

| Code No. and Date Received | Name and Address of Applicant | Description and Location of Proposed Development |
|----------------------------|--------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 20/0293/FULL 22.04.2020 | Price & Co Farming C/o Barton Wilmore Greyfriars House Greyfriars Road Cardiff CF10 3AL | Carry out engineering works to provide a lagoon and associated works and infrastructure Gelliargwellt Uchaf Farm Gelligaer Road Gelligaer Hengoed CF82 8FY |

APPLICATION TYPE: Full Application

SITE AND DEVELOPMENT

Location: Gelliargwellt Uchaf Farm, Gelligaer Road, Gelligaer, Hengoed, CF82 8FY.

Site description: Gelliargwellt Uchaf is a dairy farm with lands between Gelligaer, Nelson and Trelewis. A small quarry was established to the south-east of the farmhouse in the early 1990s and a materials recycling facility and waste transfer station was developed to the west of the farmhouse following an appeal in 2013. An Anaerobic Digestion facility has also been developed to the north-west of the farmhouse, following the same appeal. The application site is located on the west of the site and comprises some 0.66 hectares of land within the wider farm site.

Development: Carry out engineering works to provide a lagoon and associated works and infrastructure. These works have now been completed so the application has been considered as a retrospective application.

Dimensions: The Lagoon capacity is approximately 3,000m³ and the size of the lagoon itself although irregularly shaped is approximately 35m by 40m (excluding the surrounding bunds and regrading works).

The submitted cross section indicates that engineering works involved regrading/reprofiling the existing slope to provide the lagoon and associated bunds. The cross sections indicate that the creation of an embankment involving raising natural ground levels by up to 7.6m.

Materials: A High Density Polyethylene (HPDE) liner for the lagoon.

Ancillary development, e.g. parking: Associated pipework to bring surface water to the Lagoon from the farm.

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PLANNING HISTORY 2010 TO PRESENT

10/0429/RET - Retain and complete earthworks - Granted - 04/11/2010.

11/0224/FULL - Erect building and tanks to incorporate anaerobic digestion facility with associated plant, engineering and landscaping works - Refused - 08/12/2011.

11/0226/FULL - Provide permanent operation of materials recycling facility and erection of new building - Refused - 08/12/2011.

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.

12/0570/FULL - Extend existing quarry operations including new drainage system and settlement ponds, landscape bunds and associated works - Granted - 08/08/2013.

14/0226/FULL - Provide materials recycling facility (revision to approved material recycling facility reference 11/0226/FULL) - Granted - 14/07/2014.

15/0488/RET - Retain development previously approved under planning permission.

11/0224/FULL for the construction of an anaerobic digestion facility with changes to construction details relating to the position of the digestate tanks, digestate lagoon, surplus gas flare - Granted - 10/12/2015.

16/0069/COND - Discharge Condition 12 (external lighting), Condition 13 (wheel and road washing), Condition 14 (surface water drainage), Condition 15 (slurry pipeline), Condition 16 (landscaping), Condition 18 (construction method statement) and Condition 20 odour management) of planning permission 15/0488/RET (Retain development previously approved under planning permission 11/0224/FULL for the construction of an anaerobic digestion facility with changes to construction details relating to the position of the digestate tanks, digestate lagoon, surplus gas flare, silage clamp and associated works and to change the use of the existing in vessel composting building to an anaerobic digestion reception building and an in vessel composting facility) - Decided - 25/04/2016.

18/0085/NCC - Vary condition 8 of planning consent 15/0488/RET (Retain development previously approved under planning permission 11/0224/FULL for the construction of an anaerobic digestion facility with changes to construction details relating to the position of the d - Granted - 19/04/2018.

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18/0843/NCC - Vary condition 08 of planning consent 18/0085/NCC (Vary condition 8 of planning consent 15/0488/RET (Retain development previously approved under planning permission 11/0224/FULL for the construction of an anaerobic digestion facility with changes to construction details relating to the position of the digestate tanks, digestate lagoon, surplus gas flare, silage clamp and associated works and to change the use of the existing in vessel composting building to an anaerobic digestion reception building and an in vessel composting facility) to enable the continuation of restricted Saturday and Bank Holiday hours (which have been operated under for the past three years) to enable collections to take place on Sundays - Granted - 06/12/2018.

19/0011/FULL - Provide additional fire prevention measures including structures, storage tanks, engineering and associated works - Granted - 21/02/2019.

19/0275/NCC - Vary Condition 08 (Hours of operation) of planning consent 14/0226/FULL (Provide materials recycling facility (revision to approved material recycling facility reference 11/0226/FULL) to extend the hours of operation for utility providers - Refused - 12/09/2019.

19/0276/NCC - Vary Condition 6 (Hours of operation) of planning consent 12/0570/FULL (Extend existing quarry operations including new drainage system and settlement ponds, landscape bunds and associated works) to extend the hours of operation for utility providers - Refused - 12/09/2019.

20/0140/COND - Discharge conditions 03 (Drainage), 04 (Trees) of planning consent 19/0011/FULL (Provide additional fire prevention measures including structures, storage tanks, engineering and associated works) - Decided - 09/04/2020.

20/0171/COND - Discharge conditions 6 (Resurfacing of access road) and 7 (Site Management Plan) of planning consent 19/0275/NCC granted on appeal reference number APP/K6920/A/19/3240193 (Vary Condition 08 (Hours of operation) of planning consent 14/0226/FULL (Provide materials recycling facility (revision to approved material recycling facility reference 11/0226/FULL) to extend the hours of operation for utility providers) - Decided - 09/04/2020.

20/0172/COND - Discharge conditions 09 (Resurfacing of access road) and 10 (Site Management Plan) of planning consent 19/0276/NCC granted on appeal reference number APP/K6920/A/19/3240204 (Vary Condition 6 (Hours of operation) of planning consent 12/0570/FULL (Extend existing quarry operations including new drainage system and settlement ponds, landscape bunds and associated works) to extend the hours of operation for utility providers) - Granted - 20/04/2020.

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Application No. 20/0293/FULL Continued

POLICY

LOCAL DEVELOPMENT PLAN Caerphilly County Borough Local Development Plan up to 2021 adopted November 2010 (LDP).

Site Allocation: The site is not allocated for any purpose in the adopted Local Development Plan.

Policies: The following policies are relevant to the determination of this application: CW2 (Amenity), CW4 (Natural Heritage Protection), CW5 (Protection of the Water Environment), CW15 (General Locational Constraints), CW22 (Mineral Safeguarding Areas), CW23 (Minerals site buffer zones), and NH1.3 (Special Landscape Areas).

NATIONAL POLICY Planning Policy Wales (PPW) 10, December 2018.

ENVIRONMENTAL IMPACT ASSESSMENT

Did the application have to be screened for an EIA? No.

Was an EIA required? No.

COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? The site is within the coalfield and the Coal Authority has been consulted.

CONSULTATION

Landscape Architect - The site is located on steeply south facing sloping agricultural land within the SLA with views of the site afforded from the South and A472. I have two main concerns one being the impact on the landscape character of the SLA and how the proposals are to be integrated and the second the visual impact from the south and south west. The proposals as they currently stand are likely to have a major adverse impact on both landscape character and visual amenity during construction, which would persist until establishment of landscaping. As appropriate landscaping would assist to integrate and reduce the visual impact. This could be achieved principally by seeding of slopes, ideally with a species rich grass seed mix suitable for the site soils, which would also improve biodiversity.

This can be conditioned.

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The Coal Authority - In considering the nature of this particular development proposal, we note that whilst engineering works are proposed to create the lagoon, these will mainly entail the building up of land levels, with relatively limited works proposed to cut into the slope. We also note that no new buildings are proposed. As such, we do not consider that requiring a new Coal Mining Risk Assessment would be proportionate to the nature of the development proposed in this particular case and do not object to this planning application.

Provide informative advice for the applicant.

Head Of Public Protection - No objection subject to planning condition restricting use of the lagoon for surface water retention only.

CADW – No comments received.

Transportation Engineering Manager – No comments received.

Natural Resources Wales - The application site is within approximately 600m of Nelson Bog Site of Special Scientific Interest (SSSI). The Nant Cylla is also failing under the Water Framework Directive and the Nant Caeach waterbody on site, feeds into this waterbody. A reason for failure of the Nant Cylla waterbody is due to high phosphate levels.

We express concerns and any leakage or overtopping of the lagoon without appropriate interception poses high environmental risks. We therefore request that the lagoon is double lined, and fitted with an appropriate leak detection and associated monitoring point system prior to operation, in order to detect any leaks to ground and / or any over topping of the lagoon.

Confirm that a planning condition requiring the details of the lining and leak detection equipment, to be submitted to the Local Planning Authority within 3 months of the date of the decision including a timescale for implementation of agreed works, is an acceptable approach.

Chief Fire Officer - No objections, provides advice for the applicant.

Ecologist – No comments received.

Dwr Cymru - No objections.

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Application No. 20/0293/FULL Continued

ADVERTISEMENT

Extent of advertisement: The application was advertised via site notices.

Response: Six objections have been received relative to the application.

Summary of observations:

1. Odour from existing lagoon.
2. Highway safety and surface water run off.
3. Dust and Pollution.
4. Noise.
5. Retrospective nature of works.
6. Overlooking/loss of privacy.
7. Issues surrounding publicising application, ability to respond to applications during the pandemic and suggests determination should not happen during lockdown.
8. Construction work was carried out during pandemic lockdown.
9. Matters related to a previous refusal which was subsequently approved by Planning Inspectorate.
10. Request Planning Committee a committee look at the overall applications, licences, appeals, complaints and monitoring of ALL companies that operate from Gelliargwellt Uchaf Farm.
11. Health and well-being are being put at risk. This includes our mental health too.
12. Existing complaints about the site and company.
13. Area was where people go for walks they also exercise their dogs.
14. Impact on Wildlife.
15. Attributes existing rat problem to the wider site.

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?

It is not considered that crime and disorder will be materially affected by the development.

EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? Based on current evidence, this is unlikely to be a significant issue in this case, but an advisory note will be attached to the consent and sent to the applicant as a precautionary measure.

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COMMUNITY INFRASTRUCTURE LEVY (CIL)

Is this development Community Infrastructure Levy liable? The application is not CIL liable.

ANALYSIS

Policies:

The application has been considered in accordance with national planning policy and guidance, local plan policy and supplementary planning guidance. The main considerations for the application are the impact of the visual appearance of the development on the character of the area and matters related to the lagoon itself.

This is a retrospective application for the retention of works carried out to create a surface water lagoon with a storage volume of approximately 3,000 cubic square metres together with associated land reprofiling and the creation of an earth bank surrounding the lagoon. The purpose of the lagoon is to store surface water run-off from yards associated with the dairy unit at Gelliargwellt Uchaf Farm. This water will then be used for purposes associated with farm activity.

The principle of the development is considered acceptable as Policy CW15 (General Location Constraints) advises that outside of defined settlement boundaries proposed development associated with agriculture are acceptable and the lagoon has been provided to support the activities at Gelliargwellt Uchaf Farm.

In terms of the visual impact of the development the works to regrade the land and create the lagoon have had a short term significant negative visual impact within the Mynydd Eglwsilan Special Landscape Area by reason that the areas previously grassed are now visible as mainly bare earth and the topography is steeper than prior to the works occurring thereby increasing the visibility of the slope within the wider landscape.

The applicant has undertaken some seeding of the bank but this is currently immature and it is unclear the exact specification and mix of grass used. In terms of the Special Landscape Area policies CW4 and NH1, these require that the Special Landscape Area will be protected from development that would harm their distinctive features or characteristics. The Landscape Officer considers that landscaping would assist to integrate and reduce the visual impact. He advises that this can be achieved principally by seeding of slopes, ideally with a species rich grass seed mix suitable for the site soils, which would also improve biodiversity.

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It is therefore considered that whilst the applicant has undertaken some seeding activities, it would be appropriate to require further details of a scheme to undertake additional seeding particularly in the event that there is failure of the seeding already undertaken. It is considered that this is reasonable to ensure that overtime the regraded slopes created to provide the lagoon are acceptably assimilated into the wider landscape of the Special Landscape Area. Subject to the imposition of a condition for a seeding scheme it is considered that the long term visual impact of the development within the Special Landscape Area would be acceptable according with adopted Local Development Plan policies CW4 (Natural Heritage Protection), SP6 (Placemaking) and NH1 (Special Landscape Areas). On this basis the development is considered to be acceptable in terms of its visual impact subject to the aforementioned condition.

Development proposals that may impact mineral safeguarding areas will be considered against the criteria set out in policy CW22 (Mineral Safeguarding Areas) to ensure that the minerals that society may need in the future are not unnecessarily sterilised.

The site is within sandstone and coal safeguarding areas. Since the Local Development Plan was adopted there has been a change in national policy in PPW10 in that local planning authorities are no longer required to safeguard coal resources. National policy takes precedence and, therefore, the coal safeguarding area is not an issue in this case. In relation to the sandstone safeguarding area, future development of the resource is already constrained within the application site due to existing built development. The proposed development would not add any additional material constraint and there is no conflict with policy CW22.

The impact of the development on neighbour amenity has been considered. The lagoon position is such that it is bounded by open fields to the south and west, and where the fields stop to the north and east, by parts of the existing Bryn operation in terms of recycling and other operations. The lagoon has been constructed and it is a supportive facility to the existing farm operation and therefore will not itself lead to a material change in site traffic. It is to store rainwater and surface water runoff and therefore no significant odours should emanate from the lagoon. It is therefore considered that there will be no unacceptable impacts on any residential properties from the development and the development therefore accords with Policies CW3 (Highways) and CW2 (Amenity).

Based on the above consideration, the development is considered to be acceptable subject to relevant conditions.

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Comments from Consultees:

Natural Resources Wales have advised that they have concerns specifically in relation to any leakage or overtopping of the lagoon which without appropriate interception poses high environmental risks. There are environmentally sensitive sites such as the Nelson Bog SSSI (within 600m), a SINCR, and the Nant Caeach waterbody close to the site. Natural Resources Wales request that the lagoon is double lined, and fitted with an appropriate leak detection and associated monitoring point system prior to operation, in order to detect any leaks to ground and / or any over topping of the lagoon.

It is noted that the lagoon has been constructed and lined, however in order to ensure that this is to an agreed specification for Natural Resources Wales a condition is proposed requiring details of the lining and monitoring to be submitted within 3 months of the date of the decision. Natural Resources Wales have confirmed that they have no objection subject to the imposition of this condition.

Comments from public:

1. Odour from existing lagoon.

The development sought for retention under this permission is for surface water and rainwater only and therefore the odour problem that has been attributed by the objector to the separate slurry lagoon on site will not be materially altered by the proposed lagoon.

2. Highway safety and surface water run off.
3. Dust and Pollution.
4. Noise.

The issues raised in relation to highway safety, dust, pollution and noise may have partly occurred during the construction of the lagoon but as the works are substantially completed it is not considered that this would be an ongoing impact directly attributable to the lagoon as its purpose is to support the existing agricultural function of the site. The ongoing impacts from the lagoon itself are not considered to have a material impact on highway safety, noise, dust or pollution.

5. Retrospective nature of works.

Applicants are entitled to submit planning applications in retrospect and the consideration of such applications will be based on material planning consideration.

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6. Overlooking/loss of privacy.

It is not considered that the lagoon will facilitate any unacceptable overlooking as no residential properties are within 100m of the lagoon. There is no right to a view in planning terms and the development is considered to have an acceptable impact on outlook. Subject to agreement of further seeding, the development is also considered to be acceptable in terms of its impact on the Special Landscape Area.

7. Issues surrounding publicising application, ability to respond to applications during the pandemic and suggests determination should not happen during lockdown.

The application was publicised by site notices and the public have been afforded the opportunity to submit representations. Welsh Government has provided advice to Local Planning Authorities in respect of the Covid-19 pandemic and this allows for the consideration of planning applications and their determination.

8. Construction work was carried out during pandemic lockdown.

This would be a matter for the applicant and their contractors in undertaking the work and is not relevant to the determination of this application.

9. Matters related to a previous planning refusal which was subsequently approved by Planning Inspectorate.

This is a separate matter which has been subject to a Planning Inspectorate decision and is not a material consideration in this application.

10. Request Planning Committee look at the overall applications, licences, appeals, complaints and monitoring of ALL companies that operate from Gelliargwellt Uchaf Farm.

This application is before Members for consideration on its planning merits in respect of the retention of the work applied for. In relation to other matters raised in respect of the wider site operation (and indeed conduct of other companies) this would be for relevant Council departments and external bodies to assess and investigate. Where individual specific complaints are raised this would be dependent on whose remit those complaints fall within.

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Application No. 20/0293/FULL Continued

11. Health and well-being are being put at risk. This includes our mental health too.

The impact of the lagoon which is subject to this application has been considered and deemed acceptable. It is not considered that the amenity of existing residents would be unacceptably harmed by the approval of the lagoon.

12. Existing complaints about the site and company.

These relate to separate matters not directly relevant to the lagoon application.

13. Area was where people go for walks they also exercise their dogs.

The application site is not common land and does not include any public rights of way. It is therefore not considered that the loss of the site for such activities is a material consideration in the determination of this application.

14. Impact on Wildlife.

There has been no evidence provided in relation to wildlife on site and the engineering works have been completed. It is not considered that the ongoing use of the lagoon would have a significant impact on wildlife and planning conditions have been imposed requiring monitoring of the lagoon.

15. Attributes existing rat problem to the wider site.

This is not directly related to the application and is a separate public health issue not material to the determination of this application as the use of a surface water lagoon is not considered to be significant in terms of attracting rats.

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

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Application No. 20/0293/FULL Continued

This permission is subject to the following condition(s)

- 01) The development shall be carried out in accordance with the following approved plans and documents:
- Location Plan, drawing reference PCF-NSL-2020-001A.
 - Proposed Site Plan, drawing reference PCF-NSL-2020-003C.
 - Cross Section Plan, drawing reference PCF-NSL-2020-004B.
 - Site Location Plan, drawing reference PCF-NSL-2020-005D.
- REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.
- 02) The lagoon hereby approved shall be used solely for the purpose of the storage of surface water and its re-use for activities associated with the farm and for no other purpose.
- REASON: To define the scope of the permission and for the protection of the environment.
- 03) Within 3 months of the date of this permission the applicant shall submit for the written approval of the Local Planning Authority a scheme to include details of lining for the lagoon and measures to provide leak detection and associated monitoring point system. The scheme shall include a timetable for its implementation. The scheme as agreed in writing by the Local Planning Authority shall be implemented in accordance with the agreed details and timescales and shall thereafter be maintained in accordance with the approved scheme for the lifetime of the development.
- REASON: In the interests of the protection of ground water and the environment including the environmentally sensitive sites such as the Nelson Bog SSSI and Nant Caeach waterbody in accordance with policies CW4 and CW5 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

Advisory Note(s)

The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

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It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

<https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com or a similar service provider.

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority.

Please find attached the comments of The Fire Office and Natural Resources Wales that are brought to the applicant's attention.

