

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING AND DEVELOPMENT CONTROL COMMITTEE**

DATE: **24TH FEBRUARY 2016**

REPORT BY: **CHIEF OFFICER (PLANNING & ENVIRONMENT)**

SUBJECT: **USE OF LAND AS RECYCLING AND RECOVERY CENTRE FOR END-OF-LIFE VEHICLES, FERROUS AND NON-FERROUS METALS; REDUNDANT/ SCRAP CARAVANS, RECEIPT AND STORAGE OTHER SALVAGED INERT MATERIALS, INCLUDING SALVAGED BUILDING SUPPLIES AND SITING OF 1NO. CARAVAN FOR SECURITY AT DELYLN METALS LIMITED, POINT OF AYR, FFYNNONGROYW**

APPLICATION NUMBER: **051795**

APPLICANT: **DELYN METALS LIMITED**

SITE: **LAND AT FORMER COLLIERY SITE, DELYN METALS LIMITED, POINT OF AYR, FFYNNONGROYW, FLINTSHIRE**

APPLICATION VALID DATE: **2 APRIL 2014**

LOCAL MEMBERS: **COUNCILLOR G BANKS**

TOWN/COMMUNITY COUNCIL: **LLANASA COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **SITE AREA IS GREATER THAN 2 HECTARES LOCAL MEMBER REQUESTED**

SITE VISIT: **YES**

1.00 SUMMARY

1.01 This planning application seeks consent to change the use of land to use as a recycling and recovery centre for end-of-life vehicles, ferrous and non-ferrous metals, redundant/scrap caravans, the receipt and storage of other salvaged inert materials, including

salvaged buildings supplies and the siting of one caravan for security purposes.

1.02 This application seeks to address the reasons for refusal of planning application 045069 which was for a similar application and was refused in January 2013 as the applicant failed to enter into necessary legal agreements. Also, this application seeks a time limited planning permission to 2033.

2.00 RECOMMENDATION: TO GRANT PLANNING PERMISSION, SUBJECT TO THE FOLLOWING:-

- 2.01
1. Time limit on commencement of development.
 2. Temporary permission: Operations and use to cease in 2033.
 3. In accordance with submitted plans to define the development.
 4. Scrap metal & caravan dismantling only, no processing or handling of other materials or wastes.
 5. Highway cleanliness: No debris or mud to exit the site.
 6. Locking of gates & signposting for site security and advice on routing.
 7. Fencing: Security and litter control.
 8. Traffic management scheme (traffic routing, larger HGVs to use Station Road, local rules, speed limit).
 9. Maintenance of internal access roads.
 10. Drainage: Surface water, contaminated water and foul sewer.
 11. Limits on storage of waste and products. Max 50 % of area, Max storage height 5 m, maximum tonnage 25,000t.
 12. Zone/operational working plan/fire management.
 13. Storage of oils, fuels and liquids.
 14. Lighting: No glare and duration.
 15. Contamination: Standard investigation and remediation scheme.
 16. Noise.
 17. Litter & debris.

18. Hours of operation.
19. Construction management plan.
20. Wildlife mitigation.
21. Access management plan.
22. Flood management plan.
23. Clearance and restoration of the site upon cessation of use.
24. Restoration plan.

S106 agreement or Unilateral undertaking for a commuted sum with respect to highways works for signposting and cycle path.

3.00 CONSULTATIONS

- 3.01 *Local Member* – Councillor Glyn Banks has requested that the application be referred to Planning Committee for determination as he considers the access to be dangerous, and also crosses the cycle path which crosses the site, he considers the site to be unsuitable for this activity in the long term and the location is in close proximity to nature conservation interests.

Town/Community Council – Llanasa Community Council have been consulted however no response was received.

Head of Assets and Transportation – No Objection, subject to conditions for an operational management plan to limit the use of the access on to Station Road for commercial use, and for the provision and maintenance of loading, parking and turning clear of the highway prior to the proposed development being brought into use. A S106 or unilateral undertaking for a commuted sum to the value of £1500 is required for the provision of advance warning signage on the A548 of the row railway bridge on the private Point of Ayr access road, and for give way markings on the approach to the private road from either direction of the cyclepath together with tactile paving.

Head of Public Protection – have no adverse comments to make regarding this proposal. Suggested a standard contaminated land condition be imposed.

Public Rights of Way – Public footpaths 27 and 28 cross the site and Public Footpath 26 abuts the site but appear unaffected by the development; therefore I have no observations to make.

Regional Emergency Planning Manager – Requested more information regarding numbers of employees and public access.

Welsh Water/Dŵr Cymru – have requested that if the Council is minded to grant Planning permission that a number of conditions and advisory notes in relation to drainage and the sewer system are included within the consent to ensure that there would be no detriment to existing residents or the environment and to Dŵr Cymru Welsh Water's assets.

Natural Resources Wales –

Have no principle objections to the proposed development subject to the inclusion of conditions in relation to; contaminated land and remediation, protection of the Dee Estuary SPA, SAC, Ramsar and SSSI by conditioning recommendations set out in the Environmental Statement, the erection of a boundary fence/structure to ensure that windblown litter from the site is contained within the site and does not encroach on the surrounding nature conservation sites, mitigation measures as detailed within the Environmental Statement in relation to the protection of the designated sites to ensure that the disturbance of birds is minimised, materials entering the site are reduced and to ensure the protection of Natterjack Toads, and restoration and aftercare.

NRW also recommended that the LPA consult the FCC Emergency Planning Team in relation to flood risk on access/egress routes.

Network Rail – Object to the proposal as they have concerns in relation to large vehicles using the former colliery access route and potential damage to the low Railway Bridge. Whilst Network Rail is supportive of development promoting employment however have to consider each proposal on its potential to impact on Network Rail infrastructure. Recent evidence shows that HGV activity continues on this route proposed only for staff vehicles and there is evidence that containers are being dragged under the bridge to avoid the height restrictions which continues to damage and degrade the surface of the road under the bridge.

Therefore due to continued use of the route by HGVs Network Rail is not satisfied that the proposal would not have a detrimental effect on the railway. For the objection to be withdrawn, there would need to be an agreement that HGVs would not use the route under the railway bridge, that any conditions could be enforced with punitive measures in place for any breach.

The Coal Authority – The application site does not fall within the defined Development High Risk Area and is located within the defined Development Low Risk Area. The Coal Authority therefore recommends that if the proposal is granted planning permission, it would be necessary to include the Coal Authority's Standing Advice within the Decision Notice as an Informative note to the applicant in the interests of public health and safety.

Health and Safety Executive - does not advise, on safety grounds, against the granting of planning permission in this case.

Sustrans – No comments received.

4.00 PUBLICITY

4.01 This application was advertised by way of press notice, site notices and neighbour notification letters were dispatched to nearest residential receptors. The application was advertised in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 on 4 April 2014.

4.02 Two letters of objection has been received from the immediate neighbour; the owners of the Point of Ayr gas terminal, Eni Liverpool Bay Operating Company Limited (Eni). Eni also own and control the land that takes the route of the proposed HGV access track which would use Eni Land from Station Road. The grounds for objection relate to proposed accesses to the site, site security and safety, impacts on public rights of way, suitability of the site, air and water quality, noise and impacts on ecology and proposed mitigation and the applicant's lack of ability to provide any off-site mitigation that may required as Eni have confirmed that they are unwilling to enter into any legal agreements to facilitate off-site mitigation works.

5.00 SITE HISTORY

5.01 The site is a part of the former Point of Ayr colliery which, was used for depositing colliery spoil and over time the site had been over tipped allowing its reclamation as an industrial site and in 1980, was given permission for the development of an experimental pilot coal liquefaction plant (reference 3/LL/200/80 granted 28.02.1980). This development was carried out and continued to operate until the late 1980's/early 1990's under a number of planning consents extending the time of the operations (references 3/LL/360/84 granted 20.09.1984 and 3/290/91 granted 23.07.1991 time limited until 18.05.2001).

- 5.02 In anticipation of the closure of the colliery, the site was purchased by Evergreen Environmental Services and a temporary planning permission was granted to convert the existing plant to a facility for the reprocessing of waste oil. Planning permission was granted under references 96/23/0061 and 96/23/0140 on 09.07.1996 and also 98/23/0238 on 05.05.1998 which were all time limited until 18.05.2001. These planning permissions were subsequently varied on 30 October 2003 to allow the use to continue until 18.05.2016 (references 032563 and 032567). The waste oil processing ceased in December 2003, and between 2000 and 2006 some of the plant from the former uses were removed although the site was not completely restored and much of the infrastructure remains some of which would be used by this development such as the hard standing, bunded bays and surface water drainage system and interceptors.
- 5.03 The site was acquired by the applicant in May 2004 with the intention of utilising the site for metal recycling and recovery. A retrospective planning application was submitted in 2008 (reference 045069) which sought to regularise that use to recycle ferrous and non-ferrous metals, end of life vehicles, redundant and scrap caravans and roof/wall panels.
- 5.04 In 2009, the Planning and Development Control Committee resolved to grant planning permission subject to the applicant entering into a legal agreement under the terms of the Wildlife & Countryside Act 1981 (as amended) Section 39 and a legal agreement under the terms of the Town & Country Planning Act 1990 (as amended) Section 106.
- 5.05 By January 2013, the applicant had failed to enter into these required legal agreements, and therefore planning permission could not be granted and planning permission was refused. The applicant has been operating the site with the benefit of an Environmental Permit but with no planning permission. This application seeks to address the reasons for refusal.
- 5.06 Later in 2013 an enforcement notice were served on the applicant. The notice stated that there had been a material change of use from oil reprocessing facility (including the ancillary processing and transfer of automotive service trade waste) and white oil production to a mixed use comprising: the storage of materials, plant and machinery; and the siting of caravans for residential purposes. These enforcement notices were not appealed as the applicant wished to submit a revised planning application to address the issues of the refused application reference 045069 and to regularise the unauthorised activite being undertaken on site. This planning application is as a result of the enforcement action taken.

5.07 Should this application be refused, the enforcement notice would take effect and the Council could prosecute the applicant for unauthorised development.

5.08 Flintshire County Council made an application for the construction of a cycle path which crosses the application site, reference 051828 which was approved on 24.04.2014. The route of the cycle path coincides with part of the proposed staff access route and the HGV access route would cross over the cycle path in one location.

6.00 PLANNING POLICIES

6.01 LOCAL PLANNING POLICY

Flintshire Unitary Development Plan (Adopted September 2011)

Policy STR1 - New Development

Policy STR7 - Natural Environment

Policy STR10 - Resources

Policy STR11 – Sport, Leisure and Recreation

Policy GEN1 - General Requirements for Development

Policy GEN 3 - Development outside Settlement Boundaries.

Policy GEN 5 -Environmental Assessment.

Policy D4 - Outdoor Lighting

Policy L1 - Landscape Character

Policy L6 - The Coast

Policy SR8 - The Dee Estuary Corridor

Policy WB1 - Species Protection

Policy WB2 - Site of International Importance.

Policy WB3 - Statutory Sites of National Importance

Policy AC2 - Public Rights of Way

Policy AC13 - Access and Traffic Impact

Policy EM7 - Bad Neighbour Industry

Policy EWP6 - Areas of Search for Waste Management Facilities

Policy EWP7 - Managing Waste Sustainability

Policy EWP8 - Control of Waste and Operations

Policy EWP12 - Pollution

Policy EWP13 - Nuisance

Policy EWP 14 - Derelict and Contaminated Land.

Policy EWP16 - Water Resources

Policy EWP17 - Flood Risk

6.02 GOVERNMENT GUIDANCE

Planning Policy and Guidance

Planning Policy Wales (Edition 8 2016)

Technical Advice Note 5 – Nature Conservation and Planning (2009)

Technical Advice Note 11 – Noise (1997)

Technical Advice Note 15 – Development and Flood Risk (2004)

Technical Advice Note 18 – Transport (2007)

Technical Advice Note 21 – Waste (2014)

Technical Advice Note 23 – Economic Development (2014)

- 6.03 Waste Strategy Policy and Guidance
Towards Zero Waste: The overarching Waste Strategy Document for Wales, June 2010
Collections, Infrastructure and Markets Sector Plan, 2012
Construction and Demolition Sector Plan, 2012

7.00 PLANNING APPRAISAL

7.01 Introduction

The details of the proposed development will be outlined below along with a description of the site and location, site constraints and the issues that will be assessed within the main planning appraisal.

Details of Proposed Development

- 7.02 The proposed application comprises the change of use of land for predominantly a metal recycling and recovery plant which would undertake four main operations namely;

- Receipt, de-polluting, dismantling, segregation and storage of end of life vehicles and associated wastes prior to further treatment on site or removal off site;
- Receipt, segregation and bulking of ferrous and non-ferrous metals for treatment/processing on site, or for dispatching;
- Dismantling of redundant and scrap caravans and sorting into recyclable and non-recyclable material;
- Recycling and sorting of salvaged inert materials, including salvaged building supplies such as roof and wall panels, into recyclable and non-recyclable materials.

- 7.03 The term treatment and processing in the context of this application includes shredding/crushing/cutting/stripping/dismantling/sorting. The facility would predominantly utilise existing site infrastructure with some limited alternations. Site preparation and construction activities would be required in advance of site operations but would be restricted to the removal of the existing tanks from the former oil processing operations and the provision of a new one way access road within the site. It is proposed to use existing infrastructure on site such as office and other buildings, concrete hardstanding, contained bays, drainage systems and oil interceptors. There would be no new built development apart from the construction the new internal access road. Construction, operations and decommissioning works would only be undertaken within the boundary of the main site area owned by the applicant and not on the proposed external access routes. Existing tanks located on site would be removed and decommissioned and landscaping would be provided.

- 7.04 The applicant has stated that they will store materials at manageable heights. Given the low lying and flat nature of the immediate surroundings, high and bulky stockpiles would be inappropriate from a visual and landscape perspective and also increase the risk of off-site disturbance from noise, dust and litter from the influence of wind. It is proposed to limit the height, extent and maximum tonnage held in storage by condition. This will also limit the risk of site clearance liabilities in the event of abandonment which could affect future uses of the site, and will also reduce the potential for metal leaching, where metals become mobile in water due to degradation, which can become a source of contamination. Whilst an environmental permit issued by Natural Resources Wales will have a tonnage limit, these limits can be amended, which is potentially harmful to the amenity of the area, and the current 25,000 tonnes is considered to be an acceptable upper limit from an amenity perspective.
- 7.05 A single caravan used for the occupation of a security guard is proposed for 24 hour surveillance. The siting of the caravan would be ancillary to the proposed use of the land and would be used by a security guard as shelter and accommodation linked to the proposed use and not for residential purposes. Concerns have been raised about antisocial behaviour, fly-tipping, theft and fires. Since the presence of a permanent security presence on the site, these issues have ceased, and the risk is considered to be manageable. The overwhelming majority of the materials proposed to be handled and stored at the site are non-flammable, nevertheless, the site will be zoned, and materials that are potentially flammable will be stored in discrete areas and a fire management plan can be applied.
- 7.06 Hours of operation would be Monday to Saturday 0800-1800 Monday to Saturday in Summer months and 0800-1600 Monday – Saturday during Winter months.
- 7.07 Access to the site would be provided by existing access routes to the south and west of the site. The former colliery access road, which is an unadopted road accessed from the A548 at Tanlan, to the south of the development site would be used by staff and light vehicles only. This access road coincides with part of public footpath 26 and a cycle path granted by planning permission reference 051828, and travels under a low railway bridge. Commercial vehicles up to 44 tonnes would access the site from the west via Station Road which is located 1km to the west of the site and would cross land owned by ENI and use existing hardstanding. Parts of the HGV route coincide with public footpath 28 and crosses a cycle path granted also by planning permission reference 051828. The applicant claims that a right of access over ENI land from station road to the application site, the route which would be used by HGV traffic.

Site Description and Location

- 7.08 The site is a 4.6 hectare site which is made of reclaimed land, lies to the south east of the Point of Ayr gas terminal is located on the site of the former Point of Ayr Colliery and to the north of the settlement of Tanlan which lies between the settlements of Talacre, Gwespyr and Ffynnongryw adjacent to the Dee Estuary. It is a reclaimed brownfield site which, as described above, has a history of industrial temporary uses and lies 600 metres to the north of the A548 and adjacent to the North Wales main railway line which is located 50 metres to the south of the site.
- 7.09 Coastal grassland of varying quality surrounds the site on three boundaries; the north east, south east and north west, with sparse regenerating goat willow and ponds for natterjack toads also located to the south east. To the south west is a wooded bund which separates the site from the railway line and agricultural fields beyond.
- 7.10 The residential areas of Tanlan and the A548 are located to the south of the site beyond the railway line, with the closest residential property in excess of 450m from the site boundary. The residential areas of Glasdir, Peny-y-Ffordd and Ffynnongroyw are located further to the south east of the site. A waste water treatment works is also located to the south west of the site which is accessed from the unadopted access road proposed for the staff access from the A548.
- 7.11 The Eni gas terminal complex is located to the north west of the application site, with the residential area of Talacre and the Talacre caravan park located further to the north west.

Relevant Planning Constraints/Considerations

- 7.12 The Dee Estuary Site of Special Scientific Interest, Ramsar Site, Special Area of Conservation and Special Protection Area is located 200 metres to the north of the site and the Gronant Dunes and Talacre Warren SSSI are located to the north west. There are no habitats, plants, species or nature conservation interest within the development site. However, it is possible that individuals of a population of natterjack toads, which have been introduced to the habitat lying to the south east of the site could take cover within the development site.
- 7.13 The Eni gas terminal is located immediately to the west of the site and has planning permission until 11 November 2033.
- 7.14 Part of the proposed staff access route coincides with part of public rights of way Llanasa 26 and part of the HGV access route coincides with part of public right of way Llanasa 28. Both these rights of way form part of the All Wales Coastal Path. As stated above, the route of the cycle path approved by planning permission reference 051828 coincides with part of the proposed staff access route and the HGV access route would cross over the cycle path in one location.

- 7.15 Both access routes are also located within Flood risk Zone C1 with parts in Zone C2.

Issues

- 7.16 The main land use planning issues associated with the determination of this planning application are considered to be:
- Need for the development;
 - Principle of the Development and suitability of the location;
 - Need for the management of waste metal;
 - Ecology, Habitats Regulations and impact on designated sites;
 - Landscape and Visual Impact;
 - Noise;
 - Air quality
 - Highways, Traffic, Transportation and Access;
 - Impact on Public Rights of Way
 - Impact on the Railway
 - Protection of Water Resources and Drainage;
 - Flood Risk;
 - Contaminated Land
 - Community and Employment, Socioeconomic impacts.

Need for the development

- 7.17 The proposed facility would provide accommodation for the re-location of an existing Delyn Metals facility located at Ffynnongroyw. It would also receive some of the existing metal materials from the site in Gwespyr as this site is heavily constrained by the confines of the site and conditions restricting stockpile heights.

- 7.18 The proposed facility would serve a range of existing large industrial clients located in the north east Wales region and a number of local private trade companies.

Principle of the Development and suitability of the location;

- 7.19 The site is not within the settlement boundary and is an unallocated site within the Flintshire Unitary Development Plan. Whilst the site has had a history of industrial uses, this site is surrounded by nature conservation designations and former industrial sites surrounding the site have been restored. Also, Talacre which is located approximately 1 Km to the north west of the site is a popular tourist designation with a large caravan park located at the bottom of Station Road. The future of this part of the Flintshire Coast is uncertain and a permanent consent for waste metal recycling at this site would conflict with the Council's ultimate aim for the site which is to ensure that the site is restored to open coastal land in the future.

- 7.20 The Council has consistently sought to avoid any long term developments in this area and has limited previous planning permissions on this site to temporary periods. All the previous planning permissions granted on this site were temporary consents; most recently references 032563 and 032567 which were granted until 18 May 2016. The temporary nature of these permissions aimed to avoid dereliction of the site and to facilitate its future development or restoration in accordance with the Council's long term aim of seeing the whole former colliery site and the adjacent Eni Gas Terminal site restored to open coastal land.
- 7.21 The gas terminal has planning permission until 2033 and therefore, should planning permission be granted, it would be recommended that a condition be attached to the permission to ensure that the permission would be time limited until 2033.
- 7.22 The site is within the Dee Estuary Corridor. The Flintshire UDP recognises this coastal strip as a vital feature of the County not only for its historical, archaeological, nature conservation and landscape value, but also for the range of recreation opportunities it provides. Should planning permission be granted, it would be essential to continue to be able to control and monitor the appropriateness of the use of the land by granting a temporary permission to allow the Dee Estuary Corridor to be preserved and enhanced for future uses and enjoyment. This would ensure that the land could contribute to the multifaceted value of the Dee Estuary Corridor for future generations in accordance with Policy SR8 of the Flintshire UDP and the Dee Estuary Strategy to safeguard the future of the Dee Estuary.

Restoration and aftercare

- 7.23 It has been recommended by NRW to restore and manage the site in accordance with an approved scheme once the operation ceases.

Need for the management of waste metal;

- 7.24 The applicant has provided a waste planning assessment. This focuses on national planning policy and strategy, but confirms the following. Timescale temporary to 2033, hours of working, quantity and types of waste to be managed, design, layout, buildings and plant, amenity and nuisance, air pollution and energy efficiency.

Ecology, Habitats Regulations and impact on designated sites;

- 7.25 The site is adjacent to the Dee Estuary Site of Special Scientific Interest, Ramsar Site, Special Area of Conservation and Special Protection Area and Gronant Dunes and Talacre Warren SSSI which are located to the north west of site.
- 7.26 The Dee Estuary supports extensive areas of intertidal sandflats, mudflats and saltmarsh. During the winter, the intertidal flats and saltmarsh provide feeding and roosting sites for large populations of ducks and waders. The site is also important in the summer for

breeding terns and is also important during migration periods, particularly for wader populations moving along the west coast of Britain.

7.27 It is considered that the proposals do have the potential to impact upon these protected sites. The most likely impact pathway is of disturbance to winter roosting / feeding birds adjacent to the site and access roads. However it is considered that providing certain measures outlined within the Environmental Statement (ES) are implemented, the proposals are unlikely to have a significant impact upon these sites. A habitats risk assessment has considered that the proposed development is unlikely to have a significant impact on the European designated sites and features of interest. The site will not take additional wildlife designated land, as the proposal is for a change of use on previously developed.

7.28 The results presented in the ES demonstrate that a number of different species of wintering bird utilise areas adjacent to the site including mud flats, salt marsh, grassy fields and creeks.

7.29 The potential ecological effects that have been assessed within the ES comprise:

- Visual and noise disturbance associated with the proposed development on wintering birds species present within the Dee Estuary;
- Potential contamination of saltmarsh and mudflats within the Dee Estuary;
- Habitat loss due to damaging vehicular movement around the site;
- Potential for killing or injury of natterjack toads which have been introduced to the adjacent sites.

7.30 A number of mitigation measure shave been identified for the development which include limiting the speed limit of vehicles on the access road, ensuring that vehicles accessing the site do not stop on the access road, preventing people entering the habitats outside the site, unless to pick up windblown debris, taking measures to prevent spillage on site and establishing a fence to prevent natterjack toad entering the site.

Disturbance of birds

7.31 NRW welcomes the proposed landscaping detailed within Figure 2.1 and considered that the creation of the earth bund and tree planting (species composition should be agreed with the Local Authority) will reduce the potential disturbance of wintering birds utilising adjacent areas. These bunds should be created as early as is practical prior to other works proceeding onsite. The measures outlined within table 5.3 and section 5.10.2 should also be adhered to, so as to reduce potential impacts on features of these protected sites.

7.32 It is stated in the ES that “If particularly noisy operations are required they should be scheduled to take place outside the months of October to February... if this not possible then should take place outside of the high tide period”. NRW would welcome such measures, however, it is recognised that at this stage, ‘particularly noisy’ operations are difficult to define.

Materials entering the sites

7.33 Appropriate fencing / netting should be erected to minimise litter / materials blowing into the adjacent protected sites (see Natterjack Toad section below for further required features). NRW would also welcome plans to remove any blown litter from the site by litter picks. The timetable and methodology for these should be drawn up with the Local Authority to ensure no additional disturbance is caused to features of the protected sites (e.g. only litter picking at low tide).

Natterjack Toad

7.34 Given the proximity of breeding pools to the site, there is potential for natterjack toads to utilise waste storage areas / piles for shelter. Whilst measures have been outlined within the ES, NRW consider that the following would be more appropriate to ensure the protection of this species and require less regular maintenance:

- A suitable barrier to reptiles should be incorporated into the boundary fence of the development (the most suitable material would be metal). This permanent feature would ensure no reptiles would enter the site and require little maintenance.
- At any entrance to the site a suitable grid should be inserted (with appropriate escape routes) to ensure that natter jack toads do not enter at these points
- Once the features above have been erected, the site should be checked for natterjack toads and if found, they should be placed outside the site. Once this is complete, it can be considered that natterjack toads are not present onsite. This should be undertaken by a suitably qualified and licensed ecologist.

7.35 Minor impacts may also arise due to materials blowing off the current application site. NRW recommend that the authority condition the erection of a suitable structure /fence to prevent materials blowing off the site onto adjacent land.

7.36 Whilst some time has lapsed since the preparation of the Environmental Statement, there has been no significant change to the development which was assessed, or to the designated habitat and species surrounding the site. The conclusions of the Environmental Statement are that the proposed development has a low impact on wildlife conservation and it is considered that these remain valid.

7.37 Contaminated land conditions from NRW would be imposed to ensure previous contamination does not harm the Dee Estuary designations. Recommendations are set out in the Environmental Statement

7.38 It is proposed to impose a condition addressing wildlife mitigation to minimise the risk of disturbance to wildlife. The site is previously developed and no habitats are at risk of harm, however wildlife is capable of being disturbed, and controls will include speed limits, defined and controlled access routes, and maintenance of fencing, gates and security to minimise the risk of unauthorised access which could increase the number of vehicles and persons visiting the area in a manner that could disturb wildlife, and to prevent wildlife from entering the development site.

Landscape and Visual Impact;

7.39 An existing belt of mature trees to the south of the site effectively screens the site from the south. Given the open and exposed aspect of the site and lack of land outside of the development, there is limited opportunity to provide screening. The site is not generally visible at low level and direct views over the site are only possible from higher land located over a kilometre inland of the site to the south. Immediate views will be possible as visitors travel past the site who use public rights of way and the cycle path, however, the impact is localised to the immediate surroundings.

Noise.

7.40 Noise assessments would be undertaken on an annual basis. Mitigation measures identified within the noise assessment of the ES include staff training to emphasise the importance of noise control, restricting noisy activities to the hours of 0900 – 1600, turning off plant and machinery when not in use to reduce the noise from idling engines and selecting low noise plant where practicable.

7.41 Mitigation measures are proposed in the ES noise assessment and a construction environmental management plan will include noise mitigation measures and management.

Air Quality and Dust.

7.42 Processing could give rise to localised dust and dust control mitigation measures are proposed in the air quality assessment.

Highways, Traffic, Transportation and Access.

7.43 The applicant has provided a transport statement. Historically, a significant volume of traffic used the transport routes when the Point of Ayr Colliery was operational. More recently, in connection with a waste oil reprocessing operation, this was 6 HGV visits (6 in, 6 out) and 4 staff visit per day.

- 7.44 The current proposal estimates an input or output of 50 tonnes per day carried by 6 HGVs per day (12 movements) using the western (green) commercial route, together with 4 staff vehicles – 8 movements. The HGVs in the range 7.5 to 44 tonnes would be routed. There is no proposal for this site to be open to general public use, and is for the use of vehicles controlled by Delyn metals only.
- 7.45 Access to the site would be provided by existing access routes to the south and west of the site. The southern route would be used by staff vehicles using an unmetalled unclassified and unadopted road from the A548 at Tan Lan which was the former colliery access road into the site and travels under a low railway bridge. Commercial vehicles up to 44 tonnes would access the site from Station Road which is located 1km to the west of the site across land owned by Eni along existing hard standing, parts of the route coincide with public footpath 28 and crosses a cycle path granted by planning permission reference 051828. The applicant has a right of access over the former colliery site to the west.
- 7.46 The proposal to restrict access by HGVs to use the western route only would reduce the risk of any potential strikes to the low railway bridge and damage to the highway wearing course, and therefore removes the need for the applicant to install any signage and protective barriers which were a requirement of the application made under reference 045069 and would remove the requirement for the applicant to enter into a section 106 legal agreement, which the land owner would not agree to.
- 7.47 An access management plan can be secured by condition and would include staff training, information to ensure that the speed of vehicles on site would not exceed 15mph to protect amenity, minimise potential risk of collision with pedestrians and cyclists using the rights of way and to ensure that disturbance of birds and other species in the adjacent nature conservation areas. The Western access is secured by a number of locked gates, and an attendant would accompany all visiting HGVs to unlock and relock these gates to ensure that site security is maintained and prevent unauthorised access. The southerly route is also secured by a locked gate.

Impact on Public Rights of Way

- 7.48 Concerns have been raised in relation to the potential conflict with vehicles and pedestrians using the public rights of way which are present throughout the site. Public right of way Llanasa 28 coincides with the commercial vehicle route located to the west of the site, and public right of way Llanasa 26 coincides with the staff vehicle route to the site located to the south of the site. However, the Flintshire County Council's right of way department have been consulted on the proposal and have not objected to the proposal. The commercial vehicle route is open with no pedestrian protection or segregation. However, the site is very open and it is considered that as vehicles

would be travelling at slow speeds, pedestrians and drivers would have plenty of time to respond to ensure that any collision would be avoided. There is sufficient visibility along the route within the site.

- 7.49 Part of public right of way 28 coincides with an existing vehicular route as does public right of way 26 and to date there have been no known conflicts. The proposed frequency of HGV movements is low, and visibility is good for users of the paths and for HGV drivers, and so the incidence of potential conflict is low and the presence of a series of gates which have to be locked and unlocked with each passing vehicle will further limit the potential for any HGV to breach the intended speed limit. Furthermore, the western route would have the effect of removing commercial vehicles from the southern route. It is proposed that a Section 106 or unilateral agreement is entered for the applicant to commit to provide a commuted sum for the provision of warning signs, ground markings and necessary signage.

Impact on the low Railway Bridge

- 7.50 The proposal to route HGVs via Station Road means that no such vehicles need to use the low railway bridge on the private road leading from Tan Lan. This in turn should address the concerns raised by network rail about damage to both the bridge and to the road under the bridge where the practice of unloading containers and dragging them under the low bridge was taking place. A condition can be imposed to require that no HGVs use the staff access/former colliery road and ensure that the low railway bridge and road is not damaged. The Tan Lan route will only be used for light traffic.

Protection of Water Resources and Drainage;

- 7.51 The existing site has hard standings with interceptor traps and an existing drainage system, which should enable foul, surface water and contaminated water to be segregated and managed. Surface water quality is addressed within section of the Environmental Statement. Conditions will be imposed dealing with water management to ensure that water is managed and does not constitute a risk of contaminated water to the River Dee Estuary.

Flood Risk

- 7.52 With regards to flood risk, the application site for the processing works/buildings etc. is previously developed land, and is considered to be suitably elevated above extreme flood levels which include sea level rises associated with climate change. This has been checked and verified by Natural Resources Wales using their Lidar Data.

- 7.53 However, the two access routes proposed (Heavy Goods Vehicle and Staff access route) are at risk of flooding during extreme events as they are located within Zone C1 and parts located within Zone C2. Natural Resources Wales therefore recommended consultation with the Flintshire County Council Emergency Planning team to ensure that the flood risk associated with the access/egress routes is

acceptable. Flood depths on the access route(s) could be up to 1.8m during the extreme event if the flood defences protecting the area were to breach/fail.

Contaminated Land

7.54 The site is previously developed land and has hosted potential former contaminative uses. Little new development is proposed as it is the use of the site that is the proposal under consideration. Much of the land has existing concrete hardstandings and water containment systems in place. The proposed use is also capable of contributing to contamination, albeit is a low risk with the exception of the de-pollution of vehicles. Should planning permission be granted, a condition in relation to contaminated land and mitigation/remediation shall be included to any decision notice.

7.55 Mitigation measures are set out in the Environmental Statement in para 6.7.1 including wheel cleaning facilities. In addition a construction environmental management plan will be required prior to the construction phase of any internal access roads or other works within the site.

Community and Employment, Socioeconomic impacts

7.56 The site will provide a valuable outlet for metal recovery and will generate and sustain a modest number of jobs. The site is remote from residential development and also from the main tourist and holiday destinations at and to the west of Talacre, and the level of usage is proposed to be modest. Given the proximity with the Eni gas landing terminal, it is not considered that there is a significant negative impact on either residential wellbeing, tourism or other businesses that may operate in the area.

8.00 CONCLUSION

8.01 In considering this application the Council has taken into account all the environmental information and matters that are material to the determination of this application, as set out in the Application, Supporting Statements and Environmental Statement. The environmental statement has considered and assessed the impacts on ecology, nature conservation and adjacent designated sites/protected species, and concludes that the potential for impacts on the designated features is low, and can be managed. All other impacts are short term, and reversible. The site and proposed use is temporary and the site will be cleared upon cessation of operations.

8.02 In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention, and has had due regard to its public sector equality duty under the Equality Act 2010.

8.03 In determining this application, the Council has had regard to the Policies of the Development Plan, and regional and national policy, legislation and guidance. Subject to the imposition of conditions as listed above, there is no sustainable planning reason why planning permission should be refused. Accordingly, it is recommended that planning permission should be granted subject to conditions.

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