

DNS/3236340 Mor Hafren ERF

Cardiff Council Hearing Statement Session 4: Conditions, Planning Obligations, Regulatory Mechanisms

1. Existence and Scope of other Regulatory Controls

1.1 This question is directed to NRW. The Council has no comments to make.

2. Recommended Conditions

2.1 An updated suite of draft conditions has been prepared with the applicant and is appended to the Statement of Common Ground (SoCG). This suite of draft conditions is subject to further amendments which will be submitted in advance of the first hearing session.

2.2 The Council considers that amendments are required to the following draft conditions as follows (to be re-worded in the SoCG suite of draft conditions):

- (i) 5: Construction and Environmental Management Plan (CEMP) – see Section 3 below;
- (ii) 10: Traffic Management Plan – if delivery routes are subject to an obligation this will need amending;
- (iii) 13: Noise Management Plan – amend to limit the rating noise level to no greater than 5db below background at the nearest noise sensitive residential receptors (paragraph 2.8, Council Statement, Hearing Session 2);

- (iv) 30: Landscape and Ecological Management Plan (LEMP) – see Section 4 below.

2.3 The Council considers that the following additional conditions are required (to be worded in full in the draft suite of conditions):

- (i) Site Drainage – as requested by NRW in their consultation response;
- (ii) Water Quality Monitoring – as requested by NRW in their consultation response. A requirement for ongoing management would also be required. Water quality monitoring and management could be written into the LEMP;
- (iii) Biosecurity – to prevent the spread of invasive non-native species;
- (iv) Piling Methods – details to be submitted and agreed to ensure no unacceptable risks to ground water or adverse impacts from noise and vibration.
- (v) Electric Vehicle Charging Points – Policy 12 (Regional Connectivity) of *Future Wales* advises, where car parking is provided for new non-residential development, planning authorities should seek a minimum of 10% of car parking spaces to have electric vehicle charging points.
- (vi) Digital Communications – Policy 13 (Supporting Digital Communications) of *Future Wales* advises that new developments should include the provision of Gigabit capable broadband infrastructure from the outset.
- (vii) Heat Networks – Policy 16 (Heat Networks) of *Future Wales* advises that a plan for the implementation of heat networks should be included for feasible projects (alternatively, this could be secured through a planning obligation).

3. Construction and Environmental Management Plan (CEMP)

- 3.1 A Construction and Environmental Management Plan (CEMP) is an important document for Local Planning Authorities (LPAs) to manage the implementation of a planning permission for the duration of the construction period. It is normal practice for this to be submitted and approved in writing by the LPA prior to the commencement of development. The draft CEMP submitted by the applicant goes further than the requirements of the draft CEMP condition in the Council's Local Impact Report and includes an extensive set of measures to limit, as far as possible, the impacts of construction.
- 3.2 The draft CEMP is considered to be an extensive document to manage the impacts of construction activities on the site in the event that permission is forthcoming. The Council may offer further comments on the draft CEMP during the fourth hearing session.
- 3.3 Section 2 of the Council's Hearing Statement for Session 2 makes recommendations for controlling piling through the CEMP. However, on reflection, it is considered that this would most appropriately be controlled by a separate, stand-alone condition.

4. Landscape and Ecology Management Plan (LEMP)

- 4.1 The Council has no comments to make on the draft LEMP at this stage. Any further comments will be fed into the discussions regarding condition drafting through the SoCG and during the fourth hearing session.

5. Planning Obligations

- 5.1 Planning obligations can be used under Section 106 of the 1990 Town and Country Planning Act to:

- (i) restrict the development or use of the land in any specified way;
- (ii) require specified operations or activities to be carried out in, on, under or over the land;
- (iii) require the land to be used in any specified way;
- (iv) require a sum or sums to be paid to the authority on a specified date or dates or periodically

5.2 Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. Regulation 122 and 123 of the Community Infrastructure Levy Regulations 2010 provides the following three legal tests for when obligations can be used:

- (i) necessary to make the development acceptable in planning terms;
- (ii) directly related to the development;
- (iii) fairly and reasonably related in scale and kind to the development

5.3 It is considered that an obligation could be used to cover matters such as heavy goods vehicle routing, sourcing of feedstock and the future use of bottom ash residues.

5.4 Securing the exportation of electricity to the local grid may also be considered to be most appropriately sought through an obligation rather than a condition. Such an obligation should require an implementation plan, details of connection arrangements, and timings for delivery.