



**HILLSIDE COTTAGE,
LECKWITH**

PLANNING STATEMENT

TO REGULARISE THE IMPORTATION OF SOILS AND INERT WASTE FOR USE IN GROUND
STABILISATION AND TREE PLANTING WORKS AT: HILLSIDE COTTAGE, LECKWITH, Cardiff

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1. INTRODUCTION

1.1 This planning application ('the Application') is being submitted to the Vale of Glamorgan Council (VGC), as the appropriate Waste Planning Authority (WPA), to regularise the importation and use of soils and inert materials in the stabilisation and subsequent tree planting of land at Hillside Cottage, Leckwith.

1.2 The Application is submitted on behalf of Mr and Mrs Vatsaloo ('the Applicant'). The Application site extends to 0.32 hectares and lies adjacent to Leckwith . The Application site had previously been subject to historic mineral working estimated to be for limestone and other minerals, with the excavations having remained in an unrestored and, in places, unstable state.

1.3 Soils were imported to ensure the stability of the residential property known as Hillside Cottage, which was constructed in circa 1770.

1.4 These works were specifically designed to stabilise the surrounding land and remove any potential hazard, with the final levels creating a safe, stable landform to support a comprehensive tree planting, comprising native species consistent with the surrounding ground.

1.5 Materials used in the restoration were restricted to clean, naturally occurring sub and top soils, imported in line with approved protocols. The importation of soils commenced in December 2021 and continued, on a campaign basis, until February 2023. In total 65000 tonnes of soil and inert material waste imported to safeguard the structural stability of Hillside and achieve the appropriate levels.

1.6 It is recognised that this infill was undertaken without the benefit of planning permission and accordingly this Application seeks retrospective consent to retain the imported soils and regularise the landform (the Development).

1.7 The infill resulted in the loss of some trees, many of which were dead or dying due to Ash die back. Accordingly this Application proposes the establishment of a native compensatory woodland on the tipped land - the Application includes comprehensive specification for the establishment and management of a compensatory tree planting scheme, the aim of which is to restore tree cover over the former quarry and the tipped material. Given that the former quarry presented an adverse feature in the landscape, the proposed tree planting removes this 'scar' on the landscape.

2. SITE DETAILS

Location

2.1 Cottage, believed to have been built in 1770, was previously known as Factory House owned by the Marquis of Bute) and was

originally a woollen mill and a pig farm.

The site is a parcel of land set on the side of a hill. It is accessible via a steep access track down from the main road (B4267) via a locked gate.

The parcel of land at the base of the track is atop a hill, with a steep bank down to flats, approximately 50m from the River Ely along the north-eastern boundary of the site. There is a residential property, no longer lived in, in the southern corner of the site. The slope downwards was uneven, with occasional ditches present.

The site is predominantly covered in grasses, with some larger trees around the border. There is a section of land in the north-west of the site used for burning, which contained remnants of burned materials.

2.2 Refer to Location Plan at **Appendix 1**

Relevant Site Designations

Special Landscape Area

2.3 The eastern boundary of the Vale of Glamorgan abuts that of Cardiff. There is one SLA of relevance - SLA3 Ely Valley and Ridges. The boundary of the SLA mirrors that of the St Fagan's lowlands and Ely Valley SLA in Cardiff. This reflects the continuity of the valley landscape type across the two local authority areas which has a consistent quality.

Site of importance for Nature Conservation (SINC) - Factory Woods

2.4 This is an extensive area of dry calcareous woodland occupying a series of steep slopes and stream valleys below Leckwith. Although the woodland is quite variable in nature some areas have been in-planted with non-native conifers e.g. Scots Pine and other introduced species such as Hornbeam. Ash standards dominate with extensive areas of neglected hazel coppice. Much of the canopy is closed and the woodland floor is quite dark. It supports abundant ivy on the ground. Part of the woodland has developed around a former quarry and in some areas (outside the application site) it is apparent that waste tyres are burnt regularly, scorching some of the trees.

2.5 The woodland outside the application site is fenced off and looks tangled and near impenetrable, indicative of a lack of management and poor arboricultural care. Some limited past cutting of trees has taken place.

2.6 Council records in respect of this SINC states:

"The understorey and ground flora would certainly benefit from some cutting of the dense understoreytree saplings have invaded the understorey and require thinning and removal"

2.7 It should be noted that Western Power (now National Grid) undertook extensive tree clearance work adjacent to the high voltage overhead lines on the application site until 2018, when the cables were removed. Western Power Distribution regularly felled trees on land, an operation which was permitted the application site. The whole area used to be felled on a regular basis, which

was permitted under the Electricity Act 1989 and the Electricity (Necessary Wayleaves and Felling and Lopping of Trees) (England and Wales) Regulations 2013, (the “2013 Regulations”).

Geology

2.8

Geological maps of the area show most of the site to be underlain by superficial strata of calcareous Tufa.

Geological maps of the area show the site to be predominantly situated upon bedrock of the Blue Anchor Formation, comprising Mudstone. However, the west of the site is underlain by bedrock of the Penarth Group, comprising Mudstone and Limestone, and the east of the site is underlain by the Mercia Mudstone group, comprising Mudstone.

Made ground was identified across the site, to a maximum depth of 5.0mbgl.

Natural superficial strata was not identified during the site investigation.

Land Contamination Assessment

2.9

A phase 2 intrusive investigation was carried out which successfully characterised made ground across the site, within shallow soils. Representative soil samples were taken of these made ground materials and sent for analysis at a UKAS/MCERTS accredited laboratory for analysis of the identified contaminants of concern.

It is considered that the site may be suitable for the proposed use as residential garden area, providing the following recommendations & remedial measures are implemented.

(Refer to **Appendix 2** for full Contamination Assessment report)

3. PLANNING HISTORY

3.1. Hillside Cottage, Leckwith,

Cardiff

<u>Application</u>	<u>Location and Proposal</u>	<u>Applicant</u>	<u>Decision</u>	<u>Decision Date</u>
<u>2004/01038/FUL</u>	Hillside Cottage, Leckwith Hill, Leckwith First floor extension and conservatory	Mr M Vatsaloo,	Withdrawn	29/07/2004
<u>1999/00643/FUL</u>	Hillside Cottage, Leckwith Hill, Leckwith Construction of access drive and associated engineering works	Mr. M. Vatsaloo,	Approved	24/07/2000
<u>1999/00470/FUL</u>	Hillside Cottage, Leckwith Hill, Leckwith Construct retaining wall with associated earthworks	Mr. M. Vatsaloo,	Approved	17/06/1999

Recently approved development adjacent to the application site and Factory Woods on Adjacent Site, Leckwith adjacent to SINC - November 2023

Hybrid planning application for residential development for up to 228 dwellings (submitted in OUTLINE), associated highway and bridge improvement / realignment works (submitted in FULL). Development involves the demolition of all buildings on site and of the existing B4267 Leckwith Road Bridge



Application to Regularise the Infill

3.2 By submitting this planning application to VGCC the applicants seek to regularise the importation and use of the materials on the site and to mitigate the loss of trees and habitat.

3.3 On 3 February, 2023 the Vale of Glamorgan Council issued an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 (as amended) alleging that there had been a breach of planning control on land at Hillside Cottage, Leckwith, Leckwith, Cardiff, CF11

8AS. The applicants were required to:

(i) Permanently cease the importation and depositing of any materials, including waste material on to the land;

(ii) Permanently cease all ground engineering operations on the land, including the spreading and moving of any of the deposited or existing material or waste material and the re-profiling of the land. The material to be removed by 6 November, 2023.

3.4 It was considered that the activity was detrimental to biodiversity interests and the natural environment from potential pollution of land, surface and ground water and possible hazardous substances within a Special Landscape Area and Site of Importance for Nature Conservation (SINC).

3.5 The applicant accept that their action to safeguard the stability of their property, Hillside Cottage, without discussing the matter with the Local Planning Authority was wrong, and deeply regret proceeding without seeking planning consent in the first instance.

3.6 We examine below the various options available to the Local Planning Authority in this matter and consider the expediency of pursuing the requirements of the Enforcement Notice and whether it would be in the public interest to delay the remediation and re-afforestation of the application site in favour of an extensive engineering operation to remove all the material off site, which would be financially prohibitive and unviable.

3.7 ***It is appropriate and relevant to point out that the applicants derived NO financial gain (income) from the receipt of the tipped material.*** Moreover, it was a 'quid pro quo' arrangement, which was cost effective. However, the cost of machine hire amounted to some [REDACTED] which effectively resulted in a loss - the cost of plant hire.

3.8 Firstly, we examine **the role of the planning enforcement system** in achieving satisfactory outcomes:

3.9 The purpose of planning enforcement is to resolve problems, **not punish mistakes**. That means that, even where there is a breach of planning control, the Council is required to consider if it is in the public interest to pursue enforcement action. The Council is not required to take any particular action on a specific breach of planning control and, indeed, can decide that no action is necessary if the land owner is prepared to make suitable reparations and mitigation.

3.10 Research into the *Review of the Planning Enforcement System in Wales - Planning Division of the Welsh Government by Arup and Fortismere Associates in May 2013* stated:

"It is important that any system remains discretionary, and enforcement action is applied as a last resort rather than as a 'punishment'".

Table 1

OPTIONS	ACTION	CONSEQUENCES	RANKING IN ORDER OF EARLY PLANNING GAIN
Option 1	Seek the removal of all the tipped material from site. [pursuance of Planning Enforcement Notice]	The removal of the tipped material from the site will have significant environmental impacts in respect of: <ul style="list-style-type: none"> Enforcement Notice does not provide for replacement tree planting. It would result in potentially dangerous traffic manoeuvres by tipper lorries to Leckwith Hill (B4267) Further disturbance of habitat Delay the comprehensive re-planting of the site with native tree species Increase of heavy goods vehicles movement on Leckwith Hill Significant dust generation 	2
Option 2	Do nothing - No remediation/ re-planting	Unacceptable option - due to lack of remediation and mitigation. No landscape enhancement.	3
Option 3	Retain material and re-establish woodland with native tree species and wild flora	Advantages include: <ul style="list-style-type: none"> Early establishment of tree cover No dust generation No traffic issues - exiting lorries Early landscape remediation Financially viable 	1

		Opportunities to invite Wildlife Trust or Woodland Trust in future management of woodland	
Option 4	Retaining walls or gabions	Unacceptable visual intrusion Extensive engineering work There would remain a significant drop from Hillside Cottage to the base of the workings. Unrestored and unstable quarry faces would remain exposed, posing a potential hazard to the applicant's family and other site users	3

None of the trees, which were removed from the application site were protected by a Tree Preservation and no Felling Licence was required under the Forestry Act 1967 (The Act) contrary to the National Resources Wales' contention in its statement supporting its (contested) legal action regarding alleged breaches of the Act.

Pre Application Discussions

3.10 Following receipt of the Council's Planning Enforcement Notice and seeking professional planning advice, a meeting was urgently convened with the Council's Planning Enforcement personnel to discuss the matter. The applicants explained that their sole motive was to safeguard their house (Hillside Cottage) from subsiding into the quarry due, in part, to the impact of flood water encroachment from the public highway (Leckwith Hill), which caused erosion and the undermining of the cliff-edge adjacent to Hillside's foundations.



VIDEO-2023-07-04-12-18-27 (1).mp4

3.11 Discussions took place between the applicants' agent and the Council's Enforcement Officer (Mr Ben Worrall). The applicants acknowledged that they had erred by breaching planning control. They expressed their regret and their wish to remediate the damage and undertake sustainable mitigation.

3.12 The applicants confirmed that the option of removing the tipped material off-site would not only be financially unviable but would result in considerable disadvantages, which are outlined in **Table 1**.

4. RATIONALE FOR THE DEVELOPMENT

Overview

4.1 Prior to the tipping, structural engineers confirmed that the voids to represent an unacceptable hazard, and advised immediate action to remove the hazard. Accordingly, a number of alternative engineering solutions were considered (see 4.2 to 4.6 below). Given the cost implications of commissioning written recommendations, the applicants relied on the verbal advice of a Chartered Engineer following a site inspection.

'Do nothing' Scenario

4.2 Prior to the development taking place the most significant physical hazard to Hillside Cottage was the void which lay adjacent area occupied by Hillside Cottage and its curtilage (**See Photograph 1**). Within this area the unrestored ground levels fell to by some 25m. Accordingly 'doing nothing' to address this was not considered as a feasible option and an appropriate engineering solution was required both to remove the hazard and ensure the long term stability of Hillside Cottage.

Construct a Retaining Wall

4.3 In recognition that an engineering solution would be required to facilitate the change in levels, the possibility of constructing a retaining wall was investigated. Given the variation in levels, any such wall would be a minimum of 10m in height and would require significant

engineering input to ensure its long term stability. Furthermore this wall would be required to extend some distance above the approved levels within Hare Hill Croft in order to provide sufficient edge protection. Accordingly it is likely that the total wall height would, in places, be in the region of 7m – 8m.

4.4 The two main possibilities explored included the placement of gabion baskets and the construction of a reinforced concrete wall. Both construction methods would have involved significant site works which would, on their own, have destroyed a significant part, if not all of, the calcareous grassland present within the application site.

4.5 Furthermore the visual impact of a 7m – 8m high wall would be significant. Notwithstanding any potential ecological or visual impacts, the construction of such a structure would not remove the significant safety hazard presented by the unrestored mineral workings. There would remain a significant drop from Hare Hill Croft to the base of the workings and, in addition to this, unrestored and unstable quarry faces would remain exposed, posing a potential hazard to the applicant's family and other site users (in 2008, one of the applicant's children died tragically in an accident in the quarry/woodland at Hillside Cottage). In light of the above, immediate action was deemed to be necessary, but did not excuse the failure to discuss the proposals with the Local Planning Authority. The construction of a retaining wall was considered to be both impractical and unsuitable).

Infill of Remaining Voids

4.6 Having discounted both the 'do nothing scenario' and the construction of a retaining wall, the potential to infill the remaining mineral workings and mature and dying trees was investigated.

4.7 The infill with aggregates was considered initially, it became apparent that the use of clean soils offered a more sustainable option. Whilst an exact volume of material used in the infill of the area adjacent to Hillside Cottage is impossible to quantify accurately, it is estimated that 6,500 tonnes of soil and inert material was utilised. (See **Appendix 3** for final topography)

5. THE DEVELOPMENT

General

5.1 The development consists of the importation of clean naturally occurring soils to facilitate the in-filling of historic mineral workings in order to ensure the long-term stability of the land and remove the significant hazards.

5.2 The importation of material for use both within the application site commenced in December 2021, and was largely completed by February 2023.

5.3 In total up to 6,500 tonnes of soils were imported, and accordingly this retrospective planning application seeks permission for the importation and use of the materials used to remove the hazard and to provide suitable conditions for the establishment of a new woodland at Hillside Cottage. A significant advantage of the proposal is the early restoration of a woodland canopy and the creation of a new and structurally diverse woodland to replace trees affected by Ash die-back. The newly planted trees will replace trees lost recently.

5.4 The imported materials consist of clean, naturally occurring soils stripped from other development sites prior to construction. Importation occurred on a campaign basis, as and when suitable materials became available and weather conditions were suitable for the handling of soils. Where relevant the operations were undertaken in line with a Construction Management Plan.

5.5 Wherever possible materials were tipped directly into the voids to be restored however, where this was not practical, they were temporarily stockpiled pending placement.

Importation of Materials

5.6 All soils were imported in line with standard protocols, which ensured the materials were of a suitable quality for their intended use and posed negligible risk of contamination.

5.7 The site owners authorised the direct transfer of clean, naturally occurring materials from named donor sites, the majority of which were sourced from a various local sites, with geo-environmental investigations confirming the materials to be free of contamination.

5.8 Materials were imported by road, generally within rigid tippers capable of carrying loads of 20 tonnes. Upon arrival at the site all loads were inspected and any materials other than naturally occurring soils and inert waste rejected. Upon tipping a further inspection was carried out, with any unsuitable materials segregated and stored separately pending removal.

Land formation

5.9 Numerous voids within the site were backfilled in order to achieve the objective of structural stability of Hillside Cottage. Works adjacent to the Cottage have been completed

except for the final landscaping. A comprehensive re-planting scheme is included within this application.

5.10 The final landform is shown in **Appendix 3** -Topography), with sections shown in **Appendix 4** - Sections). The principal plant used in the placement and landscaping of materials included 360° hydraulic excavators and dump trucks. In order to ensure the creation of a stable landform, materials were spread in layers of no more than 300mm, with compaction achieved by the overrunning of plant.

Final Restoration

5.11 Whilst landscaping works adjacent to Hillside Cottage have been completed, the final restoration of the remainder to be completed - by means of the removal of unsuitable material and the preparation of the ground for tree planting and the sowing of wild flower seed and some hydro-seeding. In order to ensure that these final areas are suitable for the establishment of woodland, all ground preparation will be undertaken as recommendation in the Land Contamination Assessment - remediation.

5.12 Owing to the free draining nature of the underlying rock, and in the absence of any hard standing or impermeable materials, no drainage has been installed or is proposed. Should any significant standing waters or surface water run-off be observed, the Applicant will review the need for drainage and, if required, appropriate measures will be taken to ensure that any surface water run-off from the site is minimised.

Habitat Creation

5.13 The creation of an appropriate area of compensatory habitat has been identified as a key planning issue and accordingly this is dealt with in the ***Tree Planting Proposals (Appendix 5 & 6)*** and the ***Woodland Management Plan (Appendix 7)***. The key objective of the Management Plan is to set out the methodology for the establishment and long-term management of the proposed compensatory tree planting.

5.14 The principal aim of the area is to establish an area of native woodland and a species rich area of wild flora. Whilst full details of the proposed works can be finalised by condition and contained within the Management Plan, the three principal stages will involve:

- a. preparation to ensure that the soil conditions are suitable for the establishment of

woodland edge species;

- b. Planting and long-term management of native, species-rich whips at the edges of the proposed woodland. The flowers provide nectar for a variety of insects and the berries are eaten by birds and mammals. Small mammals, such as dormice and bank voles, eat both the berries and the flowers. Many moth caterpillars feed on elder foliage, including the white-spotted pug, swallowtail and the dot moth; and
- c. Planting and management of a suitable mix of native trees (climax and pioneer species). Whilst the woodland itself would offer significant biodiversity benefits, the principal aim of the works is to establish a dense woodland canopy and landscape enhancement, which achieves the development plan landscape objectives and policies.

5.15 The Management Plan provides a five year management framework, which is considered to be an appropriate timescale to ensure that the desired habitats have established satisfactorily. In order to ensure the continued success of the habitats created it is however proposed to implement an overall aftercare period of no less than ten years.

5.16 Accordingly, following the completion of the initial five years of aftercare it is proposed that a revised Management Plan will be agreed to cover this extended aftercare period. It is anticipated that this extended aftercare period will be secure by means of a relatively simple 'Section 106' legal agreement.

6. MATERIAL CONSIDERATIONS

Transport

6.1 Materials were imported in HGVs capable of carrying up to 16 tonne loads, with importation occurring on a campaign basis as and when suitable soils were available. Sufficient room was available for HGVs to turn within the site and accordingly all vehicles exit the site in a forward gear. The importation of the 6,000 to 6,500 tonnes of materials for which consent is now

sought required approximately 650 HGV loads and no further materials are required to be imported to achieve the final restoration of the Application site.

6.2 The majority of materials were imported over a period of approximately 13 months however, as this occurred on a camping basis, movements were not evenly spread throughout this period. At peak periods a maximum of 60 daily movements (30 in and 30 out) occurred however it should be stressed that such periods were limited in their extent and frequency. Wherever possible HGV movements were limited to between the hours of 09.00 to 16.00.

6.3 In order to prevent material being carried onto the highway a handheld jet spray was available to ensure that, if required, the chassis and wheels of a HGVs were cleaned appropriately. Any material deposited on the highway was removed as soon as possible.

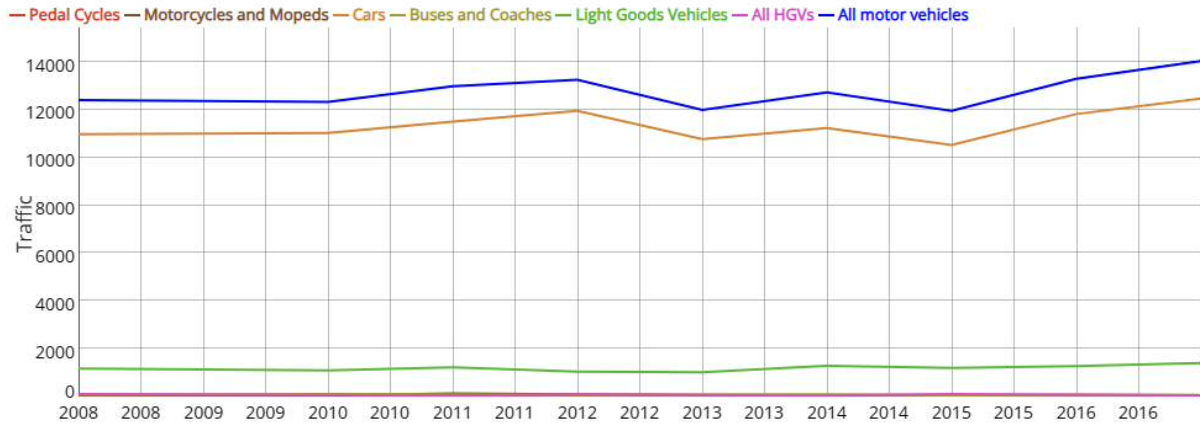
6.4 The removal of the tipped material from the application site as required by the Enforcement Notice would have significant highway implications. Although a transport Assessment has not been undertaken, an initial assessment indicates that extensive lorry traffic movements at this inadequate access would be potentially dangerous.



6.5 Figure 1 below indicates the volume of traffic on Leckwith Hill (figures only available to 2016)

Figure 1

Traffic by Year



Street Name: Leckwith Road, Road Number: B4267, Road Type: Class B Road, OS Grid: ST157738, Location: Cardiff, Census Point ID: 951340, Census Point Coverage: B4267, Leckwith Road

Noise and Dust

6.6 Both noise and dust emissions from the removal of the material off site was a significant consideration during the deposition of the fill material on site. Reasonable efforts to minimise any impacts were observed and where relevant the provisions of a Construction Management Plan were followed.

6.7 Owing to the relatively freshly excavated nature of the imported soils, the materials arrived in a slightly damp condition. This effectively minimised the potential for the release of any significant quantities of dust. However, a range of additional mitigation measures were employed such as enforcing site speed limits, damping down the internal roadway etc.

Flood Risk

6.8 The application site is considered to be at minimal risk of flooding from the River Ely below. Given its low flood risk, and as the site extends to less than one hectare, no site specific flood risk assessment is required. Accordingly the Development is not considered to pose any increased flood risk to any third party properties.

6.9 Notwithstanding the above, the issue of storm water run-off from the public highway on

to the application site resulted in storm damage and erosion to the applicant's property, which has resulted in severe erosion and the structural instability of Hillside Cottage. The flood waters running through the application site, which undermined the foundations of the applicant's property is captured on video footage and clearly illustrates the physical damage caused. The professional advice proffered to the applicants by structural engineers was unequivocal - 'Unless something is undertaken urgently to support the dwelling and the driveway, they will be washed away and would fall into the adjacent void created by the flood water from the public highway'.'

Photograph 1



The circumstances illustrated above are particularly pertinent to the current planning application and to the '*counter-proposal*' which advocates the removal of the tipped material. Whilst the consequences damage to the applicant's land is potentially a civil matter between the applicant and Local Highway Authority, there is no doubt that the public highway drainage infrastructure adjacent to the application site is not fit for purpose and contributed significantly to damage to the applicant's property. The flood damage, subsidence and land/mud-slippage has severely compromised the applicant's property by flood damage resulting in structural instability.

Ecology

6.10 A Preliminary Ecological Assessment (PEA), normally comprises a desk study and a

walkover survey, such as an Extended Phase 1 Habitat Survey. A PEA can be undertaken in a variety of contexts, often as a preliminary assessment of likely impacts of a development project. Given that such surveys are inherently 'predictive', such assessments cannot be undertaken where the development has already taken place. In these circumstances, it is normal to rely upon existing ecological records of a site, if any, and a post-development review of actual impacts. The application site was not the subject of a detailed ecological assessment prior to the development taking place, and only a basic ecological descriptions of the SINC is currently available, which is reproduced below.

Whilst ecological surveys are normally required wherever protected species or habitats are present,, the Council's SINC assessment states that

"although the woodland is quite variable in nature some areas have been in-planted with non-native conifers e.g. Scots Pine and other introduced species such as Hornbeam. Ash standards dominate with extensive areas of neglected hazel coppice and much of the canopy is closed and the woodland floor is quite dark. It supports abundant ivy on the ground".

There was no reference to protected species on the application site, and given the .circumstances (a retrospective application and the impossibility of assessing habitat beneath the quantum of tipped material) and seasonal constraints, it was impossible to undertake an Phase I Habitat Survey/Ecological Assessment in the time available prior to this application being submitted. . However, a desk study for the site has confirmed the following:

1. The site has been identified to contain one non-statutory designations including - Factory Wood SINC.
2. Several other non-statutory and statutory designated sites occur in the wider area.
3. Given the current position, the Factory Woods SINC on the application site has been impacted by the tipping over a relatively limited area of diseased ash and other neglected species, which had reduced its ecological value. To require an ecological assessment of the application site at this stage would be considered to be futile and unreasonable given the record of its poor ecological state and lack of 'pre-development' ecological surveys.
4. Designated sites in the wider environment, however, have been unaffected by the development. The Contamination Assessment report states that the river Ely is unaffected. It states:

No significant levels of contaminants of concern were identified, with respect to controlled waters. Therefore, the risk posed to controlled waters is considered to be negligible.

6.11 No ecological SSSI's are present within 2km of the Application site and accordingly the development did impact any SSSI or other any other statutorily designated ecological site.

6.12 The former mineral working the application site originally included a mixture of exposed rock faces, tall herb vegetation and a mixture of mature and dying trees. Whilst the site had regenerated naturally, much of the predominant species (ash) was ravaged by ash die back (Ref: Aspinalls Planning & Legal's Assessment (July 2021) were programmed to be removed and replaced in accordance with good practice.

6.13 Former mineral working on the application site originally included a mixture of grazing land, exposed rock faces, tall herb vegetation and natural regeneration. This area includes an area of over-mature trees, many of which were ravaged by ash die back (Ref: Aspinalls Planning & Legal's Assessment - September 2021) which were planned to be removed in accordance with national good practice. It is however accepted that the development resulted in the loss of other mature trees, many of which were either dying or non-native, such as sycamore.

6.14 Whilst the loss of this habitat is noted, stability and safety concerns required swift action to remove the significant hazard, of 'imminent' collapse of the applicant's dwelling house/home. In retrospect, the applicants accept that (ideally) it would have been better to have discussed the matter with the Council in order to explore various options, including the re-establishment of the woodland (planting appropriate native tree species and the establishment of a sustainable diverse compensatory habitats to mitigate the losses (Biodiversity Net Gain). Accordingly, this application is accompanied by a Tree Planting and Woodland Management Plan.

6.15 Contrary to the NRW's assertion in recent communication with the applicants, the trees at Hillside do not form part of an ancient woodland network. According to the Woodland Trust's definition, ancient woods are areas of woodland that have persisted since 1600 in England, Wales and Northern Ireland, and 1750 in Scotland. This is when maps started to be reasonably accurate so we can tell that these areas have had tree cover for hundreds of years. They are relatively undisturbed by human development. Given the history of mining on the application site during the 18 and 19th centuries, the woodland cannot, therefor be described as an ancient woodland.

Visual Impact

6.16 The site is remote and is not visible to receptors such as residential properties and the public highway, and the development has resulted in relatively minor, temporary visual impacts. The most prominent of the development included the importation and stockpiling of materials and, in recognition of this, wherever possible stockpiling was limited. The early growth of grasses and wild flora on the land has mitigated distant views of the site.

6.17 The long term benefits of site restoration will make a positive contribution to the local landscape and accordingly the additional short term visual impacts are considered to be outweighed by the longer term landscape and visual benefits. Furthermore, the tree planting will create a varied age structure to surrounding, over-mature woodland of a single age structure. The Woodland Trust has undertaken some limited work of selective thinning to allow natural regeneration.

Pollution Prevention and Control

6.18 All imported soils consist of naturally occurring materials and all materials have been imported in line with a range of safeguards which combine to ensure that no potentially contaminated material is present. Accordingly the potential for any pollution to arise from the imported materials is considered to be negligible. The Phase II Contamination Assessment states:

No significant levels of contaminants of concern were identified, with respect to controlled waters. Therefore, the risk posed to controlled waters is considered to be negligible.

7. PLANNING POLICY

Local Development Plan:

Section 38 of The Planning and Compulsory Purchase Act 2004 requires that in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Vale of Glamorgan Adopted Local Development Plan 2011-2026, which was formally adopted by the Council on 28 June 2017, and within which the following policies are of relevance:

Strategic Policies:

Vale of Glamorgan Local Transport Plan 2015 - 2030

The Council is committed to reducing the environmental impact of traffic activities and its aim is to help mitigate negative impacts of traffic noise and air pollution, road traffic accidents and general degradation of the environment. At the same time, the Council's policy offers the potential benefits of better health and well-being.

POLICY SP10

Built and Natural Environment Development proposals must preserve and where appropriate enhance the rich and diverse built and natural environment and heritage of the Vale of Glamorgan

Managing Growth Policies:

POLICY MG17 – Special Landscape Areas

POLICY MG21 – Sites of Importance for Nature Conservation, Regionally Important Geological and Geomorphological Sites and Priority Habitats and Species

POLICY MD7 – Environmental Protection

POLICY MD9 – Promoting Biodiversity

In addition to the Adopted LDP the following policy, guidance and documentation supports the relevant LDP policies.

Planning Policy Wales:

National planning policy in the form of Planning Policy Wales (Edition 11 2021) (PPW) is of relevance to the determination of this application. The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales.

The following chapters and sections are of particular relevance in the assessment of this planning

application:

Chapter 6 - *Distinctive and Natural Places*

Recognising the Special Characteristics of Places (The Historic Environment, Green Infrastructure, Landscape, Biodiversity and Ecological Networks, Coastal Areas)

Recognising the Environmental Qualities of Places (water and flood risk, air quality and soundscape, lighting, unlocking potential by taking a de_risking approach)

Technical Advice Notes:

The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

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

Technical Advice Note 18 – Transport (2007)

Although no Travel

Supplementary Planning Guidance:

In addition to the adopted Local Development Plan, the Council has approved Supplementary Planning Guidance (SPG).

The following SPG are considered to be relevant:

Biodiversity and Development (2018)

The proposal will comply with the SPG by the provision of adequate compensatory habitat on the application site and is considered sufficient to compensate for the loss that had occurred. The current application includes an area of compensation approximately twice greater than the area lost, which would significantly improve in the overall biodiversity of the area. In addition to the increased area, further biodiversity will be introduced through the planting of species rich hedgerows and the development of a wild flower meadow.

These measures are considered to more than adequately compensate for the previous loss and, as such, the development is considered to be compliant with the LDP policies.

Trees, Woodlands, Hedgerows and Development (2018)

As above - Biodiversity and Development 2018

Travel Plans (2018)

Although no Travel Plan was undertaken for the removal of the tipped material, it is considered appropriate that a planning application should consider traffic impact and of material removal on the local traffic network. Existing and proposed access arrangements and any known site issues or

problems are factors for consideration if it is minded to refuse the current application. The location and characteristics of the site access, which will have a significant impact on road safety. An initial site assessment and overview identified factors which mitigated against road safety. It was concluded that the physical infrastructure (access configuration and local highway network) is not conducive to providing a safe and accessible access for the removal of such a large volume of soil.

8. CONCLUSIONS

This application is being submitted to VGCC to regularise the importation and use of clean soils in the stabilisation and landscaping of land at Hillside Cottage, Leckwith, Cardiff.

Both the Application site and Hillside Cottage had previously been subject to shallow mineral working, with the excavations having remained in an unrestored and, in places, unstable state. Soils were originally imported as part of the stabilisation of Hillside Cottage; however, to ensure the stability of the surrounding land and support the grounds and the access driveway, it was also necessary to infill adjacent former mineral workings.

It is recognised that this infill, outside the footprint of the residential development, was undertaken without the benefit of planning permission and accordingly this Application seeks retrospective consent to retain the imported soils within the Application site and regularise the landform created.

In order to minimise any disturbance associated with the development, operations have included mitigation measures in order to minimise the impacts. The greater part of the works have now been completed, with only the tree planting work remaining to be undertaken. This will be undertaken within 12 month of planning permission being granted.

This Application includes the establishment of an appropriate area of compensatory habitat, the extent and location of which has been guided by the Council's policy and guidance documents..

The current application, including the proposed compensatory planting, complies will all relevant policies of the Development Plan. A comprehensive *Establishment and Management Plan* for this area has been produced, which accompanies the submitted planning application.