



## PLANNING COMMITTEE

### MINUTES OF THE SPECIAL MEETING HELD AT PENALLTA HOUSE, YSTRAD MYNACH (CHAMBER) ON WEDNESDAY, 24TH JUNE 2015 AT 2.00PM

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#### PRESENT:

Councillor D.G. Carter - Chair  
Councillor W. David - Vice-Chair

#### Councillors:

M. Adams, Mrs E. M. Aldworth, Mrs P. Cook, D. Bolter, H.R. Davies, J.E. Fussell, Ms J. Gale, A. Lewis, Mrs G.D. Oliver, D. Rees, Mrs J. Summers and J. Taylor

#### Together with:

P. Elliott (Head of Regeneration and Planning), J. Rogers (Principal Solicitor), T. Stephens (Development Control Manager), R. Hartshorn (Head of Public Protection), R Amundson (Principal Planner), C. Campbell (Transportation Engineering Manager), R. Crane (Senior Solicitor), C. Davies (Senior Environmental Health Officer), M. Davies (Principal Planner), C. Edwards (Environmental Health Manager), A. Jones (Ecologist), G. Mumford (Senior Environmental Health Officer), R. Barrett (Committee Services Officer)

#### Also present:

#### **Speakers in objection to the application (in order of speaking)**

Chris Austin (UVAG), Alyson Austin (UVAG), Mitchell Field (Richards and Appleby), David Meredith (Richards and Appleby), Mike Webb (RSPB), Gareth Clubb (Friends of the Earth Cymru), Jim Davies (UVAG), Hilda Williams (Rhymney Community Council), Ann Williams (Rhymney resident), Ethan Pitt (Rhymney resident), Len Dykes (Rhymney Community Council), Claire Thomas (Pontlottyn resident), Sianna Reader (Fochriw and Pentwyn Residents' Association), Phil Duggan (Fochriw resident), Bob Francis (Deri resident), Beverly Nash (Rhymney resident), Helena Mobley (Rhymney resident), Alun Roberts (Pontlottyn resident), Roy Thomas (Merthyr resident), Dr John Evans (Rhymney resident), Jenny Evans (Rhymney resident), Terry Evans (UVAG)

#### **Local Ward Members**

Councillor J. Bevan (Moriah Ward), Councillor C. Cuss (Twyn Carno Ward)

#### **Applicant and speakers in support of the application (in order of speaking)**

James Poyner (Miller Argent), David Mason (Miller Argent), Glyn Cullen (KJ Services), Bryan Godsell (Unite), Martin Brunnock (Tata Steel), Mark Picton (RWE), Graham Jenkins (SLR Consulting)

## **1. INTRODUCTION BY THE CHAIR OF THE PLANNING COMMITTEE**

The meeting opened at 2.10 pm and Councillor D.G. Carter, Chair of the Planning Committee, apologised for the slight delay to the start of the proceedings.

The Chair welcomed those in attendance and introductions were made. A number of housekeeping and procedural details were outlined to those present, including the running order of proceedings for the meeting.

The Chair advised that a request had been made to record the meeting, and in confirming that he was agreeable to this request, stated that if any other parties wished to record proceedings, then they would also be permitted to do so.

## **2. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors L. Gardiner, R.W. Gough, A.G. Higgs, K. Lloyd and Mrs E. Stenner.

## **3. DECLARATIONS OF INTEREST**

Councillor J. Bevan declared a personal and prejudicial interest in that he felt he had a close mind regarding the application, and was in attendance to speak in objection to the application in his capacity as a local ward member.

Councillor J. Taylor declared a personal interest in that he knew several of the objectors in attendance. He stated that as this association was from many years prior, he considered the interest to be non-prejudicial, and remained in the Chamber during consideration of the application.

Ceri Edwards (Environmental Health Manager) and Claire Davies (Senior Environmental Health Officer) declared a personal (non-prejudicial) interest in that a number of objectors to the planning application were known to them through family members. As such there was no requirement for them to leave the Chamber.

Alison Jones (Ecologist) declared a personal (non-prejudicial) interest in that an objector listed within the Officer's report is a friend of hers. As such there was no requirement for her to leave the Chamber.

## **4. PRESENTATION OF THE CASE OFFICER - CODE NO. 13/0732/MIN – NANT LLESG SURFACE MINE APPLICATION, NORTH OF FOCHRIW**

The Chair invited Tim Stephens, Development Control Manager and Case Officer for the application, to present his report to the Planning Committee.

The application, submitted by mining company Miller Argent, proposed to recover approximately 6 million tonnes of coal from Nant Llesg, north of Fochriw, Rhymney, by surface mining methods, which would include the provision of soil storage and overburden mounds, and ancillary buildings, plant and other structures.

The Case Officer outlined details of the site and location, the stages of the proposed development, details of land remediation and other association works, together with the restoration and aftercare of the land following completion of the mining works. Full details of the application were contained within the Case Officer's report included in the agenda papers.

Members were informed of the timescales of the proposed scheme, with mining works planned to commence in 2016 following land remediation works. Following the development of a 'box cut' mining process and the development of maximum void and the start of backfilling works between years 1 and 9.5, coaling would conclude in year 11, and backfilling and restoration works to achieve the finished landform would take place in years 11 to 14.

Photomontages depicted existing landscape views in Rhymney and Fochriw, together with views of the future landscape showing the ensuing overburden mounds at the achievement of maximum void.

The Case Officer summarised local and national planning considerations and Members were asked to note the safeguarding of coal as part of Caerphilly Council's Local Development Plan (LDP). There had been widespread consultation on the application and 270 letters of support had been received, which commented on the local employment and economic benefits of the scheme. 1025 letters of objection to the scheme had been received, together with two petitions, and these concerns included the visual impact of the scheme, air pollution, noise and dust, the viability of the scheme, the impact on local jobs, the loss of common land, the effects on public health and wellbeing, and the implications for the future of renewable energy. Full details of the representations were summarised in the Case Officer's report.

In addition to these representations, responses from Aneurin Bevan University Health Board and Merthyr Tydfil County Borough Council were contained within the addendum report. It was noted that since the submission of the Case Officer's report, additional responses had been received from Friends of the Earth and the Green for Plaid Group, which included concerns that the Well-being of Future Generations (Wales) Act 2015 had not been taken into consideration. The Case Officer explained that this Act was detailed in the report but had not yet come into effect in terms of planning policy.

The latest comments expressed concerns that the Council had failed to address the issues raised by the local community and the Case Officer explained that the Council always attempted to resolve issues brought to their attention. The latest representations also cited a recent Welsh Government Senedd debate which had discussed calls for a moratorium on open-cast mining and the Case Officer explained that this had not yet been introduced into local authority planning policies.

Two additional letters of objection had been received from local residents, which referenced many of the objections already set out in the Officer's report, and also referred to the welfare of ponies and concerns regarding the use of common land within the proposed site.

It was explained that the report recommendations were subject to a Section 106 agreement which was outlined by the Case Officer. Members were advised of an amendment to Condition 18 of the recommendations to include "coal dust and other dust", references to wet heath and the need for an extended restoration period to be integrated throughout the Section 106 agreement. In the event of unsuccessful restoration, a payment exceeding £250,000 would be payable to the local authority, together with payment to cover the restoration of the site.

The planning report concluded that having given due regard to relevant planning policy and the comments from consultees and objectors, the application was considered to be acceptable, and subject to the conditions outlined and completion of a Section 106 agreement, Officers recommended that planning permission be granted.

## **5. REPRESENTATIONS BY OBJECTORS TO THE APPLICATION**

The Chair invited objectors to the planning application to address the Planning Committee and the speakers were reminded that they were permitted to speak up to a maximum of three minutes each.

There were 22 speakers in total, comprising of representatives from United Valleys Action Group (UVAG), Friends of the Earth Cymru, Royal Society for the Protection of Birds (RSPB) and Richards and Appleby, together with members of Rhymney Community Council and a number of residents from Rhymney, Pontlottyn, Fochriw and Deri.

Representatives from UVAG raised concerns regarding the environmental impact of the proposed mine. They made specific reference to noise, dust and dirt pollution, outlined concerns surrounding the management of these issues given the vast size of the proposed site, and raised concerns regarding the effects of these issues on the surrounding communities.

Several UVAG representatives who live in the vicinity of the Ffos-y-Fran open cast mining site in Merthyr, and which is also operated by Miller Argent, outlined the impact of noise and dust from this open cast site on their daily lives. The Planning Committee were provided with examples of these issues and the mitigation measures undertaken by Miller Argent.

UVAG representatives also spoke of their concern that the planned restoration scheme upon completion of the proposed mining works would not be completed to a satisfactory level. Reference was made to the large volumes of coal available elsewhere in the UK, with representatives disputing the need for a further open cast mining site and the need for coal as a continuing strategic source of energy.

Representatives from Richards and Appleby, a local cosmetics manufacturer located on the Heads of the Valley Industrial Estate near the proposed mining site, raised concerns that the mine could have an adverse impact on their business and surrounding factories, especially in terms of dust pollution. It was feared that the business could be forced to close and relocate elsewhere if the proposed mining site was approved, due to the nature of the factory's production. Representatives explained the impact this closure would have on local employment levels, and expressed concerns that other factories could also close for similar reasons. They suggested that new businesses could be deterred from the industrial estate due to its proximity to the proposed mining site.

Representatives from RSPB, Friends of the Earth and UVAG raised concerns regarding the ecological impact of the proposed mining site on local birds, wildlife and insects, and outlined the impact the proposals could have in terms of energy emissions and climate change.

Residents from Rhymney, Pontlottyn, Fochriw and Deri voiced a wide range of concerns regarding the proposals, including the exacerbation of respiratory problems arising from dust pollution, the impact of noise and light pollution from mining works, the impact of the proposed site on the mental wellbeing of the local population, health and safety concerns regarding mining processes, the impact of the proposals on the local landscape and surrounding towns and the negative effect on local tourism, and the effect on those who regularly use the area for recreational activities such as walking and hiking. Residents also disputed the number of jobs that would be created and the percentage of these jobs that would be allocated to local residents if the proposed site was approved.

Reference was made to the consultation process surrounding the application and the substantial local opposition to the proposals. During the course of the representations, reference was made to a purported "land deal" regarding the area of common land within the proposed mining site. Residents outlined their belief that the proposals undermined the goals of the Well-being of Future Generations (Wales) Act 2015 and the Authority's "Greener Caerphilly" vision.

## **6. REPRESENTATIONS BY LOCAL WARD MEMBERS**

The Chair invited Local Ward Members to make their representations, and Councillors J. Bevan and C. Cuss spoke in objection to the application.

Councillor J. Bevan (Moriah Ward) outlined his concerns regarding the application, including the risk of respiratory problems arising from dust pollution.

Councillor C. Cuss (Twyn Carno Ward) outlined concerns that the proposed site would have a detrimental impact on local residents, and stated that he felt there to be a number of contradictions within the planning report. He made reference to issues surrounding climate change and Nant Llesg's previous designation as a special landscape area, referred to the long-term visual impact of the proposals and raised concerns regarding dust suppression measures by Miller Argent. He also expressed concern regarding the impact of the proposed site on the local property market, local businesses and the biodiversity of the area. In closing, Councillor Cuss cited the recent Senedd debate relating to a moratorium on open-cast mining and he stated his hope that the application be rejected.

## **7. ADJOURNMENT**

Following the representations of the Local Ward Members, the meeting was adjourned at 3.55 pm.

## **8. REPRESENTATIONS BY THE APPLICANT AND SUPPORTERS OF THE APPLICATION**

The meeting reconvened at 4.18 pm.

The Chair advised all parties present that the objectors to the planning application had spoken for 65 minutes in total, and that the same opportunity would be afforded to those speaking in support of the application. There were 7 speakers in total, comprising of representatives from Miller Argent, KJ Services, Unite, Tata Steel, RWE and SLR Consulting.

Representatives of the applicant, Miller Argent, outlined the reasons why the application should be granted. Representatives explained that the mining works would be fully compliant with all appropriate legislation and that no statutory Council Officers had objected to the scheme. They also highlighted the support for the application from industry bodies Tata Steel, RWE, Unite and KJ Services. The high demand and essential role of coal in energy generation were summarised, together with the economic benefits to South Wales arising from this. The proposed mine would offer up to 240 well-paid employment opportunities, with 80% of these recruited locally, and local training opportunities would also be afforded to these employees.

Miller Argent referred to the community benefit fund arising from the Ffos-y-Ffran scheme and explained that although it was not a material planning consideration, a similar multi-million pound scheme would be established for the Rhymney area if the Nant Llesg scheme was approved.

Miller Argent appreciated the emotive representations of the objecting parties, but stated that the application had been comprehensively completed to take into account all Welsh policy and planning guidelines, and environmental constraints and limits, specifically in relation to restoration, mitigation and consultation. Reference was made to the requirements of the Section 106 agreement and it was explained that a separate escrow account had been set up in the region of £40m. All remediation works had been identified as adequate and would be completed in line with best practices before commencement of the mining works. It was explained that the company had an excellent record in terms of dust mitigation measures, and in outlining how these would be achieved at the Nant Llesg site, Miller Argent explained that the works would be subject to stringent regulations and the company would work within the limits placed upon them.

A representative from KJ Services, a local company who supply specialised construction and mining equipment and are a key employer in the Rhymney area, spoke of the potential for further employment opportunities if the Nant Llesg application was granted. KJ Services outlined the training and transferable skills offered to employees and the high environmental and safety standards of the company's equipment, including the lower level of emissions generated from this machinery.

A representative from the Unite Trade Union spoke of their expectations that Miller Argent would comply with all appropriate employment terms and conditions. Unite would ensure that all risks to their members, including that of respiratory disease, were kept to a minimum, with union representatives extensively trained to challenge Miller Argent should health and safety be comprised. The representative spoke of the economic benefits and training/employment opportunities that the scheme would bring to the area, the ongoing need for coal and the need to retain jobs within Wales. In explaining that 80% of the Ffos-y-Fran workforce were made up of residents within a ten-mile radius, he outlined the contribution to employment and the economy in that area. Unite welcomed the strict intervention measures and public scrutiny of open-cast mining and felt this had been adequately demonstrated at the Ffos-y-Fran site.

Representatives from Tata Steel in Port Talbot and the RWE Aberthaw power station in Barry outlined their support for the scheme, and Tata Steel explained that the coal located at Nant Llesg was particularly suited for their production output, and that Miller Argent were a reliable supplier who responsibly sourced coal and worked closely with authorities and local communities. Tata Steel outlined their commitment to sustainability measures and their belief that the proposed Nant Llesg site complemented this strategy. RWE also voiced their support for the application and outlined the benefits of the scheme to national strategic energy resources and the local economy. They explained that a third of Welsh coal was supplied by Miller Argent and that the future of the Aberthaw power station depended on this continued relationship. With regards to future sustainable energy measures, it was envisaged that the current arrangement would extend well into the next decade and that the power stations would need to continue to produce electricity in the current manner to meet their contractual obligations.

A representative from SLR Consulting explained that the planning application was in accordance with Caerphilly Council's Local Development Plan and gave assurances from Miller Argent that coal extradition works would not take place within 500m of the settlement boundaries except for exceptional circumstances. Although it was inevitable that the mining works would give rise to some environmental disturbance, the Environmental Impact Assessment had confirmed that all requirements would be met. This was a view shared by the statutory consultees and no objections had been raised in respect of this matter. The Planning Committee were asked to note there were no technical objections to the application and also no objections raised from Council Planning Officers. Members were referred to the consultation response from the Aneurin Bevan University Health Board with regard to issues surrounding public health implications, which advised that breaches of health-based Air Quality Objectives are unlikely.

Reference was made to the social and environmental considerations in the decision making process, which needed to be balanced against the economic benefits of the scheme. Fuel tests indicated that the scheme was environmentally acceptable, enforced by planning conditions and accepted by National Resources Wales and Council Planning Officers. The representative outlined the wider benefits of the scheme, to include the rectification of previous shallow surface mining, permanent road improvements and other socio-economical benefits, and expressed his confidence in the achievement of the restoration scheme.

SLR Consulting responded to issues raised during the course of the meeting and refuted a number of the representations made by objectors. The representative referenced the Environmental Impact Assessment which concluded that any disinvestment decision in the area would not be made solely because of the proposed Nant Llesg mine. He added that there were a number of other factories in the area and no substantial complaints had been received from them.

The representative explained that the need for coal would continue to play a role for the foreseeable future and that the current energy policies were not outdated. Having regard to the comments of RSPB, it had been determined that the wellbeing of local species of birds had been thoroughly examined and would not be affected by the development. Miller Argent also proposed to manage the wellbeing of such species and were committed to future working with the RSPB. In respect of the Welsh Government debate on a moratorium for open-cast mining, he stated that this had no bearing on the application.

SLR Consulting outlined improvements to public access and safety arising from the land remediation works, together with the landscape and amenability benefits of the restoration. In closing, he referred to the Officer's report which stated that there was no policy conflict which would justify the Welsh Government calling in the decision, and that all reasonable issues regarding planning policy had been addressed.

## **9. ADJOURNMENT**

Following the representations of the applicant and supporters, the meeting was adjourned at 5.19 pm.

## **10. DISCUSSION AND DECISION OF THE PLANNING COMMITTEE**

The meeting reconvened at 5.35 pm.

Before the Planning Committee commenced their debate, the Chair invited the Case Officer to respond to a number of issues raised during the course of the representations.

Mr Tim Stephens made reference to the "land deal" cited during the representations and explained that this was not a material planning consideration. There had also been some discussion about the Special Landscape Area (SLA) designation being removed and he explained that this had occurred through the proper planning process. Finally, in regard to the Welsh Government debate regarding a moratorium on open cast mining, the Planning Committee were advised that Welsh planning policy had not changed as a result of this debate and that this should not influence the decision of Members regarding this application.

During the course of the ensuing debate, and in referring to the representations made by the objectors and supporters of the application, it was moved and seconded that the application be deferred for a further report with reasons for refusal based on the comments of objectors. Members expressed concerns regarding the environmental and ecological impact of the proposed site and the implications for residents' health and wellbeing, together with the effects of the proposals on local employment and the visual impact on the surrounding landscape.

The Case Officer responded to the concerns expressed by Members of the Planning Committee and explained that any concerns raised had either already been addressed within the conditions of the report, or could be added to the list of conditions. In reference to a Member's comment regarding historical mining practices and the subsequent effects on public health, he explained that regulatory measures had improved and modern mining activities were better controlled than those in the past.

The Case Officer explained that the application was acceptable in planning terms and that, in line with Mineral Planning Policy Wales, although where possible mineral working should avoid any adverse environmental or amenity impact, where this is not possible, working needs to be carefully controlled and monitored so that any adverse effects on local communities and the environment are mitigated to an acceptable risk. The Planning Committee were asked to consider these points during determination of the application.

Pauline Elliott, Head of Regeneration and Planning referred to the importance of the economic regeneration of the area and the need for this to be balanced against the concerns raised during the meeting.

Following consideration of the report, and in having regard to the representations raised during the course of the meeting, it was moved and seconded that the application be deferred for a further report with reasons for refusal based on the comments of objectors. By a show of hands this was unanimously agreed.

RESOLVED that:-

- (i) The Officer's original report and the amendments contained within the addendum report be noted;
- (ii) the application be deferred for a further report with reasons for refusal based on the comments of objectors.

The meeting closed at 6.04 pm.

Approved as a correct record and subject to any amendments or corrections agreed and recorded in the minutes of the meeting held on 5th August 2015, they were signed by the Chairman.

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CHAIRMAN