand would simply be shipped elsewhere. Therefore, by permitting domestic coal there is still a risk that despite the availability of this domestic coal, the export rates from other countries would not drop because of this so the domestic coal would be an addition in terms of emissions. Again, there is no conclusive position for whether this is the case and the summary of responses relating to the coal policy highlights both sides of the argument. This is presumably why, rather than a blanket ban on all coal products in Wales, the coal policy allows for extraction in '*wholly exceptional circumstances*' recognising that whilst for the vast majority of cases coal extraction would be damaging to the numerous climate change targets, there is still demand for coal, and there are exceptions whereby the impacts would not be damaging to climate targets.

The proposal is rather unique in that the bulk of its product goes to the water filtration industry, the anthracite is 'pelletised' and used as a filtration media, at no point is the anthracite burned. Considering the debate as to whether producing domestic coal replaces imported coal or whether that coal simply gets exported elsewhere is very difficult in this situation. Anthracite is commonly used in water filtration and high-quality anthracite is in demand for this and is at a premium, anthracite of this quality is relatively rare, in comparison to the sorts of coal used for coking or concrete production, which is more widely available. In this particular case, if coaling continued on site it would not necessarily add to the overall greenhouse gasses, following the logic that the coal would simply get exported elsewhere, as this is highly specialist coal which isn't necessarily widely available from exporting countries.

If the site did not get planning permission then the filtration companies may find it difficult to obtain anthracite of the requisite quality from elsewhere, there may also be issues with prohibitive costs. There are other alternatives to anthracite for filtration and this includes, sand, gravel, pumice stone, as well as filtration systems that make use of metals – such as iron, aluminium and manganese. The vast majority of alternatives to anthracite also require extraction – therefore, in terms of alternatives there is little difference between domestically produced coal and the alternatives, which also require extraction from the ground. If the water filtration industry continued to import coal as a replacement for anthracite from the site this would be likely to have a negative impact in terms of greenhouse emissions in the short to medium term. Within the policy documents the Welsh Government have advocated a shift of change in industries that are heavily reliant on carbon intensive process's. However, they also note that this will take some time and state that

*'We have seen no evidence of the continuing need for coal use for energy purposes. We do see the continuing need for coal for a number of industrial processes and non-energy uses.'*

Therefore, purely in terms of policy, the proposal could be seen as bridging the gap in the short term and being able to supply the water industry with the products they currently require, whilst realistic and viable alternatives are sought.

Having reviewed the available evidence, it is difficult to conclude whether or not the proposals would make a positive overall contribution to decarbonisation and the climate

change reduction targets, until there is more data available on this subject. However, as highlighted above, the impact of individual mines varies considerably and a precautionary approach is advised, with applications being determined on their own merits.

The third and final consideration of the coal policy is ***How the extraction contributes to Welsh prosperity and our role as a globally responsible Wales***. The applicant has stated that the proposed site would employ 11 full time employees, (3 new jobs in addition to the 8 currently working at the washery site) for the proposed extraction period of 6.1 years and the restoration period for 8 months. In addition to this there are also the additional jobs related to site operations, such as local hauliers, mechanics etc, that would benefit from the continued operations at the mine. In addition, the site also supplies materials to numerous other companies based in Wales that supply to the water filtration industry. Taking this into consideration the proposal would make a positive contribution to the prosperity of Wales. It would create/retain jobs directly at the site, as well as the numerous in-direct jobs and the support the products would provide for the companies involved in the water filtration industry, and to a lesser extent, brick manufacturers.

Considering the context of the above and the desire to be a globally responsible Wales, the proposed extraction needs to demonstrate how it can make a positive contribution to this. Notwithstanding the doubt about whether the proposal would contribute to an increase in coal production and thereby a potential increase in gas emissions and contributing to climate change, the proposal would help to ensure that any coal being used from the site will have been won in a way that is conscious of health and safety regulations and worker conditions. If the demand for anthracite within the water industry continues (if only for short to medium term) then it is likely that companies will need to import coal – this could come from a number of sources including; China, Brazil, Russia, Vietnam or the US.

However, should demand for coal in the UK remain (at least for the short term whilst alternative are sought and proven) it would be more 'globally responsible' of Wales in terms health and safety of workers, along with safer working practices and safe restoration of sites. If domestic coal production ceases, and the demand remains, for the short term (which the letter provided by the applicant seem to suggest it will) there will be coal imported into Britain.

Since the coal policy was adopted in March 2021 there have been no planning applications for new coal extraction determined (an extension of time application at Ffos Y Fran mine, Merthyr Tydfil was refused in April 2023) and it is therefore difficult to know for certain how to interpret the coal policy. Looking at the evidence discussed above, there will be a demand for various types of coal, for specialist uses (including coal for the steel industry, water filtration and other industrial uses) in the short term, as has been acknowledged in the coal policy. The Welsh Government, whilst acknowledging this need, are not clear on how they would prefer this need to be met, there is evidence to suggest that domestic coal production would not necessarily help reduce global production, but the policy allows for domestic coal sites by not enforcing a blanket ban. The proposed site would provide specialist coal, all of which would be used as industrial coal, none being burnt and the majority of this being for water filtration purposes. The site has an estimated 6-year life and so would be relatively short term, so could help to meet the demand for coal in the short term, whilst realistic alternatives for coal are sought for these industry sectors.

Overall, it is considered that the proposals would largely meet the criteria of the coal policy in that it would supply coal for a recognised (non-energy) demand. It also has the potential to contribute to reducing greenhouse gas emissions, some of the coal extracted will go toward producing electric cars, and the greenhouse gas emissions this has the potential to

reduce. Most of the coal goes to water filtration – an industry, which, if coal is not utilised, relies on other extracted products (such as sand and gravel, or metals). There is debate as to whether producing the domestic coal will help reduce demand and this has not been conclusively settled. But, the use of the coal in water filtration would be unlikely, at least, to result in an increase in greenhouse gasses over the alternatives that would be used in water filtration, whether this be imported coal or other extracted materials. The proposal would provide continued employment for a further 6 years, plus approximately 1 year for restoration and then a further period of aftercare (although the number of employees would be reduced for this). There would also be the indirect employment provided so the proposal would contribute positively in terms of prosperity – although a relatively small contribution at the national level, in terms of employment. The proposal also has the potential to make a positive contribution toward a ‘globally responsible’ Wales by helping to reduce reliance on coal from sources where there may be less onerous health and safety standards.

**The coal policy states that in wholly exceptional circumstances and where the proposal has demonstrated that it meets with the coal policy that applications should be considered on their own individual merits, these are addressed below.**

The proposal would bring the boundary of the site closer to residential properties than is currently the case, this would increase the potential for impacts relating to residential amenity and health in the form of noise, dust and vibration. Given the distance between the site and any potential receptors the guidance in MTAN 2 is a key consideration for this application.

## **MTAN 2 EXECEPTIONS**

Policy MPP4 of the LDP identifies areas where surface coal extraction will be resisted and this ‘buffer zone’ is typically about 500 m from recognised settlements, in accordance with recommendations within MTAN 2. The site boundary has been extended, mostly to the north, bringing the site boundary closer to properties on the north-eastern end of Waunfarlais road (to the east). There are a number of residential properties that would be within this 500-metre buffer zone, should permission be granted, and the majority of these would be on Waunfarlais road. Whilst MTAN 2 advises a 500-metre buffer zone, there are exceptions to this, for example. paragraph 49 of MTAN2 includes some of the factors that can be included in any consideration of exceptional circumstances. These are

- Where coal working provides the most effective solution to prevent risks to health and safety arising from previous mineral working
- To remediate land damaged by shallow coal workings or mine waste, where coal extraction seems to be the most sustainable option
- Where topography, natural features such as woodland, or existing development, would significantly and demonstrably mitigate impacts
- Where major roads or railways lie between the settlement and the proposed operational area and coal working would not result in appreciable cumulative and in combination effects
- Where the surface expression of underground working does not include the significant handling or storage of the mineral or waste
- When the proposal is of overriding significance for regeneration, employment and economy in the local area or
- Where extraction would be in advance of other, permanent, development which cannot reasonably be located elsewhere.

MTAN2 goes on to state that the best balance must be sought between the scale, working method and the timing of individual phases, the opportunities for early restoration and aftercare, and hours of operation. Strong evidence of necessity of remediation is required to justify working within 200 m of a settlement.

Consideration must therefore be given as to whether any of the exceptions set out above apply to this proposal. It is considered that in this case it is clear that topography and natural features such as woodland, as well as the proposed sub and topsoils bunds, would significantly and demonstrably mitigate impacts particularly in visual terms but also in terms of mitigating the potential impacts of noise and dust generation.

The proposed development does not involve the significant relocation of an existing community or result in communities becoming physically isolated, divided or enveloped by mineral workings and on balance it is considered that this site meets the exception criteria in terms of topography and natural features mitigating its impact. A contributory factor is the size of the site and the working method which gives rise to relatively limited potential impacts which allows for them to be significantly mitigated.

### **Amenity and Health Impacts (ie, noise, dust and vibration)**

#### **Health**

Paragraph 121 of MTAN2 states

“A planning application for coal working that may have significant effects on human health should be accompanied by HIA as part of the EIA. This does not in itself mean that such developments have unique, significant, or necessarily negative health impacts. It does recognise, however, that to meet expressed concerns, not only should the technical evidence be rigorously assessed, but also the local community should be properly informed and involved and people’s views heard about the application.”

Paragraph 122 goes on

“HIA should assess the potential direct and indirect effect on the health of a population and the distribution of those effects within that population; it is a flexible but systematic way of considering the possible impacts of developments on people’s health. The public seeks a certain level of scrutiny to provide assurance that the potential risks to health have been considered and can be adequately controlled. HIA will provide this scrutiny.”

The determinants of health as identified by WHIASU are environment, income, employment, education, the organisation of transport, the design and condition of houses, crime, and the social and physical condition of local neighbourhoods.

A statement in relation to the potential health effects of the development has been submitted. The screening exercise undertaken in accordance with WHIASU guidance finds that the application is unlikely to have adverse effects on wider health and wellbeing as the activities will be distant to populated areas.

A Rapid Health Impact Assessment was submitted with the application, as advised in MTAN 2, and in particular, when a proposed coal development is within 500 metres of residential properties. A round of stakeholder involvement was carried out during one of the Site Liaison Committee (SLC) meetings which were held on a 3–4-month basis, when the site was

previously working. An invite to this meeting was also extended to 75 nearby residents who would have the potential to be affected by the proposed development as well as local county councillors who attended this meeting (for Llandybie and the neighbouring Penygroes wards). During the stakeholder session, the main issues that were identified related to noise and dust – some concerns were raised regarding visual impact, but having described phasing of the site, and screening measures, concerns relating to visual impact were dispelled. Therefore, the focus of the HIA was noise and dust.

Following this process, a number of potential negative impacts were identified, mitigation measures for these were also discussed during the stakeholder engagement session, and these have informed the planning application as submitted. These concerns, and the proposed mitigation are highlighted below

Noise nuisance- the exercise revealed concerns that the site would cause a noise nuisance for nearby residents, the suggested mitigation was as follows

*BBCL are proposing to build a noise attenuation bund and recommendations outlined in this HIA include undertaking noise monitoring to determine the actual noise levels at the sensitive receptor locations, including the newly identified vulnerable groups. Also BBCL to implement operational procedures to mitigate noise.*

There were concerns about access to the local physical environment in the short term, due to the presence of the site discouraging people from walking/accessing the local physical environment – the suggested mitigation was as follows;

*Mitigation: BBCL to implement safe operational procedures (traffic movements/use of a banksman) prior to commencement of activities and communicate the measures to the local community for reassurance related to the perceived risk.*

Another negative impact identified was the potential for the operations to release fugitive emissions to air, and the potential for this to cause or exacerbate asthma and nose, throat or eye irritations, in particular for those with pre-existing respiratory conditions, children and the elderly. Suggested mitigation for this was as follows;

*dust monitoring in additional locations, such as the new sensitive receptors identified, to quantify actual dust concentrations in light of the extension work.*

Mental health impacts were also considered as being potentially negative, such as perceived risks relating to noise, dust and water quality issues and stress relating to this as well as a feeling of lack of control over the situation. Some possible mitigation for this was identified as follows.

*Clear communication with relevant stakeholders, including the identified vulnerable groups, to maintain a transparent and trusting relationship throughout the planning, operations, and restoration phase. An invitation to stakeholders prior to planning application submission to undertake a site walkover and provide an opportunity to express concerns.*

The HIA exercise also identified potential positive impacts resulting from the proposals, firstly, employment. It was identified that the proposed operations could, in the short term, maintain continual employment of 11 employees at the site and associated Washery. In a region of relatively low median household incomes, this employment is vital for continued

quality of life. It was suggested that to help ensure this would be realised (should permission be granted) that

*The applicant to adopt a local employment policy to ensure any available jobs are secured for those living in the area.*

The final potential benefit from the proposed development would be the long term health benefits resulting from the restoration of the site – which would provide greater access and quality of greener space in the area. This in turn would contribute to physical and mental wellbeing of the local population. The use of the restored Tir Y Dial tip is testament to how the provision of easily accessible green space can result in a well-loved and well used public space for the local population. In order to help realise these positive impacts the following was suggested;

*BBCL to consult with ecologists to enhance biodiversity during restoration. Following this, Carmarthenshire CC to publicise and promote the use of the restored areas, targeting those with mental health conditions or pre-existing/long term health conditions*

The HIA process helped to identify a number of potential negative impacts, and any mitigation measures that can be employed to help reduce these potential impacts, as well as identifying positive impacts, and the mechanisms to ensure any positives would be realised. The process allowed for the involvement of local residents and for them to have their say before the application was even submitted and to help inform the design of the scheme and the mitigation measures. The subsequent sections will examine amenity and health impacts, which were the key potential negative impacts identified via the HIA process. The application has suggested a number of mitigation measures in relation to these impacts, having taken into account the HIA process and these will be discussed in more detail later on in the report.

## **Noise**

This application was subject to pre-application consultation (PAC) prior to the submission of the full planning application, following the submission of the PAC numerous queries were raised by the Local Authorities Environmental Health Officer for noise. In summary these queries related to;

- reference to out of date legislation,
- justification for use of old data with regard to plant and other equipment used on site,
- clarification on sound attenuation calculations
- the validity of data used at two of the monitoring points
- confirmation of data collection during periods when the mine was not active.

The applicant sought to address these queries prior to the submission of the planning application and a detailed response to these queries was submitted to the Authority in June 2019. In July 2019, the Environmental Health Officer reviewed the contents of this extra information and confirmed she was satisfied with the contents and that she would be able to provide comments as and when a full planning application was submitted.

The environmental noise assessment (ENA) submitted with the full planning application has, therefore, been compiled taking into account comments from the Environmental Health Officer. The ENA identifies the 5 closest sensitive noise receptors, having discounted one

of the closest (Y Garth, the owner has an interest in the proposed site operations) these are as follows;

Location	Distance (m)	Direction from Site
Pen-y-waun-hafog	430	South-West
Tylegwyn	235	South-East
Nirvana	255	East
Llwyn Celyn	385	South
Ty Uchaf Farm	225	North-East

Whilst there are small groupings of properties (such as along Waunfarlais road) around the site one receptor has been chosen to be representative of the area in general as there would be unlikely to be any major differences between these properties.

Following the identification of the most likely potential receptors the ENA considers all potential sources of noise, including,

- the existing coal washing plan
- excavators
- dump trucks
- dozers

The noise levels of this plant have all been measured, and attenuation (from soft ground and barriers) has also been considered in all noise predictions from the proposed operations, in accordance with the relevant British Standards. These measurements have also been predicted taking into account the phasing of the site, eg, the soils stripping and movement phase, (both with and without the proposed 5 metre screening bund) and the production/coaling phase (including consideration for depth, lateral extent).

Numerous mitigation measures have been proposed by the applicant to try and minimise any potential noise impacts, this includes,

- Site selection and design, the site is relatively secluded and will not be in close proximity to major settlements, the box cut method proposed will also help to ensure most operations occur at depth which will help to attenuate any noise arising from operations.
- The use of modern plant, to be maintained and fitted with silencers
- Strategic placement of soils and overburden mounds to help act as attenuation
- The use of data obtained by years of mining at the site helps to inform any potential impacts with confidence
- Following soils stripping and movement the majority of operations will be at depth and this will help with natural attenuation of noise.

Having considered all of the above, the noise report predicts that, on the whole, noise impacts resulting from the proposed development would be minimal. No impacts have been predicted at Pen Y Waun, Hafod or Llwyn Celyn. Minor impacts, have been predicted at Tylegwyn, relating to soil stripping (9db dLA90.1h above background) and overburden production at the surface ( 5db dLA90.1h above background). Both operations would be for

a limited time frame only, so whilst background noise levels would be exceeded this would be for a short time only and would be in accord with guidance in MTAN 2, which states that

*Minerals advice in Wales has been that increased noise limits between 1000 and 1600 hours on Monday to Friday excluding Public Holidays of up to 67 dB (A)LAeq 1hr (free field) should be considered for periods of up to 8 weeks in a year, monitored at the noise-sensitive properties nearest to the source.*

The property Nirvana has been assessed as having negligible noise impacts, relating mostly to soil stripping (3db dLA90.1h above background) and to overburden production at the surface (1db dLA90.1h above background). Both of these operations would be for limited periods only (as with Tylegwyn) and it is considered that the impacts relating to these small increases above background noise levels would be minimal, or negligible, as in the submitted assessment.

Minor to moderate impacts have been predicted at the closest property, Ty Uchaf Farm. Soil stripping at the closest position would be 9 dLA90.1hr above background levels, for limited time periods only. Overburden production at the surface will be 7 dLA90.1 hr above background with a 3m northern area topsoil mound. If this mound were increased to 5m then the production noise would be significantly reduced to 1 dLA90.1hr above background noise. The applicant has confirmed that they are willing to increase the topsoil mound to 5 metres in order to help with noise attenuation. Therefore, in this instance, the impact upon Ty Uchaf would be reduced to a level like that of those predicted at Nirvana, which has been assessed as negligible. Although the increased size of the soils storage bund may increase visual impact for residents at Ty Uchaf, this will be assessed later in the report. Overburden and coal production within the operational void and behind a 5m topsoil mound would be below background levels for this receptor.

It is therefore not anticipated that the noise impact of the extension would be significantly different to the previous operations. The Authorities environmental health officer for noise has been consulted on the application and has not raised any objections to the application but has suggested numerous conditions relating to working hours and specific noise levels during the predicted operations.

## **Dust**

Dust is often a concern with open cast coal operations, in particular, the emission of PM 10's and PM 2.5, open cast coal operations certainly have the potential to generate dust and these particulate matters. MTAN2 paragraph 151 states that residents can potentially be affected by dust up to 1 km from the source but continual or severe concerns about dust are more likely to be experienced near to dust sources (generally within 100 m).

There are no properties within 100 m of the site, the closest being Ty Uchaf, approximately 160m (from the site boundary, approx. 180 metres from the excavation boundary) away to the north east and the properties along Waunfarlais Road approximately 180 m to the east, although there are numerous properties, so distance varies. These are the closest properties that would be in the line of the prevailing winds.

Potential sources of dust at this site would be soil stripping, soil and overburden mound construction, soil replacement, excavation of overburden and traffic movements along haul roads. There is no blasting proposed and no on-site processing which is a potential dust



source on other sites, all excavated materials being taken to the washery plant, as has been the practice throughout the lifetime of the existing operations.

The applicants would continue to utilise the dust control methods that have been used throughout the duration of the existing operations, for example

- a water bowser to control the generation of dust on haul roads during dry conditions
- the location of soil and overburden mounds has been designed to minimise the potential effects of dust.
- Processing of material in the washery, not within the void or elsewhere on site
- Drop height of materials to be kept to a minimum to minimise dust emissions

As with other aspects of this proposal, the applicant has the advantage of past experience during the previous operations on site, and there have been no major issues with fugitive dust from the site. The Environmental Protection Division have been consulted and have confirmed that there have been no complaints, issues or dust results of any concern received since the current mining operations commenced. The department confirmed that the site has a current Environmental Permit and there have been no permit breaches identified since the permit was issued, they have also confirmed that there would be a requirement to review the existing permit should planning permission be granted and the proposed operations take place. The department did note that regard needs to be given to the Welsh Governments stance in Planning Policy Wales 11 and the targets set to limit carbon emissions, partially through phasing out the use of coal fired energy generation. However, notwithstanding this, the department maintain no objections to the application. In light of this the department also suggested that a condition requiring a dust management plan to be submitted prior to any operations taking place should be included, if permission is granted.

For the reasons outlined above, it is concluded that the development will not generate unacceptable levels of environmental pollution from noise, dust or vibration.

### **Highways impacts**

The applicant has not proposed any increase in output from the site, and the route from the void to the washery, across shands road would also remain. During the operations of the current site there have been no issues relating to site related traffic causing issues on the public highway. The Authority have received complaints about deleterious material being carried onto the Shands road, however, Shands road is a privately-owned road so any issues relating to the condition of this road would not be a matter for the planning department. **The highways department have been consulted on the application and have not raised any objections or concerns. There have been on going negotiations between the highways authority and the applicant (and other landowners along Shands road, to try and establish a cycle route along shands road. This would link Blaenau with Ammanford and would also extend the existing sustrans Route. Whilst this is not directly related to the planning application the acquisition of this road for use a cycle path could be a potential benefit resulting from the proposed development.** It is therefore considered that the proposals would not have any adverse impacts in relation to highways and would not conflict with the relevant policies of the Local Plan.

## **Potential geological hazards**

Whilst the existing site has suffered from failures and slips in the past, in most part, due to the steeply inclined strata in the vicinity, for example, in 2017 when a slump in the northern area of the existing site required remedial works to make safe the area. Drilling carried out in the extension area has revealed that, by designing the excavation in a particular way it will be easier to avoid such geologically unstable areas. There are also a number of old adits within the extension area, and these too need to be considered as they could cause issues, either on site, or potentially extending beyond the site boundary.

The applicant engaged with the coal authority during the PAC process and submitted information in relation to the geology and mining legacy of the area, but this was not considered sufficient by the Coal Authority in the first instance, and they requested further information relating to the abandoned Ty Uchaf mine workings. The applicant subsequently responded to the Coal Authority and provided further information relating to the drift mine and an assessment of the potential hazards related to the presence of this adit, as well as a plan and photos of the drift. The report concluded that the presence of the drift would not cause any safety issues for members of the public as they would not have access to the site. The excavation design, they argued, would allow for any potential dangers to the proposed mining operations to be designed out, minimising the risk to staff working at the site. The applicant stated that, if the Coal Authority were agreeable, a full Geotechnical site report could be requested via condition and provided prior to the commencement of any development on site.

The Coal Authority responded to this extra information and withdrew their previous concerns regarding the Ty Uchaf mine and agreed that a formal comprehensive Geotechnical Site Report could be requested via condition, with these investigations to be carried out prior to the commencement of development. Any condition would also need to ensure that if any measures were proposed in the site report, as mitigation, then these measures would need to be implemented as detailed in any reports. Having regard for this response from the Coal Authority, it is considered that the proposals would not result in an adverse risk to the public, or members of staff, should permission be granted. The inclusion of the condition advised by the Coal Authority would ensure that all the potential risks will be fully understood, and mitigated for, if required, prior to the commencement of operations on site.

## **Landscape and Visual Impact**

The extension site would be located adjacent to the existing mine site, which is also in close proximity to an old coal tip (Tir Y Dial) which has been restored by the applicant, as part of the mitigation measures for the existing sites permission. The immediate landscape includes mining and industrial uses, as well as field enclosures, so the proposed mine would not be incongruous in the surrounding landscape. The site is not located within, or in close proximity, to any areas designated as 'Special Landscape Areas'. The Landmap identifies the following landscape characteristics;

### **Geological Landscape**

This was identified as being of Moderate importance with the following characteristics taken from Landmap

*Broad gently undulating platform dominated by Upper Carboniferous 'Coal Measures' mudrock bedrock between the 'Millstone Grit' ridge of the Llyn Llech area to the N and higher sandstone-dominated to the S in the Fforest area. Areas of glacial clay cover widespread, including on valleys slopes to the W and E; local areas of peat also (Quaternary: Pleistocene-Holocene). Industrial and urban development significant, including opencast coal mining near Tycroes.*

### **Landscape Habitat**

This was identified as being high or outstanding importance with the following characteristics taken from Landmap

*Largely improved agricultural landscape with a high proportion of semi-improved neutral and marshy grasslands supporting notable species, particularly the Marsh Fritillary butterfly. The area is also characterised by fields of generally small size with infrequently managed boundaries often supporting mature trees and frequently associated with small woodlands or areas of scrub.*

### **Visual & Sensory**

This was identified as being of moderate importance with the following characteristics taken from Landmap

*The area is the lower valley sides and flat valley floor of the Marlas and upper Llwrchwyr valleys running from around 80mAOD to 20mAOD. Fields are large on the valley floor and small- medium sized on the valley slopes with outgrown hedges in most places with the exception of south eastern parts. This pastoral landscape is frequently interrupted by industry (some relict), manufacturing, and residential development. The area is well wooded which helps to integrate development and the agriculture*

### **Historic Landscape**

This was identified as being of high or outstanding importance with the following characteristics taken from Landmap

*TY-UCHAF, MELIN ABERLASH, An area of medium sized irregular field enclosures with areas of woodland and a settlement pattern of dispersed farmsteads and cottages as well as some outlying dwellings of Llandybie... Most significant archaeological element(s): coal mining, other relevant historic patterns include*

- *Irregular Fieldscapes*
- *Extractive*
- *Communications*
- *Woodland*
- *Processing/Manufacturing*

- *Non-nucleated Settlement*

### **Cultural Landscape**

This was identified as being of moderate importance –

*The key features of the cultural landscape were identified as being the historic and geological landscape (which were both evaluated as being high or outstanding)*

The applicant has provided viewpoints from 11 different locations in proximity to the site, with a mixture of locations including residential areas, and from numerous residential streets, as well as additional viewpoints from the Brecon Beacons National Park, as requested by NRW during the PAC process. A section has been produced for each viewpoint to show the inter visibility of the site from these locations. It is worth noting that the proposed extraction will be temporary and relatively short term (at approximately 6 years) so any visual impacts relating to the extraction phases will be temporary. Following the completion of extraction, the site would undergo restoration and aftercare, this is where there is potential for permanent impacts on landscape. The site will be 'shaped' to its final contours before being planted/seeded etc – once the contours have been achieved there is still potential to change these to better match the land, but once widespread planting has been carried out it would be difficult to make any changes to the landform. It is therefore important that the restoration profile of the site is also taken into account when assessing impacts relating to landscape and visual impact.

The ES identifies the following potential sources of visual impacts relating to the proposal;

- Any change to the landscape
- Visual Impact of operational areas and activity on settlements and individual properties
- Visual Impact of operational areas and activity on users of the B4556
- Visual Impact following restoration of the Extension site on settlements and individual properties

The ES has also identified several mitigation measures that have been included in the application, that the applicant believes, will help keep landscape and visual impacts to an acceptable level. Some of these mitigation measures include.

- Site selection itself – the site is in a relatively well screened location as a result of local topography and vegetation
- The design of the working area has sought to maximise the use of surrounding topographical and landscape features such as tree lines and hedges, to help screen the proposed development
- The phasing of the site has been designed to keep operational areas to a minimum.
- The siting of top and sub soils mounds has been designed to provide screening for the site – these will be graded and grassed to provide a less intrusive screening feature
- The restoration design for the site – so far there is an indicative plan for the restoration of the site which aims to integrate the proposed extension site (including the existing site) into the surrounding landform as closely as possible. There would be close consultation between the local authority and the operator during the restoration of the

site and this will afford the opportunity to integrate the restored site into the surrounding landscape as best as possible. Aftercare planting will help in the long term to soften the landscape and integrate it with the existing countryside.

The numerous cross sections that show site lines into the site show that, at an average height of 2m (to allow for the height of a person – and a bit extra for a ‘worse case’ scenario) there are limited viewpoints that would afford a clear view into the site. The assessment states that whilst one of the viewpoints would experience moderate or minor impacts (during the operational phase) the majority of the viewpoints would experience no or negligible impact, largely due to the topography within and surrounding the site along with intervening features such as woodland and mature hedgerows.

The viewpoints that would experience impacts during the operational phase, would only experience these impacts on a temporary basis, on completion of restoration these impacts would be greatly reduced (as indicated in the ES) and then would reduce further still following planting of the site. It is likely that there would be some impact during the restoration and aftercare phases of the site which will involve the movement and placement of soils and overburden from the storage bunds located around the site. However, these impacts would be relatively limited, mainly due the low-key nature (compared to the extraction phases) of these operations and the intervening topography and vegetation. As with the extraction phase, the restoration phase would also be temporary, but even shorter, with an approximate time of 8 - 10 months (this would be weather dependent) so any impacts associated with the restoration of the site would be limited to a short period of time. Aftercare operations on site would mainly involve drainage, planting, seeding operations and these would not require large amounts of disturbance or lots of heavy plant, so impacts relating to this phase would be limited.

The impact of the site operations can be minimised by the construction of the sub and top soil bunds around the boundary of the site at the initial stages, and the greening up of these faces at an early stage with subsequent work taking place behind these bund (and behind the existing bunds already present on site). If this is done it is considered that the visual impact of the site will be limited, temporary and reversible for the most part, so the proposal is not considered to conflict with policies SP14 Protection and Enhancement of the Natural Environment and MPP4 Coal Extraction Operations.

## **Biodiversity impacts**

Concerns relating to impacts on biodiversity resulting from the proposal are the key material consideration in this application. In order to fully consider these impacts a detailed appraisal of the relevant legislation and the impacts has been provided by the biodiversity team, as below.

## **Legislation Context.**

### **Environment Act (Wales) 2016**

Part 1 of the Environment Act sets out Wales' approach to planning and managing natural resources at a national and local level with a general purpose linked to statutory 'principles of sustainable management of natural resources' defined within the Act.

## **Section 6 - Biodiversity and resilience of ecosystems duty.**

Section 6 of the Act places a duty on public authorities to 'seek to maintain and enhance biodiversity' so far as it is consistent with the proper exercise of those functions. In so doing, public authorities must also seek to 'promote the resilience of ecosystems'. Public authorities such as Carmarthenshire County Council are required to report on the actions they are taking to improve biodiversity and promote ecosystem resilience.

## **Section 7 - Biodiversity lists and duty to take steps to maintain and enhance biodiversity.**

The Welsh Ministers will publish, review and revise lists of living organisms and types of habitat in Wales, which they consider are of key significance to sustain and improve biodiversity in relation to Wales. The Welsh Ministers must also take all reasonable steps to maintain and enhance the living organisms and types of habitat included in any list published under this section, and encourage others to take such steps.

In autumn 2019 the Chief Planning Officer for Wales provided some further guidance on the application of the section 6 duty with regard to securing enhancement (see <https://gov.wales/biodiversity-enhancements-guidance-heads-planning>) which stated that if it could not be achieved, permission for the development should be refused. The letter from the Chief Planning Officer on October 23, 2019 stated:

*Planning Policy Wales (PPW) 10 (now superseded By PPW11) sets out that "planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means that development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity" (para 6.4.5 refers). This policy and subsequent policies in Chapter 6 of PPW 10 respond to the Section 6 Duty of the Environment (Wales) Act 2016\*. The purpose of this letter is to clarify that in light of the legislation and Welsh Government policy outlined above, where biodiversity enhancement is not proposed as part of an application, significant weight will be given to its absence, and unless other significant material considerations indicate otherwise it will be necessary to refuse permission.*

Planning requirements in relation to this 'duty' are explained in Planning Policy Wales 11 and summarised below.

### **Planning Policy Wales 11:**

**6.2.11** Planning authorities must encourage the appropriate management of features of the landscape which are of major importance for wild flora and fauna in order to complement and improve the ecological coherence of the Natura 2000 network. The features concerned are those which, because of their linear and continuous structure or their function as 'stepping stones' or 'wildlife corridors', are essential for migration, dispersal or genetic exchange. The development of networks of statutory and non-statutory sites and of the landscape features which provide links from one habitat to another can make an important contribution to ecosystem resilience and the maintenance and enhancement of biodiversity and the quality of the local environment, including enabling adaptation to climate change.

**6.4.3** The planning system has a key role to play in helping to reverse the decline in biodiversity and increasing the resilience of ecosystems, at various scales, by ensuring appropriate mechanisms are in place to both protect against loss and to secure

enhancement. Addressing the consequences of climate change should be a central part of any measures to conserve biodiversity and the resilience of ecosystems.

**6.4.3** Development plan strategies, policies and development proposals must consider the need to:

- Support the conservation of biodiversity, in particular the conservation of wildlife and habitats;
- Ensure action in Wales contributes to meeting international responsibilities and obligations for biodiversity and habitats;
- Ensure statutorily and non-statutorily designated sites are properly protected and managed;
- Safeguard protected and priority species and existing biodiversity assets from impacts which directly affect their nature conservation interests and compromise the resilience of ecological networks and the components which underpin them, such as water and soil, including peat; and
- Secure enhancement of and improvements to ecosystem resilience by improving diversity, condition, extent and connectivity of ecological networks.

**6.4.4** All reasonable steps must be taken to maintain and enhance biodiversity and promote the resilience of ecosystems and these should be balanced with the wider economic and social needs of business and local communities. Where adverse effects on the environment cannot be avoided or mitigated, it will be necessary to refuse planning permission.

**6.4.5** Planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity. In doing so planning authorities must also take account of and promote the resilience of ecosystems, in particular the following aspects:

- diversity between and within ecosystems;
- the connections between and within ecosystems;
- the scale of ecosystems;
- the condition of ecosystems including their structure and functioning; and
- the adaptability of ecosystems.

**6.4.8** Planning authorities must demonstrate that they have sought to fulfil the duties and requirements of Section 6 of the Environment Act by taking all reasonable steps to maintain and enhance biodiversity in the exercise of their functions.

**6.4.9** The broad framework for implementing the Section 6 Duty and building resilience through the planning system includes addressing:

- Diversity - development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity.
- Extent - planning decisions should incorporate measures which seek the creation, restoration and appropriate management of green networks and linkages between habitats and maintaining and enhancing other green infrastructure features and networks.
- Condition - Planning decisions should not compromise the condition of ecosystems.

- Connectivity - take opportunities to develop functional habitat and ecological networks within and between ecosystems and across landscapes, building on existing connectivity and quality and encouraging habitat creation, restoration, and appropriate management.
- Adaptability to change - for both species (diversity) and ecosystems action is required to protect the extent, condition and connectivity of habitats, features, and ecological networks.

**6.4.21** Planning authorities must follow a stepwise approach to maintain and enhance biodiversity and build resilient ecological networks by ensuring that any adverse environmental effects are firstly avoided, then minimized, mitigated, and as a last resort compensated for; enhancement must be secured wherever possible.

1. The first priority for planning authorities is to avoid damage to biodiversity and ecosystem functioning. Where there may be harmful environmental effects, planning authorities will need to be satisfied that any reasonable alternative sites that would result in less harm, no harm or gain have been fully considered
2. Planning authorities should ensure that features and elements of biodiversity or green infrastructure value are retained on site, and enhanced or created wherever possible, by adopting best practice site design and green infrastructure principles. The provision of up-to-date ecological survey information will assist in this process. Where necessary, planning authorities should seek to modify the development proposal through discussion with the applicant at the earliest possible stage.
3. In some circumstances, it will be appropriate to attach planning conditions, obligations or advisory notes to a permission, to secure biodiversity outcomes. Planning authorities should take care to ensure that any conditions necessary to implement this policy are, relevant to planning, relevant to the development to be permitted, enforceable, precise, and reasonable in all other respects.
4. When all other options have been exhausted, and where modifications, alternative sites, conditions or obligations are not sufficient to secure biodiversity outcomes, offsite compensation for unavoidable damage must be sought:
  - a. This should normally take the form of habitat creation, or the provision of long-term management arrangements to enhance existing habitats and deliver a net benefit for biodiversity. It should also be informed by a full ecological assessment before habitat creation or restoration starts.
  - b. The Green Infrastructure Assessment should be used to identify suitable locations for securing offsite compensation. Where possible, a landscape-scale approach, focusing on promoting wider ecosystem resilience, should help guide locations for compensation. This exercise will determine whether locations for habitat compensation should be placed close to the development site, or whether new habitat or additional



management located further away from the site would best support biodiversity and ecosystem resilience at a wider scale.

- c. Where compensation for specific species is being sought, the focus should be on maintaining or enhancing the population of the species within its natural range. This approach might also identify locations for providing species-specific compensation further away from the site. Where they exist, Spatial Species Action Plans should be used to help identify suitable locations.
  - d. Any proposed compensation should take account of the Section 6 Duty (Biodiversity and Resilience of Ecosystems Duty), and the five key ecosystem resilience attributes that it outlines. It should also be accompanied by a long term management plan of agreed and appropriate mitigation and compensation measures.
5. Finally, where the adverse effect on the environment clearly outweighs other material considerations, the development should be refused.

**6.4.25** Permanent removal of woodland should only be permitted where it would achieve significant and clearly defined public benefits. Where woodland or trees are removed as part of a proposed scheme, developers will be expected to provide compensatory planting.

**6.4.26** Ancient woodland and semi-natural woodlands and individual ancient, veteran and heritage trees are irreplaceable natural resources, and have significant landscape, biodiversity and cultural value. Such trees and woodlands should be afforded protection from development which would result in their loss or deterioration unless there are significant and clearly defined public benefits; this protection should prevent potentially damaging operations and their unnecessary loss.

## **RELEVANT HABITATS**

Wet Woodland, Purple Moor Grass and Rush Pasture and Hedgerows are habitats included in the Environment (Wales) Act 2016 Section 7 list of habitats of key significance to sustain and improve biodiversity in relation to Wales. These habitats also contribute to ecosystem resilience and ecological connectivity and deliver a range of ecosystem services such as:

Supporting services, necessary for the production of all other ecosystem services.

- Habitat provision.
- Supporting and enhancing biodiversity.
- Soil formation and retention.
- Nutrient cycling.
- Primary production.
- Water cycling.
- Production of atmospheric oxygen.

Regulating services i.e., benefits obtained from the regulation of ecosystem processes.

- Air-quality maintenance: ecosystems contribute chemicals to and extract chemicals from the atmosphere and deliver carbon sequestration in soils.
- Climate regulation e.g., land cover can affect local temperature and precipitation; globally ecosystems affect greenhouse gas sequestration and emissions.
- Water regulation: ecosystems affect the timing and magnitude of runoff and can regulate flooding.
- Erosion control: vegetative cover plays an important role in soil retention and prevention of land/asset erosion.
- Water purification/detoxification: ecosystems can be a source of water impurities but can also help to filter out/decompose organic waste.
- Natural hazard protection e.g., floods, ecosystems are potentially important for moderating stream/river flow rates after high rainfall events, by absorbing substantial volumes of water particularly with areas with humus-rich soils and fibrous peats.
- Pollination.
- Ecological Connectivity.

**Woodlands for Wales Action Plan** - The Welsh Government's Strategy for Woodlands and Trees (revised 2021) states

*'Whilst "Woodlands for Wales" has a strong presumption against the permanent removal of woodland, in certain circumstances it may be justified if there is a need to restore high priority open habitats'.*

Which would therefore presume against the removal of the woodland for development activities. It is the LPA's position that the proposal would result in the permanent removal of 2.52 ha semi-natural woodland. It acknowledges the proposal to plant new woodland in the Restoration Plan but this is at a ratio of less than 1:2 loss: replacement and this newly planted woodland will take many years to provide the quality of habitat of that it is proposed to remove.

**The UK Forestry Standard (2017)** which is applied across Wales, contains the following guidelines:

- It is particularly important to retain, extend and enhance Ancient Semi Natural Woodland because of its unique qualities, but maintaining **all woodland area is central to the Forest Europe criteria**

## **DESIGNATED SITES.**

### **Cernydd Carmel SAC**

Further review of ecohydrological impact assessment relating to Glan Lash extension application (Rigare 1766\_r2.2, June 2023) – commissioned by CCC concludes that, "...it is extremely unlikely that any alteration of the groundwater level in the vicinity of the proposed development will have any measurable effect on groundwater levels within the SAC. Therefore, from an ecohydrological viewpoint, it is extremely unlikely that the proposed development would have any detrimental effect on the SAC features."

## **CAEAU MYNYDD MAWR SAC**

### **Caeau Mynydd Mawr SAC marsh fritillary meta-population**

At EIA Scoping stage attention was drawn to NRW's comments regarding the proximity of the project, and site Marsh Fritillary records, to the current SPG area and the requirement to assess the Marsh Fritillary population on site as a feature of the Caeau Mynydd Mawr SAC. It was stated that any such assessment and mitigation measures must be fully described in the ES and also form a separate statement to inform an appropriate assessment under Regulation 63 of the Conservation of Habitats and Species Regulations 2017. It is stated that it would be necessary to consider the implications of the project in relation to the wider marsh fritillary metapopulation related to the Caeau Mynydd Mawr SAC. At scoping stage NRW advised that the Marsh Fritillary butterfly on site are assessed as being part of the Caeau Mynydd Mawr SAC meta-population due to records being within 500 metres of the SPG boundary and they advised that a Habitat Regulations Assessment will be required as supplementary to the ES.

NRW in their last response continue to have concerns, as a significant effect from the proposed development on the Caeau Mynydd Mawr Special Area of Conservation (SAC) area and the metapopulation of Marsh Fritillary butterflies, cannot be ruled out.

The Caeau Mynydd Mawr SAC has been designated as it contains habitats and species that are rare or threatened within a European context namely:

- Marsh Fritillary butterfly, for which this is considered to be one of the best areas in the United Kingdom.
- Molinia meadows on calcareous, peaty or clayey-silt-laden soils for which the area is considered to support a significant presence.

### **Review of the eco hydrological report submitted by the applicant - Proposed Extension to the Glan Lash Surface Mine: Amended Scheme - Assessment of the Potential Indirect Eco Hydrological Impact on Marshy Grassland and Marsh Fritillary Habitat, Humphries and Leverton, Feb 2022**

Whilst the development site is outside Caeau Mynydd Mawr SAC, it contains habitat which supports the metapopulation of marsh fritillary butterflies (devil's bit scabious) and Molinia meadow. The development is 3.8 km from the Caeau Mynydd Mawr SAC, however part of the site is within the Caeau Mynydd Mawr SPG area (see Photo 2 below) and the site plays an important part in supporting the marsh fritillary meta-population (Photo 1).

NRW have reviewed the eco hydrological report, Proposed Extension to the Glan Lash Surface Mine: Amended Scheme - Assessment of the Potential Indirect Eco Hydrological Impact on Marshy Grassland and Marsh Fritillary Habitat, Humphries and Leverton, Feb 2022. NRW note the site boundary has been moved to ensure that the Annex 1 habitat and other marshy grassland communities are retained. Whilst NRW welcome this amendment, they state that it is up to the LPA to be satisfied that the hydrological report contains sufficient information to be assured there are no hydrological impacts to the marshy grassland communities from the mining proposal.

NRW and CCC as the Competent Authority consider this information is required to inform 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 demonstrate that there will be no adverse effect on site integrity.

The conclusion of the review of the ecohydrological report is that “there is a good to moderate possibility that the M24 marshy grassland is dependent on groundwater discharge from the Coal Measures, flowing upwards through the Glacial Till, and / or groundwater discharge from the upslope Glacial Deposits”, i.e., there is a good to moderate possibility that development will disrupt the ground water regime on which the marshy grassland is dependent.

The applicant’s current Eco Hydrological Impact Assessment (E-HIA) is particularly weak in relation to investigation and characterisation of the importance of groundwater from the Coal Measures as a source of water to the marshy grassland. A detailed eco-hydrological conceptual model which includes the presence and hydrological effects of the proposed development is required and the review report provides a set of requirements which should be provided to fully inform this model.

Furthermore “the applicant’s ecohydrological (including hydrogeological) conceptual model was inadequate as the basis for the E-HIA. It was based on extremely limited field investigations and monitoring, a number of unsafe assumptions, and some highly questionable hydrogeological interpretation.”

The conclusion of the review report is that the information provided is not sufficient to enable the Local Authority to determine whether or not the proposals will cause significant eco-hydrological impacts.

It is the very strong opinion of the consultant that a revised E-HIA is required prior to determination in order to allow the Authority to fully assess any potential impacts on the SSSI/SAC (under the Habitats Regulations a precautionary approach must be taken at each stage of the HRA process). The information provided is insufficient, and therefore significant impacts on the Caeau Mynydd Mawr SAC / SSSI cannot be ruled out. Furthermore, it is impossible to comment on the likely efficacy of the restoration plan before the hydrological functioning of the marshy grassland is understood, through development of the ecohydrological conceptual model.

### **Review of further information received from the applicant on 3 February 2023**

- Extract of Mynydd Mawr SSSI Site Location
- A Geological and Hydrogeological Report in Support of an Application to Extend the Glan Lash Surface Mine Site, 21st December 2022 by D A B Higgins.
- Geological Cross Section A - B
- Habitats Regulations Assessment, 26 January 2023 by Pryce Consultant Ecologists
- Pryce Consultant Ecologists response, 26 January 2023 by Pryce Consultant Ecologists
- Trial Pit Data
- Trial Pit Location Plan, December 2022 by James Associates

CCC commissioned a further report from Rigare Ltd in February 2023 - Further review of ecohydrological impact assessment relating to Glan Lash extension application (Rigare 1766\_r2.2, June 2023).

In this report The consultant concludes that “...my view is that it is highly unlikely that the proposed extension would have any direct hydrological effect on the Mynydd Mawr SAC sites (*the Crosshands SAC sites already designated*). It is worth noting, however, that he doesn't agree with all of the detailed reasoning, and the implied conceptual understanding, through which a similar conclusion is reached in Higgins (Dec 2022).” We concur that it is highly unlikely that the proposed extension would have any direct hydrological effect on the Mynydd Mawr SAC sites around Crosshands.

However, the consultant also states that, “unfortunately, in the light on the contents of Higgins (2022) - A Geological and Hydrogeological Report in Support of an Application to Extend the Glan Lash Surface Mine Site, 21st December 2022 by D A B Higgins - I remain of the view that the information currently provided does not support the conclusion that the proposed extension would not cause significant ecohydrological damage to the marshy grassland . The main concern is the absence of anything which is explicitly identifiable as a hydrogeological or ecohydrological conceptual model in the document.”

“Much of the interpretation of the hydrogeological evidence in Higgins (2022) is unsafe. The applicant's ecohydrological (including hydrogeological) conceptual model remains inadequate as the basis for the E-HIA for the marshy grassland to the north of the proposed extension. The information provided simply does not support the conclusion that the proposed extension would not cause significant ecohydrological damage to this habitat.” The Caeau Mynydd Mawr SAC Core Management Plan states that the population of marsh fritillary will be viable in the long term and loss of Purple Moor Grass and Rush Pasture Section 7 Habitat has not been adequately considered and consequent effects on the marsh fritillary meta-population.

Further review of ecohydrological impact assessment relating to Glan Lash extension application (Rigare 1766\_r2.2, June 2023) – goes on to set out minimum expectations in relation to the hydrogeological element of the conceptual model in Section 3 of his report which have not been presented in the current application.

The submission of the Habitats Regulations Assessment (HRA), 26 January 2023 by Pryce Consultant Ecologists is welcomed. This HRA relies on information and assessment presented in the report - A Geological and Hydrogeological Report in Support of an Application to Extend the Glan Lash Surface Mine Site, 21st December 2022 by D A B Higgins. Rigare Ltd report (Further review of ecohydrological impact assessment relating to Glan Lash extension application, Rigare 1766\_r2.2, June 2023) states that, “the information provided simply does not support the conclusion that the proposed extension would not cause significant ecohydrological damage to this habitat,” therefore the basic information relied upon in the HRA (Habitats Regulations Assessment, 26 January 2023 by Pryce Consultant Ecologists) is not scientifically robust.

The HRA (Habitats Regulations Assessment, 26 January 2023 by Pryce Consultant Ecologists) states that, “the distance between Glanlash and the SAC is well in excess of the stated c.2km, therefore the Glanlash Extension scheme will not impact upon any of the metapopulation sites that the authors of the Core Management Plan consider will influence the conservation status of the butterfly within the SAC”. The marsh fritillary, as a mobile species and a feature of the SAC, has the same level of protection whether it is within the designated SAC sites or if is found outside these sites, and the distance from the SAC sites is not of great importance. The 2 km distance cited is approximate and the Caeau Mynydd Mawr SAC Core Management Plan also states that, “the population will be viable in the long term, acknowledging the extreme population fluctuations of the species” and that “Caeau



Mynydd Mawr SAC cannot support the required criteria alone since the total area of the component SSSIs is too small.” It should be noted that Glanlash lies midway between populations of marsh fritillary to the west around Crosshands and to the east in the Amman Valley and is an important area to ensure that the whole population will be viable in the long term (see photos 1 and 2 below), which is an important aim of the Core Management Plan.

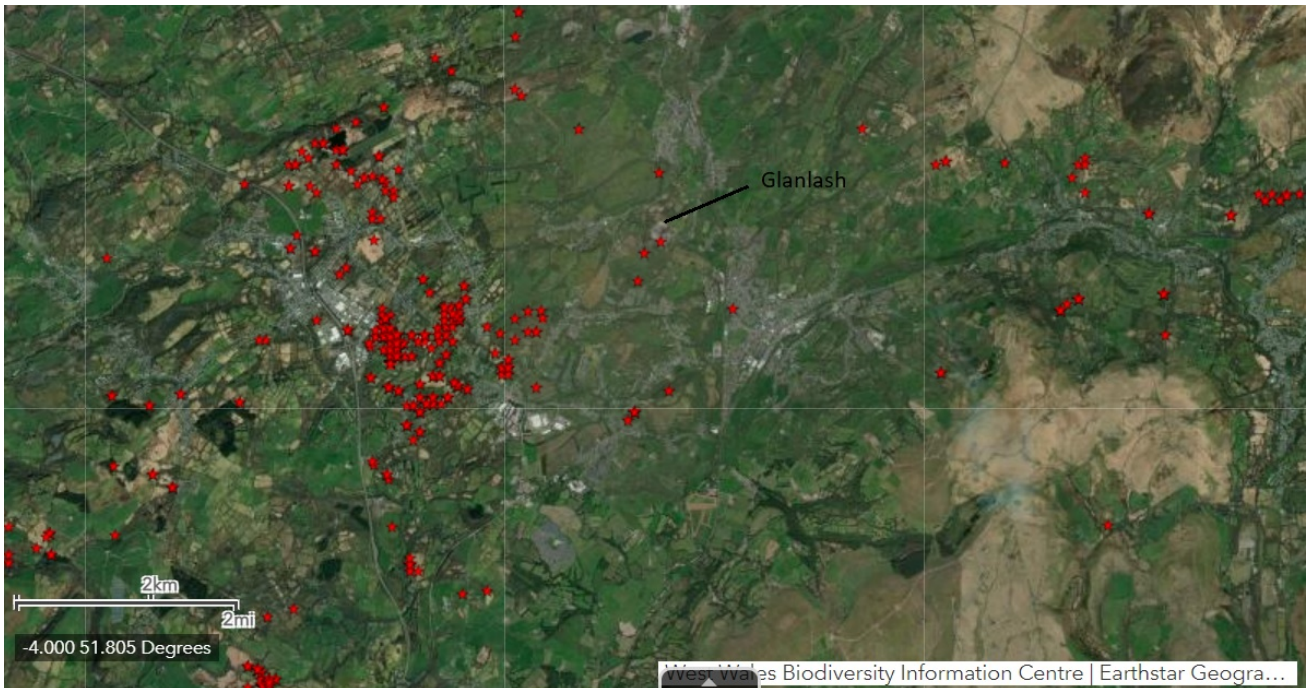


Photo 1 - Marsh fritillary records around Glanlash



Photo 2 - Caeau Mynydd Mawr SPG area

Despite being a requirement at scoping stage that the applicant assess the implication of the project on the Caeau Mynydd Mawr SAC marsh fritillary metapopulation as part of the ES and produce a statement to inform an Appropriate Assessment, the applicant has failed to provide a statement, and in the Authority’s view has not provided the required information specified by NRW to enable the LPA to undertake an Appropriate Assessment as required under regulation 63 of the Conservation on Habitats and Species Regulations 2017 (as

amended). Having reviewed two sets of recently submitted information (see above) the LPA does not consider that this information has been provided. In the absence of this information the LPA cannot conclude in light of the best scientific knowledge in the field, that there will be no adverse effect on the integrity of the Caeau Mynydd Mawr SAC Marsh Fritillary feature, scientific doubt remains as to the absence of such effects because of the lack of the requested information.

It is therefore considered in the absence of these assessments and the requested information, the application is currently contrary to PPW11 and Policy SP14 of the LDP.

The ES is also considered deficient as this information and the assessment findings are required to be incorporated and fully assessed in the ES.

### **EclA presented – queried this bit**

The findings of an EclA are a material consideration in the planning process and other consent regimes. The competent authority must be provided with all the information needed to assess and evaluate the likely significant environmental effects of a project. The competent authority has the duty to consider the environmental information before it reaches a decision regarding the granting of consent. There are key aspects of the EclA report that the competent authority must take into account of when determining an application and therefore it is essential the submitted ES ensures the following criteria are met:

- The technical content of the ES is sound including
  - adequate and up-to-date data.
  - detailed ecological methods in accordance with good practice.
  - departures from good practice are made clear.
- The ES states whether ecological features are likely to be affected and all potential impacts are described adequately.
- The ES states whether effects are significant and, if so, are capable of being mitigated.
- The ES states the mitigation hierarchy has been applied.
- The ES adequately demonstrates that the proposal will deliver stated outcomes, with regard to likely effectiveness and certainty over deliverability.
- The ES states all measures are capable of being secured through appropriate planning conditions and/or obligations, and/or are likely to be permitted through other consent regimes e.g. licences for European Protected Species.
- The ES states that the proposals are compliant with statutory obligations and policy.
- The ES provides a clear indication of likely significant losses and gains for biodiversity.
- The ES states whether any material considerations have been identified that might require changes to the application.

Where the competent authority considers that the information is insufficient it can request further information or evidence to verify the information already provided.

Key national policy documents that must be considered during EclA can be found on government websites and local policy documents.

### **DEVELOPMENT PROPOSAL.**

The proposal under planning application E/39917 involves the following:

- Loss of 2.44ha (habitat calculations based on updated reply from Richard Pryce 23/3/2022) of Section 7 Wet Woodland Habitat. This woodland stand, occupying wet ground can be classified as the National Vegetation Classification (NVC) W7 *Alnus glutinosa* – *Fraxinus excelsior* – *Lysimachia nemorum* woodland community.
- Loss of 0.04 ha (habitat calculations table) of other woodland best be classified as the NVC W10 *Quercus robur* – *Pteridium aquilinum* – *Rubus fruticosus* woodland. This woodland meets the Section 7 habitat description of Lowland mixed deciduous woodland.
- Loss of 1004m of hedgerow habitat (ES 680m<sup>2</sup>) (habitat calculations based on updated reply from Richard Pryce 23/3/2022).
- Retention and management of Purple Moor Grass and Rush Pasture Section 7 Habitat.
- Compensation of wet woodland by planting 2.998 ha of wet pasture along the Afon Lash to be implemented at the beginning of the scheme.
- Restoration plan and aftercare scheme which will provide further compensation of wet woodland and marshy grassland. The restoration scheme provides all intended hedgerow compensation. To be implemented on completion of operational works (after 7 years). The restoration plan also makes provision for a pond.
- Dormouse Mitigation and Management Strategy agreed by NRW subject to additional conditions.
- Bat Mitigation Plan agreed by NRW subject to additional conditions.

## APPRAISAL AND RECOMMENDATIONS

The applicant has provided a series of ecological reports and statements for the application and the ES which have been reviewed.

the following concerns are raised in relation to the submission as follows which must be adequately addressed by the applicant to allow approval of the application as follows:

- Wet Woodland, lowland mixed deciduous woodland and hedgerows are habitats which appears on the Environment (Wales) Act 2016 Section 7 list of habitats of key significance to sustain and improve biodiversity in relation to Wales. These habitats also contribute to ecosystem resilience and ecological connectivity. The following impacts are specified in the ES:
  - **Wet woodland and Lowland mixed deciduous woodland:**  
Impact during operational phase: Severe adverse.  
Residual Impact following completion of scheme during aftercare period:  
Minor adverse  
Residual Impact in the longer term: Potential Net Gain
  - **Hedgerows:**  
Impact during operational phase: Severe adverse  
Residual Impact following completion of scheme during aftercare period:  
Minor adverse  
Residual Impact in the longer term: Potential Net Gain



- **Purple moor-grass and rush pastures:**  
Impact during operational phase: Major adverse  
Residual Impact following completion of scheme during aftercare period:  
Minor adverse  
Residual Impact in the medium to longer terms: Potential Net Gain.
- Under LDP policy EQ4 proposals must not be permitted, except where it can be demonstrated that:
  - The impacts can be satisfactorily mitigated, acceptably minimised or appropriately managed to include net enhancements.
  - There are exceptional circumstances where the reasons for the development or land use change clearly outweighs the need to safeguard the biodiversity and nature conservation interests of the site and where alternative habitat provision can be made in order to maintain and enhance local biodiversity.

The current proposals do not maintain and enhance local biodiversity. For the following reasons:

The proposal to remove 1004m of hedgerow habitat will not begin to be compensated for until the restoration phase. Adequate compensation in a ratio of at least 2:1 new hedgerow planting has not been demonstrated.

Based on a ratio of 2:1 the LPA would be looking to see the new planting of at least 2000 m of new hedgerow planted to compensate adequately for this amount of loss. The applicant proposes to plant c.1400m of new hedgerow, however 40-50% of this planting is in positions where it will contribute little to biodiversity over and above the woodland or scrub alongside which it is to be established. For example, there would appear little benefit in planting a hedgerow between an area of woodland planting and an area of scrub planting as has been proposed in the restoration Plan. The amount of new hedgerow planting is well below the 2:1 ratio associated with habitat compensation and habitat loss.

The applicant has incorrectly assessed that none of the hedgerows on the site are “important” (updated reply from Richard Pryce 23/3/2022). All the hedgerows affected by this application, except one, are shown on the Llandybie 1841 Tithe Map, and as such the hedgerows shown on the Tithe Map meet the criteria of importance as set out in the Hedgerow Regulations 1997. Furthermore, using the Section 7 Habitat description of a hedgerow, all the hedgerows affected by the proposals can be classified as Section 7 Priority Habitats and their loss should be a material consideration when considering this planning application. Hedgerows that are tending to develop as lines of trees are also important linear features are protected under LDP Policy EQ5

It is considered that the loss of a 2.48 Ha woodland of ca. 137 years old (updated reply from Richard Pryce 23/3/2022) cannot be compensated for by the creation of new woodland within a 17-year timeframe. The existing woodland contains mature trees of high biodiversity value and as a well-developed shrub understorey. This type of open woodland structure is associated with woodlands that are considered to be rich in biodiversity, because of the variety of habitats they contain (glades, woodland edges, open shrub areas, mature trees etc). It will take a similar 137 years for any compensatory woodland habitats to begin to

function in the same way and support the same biodiversity, by which time the existing woodland would be 274 years old and probably more biodiverse than it is at present.

The updated reply from Richard Pryce 23/3/2022

Sets out a 62.3% gain in woodland and scrub cover whereas there is a presumption in favour of at least 2:1 replacement for the loss of any S7 Priority Habitat such as woodland or hedgerows. A 100% gain in woodland cover would meet this requirement. In terms of this application, the applicant has not achieved the minimum necessary habitat compensation for the loss of woodland. In discharging its S6 Biodiversity Duty as set out in the Environment (Wales) Act 2016, and as endorsed by Chief Planning Officer letter in 23/10/19 (see above) the LPA in approving a planning application, is expected to require evidence of satisfactory habitat compensation plus biodiversity enhancement.

The loss of the woodland will also result in the loss of a number of woodland edge trees, that are older than the woodland itself, and cannot be replaced. These trees are of high biodiversity value, situated on the woodland boundary and prior to the woodland becoming established, would probably have been hedgerow trees. Planning Policy Wales draws attention to semi-natural woodland, and to veteran trees see para 6.4.26 in PPW 11 above. While these trees may not be old enough to meet the full description of veteran trees at present, they have a capacity to become veteran trees as they mature if they are retained in this landscape.

Veteran trees are survivors that have developed some of the features found on ancient trees. In the case of ancient trees it would take hundreds of years (300+) to replace a felled ancient tree with another tree of a similar age. Even if a replacement tree grows to this age it is unlikely to develop all the other biodiversity values associated with the original tree as other organisms need continuity of the same type of habitat. Mitigation is an almost impossible task in the case of ancient trees (Woodland Trust, Compensation and Mitigation for Biodiversity Loss, HS2 Factsheet).

The current proposals for management of newly created habitats are for a maximum of 17 years for the compensatory habitats delivered at the beginning of the scheme and 10 years for those to be provided towards the end of the restoration stage. This timeframe is not considered to deliver adequate long-term management. Any Net Benefit for Biodiversity ongoing management plan should cover 25 years and land protected should be protected from development in perpetuity.

The dormouse mitigation and management strategy has been agreed by NRW, however NRW advise that some aspects are captured and further developed via condition including:

- Creation and phasing of compensation habitats
- Habitat Clearance
- Environmental Management Plan

These conditions are onerous and it is questioned whether the applicant can fulfil these conditions and the dormouse mitigation and management strategy. A large amount of detail will be required to be conditioned including plans and planning, details of desired conditions and replacement measures, timings and scheduling of activities and length of plan, habitat creation schedule and phasing, actions to be taken if dormouse are discovered and monitoring and management and maintenance responsibilities. It is questioned whether a

dormouse licence application would be successful given the uncertainties involved in the delivery of these conditions and hence whether it is possible to undertake works without damaging dormouse populations and provide sufficient restoration within the necessary timescale. It is questioned whether the six tests can be met i.e. necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects (Welsh Government Circular, The Use of Planning Conditions for Development Management, October 2014). Conditions should be effective and not make unjustifiable demands of applicants and only be imposed where they satisfy all of the tests.

The impacts as assessed above and as stated in the ES result in:

- adverse impacts on S7 Priority Habitats and species
- a failure to maintain biodiversity interests during the mining operation, due to the length of time the mine will be operational, and the consequent delay in the restoration of the site

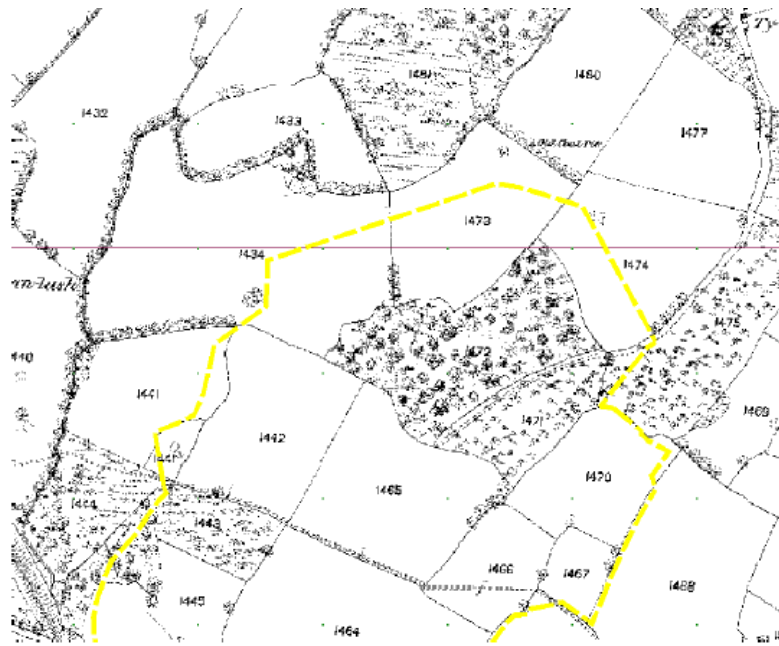
### **Additional hedgerow information:**

#### **Impact of the application on hedgerows**



Fig 1. Tithe Map for the Parish of Llandybie drawn up in 1841

The outline of the application area is indicated by the yellow dashed line, the field boundaries as per the Tithe Map can be seen in subsequent documents and in today's landscape



**Figure 3.3**

Extract from the first edition 1:2500 Ordnance Survey map dated 1886. The yellow dashed line indicates the approximate northern limit of the Glanlash Extension site working area.

Fig 2 is copied from the Revised Second Draft report issued 4/1/2019 by the applicant. By comparing this 1886 map with the 1841 Tithe Map, it can be seen that between 1841 and 1886 one new hedgerow became established in this landscape. On the 1886 map the fields nos. 1434 and 1479 are shown to be divided by a hedge that does not appear to be shown on the Tithe Map. This hedgerow, to the north of the woodland area, will not be affected by the latest proposals (2022). The previous (larger) application area is shown by the dashed yellow line.

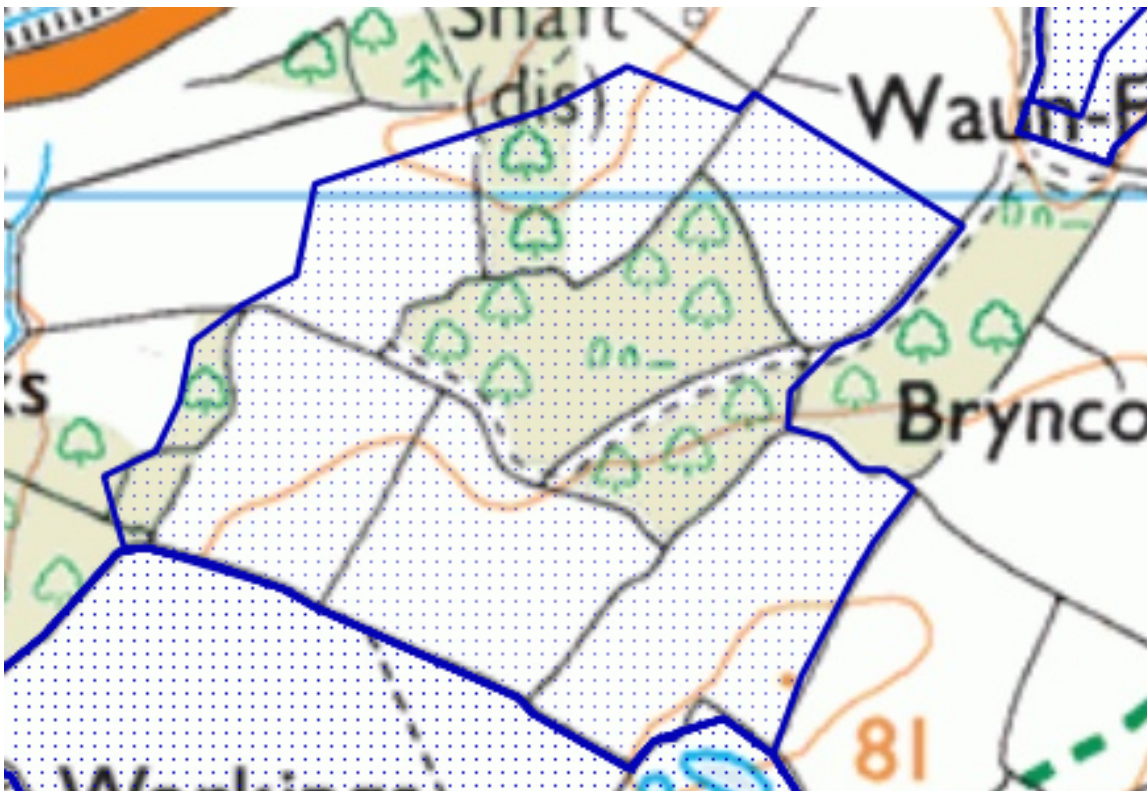




Fig 3. Current OS map 1:25,000 showing the current field boundaries, with some hedgerow losses to the SE of the woodland since the 1886 map



Fig 4. 2020 Aerial Photograph from CCC's Geodiscoverer

## Discussion

Field boundaries on Tithe Map of 1841 are consistent with hedgerows on the 2020 aerial photo and the O.S. map. It can be concluded that all the hedgerows that would be affected by this application were extant in 1841. The hedge that divides field nos. 1434 and 1479 on the 1886 OS map is not affected by the latest proposals (2022).

If these hedgerows were to be assessed using the criteria set out in the Hedgerow Regulations 1997, they would all, except the hedge dividing field nos. 1434 and 1479, as shown on the 1886 O.S. map, meet the criteria of "important" as they are all shown on a historical document that pre-dates 1845.

The applicant has used the assessment method set out in these Regulations to assess the hedgerows within the application site, and has acknowledged that the historic aspect, which is an integral part of this method of assessment, was not completed. As a result of this acknowledged oversight, the applicant has underestimated the importance of the hedgerows present on the site.

From the application:

*"3. Hedgerow Survey Rationale - Nineteen hedgerows within the site were surveyed in order to ascertain the extent to which they meet the criteria affording them protection under the Hedgerow Regulations 1997. The assessment of hedgerow importance reported here is based only upon the biological and physical criteria listed in the Hedgerow Regulations which can be recorded in the field. Historical and archaeological data have not been considered but form an important part of the Regulations criteria and should be considered if any hedgerows are to be affected by proposed works,..."*

The hedgerow survey method associated with the Hedgerow Regulations 1997 is particular to that purpose. It is used by a Planning Authority when completing the field survey of a hedgerow which a landowner has requested to remove, and for which a Hedgerow Removal

Notice has been submitted to the LPA. This is not a planning application. A different assessment method is used when determining the impact of a planning application on a hedgerow.

In assessing planning applications Planning Authorities are responsible for ensuring applications which they approve are compliant with Authority's responsibilities under the Environment (Wales) Act 2016. Consequently, planning applications are assessed in terms of their impact on what are referred to in the legislation as Environment (Wales) Act Section 7 Habitats and Species, also known as Priority Habitat and Species. The definition of hedgerows as a Priority Habitat as per the legislation is set out in the UK Biodiversity Action Plan Priority Habitat Description hedgerows, and is set out below:

*Hedgerows - The definition of this priority habitat has been amended from the pre-existing Habitat Action Plan for ancient and/or species-rich hedgerows*

*A hedgerow is defined as any boundary line of trees or shrubs over 20m long and less than 5m wide, and where any gaps between the trees or shrub species are less than 20m wide (Bickmore, 2002). Any bank, wall, ditch or tree within 2m of the centre of the hedgerow is considered to be part of the hedgerow habitat, as is the herbaceous vegetation within 2m of the centre of the hedgerow. All hedgerows consisting predominantly (i.e. 80% or more cover) of at least one woody UK native species are covered by this priority habitat, where each UK country can define the list of woody species native to their respective country. Climbers such as honeysuckle and bramble are recognised as integral to many hedgerows, however they require other woody plants to be present to form a distinct woody boundary feature, as such they are not included in the definition of woody species. The definition is limited to boundary lines of trees or shrubs and excludes banks or walls without woody shrubs on top of them.*

<https://data.jncc.gov.uk/data/ca179c55-3e9d-4e95-abd9-4edb2347c3b6/UKBAP-BAPHabitats-17-Hedgerows.pdf>

## **IMPACT of the APPLICATION on HEDGEROWS**

Hedgerows are listed as a Section 7 Priority Habitat in the Environment (Wales) Act 2016. The definition of a hedgerow as per Section 7 is given above.

The applicant has stated in correspondence that a total of 1004m of hedgerow will be removed as a result of the proposed application. The LPA considers all the hedgerows referred to by the applicant meet the definition of a hedgerow as a Priority Habitat. They all consist of predominantly at least one woody UK native species. The loss of 1004m of hedgerow is considered to be a significant loss of a Priority Habitat and is a reason for refusing this application.

In addition, Policies SP14, EQ4, EQ5 and GP1 in the Carmarthenshire's Local Development Plan as set out above all support the retention of habitat and linear features such as hedgerows and lines of trees. The loss of these habitats is contrary to these policies that are designed to protect the natural environment.

The Tithe Map for the parish of Llandybie drawn up in 1841 indicates that all the hedgerows affected by the application hedgerows, are all also of historical importance.

The restoration plan provided by the applicant as part of this application details where new hedgerows will be planted. While currently there is no strict guidance that applies in Wales, it is generally considered that the loss of a linear feature should be compensated for by the

planting of one to three times the length that is lost, depending on the quality of the feature being lost (DEFRA Biodiversity Off setting in England Sept 2013).

It is noted that to accommodate new hedgerow planting in the restoration plan the applicant has included stretches of new hedgerow that will be planted around woodland, where the woodland edge should develop into a rich habitat, without the need for planting an adjacent hedgerow. New hedgerow planting is also proposed between areas of woodland and areas of scrub. There is no discernible benefit of planting a hedgerow between these two habitat types and it will not be possible to manage a hedge in such a location.

The total length of new hedgerow planting proposed by the applicant and measured from the restoration plan is estimated to be in the region of 1400m, of which 600-700m or 40-50% is positioned in places where it will contribute relatively little in terms of biodiversity enhancement, over and above that provided by the proposed adjacent habitats (woodland and scrub). Discounting the hedgerows that the applicant has proposed planting in close proximity to scrub and woodland habitats the restoration plan sets out the planting of c.700 – 800m of new hedgerows which only compensates for about 70-80% of the 1004m that it is proposed to be removed. To adequately compensate for the loss of hedgerow habitat, consistent with the ratio of 2:1, the LPA would expect the proposals to include a minimum of c. 2000m of new hedgerow planting consistent with the concept habitat compensation, biodiversity net gain would require over and above this figure.

Consideration in the planning balance should establish whether there are exceptional reasons for this development which outweigh the need to need to safeguard the biodiversity and nature conservation interests of the site.

- LDP policy EQ5 Corridors, Networks and Features of Distinctiveness - Proposals for development which would not adversely affect those features which contribute local distinctiveness/qualities of the County, and to the management and/or development of ecological networks (wildlife corridors networks the management and/or development of ecological networks (wildlife corridor networks), accessible green corridors their continuity and integrity will be permitted. It is considered that this proposal adversely affects hedgerows and woodland and may impact on marshy grassland. These are the features that contribute to the ecological networks in the application area. The application does not offer continuity through time of these features, due to the nature of the development, nor will it maintain the integrity of ecological networks as demonstrated by the assessment of impacts in the ES. As the restoration plan runs for 17 years, (for some habitats created later in later phases of restoration this will be 10 years) the successful maintenance and establishment of the new habitat the are to be created cannot be guaranteed in the long term.
- Section 6.4.4 of PPW states that all reasonable steps must be taken to maintain and enhance biodiversity and promote the resilience of ecosystems and these should be balanced with the wider economic and social needs of business and local communities. Where adverse effects on the environment cannot be avoided or mitigated, it will be necessary to refuse planning permission.
- The site offers considerable biodiversity value in terms of the presence of Section 7 species-rich and diverse habitats and furthermore delivers the ecosystem services

mentioned above, which have not been thoroughly adequately assessed in the current ES.

- The attributes of ecosystem resilience (PPW para 6.4.9 refers) should be used to assess the current resilience of a site, and this must be maintained and enhanced post development. If this cannot be achieved, permission for the development should be refused. PPW and the CPO letter both state that where biodiversity enhancement is not proposed as part of an application, significant weight will be given to its absence, and unless other significant material considerations indicate otherwise it will be necessary to refuse permission.
- The ES has not demonstrated that the mitigation hierarchy 'a stepwise approach' has been followed and therefore does not meet the requirements of CCC's SPG or the Biodiversity British Standard, nor the Dear CPO letter and PPW 11 requirements.
- PPW 11 states that any proposed compensation should take account of the Section 6 Duty (Biodiversity and Resilience of Ecosystems Duty), and the five key ecosystem resilience attributes that it outlines. It should also be accompanied by a long-term management plan of agreed and appropriate mitigation and compensation measures. The applicant has not presented a long-term management plan.
- The documentation provided by the applicant is misleading in places as it makes frequent reference to the restoration of habitats. However, the measures set out are compensatory measures which involve the creation of new habitats, not restoration in an ecological sense. New habitats on previously disturbed land can differ greatly from those that have evolved over time on undisturbed land, and they are rarely exact replicas of those that have been lost. It should be made clear that in mineral planning terms a restoration plan is often referred to, but this does not result in exact habitats being recreated or restored, because in effect they will have been destroyed by the mineral operation, so in ecological terms the new habitats to which the restoration plan refers should be viewed as new habitats created.
- Compensation of habitats is required on a higher ratio than like for like, depending on the habitat to be affected this is usually between 2:1 and 3:1 which is not met by the application.
- Section 6.4.25 of PPW 11 states that the permanent removal of woodland should only be permitted where it would achieve significant and clearly defined public benefits. Where woodland or trees are removed as part of a proposed scheme, developers will be expected to provide compensatory planting. We advocate that the planning officer consider in the planning balance whether there are significant and clearly defined public benefits for this development which outweigh the need to need to safeguard the



biodiversity and nature conservation interests of the site. We also refer the planning officer to the UK Forestry Standard that applies in Wales and the WG Woodland for Wales Action Plan

- Section 6.4.26 of PPW states that ...”semi-natural woodlands and individual ancient, veteran and heritage trees are irreplaceable natural resources, and have significant landscape, biodiversity and cultural value. Such trees and woodlands should be afforded protection from development which would result in their loss or deterioration unless there are significant and clearly defined public benefits; this protection should prevent potentially damaging operations and their unnecessary loss.”
- Consideration in the planning balance should establish whether there are significant and clearly defined public benefits for this development which outweigh the need to need to safeguard the biodiversity and nature conservation interests of the site.
- Planning Ecology considers that CCC’s duty to maintain and enhance biodiversity under Section 6 of the Environment (Wales) Act 2016, Section 6.4.21 of Planning Policy Wales or under Well-being Goal Two of the Well-being and Future Generations Act 2015 (AResilient Wales) would not be adequately discharged should this application be approved, hence refusal is recommended.
- Both Welsh Government and Carmarthenshire County Council have declared a Climate and a Nature Emergency. It is Planning Ecology’s opinion that to permit this development and the open cast mining of anthracite coal as proposed in this application, would not be consistent with the declaration of those emergencies. It does not consider that the loss of habitats and nature that would result from this proposal could be meaningfully compensated for within a reasonable time frame, if ever. Nor does it consider that this application would enable these organisations, as public bodies, to deliver their responsibilities regarding the resilience goal as set out in the Well-being of Future Generations (Wales) Act 2015.

The current proposals for management of newly created habitats are for a maximum of 17 years for the compensatory habitats delivered at the beginning of the scheme and 10 years for those to be provided at restoration stage. This timeframe is not considered to deliver adequate long-term management.

On the basis of the matters discussed above Planning Ecologists recommendation is refusal

### **Restoration and aftercare of site**

An amended restoration plan was submitted with the additional information (in Feb 2022) the restoration plan was amended to reflect the changes in the excavation boundary, (which was reduced in size to the north) to avoid excavation within the area identified as marsh fritillary habitat. The overall concept of the restoration design at Glan Lash has remained much the same as when the application was initially submitted, a mixture of restoration to agriculture pasture whilst also taking opportunities for conservation and enhancement of

biodiversity. Additional areas for tree planting have also been identified, in order to compensate for the loss of wet woodland and these areas have also been added to the net loss/gain calculations. It is important to note here that the restored Tir Y Dial tip does not form part of the considerations for habitat net loss/gain as this was restored as part of the section 106 with the previously approved scheme for the existing mine site so cannot be considered for the current proposals.

The following changes have been incorporated into the amended restoration plan.

- The whole area of purple moor grass/rush pasture has been excluded from the restoration area but will be maintained in accordance with a condition/section 106 agreement.
- Restoration contours have been amended to encourage surface water run off from the back filled site to run north and north west to irrigate the purple moor grass/rush pasture area.
- The south flowing water course has been reduced in length to help with the diversion of water to the north and northwest.
- The woodland to be restored in the wet woodland area has been extended into enclosure D.
- Colonising scrub in field U to the west of the site to be removed and this enclosure to be managed in line with the retained PMG/rush pasture area.
- Field E no longer required as the translocation recipient site and will remain untouched continuing to be used for grazing.
- Field D will be planted-up extending the restored woodland in a northerly direction up to the existing hedgerow boundary. This will form a continuous block with the adjacent restored woodland.
- Field F is not required for the scheme and will continue to be grazed as at present.

The ongoing maintenance of favourable conditions in the purple moor grass/rush pasture meadow is a key consideration for the suitability of the restoration plan. This area of purple moor grass is part of the meta population of the Caeau Mynydd Mawr SAC/SSSI and SPG area so it is important that the restoration plan can ensure that this habitat will be maintained and/or enhanced.

As already mentioned in the section on ecology, the Authority do not have the expertise to give the hydrogeological information submitted by the applicant, a thorough appraisal. In light of this the Authority sought advice from an independent expert (Rigaire Limited)

The specific question put to the consultant was as follows

*Are the proposed restoration measures sufficient to ensure that the favourable status of the purple moor grass areas (as outlined on the restoration plan) will be retained following the completion of the proposed extraction?*

And the response;

*In my view it is impossible to comment on the likely efficacy of the restoration plan before the hydrological functioning of the marshy grassland is understood, through development of the ecohydrological conceptual model as detailed above. For example, if it is found that the marshy grassland is dependent on groundwater discharge from the Coal Measures, via the glacial Till, open cast mining and backfilling of the area immediately south will almost certainly fundamentally change the hydrological properties of the subsurface, which is very likely to change the functioning of the groundwater system. In turn, this would be very likely to change the nature of any groundwater discharge to the marshy grassland, potentially significantly.*

In light of these comments, it is difficult to conclude that the restoration plan has enough detail to be confident that the favourable status of those areas that support marsh fritillary, would not be affected by the proposals. Fundamental information is missing from the proposals, and the restoration plan, which would help to understand the hydrological functioning of the marshy grassland and surrounding areas. It is therefore very difficult to predict what impacts the extraction operations would have on the hydrological regime, and subsequently, very difficult to be able to devise a restoration plan that would maintain and enhance this marshy grassland area, without fully understanding the wider hydrological functioning of the area.

Similar concerns have been raised regarding the restoration of the wet woodland, which is a schedule 7 habitat. The ecologist for the council has responded and they consider that the loss of a 2.48ha woodland of circa 120 years old (as set out in Richard Pryce's letter to Thomas Boothroyd 23/03/22) cannot be compensated for by the creation of new woodland within a 17-year timeframe – the 17year time frame being counted from the start of planting (at the start of extraction) and an extended 10 year aftercare period. This type of open woodland structure is associated with woodlands that are considered to be rich in biodiversity, because of the variety of habitats they contain. It will take a similar 120 years for any compensatory woodland habitats to begin to function in the same way and support the same biodiversity, by which time the existing woodland would be 240 years old and probably more biodiverse than it is at present.

In addition to this, the amended restoration plan is designed to direct surface water run-off to the PMG/rush pasture area to the north west. This would have potential impacts on the effective establishment of the wet woodland as it may result in a limited water supply for the wet woodland and this potential impact has not been investigated following the amendment of the scheme.

The lack of information regarding the hydrology of the area and the status of the wet woodland and the replacement planting proposed has raised doubts as to whether the proposed restoration plan is adequate to achieve the highest restoration standards possible. Policy MPP7 of the LDP deals with restoration of minerals sites and states the following;

*Proposals for mineral working will be required to make provision for the restoration and after-care of the land and for its beneficial re-use and enhancement. The County Council will seek to secure the necessary works by means of financial guarantees included in a Planning Obligation.*

Restoration of minerals sites is also covered in PPW11 –, restoration is still a key consideration and PPW states that one of the key principles for the MPA to consider should be;

*‘achieving, without compromise, a high standard of restoration and aftercare so as to avoid dereliction and to bring discernible benefits to communities, heritage and/or wildlife, including beneficial after uses or opportunities for enhancement of biodiversity and the historic environment.’*

Furthermore, at 5.14.50 PPW states,

*Unless new mineral extraction provides satisfactory and suitable restoration, planning permission should be refused.*

Furthermore;

*Restoration and aftercare should provide the means to at least maintain, and preferably enhance, the long-term quality of land and landscapes taken for mineral extraction.*

Having due regard for the comments from the councils ecologist and from the external hydrology expert it is considered that the proposed restoration scheme does not provide the necessary details to allow the Authority to be sure that the highest quality restoration will be achieved. The comments provided by both consultees make it clear that they do not consider the details adequate to determine whether the restoration scheme provided would ‘maintain or enhance’ the long term quality of the land. Taking this into account, it is considered that the proposals do not accord with LDP policy MPP7 or with the guidance provided in PPW 11.

## **Cumulative Impact**

There is no clear and defined definition of cumulative impact, however, it is considered that continuous and persistent development of broadly a similar nature could inflict a cumulative impact on a locality.

MTAN2 refers commonly to the potential cumulative impacts of successive mineral developments; however, on the basis of the scale and duration of mining at this site, it is considered that the proposal does not inflict serious, continuous harm that merits significant weight to be given to the cumulative impact of the development. During the operational phase of the previously permitted site there have been no issues or complaints relating to residential amenity, or other issues, so this supports the conclusion that cumulative impact, relating to amenity is unlikely.

There may however be a cumulative impact relating to habitats and species, given that the current site has already resulted in the loss of habitat (although the planting of tree dial tip was considered as compensation for this at the time) additional loss of habitat through the current proposal would likely have a cumulative impact.

## **Other Matters**

There have been numerous issues raised by members of the public in relation to the application, these issues are mostly covered in the main body of the report.

For example, a large number of complaints consisted of a template letter that cited the assumption against coal extraction in planning policy, but also stated that

*'even if 50% of the coal extracted will be burnt for energy this will significantly increase greenhouse gas emissions in Wales'*

It goes on to suggest that

*'Wales has renewable energy alternatives which are sustainable in the long term both for our planet but also for jobs in Wales'*

The nature of the objections would suggest that the people who have sent in these letters have not read through the application fully, the coal will not be used for energy generation, even before the application was amended so that all coal would be industrial the only coal that would be burnt was for domestic use, not energy generation. Whilst the concerns in terms of the context of the policy are valid, the objectors, in this case, have not expressed these concerns in the right manner, given that the proposal is not for energy generating coal.

Water quality in the nearby river Marlais has also been raised as a concern by numerous parties, including Angling societies, that say the water quality has been affected by current operations and are concerned that the proposed operations could increase, or at least, elongate, these impacts. The arrangement during the extraction operations at site would include the pumping of water from the void to an attenuation lagoon and settling lagoons where suspended solids and other contaminant would settle out before water left the site during the permitted discharge point via a tributary of the river Marlais, the Marlais itself flowing into the Llŵchwr further downstream.

The applicant holds a current permit for this discharge, and it is not proposed to change this arrangement, should permission be granted, NRW have been consulted on the application and did not raise any issues with regard to water quality from the discharge. Should the continuation of operations lead to a detriment in water quality then NRW would be responsible for ensuring remediation measures are introduced to try and improve water quality if there are issues. The local planning authority do not have regulatory powers in terms of water quality and if there are issues with water quality in main rivers this is usually under the jurisdiction of NRW – small rivers and water bodies not covered by NRW would be the Local Authorities drainage department. NRW have been consulted, and whilst they had concerns with regard to hydrology, this was not relating to water quality at the discharge point – they did note that if the current discharge permit would not suffice for the proposed operations they would need to apply for a variation of the permit.

Other objections related to the impact on ecology, landscape and visual impact and amenity impacts relating to noise and dust and these have been discussed fully in the main body of the report.

## **Planning Obligations**

The application is being recommended for refusal so no planning obligations would be required at this point, if permission is granted then a section 106 would be required relating to areas of extended aftercare, as well as a bond agreement to cover restoration costs should the site remain un-restored.

## Well-being of Future Generations (Wales) Act 2015

The decision considers the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act). The decision takes into account the ways of working set out at section 5 of the WBFG Act and it is considered that this decision is not in accordance with the entirety of the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.

Full consideration has also been given to the sustainability duty under the provisions of the Well-being of Future Generations (Wales) Act 2015 and the Section 6 duty under the provisions of the Environment (Wales) Act 2016.

Coal deposits are relatively widespread within the county's boundaries. However, economic resources are dictated by the geological sequence and the position of such resources. They are also invariably in the open countryside. Coal can only be worked where the mineral exists but also is dependent on the geological arrangements and economic viability for working the resource.

Paragraph 5.10.13 of PPW establishes that proposals for opencast or deep mines should not be permitted, except for in wholly exceptional circumstances and any proposals would need to clearly demonstrate why they are needed 'in the context of climate change emissions reductions targets and for reasons of national energy security.'

Paragraph 5.14.8 of PPW states extensions to existing workings are often more generally acceptable than new green field sites. Extensions to existing sites have some clear benefits where associated ancillary and access facilities can be utilised. The Mine site has existing facilities which will adequately serve any extension proposals.

High quality anthracite coal contributes to the national, regional and local economy and policy generally states that it is right to make the best use of UK resources, although there is some debate about working UK coal reserves and whether it is economically viable and environmentally acceptable to do so. It is important to note that not all coal is used for power generation and high quality anthracite in particular has a number of other uses for which adequate supply needs to be maintained.

The coal produced from the site would contribute to the coal requirements for water filtration, brick manufacture and to the electric car manufacturing market. The extraction rate and total reserve proposed is relatively small in regional terms, but it is also recognised, in PPW and the Coal Policy for Wales that a potential market still exists for specialist coal, post 2021.

The Well-being of Future Generations Act requires LPA's to think long term and balance the need to address current issues with the long term needs of Wales. This development is an opportunity to think long term about the economic prospects of the local community and to develop a strategy for planning for the closure of existing sources of supply. The development will contribute to maintaining adequate supplies and ensure resilience of supply post 2023 onwards. For specialist markets where alternatives are not yet widely available and will maintain employment and prosperity within the local community thus adding to its sustainability and cohesion.

There are also potential negative impacts relating to the proposals and in the context of the well being act,

Turning to the detailed consideration of The Well-being of Future Generations Act (Wales) 2015 these are as follows

- **A prosperous Wales**  
The development would make a positive contribution to this element of the Act as it would help to maintain employment at the site (8 jobs) and provide an additional 3 jobs over the current level of employment at the washery. The coal supplied would help to provide materials for the various companies that have expressed an interest in utilising the coal from the site and to other in-direct employees such as hauliers.
- **A resilient Wales**  
Issues relating to biodiversity and the resilience of these habitats and species has been discussed in detail in the report. In summary it is considered that the proposal would have a negative impact on the ecological features on and around the site. It, would, therefore, have a negative impact in terms of the this well being goal and the resilience of habitats on site and in the vicinity.
- **A healthier Wales**  
The development may have the potential to have negative impacts on the physical and mental wellbeing of people in the area but it is considered that given the isolated location combined with mitigation measures these impacts would be negligible. As mentioned previously in this instance the fact that the site has operated for some time with no issues helps to give confidence that the operators are conscientious when it comes to putting mitigation measures in place.

There may be positive health effects in maintaining employment within an acknowledged deprived area and also the alternative to using high quality anthracite derived from UK sources is to import inferior quality coal from other parts of the world thus adding to climate change impacts in terms of emissions.

In addition to this, the restored site may provide more opportunities for people to get into the open air – in a similar vein to the Tir y dial tip. Although it needs to be noted here that the restoration of the existing site has the potential to do this also so the proposed extension site, if granted, would offer a potentially larger area to the public but public access could be encouraged via the restoration of the existing site also.

- **A more equal Wales**  
This element of the Act is not applicable to this particular planning application
- **A Wales of cohesive communities**  
The development could have a negative impact on the attractiveness, viability, security or connectedness of communities, during the operational phase. Although this would be relatively limited as the proposal includes landscaping measures (through the placement of bunds) to help screen the development and minimise any visual impacts, which may have affected the attractiveness of the community. The restoration of the site could potentially increase connectedness if the site was to be allowed as open access also, if the Shands road cycle path is confirmed this will also help to improve connectedness (although this could take place without approving the extension application).

- A Wales of vibrant culture and thriving Welsh language, and  
This coal mining industry has long been a part of Welsh culture and heritage and the continuation of coal mining, within an historic coal mining community has the potential to make a positive contribution to the culture of the area.
- A globally responsible Wales  
As discussed in more detail previously in the report, it is not clear whether the extraction of domestic would have a positive impact, at a global level, or whether this domestic coal would simply be an addition to the global output of coal and would increase the tonnages overall (the domestic coal wouldn't effect global demand). It is, therefore, difficult to conclude whether or not the proposal would make a positive impact on this element of the well being act.

The development would have both positive and negative aspects, with the potential negatives being related to 'a healthier Wales' and to 'resilient Wales.' There are mitigation measures that can be carried out to help with dust suppression and ensure health impacts are kept to a minimum. However, it is considered that the proposed mitigation would not be sufficient to prevent negative impacts in relation to the 'resilient Wales' goal. There may also potential negatives relating to a globally responsible Wales, although this is not clear. On the whole the development would make a positive contribution towards the relevant elements of the Act, but with significant negative impacts relating to resilience.

## Conclusion

The assessment of the potential impacts on health, a fundamental requirement for coal development in Wales, concludes that there are no overriding reasons or impacts that would inflict any injurious effects on the local population in respect of health to warrant a refusal. There may be positive health effects in maintaining employment within an acknowledged deprived area where the extra jobs (and retention of existing jobs) would be advantageous.

The Council's ecology team have objected strongly to the proposals, NRW still also have concerns, although their objections have been removed, subject to the imposition of numerous conditions. In terms of amenity and health impacts, with consideration to dust, noise and vibration, it is clear from the consultee responses that the proposal can be worked in an environmentally acceptable manner subject to conditions and other controls.

However, whilst amenity impacts would be relatively minimal there is a strong objection from the council's ecology team. The ecological impacts of the development have been assessed against the potential benefits from the extension and considering the strong objection raised by the Ecologist for the council, and the concerns raised that NRW still have, it is considered that the negative impacts on ecology are not outweighed by the benefits of the development.

The negative impacts the development would have on biodiversity, in particular the impact on marsh fritillary habitat and the impacts relating to the wet woodland, and hedgerow, both schedule 7 habitats, carry more weight than any potential positives of the development. The submitted EclA and restoration plan has not provided enough detail for the authorities' ecologist to be confident that the habitats which would be impacted upon would be maintained, or enhanced, in line with the requirements of the Environment (Wales) act 2016.



Planning Ecology considers that CCC's duty to maintain and enhance biodiversity under Section 6 of the Environment (Wales) Act 2016, Section 6.4.21 of Planning Policy Wales or under Well-being Goal Two of the Well-being and Future Generations Act 2015 would not be adequately discharged should this application be approved, hence refusal is recommended.

All potentially negative and positive aspects of the proposed development have been given due regard throughout this report and through the consultation phase of this application. It is considered that the potential positive impacts, either individually or collectively do not outweigh the negative impacts, (relating to ecology) of the proposal.

Therefore, it is the opinion of the Authority that the proposed development does not accord with the following policies SP14, GP1, EQ4, EQ5, and MPP1, MPP4 and MPP6 of the LDP. Furthermore, following consultation with the ecology team, it is considered that the proposals would not accord with guidance in PPW 11, or with the duties imposed on the Authority under Section 6 of the Environment (Wales) Act 2016. Having due regard to the above, the proposed development is recommended for **REFUSAL**.

All environmental information submitted within the ES and additional information along with the comments of statutory consultees on the information supplied has been taken into account. The economic, social, environmental and cultural well-being of Wales has been taken into account. In addition, all relevant European directives, legislation and regulations have been taken into account.

## Reasons for Refusal

### Reason 1

The proposal, if approved, would conflict with Policy SP14 – Protection and enhancement of the Natural Environment which states

Development should reflect the need to protect, and wherever possible enhance the County's natural environment.

All development proposals should be considered in accordance with national guidance/legislation and the policies and proposals of this Plan, with due consideration given to areas of nature conservation value, the countryside, landscapes and coastal areas, including those outlined below:

- a) Statutory designated sites including Ramsar sites, SPAs, SACs, SSSIs and National Nature Reserves;
- b) Biodiversity and Nature Conservation Value, including protected species and habitats of acknowledged importance as well as key connectivity corridors and pathways; (Policy EQ4 and EQ5)
- c) Regional and Locally important sites (and their features) including Local Nature Reserves and RIGS; (see Policy EQ3)
- d) Areas of identified Landscape and Seascape quality; (including SLAs)
- e) Features which contribute to local distinctiveness, nature conservation value or the landscape; (see Policy EQ5)
- f) The Open Countryside; (see Policy GP2)
- g) The best and most versatile agricultural land; (Grade 2 and 3a)

h) Natural assets: including air, soil (including high carbon soils) controlled waters and water resources. (See Policies EP1 and EP2)

In that it is not considered having regard to the Council's S.6 duty under the Environment (Wales) Act 2016 that the development will adequately protect, nor adequately enhance the county's natural environment, nor that it is consistent with the Council's duty to promote ecosystem resilience.

The information provided by the applicant relating to the eco-hydrology is not sufficient to demonstrate beyond reasonable scientific doubt, as legally required under the Conservation of Habitats and Species Regulations 2017 (as amended), that the Caeau Mynydd Mawr SAC Marsh Fritillary metapopulation (a feature of the SAC) will not be adversely affected by the proposal. The Marsh Fritillary is also a protected species under the Wildlife and Countryside Act 1981 Schedule 5 and it is Section 7 Priority Species in Wales.

## **Reason 2**

The proposal, if approved, would conflict with Policy EQ4 – Biodiversity, which states

Proposals for development which have an adverse impact on priority species, habitats and features of recognised principal importance to the conservation of biodiversity and nature conservation, (namely those protected by Section 42 of the Natural Environment and Rural Communities (NERC) Act 2006 and UK and Local BAP habitats and species and other than sites and species protected under European or UK legislation) will not be permitted, except where it can be demonstrated that:

- a) The impacts can be satisfactorily mitigated, acceptably minimised or appropriately managed to include net enhancements;
- b) There are exceptional circumstances where the reasons for the development or land use change clearly outweighs the need to safeguard the biodiversity and nature conservation interests of the site and where alternative habitat provision can be made in order to maintain and enhance local biodiversity.

In that the proposal does not satisfactorily mitigate or compensate for the loss of, or adverse impact on Priority Habitats (lowland mixed deciduous woodland, wet woodland, hedgerows, and Purple Moor-grass and Rush pasture). Nor do the proposals demonstrate that there will be no adverse impacts on Priority Species (Marsh Fritillary)

In this case it is considered that the extraction of this coal would not constitute 'exceptional circumstances' which would outweigh the need to safeguard the habitats identified on and around the site. The information submitted relating to alternative habitat provision does not include sufficient detail to ensure that local biodiversity is maintained or enhanced.

## **Reason 3**

The proposal, if approved, would conflict with Policy EQ5 – Biodiversity, which states

Proposals for development which would not adversely affect those features which contribute local distinctiveness/qualities of the County, and to the management and/or development of ecological networks (wildlife corridor networks), accessible green corridors and their continuity and integrity will be permitted.

Proposals which include provision for the retention and appropriate management of such features will be supported (provided they conform to the policies and proposals of this Plan).

The proposal adversely affects hedgerows and woodland (the ecological networks) within the application area, and the continuity and integrity of these habitats (both of which have been feature of this landscape over a period of time) will be lost.

It is the opinion of the authority that the proposals will adversely affect these features which contribute to the quality and distinctiveness of the local area.

There is insufficient detail to ensure the long term management of the compensatory habitats such as the woodland and hedgerow planting.

#### **Reason 4**

The proposal, if approved, would conflict with Policy MPP1, which states

Proposals for mineral extraction will be permitted where they would not result in any significant adverse impacts upon public health, the environment, local amenity and the local transport network. Applications for minerals proposals will be assessed against the following criteria:

- a) Suitable access and transport routes have been identified;
- b) Noise is demonstrated to be within acceptable levels;
- c) The best practicable means are identified to control dust, smoke, fumes and to ensure that operations do not cause a deterioration in local air quality;
- d) Blasting is controlled within acceptable levels;
- e) Potential impacts on groundwater resources, surface water resources and water supplies are identified and demonstrated to be within acceptable levels;
- f) Adverse impacts upon sites of nature conservation, historic, cultural and landscape importance are identified and demonstrated to be minimal;
- g) Effective mitigation measures proposed to minimise any potential effects from subsidence or land instability have been identified and demonstrated to the Council's satisfaction;
- h) Landscape and visual impact is minimised;
- i) Satisfactory proposals have been submitted for landscaping, after use and after care of the site.

With reference to part f; in that the information submitted has not demonstrated that impacts relating to sites of nature conservation, in this case the Caeau Mynydd Mawr SAC and the Marsh Fritillary metapopulation (a feature of the SAC), will be minimal.

#### **Reason 5**

The proposal, if approved, would conflict with Policy MPP6, which states

Proposals for mineral working will be required to make provision for the restoration and after-care of the land and for its beneficial re-use and enhancement.

The County Council will seek to secure the necessary works by means of financial guarantees included in a Planning Obligation.

In that, the restoration and aftercare proposals do not clearly demonstrate how they would adequately deliver the enhancement of biodiversity, having due regard to the existing habitats that would need to be removed as part of the proposed extraction.

## **Reason 6**

Section 6 Environment (Wales) Act 2016 and CCC's duty under this legislation

The Environment (Wales) Act 2016 places a duty on CCC to maintain and enhance biodiversity and promote ecosystem resilience. With reference to this duty as it applies within the planning system, it has been further clarified by the WG Chief Planning Officer letter to all local authorities in October 2019, which states:

“planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means that development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity” (para 6.4.5 in PPW 11 refers to this).

The proposals will result in the loss of Section 7 Priority Habitat and Species, and the authority does not consider that the application provides net benefit for biodiversity.

Having due regard to the above, it is considered that CCC's duty to maintain and enhance biodiversity under Section 6 of the Environment (Wales) Act 2016, would not be discharged, should this application be approved. Nor would it be consistent with Planning Policy Wales, and the delivery of the Well-being Goal - A Resilient Wales – as set out in the Well-being and Future Generations (Wales) Act 2015.