

Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
15/0048/RET 30.01.2015	Mr T Rowe 5 Rowan Close Nelson Treharris CF46 6EN	Retain the use of the garage for the storage and maintenance of mining machinery, company vehicles and plant Caeglas Colliery Fochriw Road Fochriw Bargoed

APPLICATION TYPE: Retain Development Already Carried Out

SITE AND DEVELOPMENT

Location: The site is located to the north-east of Fochriw and south-west of Miller Argent's Cwmbargoed Disposal Point.

Site description: The site comprises a fenced compound with a large industrial style building which has been used in connection with a licensed mine on the adjacent site. It is in an elevated position and the garage is visible on the skyline from parts of Fochriw and the common land surrounding the site. Conifers have been planted along the southern boundary and various items of plant, machinery and vehicles are stored outside the garage within the compound.

Development: The application proposes to retain the garage to store and maintain mining plant and machinery for a period of ten years. The applicant states that the site is used for his business, which provides a service to the Cwmbargoed disposal point and the Ffos Y Fran land reclamation scheme. The garage is used to service vehicles and to store plant and machinery when it is not in use.

It is also proposed to extend the site compound onto land currently owned by this Council to provide additional security. The applicant states that due to the remoteness of the site and the access afforded by the footpath, which runs alongside it, the garage has been subject to break-ins and vandalism. He proposes to erect security fencing along the new boundary.

Dimensions: The garage measures 20 metres wide by 23 metres long and the height is approximately 6.1 metres to the ridge. The extended compound is 0.3 hectares in area (0.14 existing and 0.16 additional).

Cont'd

Application 15/0048/RET Continued

Materials: The garage is a steel frame building. The roof and walls are green painted profile metal sheeting.

Ancillary development, e.g. parking:

PLANNING HISTORY

P/02/0265 - First periodic review of planning conditions (Environment Act 1995) - Pending Consideration.

11/0897/NCC - Continued use of the garage for the purposes of maintenance and storage of company vehicles and equipment until such times as mining is re-commenced without compliance with conditions 2, 11 and 14 of consent reference 5/5/96/0057 dated 25 March 1996. Refused 5 September 2013.

13/0732/MIN - Mine approximately 6 million tonnes of coal from the Nant Llesg Surface Mine - Pending Consideration.

13/0799/CLEU - Storing and servicing of company vehicles, plant and mining machinery, Heavy Goods Vehicle operating licensing centre with VOSA. Registered business address for waste carriers licence, which has been in operation for the last 17 years - Pending consideration.

POLICY

LOCAL DEVELOPMENT PLAN

Site Allocation: The site is within a Visually Important Local Landscape (VILL), a coal safeguarding area, and adjacent to a Site of Importance for Nature Conservation (SINC).

Policies: CW2 (Amenity), CW3 (Highways), CW4 (Natural Heritage Protection), CW19 (Rural Development), CW20 (Building's in the Countryside) and CW15 (General Locational Constraints).

NATIONAL POLICY Planning Policy Wales (2014), and TAN 6 Planning for Sustainable Rural Communities.

ENVIRONMENTAL IMPACT ASSESSMENT

Did the application have to be screened for an EIA? No.

Was an EIA required? Not applicable.

Cont'd

Application 15/0048/RET Continued

COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? The site is within a coal mining development risk assessment referral area but no new built development is proposed.

CONSULTATION

Countryside And Landscape Services - LDP policies seek to remove industrial debris and reclaim post industrial and mining sites (Appendix 2 of the LDP). The long-term objective is to restore the natural landscape. If the original approved use of the site has ceased it should be restored to a natural landscape. If not, the scale and impact of the site should be reduced through the removal of unnecessary buildings and surplus materials and general rationalisation of the site.

Rights Of Way Officer - Bridleway 146 in the community of Gelligaer crosses the site and must not be obstructed. If security fencing is installed around the site and PROW, the PROW must be diverted by formal process and an alternative path constructed.

Transportation Engineering Manager - No objection.

Head Of Public Protection - The site is at a former colliery and there is a risk of contamination. Although the building is existing, there may be a danger of gas. Conditions to address the matter should be imposed.

ADVERTISEMENT

Extent of advertisement: The application has been advertised by means of site notices at the entrance and in Fochriw. The adjoining landowner has been notified by letter.

Response: No representations have been received.

SECTION 17 CRIME AND DISORDER ACT

What is the likely effect of the determination of this application on the need for the Local Planning Authority to do all it reasonably can to prevent crime and disorder in its area?
The development does not have a significant impact on crime and disorder.

Cont'd

Application 15/0048/RET Continued

EU HABITATS DIRECTIVE

A survey was carried out in March 2012 to determine whether bats were present on the site and to assess the site, with the exception of the additional land, for the potential to provide habitat suitable for great crested newts and otters. The assessment found no evidence of bats on the garage site but noted that derelict buildings within the adjoining mine site had the potential to provide lying up sites for otters and hibernation sites for great crested newts. The grassland within the wider site also has the potential to provide some limited great crested newt terrestrial habitat. Countryside Council for Wales (now Natural Resources Wales) were consulted and raised no objection subject to the inclusion of a condition concerning a method statement to take account of protected species.

Is this development Community Infrastructure Levy liable? No.

ANALYSIS

Policies: Policy CW15 states that outside settlement boundaries proposals will not be permitted unless the proposed development is associated with agriculture, forestry or the winning and working of minerals or conversion of rural buildings or leisure and tourism proposals that are suitable in a rural location or the provision of public utilities or associated with the reclamation of derelict or contaminated land. The proposed development does not fall within those categories. However it has some connections with the mine on the adjoining site and the current proposal is for temporary development on a timescale, which aligns with that of the mine.

Allowing the proposal would enable the applicant to retain the garage for use in connection with Cae Glas colliery in the event that mining recommenced at the site. It would also enable the current service to existing mining operations in the local area to be maintained in a sustainable manner, while ensuring that the site is restored in the longer term in line with policy CW15.

Policy CW2 requires development proposals to demonstrate that there is no unacceptable impact on the amenity of adjacent land and that they would not constrain the development of neighbouring sites for their identified use. The main impact is visual impact as the garage is in a prominent location. The nearest houses are located at a distance of approximately 180 metres and, subject to the imposition of appropriate conditions; it is not considered that any loss of amenity would be significant. The common land and footpaths around the site are used by walkers but the proposed use appears to be small scale and intermittent.

Cont'd

Application 15/0048/RET Continued

Policy CW4 states that proposals that affect VILLs will only be permitted where they conserve and enhance the distinctive characteristics of the VILL. The development does not conserve or enhance the characteristics of the VILL. However, it is an existing structure and there is some justification for the garage in this location because of its links to mining in the area.

Comments from Consultees: Comments from Countryside and Landscape Services Manager are addressed above. In terms of the Head of Public Protection's comments about remediation of contaminated land, the surface of the site will not be disturbed except for the erection of a fence around the additional land. A footpath/ bridleway currently crosses the site. There is a separate legal framework and procedure for diverting footpaths and this should be drawn to the applicant's attention in any consent granted.

Comments from public: No comments received.

Other material considerations:

Site history

Permission was granted for the garage retrospectively in March 1996 when the small mine was still operational. A condition was attached requiring the removal of the garage on or before 31 December 2011, the same expiry date as the small mine. In addition, a requirement was imposed that the garage should only be used for purposes incidental to the mining operations carried out at the site. However, the applicant claims that he did not receive the decision notice and that, if he had, he would have appealed against that condition.

In December 2011 applications were made to extend the life of the small mine and to retain the garage on a permanent basis without complying with the conditions outlined above. Permission was granted for the mining operation until 31 December 2024, which is the date when coal extraction and ancillary development at sites in the Heads of the Valleys area is expected to come to an end. However, the garage had been permitted on a temporary basis in a location where it would not normally be allowed if it were not for the association with the mining operation. The applicant's proposal not to comply with the condition was therefore contrary to policies in the local development plan seeking to protect the countryside and permission was refused.

Cont'd

Application 15/0048/RET Continued

In November 2013 the applicant submitted an application for a certificate of lawful existing use based on his claim that the decision notice had not been received and the garage had been in more general use since 1996. In an application of this type the onus of proof is on the applicant to supply evidence that the use has taken place continually for at least ten years. In this case, officers did not consider that the evidence supplied, together with evidence held by the council, was conclusive.

The applicant wishes to use the garage as an operating centre for Cae Glas Colliery Ltd. The company has contracts with Miller Argent to periodically remove silt from lagoons at the Ffos Y Fran opencast site and the Cwmbargoed Disposal Point and washery. The company's plant, machinery and vehicles have also been used in connection with Celtic Energy's opencast sites in south Wales and for the dismantling of buildings at the Brown Lennox site in Pontypridd.

Conclusion

Whereas the previous application for retention of the garage sought a permanent permission, this application seeks to retain the garage for ten years. Cae Glas mine is not currently operational but has consent until 31 December 2024 and Ffos Y Fran surface mine and Cwmbargoed Disposal Point also have time limited permissions until that date. While restoration of the site would be delayed if permission was granted, there is merit in the garage remaining for the same timescale as existing mining permissions in the area to provide a local service.

RECOMMENDATION that Permission be GRANTED

- 01) The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
- 02) The use of the garage shall cease and the buildings and means of enclosure to which this permission relates shall be removed by 31 December 2024 or within 12 months of the permanent cessation of activities at the site, whichever is the earlier, in accordance with the relevant conditions below.
REASON: The development is of a type not considered visually suitable for permanent retention outside the settlement in the open common.

Cont'd

Application 15/0048/RET Continued

- 03) No lighting or floodlighting other than that specified in the application and supporting documents shall be used on the site without the prior written approval of the Local Planning Authority.
REASON: To minimise nuisance and disturbance to neighbours and the surrounding area and to protect biodiversity interests.
- 04) Prior to the commencement of any works of vegetation clearance in habitat areas suitable for otters or great crested newts a method statement including timing, duration of works and actions to be taken if the species are encountered, shall be submitted to and agreed in writing with the Local Planning Authority. The works shall be carried out in accordance with the agreed method statement.
REASON: In the interest of European protected species.
- 05) Prior to the commencement of the erection of the proposed boundary enclosure a scheme shall be submitted to and agreed in writing by the Local Planning Authority indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved.
REASON: In the interests of the visual amenities of the area.
- 06) Between the hours of 19.00 and 07.00 hours the noise levels arising from the development shall not exceed 42dB LAeq, 1 hour free field at any noise sensitive property in Fochriw.
REASON: To safeguard the amenity interests of local residents.
- 07) Between the hours of 07.00 and 19.00 hours the noise levels arising from the development shall not exceed 55dB LAeq 1 hour free field at any noise sensitive property in Fochriw.
REASON: To safeguard the amenity of local residents.
- 08) All vehicles, plant, equipment and materials associated with the use of the garage shall be stored within the building. No vehicles, plant machinery or materials shall be stored in the open within the compound.
REASON: To safeguard the amenity interests of the local area.

Cont'd

Application 15/0048/RET Continued

- 09) The site shall be reclaimed and restored in accordance with a scheme to be submitted for approval by the Local Planning Authority by 31 December 2020 or within three months of the permanent cessation of activities hereby approved at Cae-Glas Colliery, whichever is the earlier. The scheme shall include details of: -
- i) The aftercare of the site that shall be for a period of not less than five years
 - ii) The spreading of soil or soil forming material including the depth and method of placement and machinery to be used;
 - iii) Method of drainage of the restored site;
 - iv) Grass seeding of restored areas with a suitable herbage mixture.

From 31 December 2024 or within six months of the permanent cessation of activities, the site shall be restored and maintained thereafter in accordance with the approved scheme for a period of not less than five years.

REASON: To ensure that the site is restored satisfactorily to a condition capable of beneficial after use and in the interests of the visual amenity of the area.

- 10) The development hereby permitted shall be carried out only in accordance with the following plans and other submitted details: CGM / 1113 /A /S1 / B received on 30 January 2015.
REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.
- 11) Any oil, fuel, lubricant or other potential pollutants shall be handled on the site in such a manner as to prevent the pollution of any watercourse or aquifer and shall be stored in tanks or other suitable containers which shall be sited on an impervious base and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bunded compound.
REASON: To minimise the risk of pollution of watercourses and aquifers.

Cont'd

Application 15/0048/RET Continued

Advisory Note(s)

Please find attached the comments of the Countryside and Landscape Services Manager in respect of bridleway 146 in the community of Gelligaer that are brought to the applicant's attention.

The following policies of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010 are relevant to the conditions of this permission:
NH2.1- Visually important local landscapes and CW4- Natural heritage protection,
CW15 - General locational constraints.

The applicant is advised by Head of Public Protection that there is possible contamination of the site. To protect health, it is therefore recommended, that a scheme of ground investigation and a risk assessment be undertaken to identify the extent of the contamination and the measures to avoid risk in the continued occupation of the site.

