

## **CA11**

This is not a statutory PROW although it is established and could be “claimed” in the future. The Council agrees with the applicant’s approach to this route.

## **CA17**

### Policy AW 11 – Existing Employment and Retail Uses

This policy is relevant to the extent that the application site has an existing employment use, and the proposal is for an alternative use of the site.

Policy AW 11 would support proposals complying with clauses 1, either 2 or 3, and 5.

Clause 1 requires the site not to be allocated for employment development. The application site is not allocated for employment development, so the proposals comply with clause 1.

Clause 2 requires the site to be marketed without success for the existing employment use at reasonable market rates for at least 12 months. The site has been actively marketed since 2008 at commercial terms, offered whole (the former Hitachi and Advance sites) and in part. There has however been no firm interest in the land, other than for a small area of land which was sold and developed for energy generation (the Green Frog plant). Therefore, the marketing requirement is met.

Clause 3 provides an alternative to compliance with Clause 2, which requires the site to be vacant, derelict, unsightly or underused and the proposals to have significant regeneration benefits. The site is currently underused, and the proposals are considered to have a some positive regeneration effect by halting the deterioration of an under-occupied building.

Clause 5(a) requires a land bank of employment sites suitable to accommodate a range of employment uses across Rhondda Cynon Taf to be maintained. There is a considerable stock of land and buildings available for employment use in a variety of locations and sizes, such that the proposals are considered compliant with clause 5(a).

Clause 5(b) requires the proposed use not to prejudice adjoining employment land. There is no basis for concern in this respect.

Clause 5(c) provides an alternative to compliance with Clause 5(b), which requires the proposed use to be sui generis but with the characteristics of B1, B2 and B8 uses, which could appropriately be accommodated on an employment site. The

proposals are for a sui generis use, which in view of their likely appearance, are considered appropriate for an employment site.

Clause 5(d) provides a further alternative to compliance with Clauses 5(b) and (c). This applies where the proposal is for a small use that is ancillary to B-class uses on the employment site. The proposals are not considered compliant with clause 5(d), however, there is no need for them to do so, since compliance with clauses 5(b) and (c) is achieved.

In summary, the proposed development is considered compliant with clauses 1, 2, 3, 5(a), 5(b) and 5(c), so that overall, the proposals are considered to conform to policy AW 11.

### Policy NSA 16 - Re-development of Vacant / Redundant Industrial Sites

This policy gives criteria for the conversion or re-development of redundant and/or vacant industrial sites. As the application site is not an allocated site and is not a strategic site, the relevant clauses are 1 and 2.

Clause 1(a) requires compatibility of the proposed use with other uses in the locality and no significant adverse amenity impacts upon residents. There is no basis for considering the proposal to be incompatible in an area of employment uses, nor are there residents living in the vicinity of the site to give rise to residential amenity concerns.

Clause 1(b) requires proposed re-development of derelict, unsightly, underused and vacant land to have a positive effect in regeneration terms. The existing building is underused, so there would be a slight positive effect from halting the deterioration of an under-occupied building.

Clause 2 requires compliance with policy AW 11, which is demonstrated above.

In summary, the proposed development is considered compliant with clauses 1(a), 1(b) and 2, so that overall, the proposals are considered to conform to policy NSA 16.

### **DCO15**

Given the increased pressure that Local Government faces in terms of availability of resources / conflicting priorities, there is concern that any decision will be “deemed” to be made if a deadline is not met. Given the long run in period prior to any construction, it should be feasible for the applicant to agree, where necessary, an appropriate extension of time.

## **DCO16**

The Council would expect that any damage would be made good to an appropriate standard. Clearly, if there is a chance of betterment without further cost to the Council then such a proposal would be welcomed.

## **EIA06**

The Council worked closely with the applicant to agree a range of consented and operational projects to be taken into account in the EIA.

RCT are only commenting on those impacts relating to nature conservation. In such cases the implications on ecological issues are very specific and specialist considerations of impact on soil chemistry and the longer implications for flora (and associated fauna) involve complex assessment. In considering this impact it is important to recognise that the Council does not have access to its own specialist expertise with regards to air pollution impacts on specific ecological features, and that we rely on NRW advice in such cases. However, our experience on various schemes has established that nitrogen deposition is considered by NRW to be the primary concern and that cumulative air quality impacts are a relevant concern.

Given the high statutory protection of SACs, the implications of nitrogen deposition on those Sites is an issue that RCT would consider to be within NRW remit to comment on: Given the highly specific, and specialist nature of the impact, RCT would not offer an independent assessment of those impacts on SAC features.

With regards to nitrogen deposition on SINC's (including the above and Hirwaun Industrial estate Peat Bog, the Hirwaun Ponds and Hirwaun Ponds North SINC's) there is an inherent potential that nitrogen deposition impacts may occur. Based on the same context of assessment as that employed for the SAC sites, the Environmental Statement concludes that nitrogen deposition affects will be not be significant within these SINC. Given that SINC have no statutory protection, only planning policy consideration, the implications of such impact are clearly of a lower priority concern than the potential for the same impacts on adjacent SAC's. However it is important to recognise that the Blaencynon SAC support the same broad habitat types as the adjacent SINC's (marshy grassland, acid grassland, peat bogs etc). On that basis, if it transpires that NRW accepts no significant impacts for nitrogen deposition on the Blaencynon SAC, RCT would similarly conclude that air quality impacts on the SINC's (which are all closely adjacent to the Blaencynon SAC) would also be justifiably assessed as acceptable. However, if NRW identify concerns with regards to SACs, and if those concerns are related to SAC functioning, as realised by adjacent SINC, then the issue of nitrogen deposition impacts on SINC's may require further clarification. NRW's position regarding air quality impacts on

Blaencynon SAC is therefore of fundamental importance in consideration of SINC impacts.

### **EIA07**

The Council's Highway Section offered no objection (subject to certain conditions) to the scheme and worked closely with the applicants at a pre-application stage to ensure a robust transport assessment. RCT agree that it is unlikely that the major approved schemes in this area will be under construction at the same time – although accept that it cannot be ruled out.

As far as this question relates to nature conservation, the same rationale as set out in EIA06 represents the Council's position. If impacts of dust on the adjacent Blaencynon SAC are acceptable, then with implementation of dust mitigation measures it would be concluded that impact on SINC would also be within acceptable limits.

### **OE08**

This question relates to a specific question regarding the assignment of significance impact as related to percentage changes in nitrogen deposition. In particular the Inspector raises the question of the 1% threshold below which only imperceptible impacts are considered to occur and whether RCT agrees to the approach of assigning significance on the basis of 4 concentration classes. In response, from our experience of being party to similar discussions on other Sites in the Hirwaun area as they have related to the implications of air pollution on SAC, the below 1% class has been a consistently applied threshold of acceptable impact employed by NRW. On that basis, the approach taken in the EIA appears to adhere to this approach and on that basis RCT would agree with its implementation in this case. However, it is again qualified that statement and reiterate that for reasons of the very specialist requirements of air quality/habitat assessment, RCT has consistently deferred to NRW's (and its parent bodies) advice in such matters and NRW's expert comments on this application may therefore materially affect our observations.

### **OE10**

Yes insofar as the Council's responsibilities extend. The Council notes the response by the Cwm Taff Local Health Board (to PINS)

### **OE19**

The Council's Public Health & Protection Section are satisfied that "noise" can best be controlled through an "hours of operation" requirement rather than a restriction on the noise limits.

## **HA23**

The "appropriate assessment" was carried out by BBNP as the "competent authority".

## **ARC01**

This question relates to the entire Historic Environment Record (HER) including archaeological finds, sites and land features, the accuracy of the records and their appropriate form of analysis.

This matter is curated by the Glamorgan Gwent Archaeological Trust on behalf of RCT and as such, this question would be a consideration for a professionally trained Archaeologist, au fait with current Standards and Guidance of the Institute for Archaeologists and the DRMB 2007.

On the matter of the propriety of the DRMB (2007) being used as the basis of the assessment methodology; RCT understand from GGAT that this is 'not what is typically used as a basis upon which to form a study'.

Alternatively they use: -

- Welsh Government Planning Policy Wales (Chapter 6, Sixth Edition Feb 2014)
- Welsh Office Circular 60/96
- In conjunction with Standards and Guidance of the Institute for Archaeologists

However, as this goes beyond the traditional built environment, RCT will defer to GGAT on whether this could be a satisfactory basis for the assessment methodology.

## **HA07**

The Enviroparks S106 includes a marsh fritillary butterfly habitat enhancement mitigation measure. This was required as part of mitigation for the loss of potential marshy fritillary habitat within the development site. The scheme involves the implementation (by Butterfly Conservation) of a programme of local landowner assistance to deliver enhanced management and maintenance of marsh fritillary

habitat within a prescribed radius of the Enviroparks site. Land management is an established means of delivering long-term benefits for marsh fritillary butterflies. In my opinion it has high potential to deliver effective mitigation/enhancement for the physical impacts of the Enviroparks scheme on marsh fritillary butterflies.

## HA10

Given the ecological experience and context we have in the Hirwaun area, there is sufficient confidence that adequate baseline ecological information on protected has been provided for the majority of species and habitat issues. However, in RCT's Ecologist's observations on the EIA there are identified areas where greater clarity is needed;

- In terms of hydrological impacts on the Hirwaun Industrial Estate Bog SINC there are concerns that greater clarification of the impacts on the peat bog is required. In addition, the impacts of works in the Hirwaun Common SINC have not identified the likely localised hydrological impacts along the restored pipeline corridors and those implications for habitat restoration.
- The habitat in the Power Station and Electric Connection which will be lost, may fulfil a potential stepping stone function for species (including marsh fritillary butterflies) and should be subject to a long-term (S106) habitat restoration/management scheme.
- Depending on NRW's comments on bat roost and foraging usage of the Site, bat conditions will be needed, with a longer (s106) requirement for aftercare and monitoring of bat mitigation.
- Clarification of the existing culverted watercourse under the factory is needed. While it was understood that the existing culvert was being left in situ, thereby removing any new direct impacts, the hydrological summary of the EIA (9.10) states that a new culvert maybe created under the Site and sections 9.8.3 to 9.8.6 provide a summary of various options relating to culverts. There is an inherent potential that any existing culvert may be used by otters and that any culvert works might affect that use. That implication of the works has not been not been specifically addressed.
- The implementation of mitigation in terms of marsh fritillary sensitive site management of retained and restored habitats within the Power Station redline boundary does not figure in the mitigation proposals for this Site, and should be required as part of the scheme mitigation. The ES clearly identifies measures needed to reduce the ecological impacts of the scheme proposals. However the proposals don't extend to any positive long-term management of retained or restored features. This omission is an important one and I believe that the ES conclusions of low impact will only be fully justified with a commitment to the management of habitat features within the red line boundary of the application site. The opportunity to bring non-developed

areas of the site adjacent to the Hirwaun industrial Estate Bog SINC into compensatory management has been not identified. Management should, through a S106 Agreement, seek to tie those areas into the adjacent management of the bog as being delivered through the National Grid S106 for the Rhigos Sub-station development. The precedent for such mitigation has been set with the Rhigos Sub-station application and it should be realised on this site. In addition site restoration within other parts of the site should be designed to realise potential for marsh fritillary butterfly dispersal and connectivity through an appropriate restoration and management plan. In my opinion without this mitigation component, the ES mitigation only relates to short term impacts of the scheme and does not provide any provision for long-term operational impacts of the scheme, or indeed the much sought enhancement opportunities which development application should seek to deliver.

## HA12

In terms of SINC impact the EIA identifies what is referred to as embedded mitigation. This includes;

- Avoidance/reduction of direct land-take of the Hirwaun Industrial estate SINC.
- Implementation of a Construction Environmental Management Plan
- Adherence to best practice/BS standards for air quality, noise, vibration and water resources.
- Implementation of industry standard methods and procedures to ensure air quality impacts are minimised throughout all phases of the project.
- The re-instatement of 1.7 ha of the Hirwaun Common SINC affected by the gas pipeline
- Mitigation measures to reduce the dust impacts on the SINC.
- General Hydrological Mitigation. The ecology section identifies a series of so-called 'embedded hydrological mitigation' measures relating to hydrology and water quality measures, these are based on generalised good practice and as such would form the basis for an eco-hydrological scheme.

The details of these embedded mitigation measures will need to be secured via planning condition within integrated mitigation management plans.

however;

- Concerns remain regarding the potential impacts on the peat hydrology of the Hirwaun Industrial Estate Bog SINC (see above comments), and remediation of localised hydrological impacts associated with pipeline excavation and restoration on Hirwaun Common SINC.
- The absence of mitigation for impacts on the parts of Hirwaun Industrial Peat Bog immediately adjacent to the development
- The lack of consideration given to maintaining and enhancing stepping stone features for marsh fritillary butterfly dispersal around the Hirwaun Industrial Estate as part of the functioning of the Blaencynon SAC.

- There is an absence of long-term monitoring of SAC or other features as means of advising mitigation and compensation measures.

If the DCO is granted short term mitigation will need to be secured via requirements and compensatory long-term mitigation via a S106 Management Agreement.