



VALE OF GLAMORGAN COUNCIL

**TOWN AND COUNTRY PLANNING ACT 1990
(as amended)**

Section 78 Appeal

WRITTEN APPEAL STATEMENT

**Appeal by Coastal Oil and Gas Limited,
Site at Unit 1, Llandow Industrial Estate, Llandow**

**TOWN AND COUNTRY PLANNING (REFERRALS AND APPEALS) (WRITTEN REPRESENTATIONS
PROCEDURES) REGULATIONS 2003**

PLANNING INSPECTORATE REF. NO: APP/Z6950/A/11/2167112

VALE OF GLAMORGAN REF. NO: 2011/00812/FUL

**Hayley. I. Kemp BSc (Hons) MSc MRTPI
Senior Planning Officer (Enforcement and Appeals)**

**Vale of Glamorgan Council,
Dock Office,
Barry Docks,
Barry.
CF63 4RT**

1. INTRODUCTION

- 1.1 The appeal subject of this statement relates to the decision of the Vale of Glamorgan Council to refuse planning permission for 'Drill and test the insitu lower limestone and associated strata for the presence of gas' at Unit 1, Llandow Industrial Estate, Llandow.
- 1.2 The application was submitted on 17th August 2011, and subsequently REFUSED planning permission on 21 October 2011 for the following reason:
1. The applicant has submitted insufficient information to satisfy the Local Planning Authority that the quantity and quality of groundwater supplies in the vicinity of the site, would be protected, in accordance with the requirements of paragraph 30 of Minerals Planning Policy Wales (2000) (MPPW) which advises that development should 'not cause unacceptable impact, or otherwise damage or adversely affect water resources or sources of water which might be an integral part of sites of high landscape value or nature conservation importance' and where doubt remains, Councils should adopted the precautionary principle. Accordingly the development is contrary to the advice contained in the above guidance and Policies MIN 1 – Mineral Exploration and ENV 29 – Protection of Environmental Quality, of the Adopted Unitary Development Plan 1996-2011.
- 1.3 As confirmed in the Council's letter dated 12th March, 2012, the Council will not be providing any evidence in this appeal, nor will it be defending the reason for refusal of the application subject of this appeal. The purpose of this statement is to clarify the reason why the Council refused the subject planning application at the time of the decision. This statement also sets out the recent events that have led the Council to withdraw its objection to the proposal.
- 1.4 A detailed Statement of Common Ground has been agreed by both parties and will be submitted by the appellant with their evidence. This document contains a detailed description of the appeal site and surroundings, the details of the development, the relevant planning history, the relevant planning policy and Guidance and a list of agreed conditions.

2. THE LOCAL PLANNING AUTHORITY'S REASON FOR REFUSAL OF THE APPLICATION SUBJECT TO THE APPEAL

- 2.1 The Inspector will, of course, be aware that the application subject of this appeal was recommended by the Council's officers for approval, subject to detailed conditions. The planning application, reference 2011/00812/FUL, was presented before the Council's Planning Committee on the 20th October 2011. A late representation was received by the Local Planning Authority from Dwr Cymru Welsh Water on the 20th October, 2011, raising concerns regarding the small risk of contamination of the proposed exploratory drilling on their reserve groundwater sites in the Vale of Glamorgan. This letter was also put before the Planning Committee. Whilst this has previously been submitted to the Inspectorate with the appeal questionnaire, this letter has also been attached as Appendix ?? to this statement for ease of reference.
- 2.2 The Planning Committee considered the concerns of Dwr Cymru Welsh Water and came to the view that insufficient information had been submitted with the application to overcome Dwr Cymru Welsh Water's concerns and that the appellant had not satisfactorily demonstrated that the quantity and quality of groundwater supplies within the vicinity of the site would be protected from the development.
- 2.3 Members considered the guidance set out in Minerals Planning Policy Wales (MPPW) 2001, and in particular paragraph 30 on Surface and Groundwater Resources, which states:

30. Mineral planning authorities and the industry should take into account the need to protect the quantity and quality of surface and groundwater supplies.28 29 30 Changes in the water table as a result of mineral extraction or the disposal of mineral wastes must not cause unacceptable impact, or otherwise damage or adversely affect water resources or sources of water which might be an integral part of sites of high landscape value or nature conservation importance. De-watering that would lead to an offence against a protected species would normally require a licence (paragraphs 28 and 29). Changes in the water table may also cause significant geohazards such as the shrinkage of clay soils leading to subsidence or karstic collapse in limestone areas. The impact of changes to surface and groundwater are likely to require monitoring and require remedial measures to be introduced. Mineral planning authorities must consult the Environment Agency on these complex issues and, where doubt exists, should adopt the

precautionary principle in taking planning decisions on mineral development.

- 2.4 In view of Dwr Cymru Welsh Water's concerns, it was clear that doubt existed that the development would not cause damage or adversely affect water resources or sources of water within the vicinity of the appeal site. Accordingly, the Planning Committee adopted the precautionary approach in line with MPPW and refused the planning application subject of this appeal on the 20th October, 2011. The reason for refusal was on the basis of MPPW, as well as criterion (vi) of Policy MIN 1, in view of the potential unacceptable impact on surface water and ground water resources, and Policy ENV29, in view of the potential effect of pollutants being released into the water and soil on or off the site.
- 2.5 It is clear from the decision of the Planning Committee that the Council was wholly reliant on Dwr Cymru Welsh Water to support its case in this appeal. To this end, when the current appeal was submitted the Council contacted the Dwr Cymru Welsh Water in order for them to assist in the preparation of the Council's case for this appeal. In response to this, further correspondence was received from Dwr Cymru Welsh Water, (letter dated 10th February 2012, see Appendix 1) and this correspondence was referred to in the Council's Statement of Case. In this letter Dwr Cymru Welsh Water state that they do not object to the development subject of this appeal and they confirm that they are entering discussions with the appellant regarding the matter. This is clearly not the view that was expressed by Dwr Cymru Welsh Water when the matter was considered by the Council's Planning Committee.
- 2.6 In view of this change in Dwr Cymru Welsh Water's position, the first possible opportunity was taken to draw these matters to the attention of the Council's Planning Committee as any change in the Council's position with regard to the development subject of this appeal must be authorised by the Committee. Shortly before the Committee, further correspondence was received from Dwr Cymru Welsh Water in an e-mail (dated 27th February 2012), which further clarified their position that they did not object to the development subject of the appeal and that they would not be attending the appeal Inquiry. A copy of this correspondence is attached as Appendix 2. This correspondence together with the letter dated 10th February, 2012, was reported to the Council's Planning Committee on 1st March, 2012, with the recommendation that members note the contents of the correspondence from Dwr Cymru Welsh Water and that, in view
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of the position taken by Dwr Cymru Welsh Water, Council officers will have no technical evidence to support the Council's case at the appeal and recommended that the Council offer no further evidence at the appeal. A copy of the Committee report is attached as Appendix 3.

- 2.7 It was, thereafter, resolved that no further evidence be offered to the appeal. Council officers subsequently wrote to the Planning Inspectorate, the Appellant and the Rule 6 party to confirm the Council's position. A copy of this letter is attached as Appendix 4.
- 2.8 A further letter was received from Dwr Cymru Welsh Water dated 22nd March 2012 (see Appendix 5). In this letter they confirm that, in view of additional information that had been supplied to them by the appellant regarding the proposed drilling operation, they are now satisfied that the proposed development will not affect their groundwater reserves, given the quantity and nature of the drilling fluid used. They also state that based on the information received to date, they believe that there is an insignificant risk to pollution of their resources given the nature of the drilling operation.
- 2.9 It is now clear that Dwr Cymru Welsh Water have now effectively withdrawn their concerns with regard to the proposed scheme of development (subject to ongoing dialogue with the appellants) and have confirmed that they will not be attending the inquiry.
- 2.10 In view of the events since the Council's determination of the application subject of this appeal, the Council no longer object to the proposed scheme of development, subject to the imposition of appropriate conditions as suggested in the Statement of Common Ground. The Council do, however, maintain that, in the light of the information it had available to it at the time of the determination of the application subjected of this appeal, the approach it took in determining that that application was correct. The Council gave due consideration to Dwr Cymru Welsh Water's comments and concerns, and appropriately and reasonably applied the precautionary principle set out in the National Guidance provided in MPPW.
- 2.11 In order to seek to minimise the Inquiry's time in dealing with this appeal, the Council has, at the earliest opportunity, taken all reasonable steps to consider Dwr Cymru Welsh Water's revised position, reconsider its own position as a

result and inform all interested parties of these events as soon as they have occurred.