

PREFACE ITEM

APPLICATION NO. 18/0084/RET

APPLICANT(S) NAME: Bryn Recycling Ltd

PROPOSAL: Retain extension to material recycling facility to include biomass boiler and chimney flue

LOCATION: Gelliargwellt Uchaf Farm Gelligaer Road Gelligaer Hengoed CF82 8FY

This application was reported to Planning Committee on 15 August with a recommendation for approval subject to conditions. A copy of the report is attached as an Appendix.

The Committee resolved to defer the application for a further report to include reasons for refusal based on the impact on nature conservation interests.

The application site is located at a distance of more than 870 metres from Waun Rhydd SINC and approximately 500 metres from Penallta Bog SSSI. The proposal involves the incineration of recycled wood chip and has the potential to cause emissions to atmosphere. However, information has been supplied that indicates that any emissions are capable of being effectively controlled via the environmental permit process and that the proposed 14-metre high chimney will disperse emissions effectively.

Guidance in Planning Policy Wales 9 and TAN21: Waste states that in determining planning applications it is reasonable for a planning authority to assume that other regulatory regimes, such as the pollution control regime, will operate effectively and that planning authorities should not duplicate controls more appropriately imposed as part of the permit. An application for a permit was duly made on 10 July 2018 and is being progressed.

The planning and pollution control regimes are complementary but separate processes and there is no requirement for a permit to be in place before planning permission is granted. Guidance states that the determination of a planning application should focus on whether the proposed development is an acceptable use of land at the location proposed, having regard to the likely effects on neighbouring land uses.

Cont....

Application No. 18/0084/RET Continued

The site is part of an existing waste management facility with permission for sorting, separating, storage and transfer of various waste types, including paper, card, plastics, wood and construction/demolition waste. A landscaped bund has been constructed around the facility in accordance with permissions granted in 2013. The proposed extension to the building would not have a material impact on the character of the area as the planting scheme matures and while the flue would be visible in the landscape due to its height, a dark, matt finish would assist in blending it in with the surrounding area. This can be required by condition. In land use terms, therefore, the proposed development is considered to be acceptable.

One additional objection from a local resident was received on 30 August 2018 on the grounds that the boiler was already in-situ and could cause emissions that may have health impacts. These matters are addressed above and in the report dated 15 August 2018.

The recommendation is still to approve for the following reasons:

- Information submitted with the application, which has been independently assessed by the Council's advisers, indicates that air quality impacts can be satisfactorily managed through the imposition of appropriate conditions and by the permit process. An application for a permit has now been duly made and is currently under consideration.
- The proposal is consistent with national policy in Planning Policy Wales 9, Technical Advice Note 21: Waste and TAN 8: Renewable Energy which support development that diverts waste from landfill and increases energy generation from renewable sources. The development would contribute to those aims, albeit on a small scale.
- The proposal relates to a small extension to an existing waste management facility which is screened by a bund and tree planting. The main landscape and visual impact is from the flue. However, the Council's Landscape Architect comments that the impact can be reduced by applying a matt, dark finish. This can be secured by condition.
- The proposal is consistent with policies in the Caerphilly County Borough Local Development Plan up to 2021 – Adopted November 2010.

RECOMMENDATION: That planning permission is GRANTED subject to the conditions contained in the report considered on 15 August 2018.

Cont....

Application No. 18/0084/RET Continued

However, if members are minded to refuse the application, the following reason is suggested:-

1. It has not been adequately demonstrated that the emissions from the biomass burner would not have an adverse impact on nature conservation interests in Waun Rhydd Site of Importance for Nature Conservation and Penallta Bog SSSI, contrary to policy CW4 in the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010.
-

Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
18/0084/RET 31.01.2018	Bryn Recycling Ltd C/o Barton Willmore Mr J Ayoubkhani Greyfriars House Greyfriars Road Cardiff CF10 3AL	Retain extension to material recycling facility to include biomass boiler and chimney flue Gelliargwellt Uchaf Farm Gelligaer Road Gelligaer Hengoed CF82 8FY

APPLICATION TYPE: Retain Development Already Carried Out

SITE AND DEVELOPMENT

Location: The site is located at Gelliargwellt Uchaf, approximately 1.2 kilometres south-west of Gelligaer.

Site description: The site comprises a working dairy farm with land between Gelligaer, Trelewis and Nelson. Diversification has taken place over the last 30 years and the farm now contains an anaerobic digestion facility, small quarry, and materials recovery and transfer facility (MRF). The application site is within the MRF.

Development: The proposed development is an extension to the smaller of two recycling buildings at the MRF to house a biomass burner.

Dimensions: Width 13.8m, length 33.3m, height 9.2m. The height of the flue is 14m above ground level.

Materials: Profile sheet cladding.

Ancillary development, e.g. parking: Not applicable.

PLANNING HISTORY 2005 TO PRESENT

P/05/0944 - Construct building to enclose existing waste sorting area within waste transfer station - Granted 19.08.2005.

P/05/1038 - Vary Conditions (4), (8) and (16) of Consent Ref. P/01/0234 - Granted 06.10.05.

Cont'd.....

Application No. 18/0084/RET Continued

P/05/1103 - Vary Condition (4) opening hours, Condition (3) operation of shredder and Condition (5) height of windrows on Planning Application P/03/1555 - Granted 13.10.02.

07/1082/FULL - Erect building to enclose existing materials, recycling facility and retain and complete associated earthworks and hardstanding - Refused 24.04.09.

08/0675/NCC - Delete Condition 16 of planning permission ref. P/01/0234 to operate waste transfer station on a permanent basis - Refused 24.04.09.

09/0228/NCC - Delete Condition 16 and amend Condition 15 of previous consent 07/0063/NCC in respect of hours to receive waste, hours of operation and type of materials to be received - Granted 25.03.2010.

09/0968/FULL - Erect building to incorporate anaerobic digestion facility with associated engineering and landscaping works - Withdrawn 02.11.10.

10/0429/RET - Retain and complete earthworks - Granted 04.11.10.

11/0224/FULL - Erect building and tanks to incorporate anaerobic digestion facility with associated plant, engineering and landscaping works - Refused 08.12.2011 Allowed on appeal 12/0020/REF 28.03.2013.

11/0226/FULL - Provide permanent operation of materials recycling facility and erection of new building - Refused 07.12.2011. Allowed on Appeal 28.03.2013.

11/0227/NCC - Delete condition 13 of planning permission ref 10/0429/RET to remove requirement to reduce height of bund to 1 metre above the adjoining ground level - Granted 08.12.2011.

14/0226/FULL - Provide materials recycling facility (revision to approved material recycling facility reference 11/0226/FULL) - Granted 14.07.14.

POLICY

LOCAL DEVELOPMENT PLAN

Site Allocation: The site is outside settlement boundaries and is within a Special Landscape Area.

Policies: The following policies in the Caerphilly County Borough Local Development Plan up to 2021 are relevant to the determination of this application: SP6 Place Making, CW2 Amenity, CW4 Natural heritage protection, CW15 Locational constraints.

Cont'd....

Application No. 18/0084/RET Continued

NATIONAL POLICY Planning Policy Wales November 2016, TAN 21: Waste 2014.

ENVIRONMENTAL IMPACT ASSESSMENT

Did the application have to be screened for an EIA? Yes. The proposed development falls within schedule 2 of the EIA Regs - Installations for the disposal of waste and it involves incineration.

Was an EIA required? No.

COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? The site is within a Development High Risk Area and the Coal Authority has been consulted.

CONSULTATION

The Coal Authority - The Coal Authority raises concern because the site is within the Development High Risk Area where there are hazards and features that need to be considered in the determination of the application.

The application is supported by a Coal Mining Risk Assessment that was prepared for a previous development on the site and recommending that intrusive site investigations be carried out. However, there is no evidence that those works were carried out.

Objection is raised and the CA requests that the applicant demonstrates how coal mining legacy issues have been taken into account in the development.

Ecologist - The Council's Ecologist requests that provision is made for nesting birds through the provision of artificial nest boxes as a biodiversity enhancement.

Landscape Architect - The development site is located within the Mynydd Eglwysilan Special Landscape Area (SLA) NH1.3. This non-statutory designation seeks to protect this local area due to the distinctive landscape, historical, cultural, biodiversity and geological features and characteristics within the County Borough. As the current LDP states; 'The policy is not designed to preclude development. However, development proposals should not have an unacceptable impact on the specific distinctive features or characteristics associated with the SLA.'

Cont'd....

Application No. 18/0084/RET Continued

Whilst it is generally agreed that the footprint and height of the building will eventually be adequately screened by existing planted boundary bunds, once planting has matured. However, there are concerns over the visual impact the 14m high chimney flue has, due to its height and finish. Having visited viewpoints, approximately 1km from the site, officers note that primarily to the SE, SW and south of the site that it is clear that the chimney flue is visible above existing planting and unlikely to become screened. This is further exacerbated by the construction material, which appears to be a stainless steel finish, which catches the light and therefore stands out against the dark backdrop of existing woodland and vegetation located to the north and west.

Therefore it is recommended that the finish to the flue is conditioned and that a dark brown or black flue is used. This is in the interests of visual amenity and will assist to blend the chimney flue in with the SLA and sites woodland backdrop.

Head Of Public Protection - No objections received. Following receipt of a Chimney Height Assessment (Environmental Visage, June 2018).

Transportation Engineering Manager - No objection is raised.

Senior Engineer (Land Drainage) - The site is situated within an area susceptible to groundwater and surface water flooding. It is requested that the applicant provide a drainage strategy document to consider the viability of the intended method of surface water drainage. Should the Local Planning Authority be minded to grant permission, it is recommended as a minimum the following or similarly worded conditions be appended to any permission:

Condition: Prior to the commencement of works on site a scheme of land and surface water drainage within the site shall be submitted to and agreed in writing by the Local Planning Authority. All works that form part of the agreed scheme shall be carried out before any part of the development to which it relates is occupied.

Reason: To ensure the development is served by an appropriate means of drainage.

It is also recommended the Planning Authority provide the applicant a copy of the document "Requirements Relating to Drainage & Flood Risk Management".

Gelligaer Community Council - No comment.

ADVERTISEMENT

Extent of advertisement: The application has been advertised by means of notices posted at five locations in Gelligaer, Nelson and Penybryn and letters to one neighbouring property.

Cont'd....

Application No. 18/0084/RET Continued

Response: One letter of objection has been received.

Summary of observations: The grounds for objection are the retrospective nature of the application, smoke emissions, the nature of the fuel - only clean wood should be burnt.

SECTION 17 CRIME AND DISORDER ACT

What is the likely effect of the determination of this application on the need for the Local Planning Authority to do all it reasonably can to prevent crime and disorder in its area?
The proposed development is unlikely to have a significant effect on crime and disorder in the local area.

EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? No.

COMMUNITY INFRASTRUCTURE LEVY (CIL)

Is this development Community Infrastructure Levy liable? No.

ANALYSIS

Policies: Decisions on planning applications must be made in accordance with the development plan unless there are material planning considerations that indicate otherwise. Such considerations may include current circumstances, policies in an emerging development plan and policies of the Welsh government and the UK government. The main considerations in this case are as follows.

The principle of the development:

The proposed development would be within an established waste management facility and is considered to be acceptable in principle.

Impact on the amenity of local residents and on the local area:

Policy CW2 states that development proposals must ensure that there is no unacceptable impact on the amenity of adjacent properties or land and that the use is compatible with surrounding land uses. The proposal should not result in over-development of the site and should not compromise the viability of existing neighbouring land uses.

Cont'd....

Application No. 18/0084/RET Continued

The development comprises a small extension to a waste management building to house a biomass burner with a flue projecting 14m above ground level. The biomass burner would use 3,120 tonnes a year of materials received at the MRF but overall throughput to the MRF would not increase. The heat generated would be used to heat a drying floor within the building.

The biomass fuel and the boiler is contained within a building and the site is within an operational waste management facility. In this context it is not considered that there would be significant additional adverse impacts arising as a result of the biomass boiler, which would be regulated by a permit as well as by planning conditions. The nearest residential areas are located at a distance of 700 metres from the site.

Impact on natural heritage:

The site is within NH1.3 Mynydd Eglwysilian Special Landscape Area, which was designated for its open upland and lowland landscape providing a landscape setting and context for settlements in the County Borough. Development control issues include the desirability of preserving geological, and archaeological features, restricting urban spread and minimising landscape degradation.

Policy CW4 states that development proposals will be permitted where they conserve the distinctive or characteristic features of the SLA. The proposed development would not extend the waste management site. The 14m high flue has been designed to be Industrial Emissions Directive compliant. The chimney has an impact on the landscape, particularly due to its location at the edge of the plateau landform on which the MRF facility sits and due to its reflective materials. However, the landscaping scheme implemented around the site is maturing and softens views into the site and the flue is slim and seen in the context of other tall buildings within the site. A matt dark finish as suggested by the council's landscape architect would help to mitigate the visual impact of the chimney. This can be secured by condition.

Design and appearance:

Policy SP6 B requires new development to demonstrate a high standard of design that reinforces attractive qualities of local distinctiveness.

The extension is similar in form and materials to the existing industrial shed style building and is acceptable in terms of scale and design.

Cont'd....

Application No. 18/0084/RET Continued

Energy/sustainability:

Energy Wales: A low carbon transition sets out the Welsh Government's ambition of achieving a sustainable, low carbon economy for Wales. While energy policy is not a fully devolved matter, WG aims to meet the country's energy needs increasingly through renewable and low carbon sources and to deploy a range of technologies, including biomass. The proposed development would contribute to those aims, albeit in a small way.

The applicant states that the development could increase recycling rates by up to 5% by increasing the efficiency of the current operations at the site. This is in accord with guidance in TAN21: Waste in that it is making a contribution to diverting waste from landfill and managing waste more sustainably.

Comments from Consultees: The objection raised by the Coal Authority has been discussed with the applicant. The applicant intends to provide information to show that the concerns have been addressed. From a planning point of view, there is the extension to the existing building and therefore there are no objections in principle from a ground stability point of view.

The Council's Ecologist asks for a condition to secure artificial nest boxes as a biodiversity enhancement. While this is desirable, in view of the scale of the development, it is considered that such a condition would not meet the test in Welsh Government Circular WGC 016/2014 in that it is not essential in planning terms to enable the development to proceed. The circular states " In considering whether a planning condition is necessary, local planning authorities should ask themselves whether planning permission would have to be refused if a condition were not imposed, or if it would be expedient to enforce against a breach of the condition."

The Council's Landscape Architect has requested a dark, matt finish be applied to the chimney. This can be secured by condition.

Head of Public Protection has received the information supplied by the applicant, and has raised no objection. The proposed development is the subject of a permit application and emissions are properly controlled through that process.

Comments from public: Although the application is retrospective it should be assessed taking into account the same material planning considerations as for an application for new development. If the result of that assessment is that permission is refused, the Council can take action to secure the removal of the unauthorised development. It is not illegal to carry out building work without planning permission but the deterrent is that an applicant may face abortive costs if the development is found to be unacceptable in planning terms.

Cont'd....

Application No. 18/0084/RET Continued

The planning and pollution control regimes are complementary but separate processes. Planning control focuses on whether the development is an acceptable use of the land and on regulating the location of the development to minimise adverse effects on neighbouring land uses and the environment. The pollution control regime is concerned with the regulation of the proposed operations and processes in their day-to-day operation so that waste is managed without endangering human health or causing environmental harm.

Therefore, the operation of the biomass burner, including emissions, will be controlled through the permit for the site and in determining planning applications, advice in Technical Advice Note 21: Waste states that it is reasonable to assume that other regulatory regimes will operate effectively and planning authorities should not duplicate controls more appropriately imposed as part of the permit.

Other material considerations: The duty to improve the economic, social, environmental and cultural well-being of Wales, has been considered in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015. In reaching the recommendation below, the ways of working set out at section 5 of that Act have been taken into account, and it is considered that the recommendation is consistent with the sustainable development principle as required by section 8 of that Act.

RECOMMENDATION that Permission be GRANTED

This permission is subject to the following condition(s)

- 01) The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.

Cont'd...

Application No. 18/0084/RET Continued

- 02) The development shall be carried out, except where modified by the conditions below, in accordance with the following documents
- a) The planning application and supporting statement received on 25 January 2018.
 - b) Submitted plans and documents:
 - Drawing boiler ash conveyor received 25 January 2018.
 - Drawing number BRL-MRF-2018-001 Proposed site layout received 25 January 2018.
 - Drawing number BRL-MRF-2018-003 Site location plan received 25 January 2018.
 - Drawing number BRL-MRF-2018-002 Elevations received 25 January 2018.
- REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.
- 03) Within two months of the date of this permission a scheme of land and surface water drainage within the site shall be submitted to and agreed in writing by the Local Planning Authority. All works that form part of the agreed scheme shall be implemented within 6 months of the date of their agreement.
- REASON: To ensure that the development is served by an appropriate means of drainage.
- 04) Notwithstanding the submitted details, the flue shall be finished in a dark, matt finish, details of which shall be submitted for the approval of the Local Planning Authority within two months from the date of this permission. The agreed finish shall be applied within 3 months of the date of that agreement and thereafter shall be maintained for the duration of the development.
- REASON: In the interests of visual amenity.

Advisory Note(s)

The following policy(ies) of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010 is/are relevant to the conditions of this permission: SP6 Place Making, CW2 Amenity, CW4 Natural heritage protection, CW15 Locational constraints.

DEFERRED FOR REASONS FOR REFUSAL

