

Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
12/0740/FULL 23.10.2012	GLJ Mr G Jones Units 5 - 9 Fern Close Pen-y-fan Industrial Estate Pen-y-fan Newport NP11 3EH	Create a new building to collect, sort, grade, process and redistribute ferrous and non ferrous materials; re-organize the existing site accommodation and reposition the weigh bridge to improve the site monitoring and productivity and upgrade the site boundary GLJ Recycling Units 5 - 9, Units 10 - 11, Units 12 & 13 Fern Close Pen-y-fan Industrial Estate Pen-y-fan Newport NP11 3EH

APPLICATION TYPE: Full Application

SITE AND DEVELOPMENT

Location: The application site is a group of small industrial units that lie towards the end of Fern Close, which is off the main route (Parkway) that passes through the Pen-Y-Fan Industrial Estate.

Site description: The site as originally constructed comprised three buildings that were divided into starter industrial units with associated yards. The original consents were for light/general uses with no external storage or the storage of scrap. In November 2010 an unauthorised use as scrap yard (sui generis use) was noted. Following enforcement investigation an application to retain that use was submitted and subsequently refused in 2011. Following that refusal the external storage of scrap was greatly reduced and the site was made much tidier.

Development: This application is for the retention of the ferrous metal recycling use within a building, the retention of a weighbridge and upgrading of the site boundary. The submitted drawings also indicate the existing buildings being used for the in-building processing of non-ferrous metals.

Dimensions: The whole site is approximately 0.476 hectare in size. The three existing buildings have a combined footprint of approximately 670 square metres. The proposed building has a footprint of 465 square metres and is just under 10 metres in height.

Materials: The proposed building is a profile steel clad structure similar to the existing buildings that are of a relatively common utilitarian design and finished in muted tones.

Ancillary development, e.g. parking: The layout includes 24 parking spaces to the front of the site with 6 parking spaces within the rear yard.

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PLANNING HISTORY

2/05839 - Link together units 8 and 9 to make 1 No. large warehouse - Granted 30.03.84.

2/10847 - Formation of new bitumen macadam surfaced area to rear of existing industrial units - Granted 18.09.92.

11/0178/COU - Change the use for the collection, sorting, grading and processing of ferrous and non-ferrous materials and onward distribution - Refused 08.09.11.

POLICY

LOCAL DEVELOPMENT PLAN

Site Allocation: The site is within a protected employment allocation and is categorised as primary. The Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010 reference number is EM2.10 - Penylan, Croespenmaen.

Policies: CW13 (Use Class Restrictions - Business and Industry), CW15 (General Locational Constraints), CW2 (Amenity) and SP9 (Waste Management).

NATIONAL POLICY Planning Policy Wales 2011 section 7.6.1 (Development Control and the Economy).

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? - No.

CONSULTATION

Environment Agency (Wales) - No objections subject to adequate drainage.

Transportation Engineering Manager - No objection is raised on the understanding that the submitted details show the external area being maintained free of obstruction for the parking and turning of vehicles.

Head Of Public Protection - No objection subject to there being no external storage or sorting.

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ADVERTISEMENT

Extent of advertisement: The application has been advertised on site and 18 neighbouring properties have been consulted.

Response: Three letters have been received.

Summary of observations:

- The scrap metal use attracts a type of vehicle that is often overloaded and has a character that is "not conducive to the type of high profile business that currently occupy the Estate."
- Attention is drawn to previous letters of objection to the previously refused external scrap yard use and the ensuing appeal that was withdrawn.
- It is suggested that the current application is for a "scrap yard use albeit with the inclusion of construction of a building."
- Attention is drawn to "inaccuracies" in the application details/forms. For example the proposed details show the moving of the weighbridge to a new position when this has in fact already occurred or that the existing layout does not accurately show how the site is currently being used in terms of the external processing of materials.
- It is pointed out that the Environment Agency (Wales) permit for the site allows the storage of waste up to 5 metres in height and notwithstanding the description of the development stating that storage takes place within buildings this is not the case, as has been evidenced by a video passed to the Local Planning Authority.
- There is serious concern that because of the previous extensive external storage and processing of scrap the proposed building cannot adequately contain the use and external activity will inevitably prevail to the detriment of the amenity and character of a primary employment site.
- Environmental doubt is raised regarding the capacity and control of the processes associated with the use, i.e. collection of fluids, the potential for polluting leachates and escape of hazardous materials.
- There is significant noise from the operation of an external mechanical grab and a report commissioned by the neighbouring owners indicates a possible increase in noise by approximately 30 db(a) associated with the scrap yard.

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- It is pointed out that neighbours such as a media company would not have located to the estate had they been aware the neighbouring use was a scrap yard. It is explained that the "increased noise and dust levels, as well as frequent heavy traffic" will "undermine efforts to attract more high end businesses to the immediate area."
- It is explained that airborne particles can affect wide areas particularly in dry conditions and the site screening will do little to mitigate this hazard. This air quality problem is a serious concern to neighbouring uses such as a nearby pharmaceutical company and possibly putting at risk their licence.
- The need for the use is questioned and it is suggested that whilst it provides a small number of jobs it will put more at risk, for example by discouraging users such as food producers, blue chip companies and B1 offices, being uses for whom image is critical when being visited by their clients etc.
- There will be adverse impact upon crime and disorder as is evidenced by the Police having to stop overloaded vehicles visiting the site and the particular client group being associated with issues such as the theft of metals.
- There has been a lack of local consultation on the part of the applicant.
- Annex C of TAN 21 (Waste) requires that with regard to waste management facilities care should be taken to avoid locations where they may be incompatible with existing uses.
- With regard to Council policies EM2.10 and CW15 the proposal remains contrary and inappropriate sui-generis use.
- It is explained in one letter that the writers as property developers seeking to draw existing and future prestigious businesses to the locality have invested much time and effort that will be severely undermined by the proposed use.

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 the proposed development will have a material effect on crime and disorder. Allegations are made about stolen materials being taken to such sites, but that it a matter for the Police, and would not in this case prejudice the determination of the application.

EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? - No.

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ANALYSIS

Policies:

The application site lies within a protected primary employment site (EM2.10). Policy CW13 explains that Primary Sites will be protected for B1, B2, B8 or appropriate sui-generis use. Policy CW2 requires the consideration of the impact of a use upon the amenity of adjoining occupiers. In 2011 an application was made to retain the use of this site as a scrap yard. That application was refused for the following reason:-

"The proposed use as a scrap yard by virtue of the adverse visual impact of the external storage of scrap material, together with the noise and dust from the processing of scrap material is not an appropriate sui-generis use within a primary site allocated within the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010 contrary to Policy CW13 and as such will discourage future investment by business and industrial uses more appropriate to a primary site."

This is in effect a revised application with the significant difference that the scrap/ferrous metal will be contained and sorted in an enclosed building. This application seeks to address the previous reason for refusal on the basis that policy CW13 is subject to the provision that "every site that is allocated for Use Class B2 is considered suitable, in principle, for the location of in-building waste management facilities." It is also explained within policy SP9 that "many modern waste management/resource recovery facilities on the outside look no different to any other industrial building and on the inside contain de-manufacturing processes or energy generation activities that are no different to many other modern industrial processes in terms of their operation or impact."

Pen-Y-Fan is generally a visually clean and well-organised industrial estate with a considerable amount of landscaping. Along the main road (Parkway) there are views of industrial buildings that have a character of visual quality. Externally stored scrap materials do not project the same character, such uses can be unsightly and this is the primary reason the previous application was refused. The proposed unloading sorting and despatch from within a building overcomes the visual objection as well as addressing the issues of noise and dust. This revised application is therefore considered to comply with provisions of CW13. It is necessary that the permission issued be controlled by a condition that ensures that the processing and storage of the recycled material is contained within the buildings. A condition should also be imposed to restrict the recycling use to ferrous and non-ferrous metals as proposed to retain effective control of the use.

The proposed weighbridge is considered acceptable being positioned to the side of one of the buildings.

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The proposed details include a new means of enclosure. It is to be explained that the applicant has erected a permitted development enclosure comprised of steel girders, posts and rails with profile steel sheeting attached. Although the materials are relatively new they are constructed in keeping with the character of the area and have little design quality to commend them. The information received regarding the design of the new means of enclosure is limited. It is described as being "steel powder coated screening" similar to a waste handling site at Duffryn Business Park. The replacement of the screening is considered to be a visual improvement.

Comments from Consultees:

The Transportation Engineering Manager raises no objection on the understanding that the external areas are kept free for parking and manoeuvring use only.

Head of Public Protection raises no objection subject to there being no external storage or sorting.

Comments from public:

The objections received broadly underline the concerns that were the reason for refusal of the previous application for the retention of an open scrap yard. Those concerns are valid and it remains necessary to address them with regard to the current unauthorised use (discussed further in the "Other material considerations" below).

It is pointed out there may be some discrepancies in the application details but these do not detract from the consideration of the proposed development. There are some issues raised that will lie beyond the control of the planning authority, for example the control of metal theft is unlikely to be influenced by refusal of planning permission and certain controls will remain within the responsibility of others whatever the use of a site, for example such as pollution control that is part of a process that is permitted and monitored by the Environment Agency (Wales) or vehicle overloading as controlled by the Police. The central consideration in this application is the proposed development that is an in-building recycling facility.

Noise has been a serious concern. One of the writers has engaged consultants to study the problem as part of their preparation for the appeal that was withdrawn. The study results demonstrate levels of noise that whilst not posing an environmental health risk do evidence that the current use has a serious impact upon the character of a primary employment location. The external noise levels do though fall below WHO guidelines for community noise for industrial/commercial areas. Thus if the use is contained and carried out within a building as proposed, logically it will be significantly reduced. Given that the external levels already fall below WHO guidelines the reasonable expectation is that it should be sufficiently reduced in terms of the impact upon the character of the location. The concerns raised regarding dust, particularly in dry weather, should also be sufficiently addressed by an in-building use.

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There is concern that scrap metal deliveries, whether they be to an open scrap yard or contained within a building, attracts a type of vehicle that is often overloaded and has a character that is "not conducive to the type of high profile business that currently occupy the Estate." The character of the primary employment site is a key issue and an in-building facility will not affect the visual impact of deliveries. The Council has received photographs of some of the type of vehicle referred to, they appear to be the smaller flat bed trucks typical of small scrap collectors. From the information provided by the applicant it is likely that traffic to the site would range from an average of one vehicle per 6 to 10 minutes (6 to 10 vehicles per hour). Whilst the permanent presence of an open and active scrap yard would have an impact upon the character of the primary employment site, this number of vehicles mixed in with other industrial traffic would have a lesser effect. Given that policy CW13 allows for "in-building waste management facilities" within primary employment sites there is an implicit acceptance of associated traffic.

It is pointed out that the current Environment Agency (Wales) permit (known as a T9 exemption) allows (amongst other things) scrap material to be piled 5 metres high. This allowance does not affect the Local Planning Authority's consideration of the visual impact of such material, nor the ability to consider or impose conditions requiring the complete exclusion of external storage.

Other material considerations: Following the previous refusal of planning permission the site was tidied and the external storage of scrap material greatly reduced. The owner also indicated an intention to submit the application for planning permission for the development that is now before members. Enforcement action has accordingly been held in abeyance. More recently prior to this application the Planning Department has received further evidence that the storage of scrap metal is again becoming significant. A short video taken from an adjoining site has been received and it shows piles of scrap material being stored externally. A pile can be seen becoming visible above a 2 metre high fence. The video also shows a large grab clearly visible from the neighbouring unit working to sort the scrap and the clatter of materials being dropped/grabbed is clearly audible. More recent site visits by the Council's Enforcement Officer also confirm a return to significant external activity. Whilst the building proposed (subject to conditions) should bring to an end this problem it can only be relied upon if the planning permission is implemented. It is therefore recommended that should members be minded to grant planning permission (in accordance with the recommendation below), that following the issue of that permission officers be authorised to issue an Enforcement Notice that will require the unauthorised external use as a scrap yard to cease within a period of one month from the date of the permission. Once implemented the permission would be subject to the recommended conditions. Given that the site has already been operated in breach of planning control, regarding external storage and processing, concern remains that to retain effective control officers should further be authorised to take breach of condition enforcement action if the permission is implemented but subsequently the applicant further fails to adhere to the planning conditions.

RECOMMENDATION that Permission be GRANTED

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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.
- 02) The recycling use hereby approved is for the recycling of ferrous and non-ferrous metals only.
REASON: For the avoidance of doubt as to the extent of the permitted use.
- 03) There shall be no external storage, loading, unloading or processing of ferrous or non-ferrous materials, and the external area shall be maintained free of obstruction or stored materials and used only for the parking and manoeuvring of vehicles.
REASON: In the interest of the visual amenity and the character of a primary employment location and to ensure the provision of adequate off-street parking and vehicular operational space.
- 04) Excluding the use of the weighbridge, all the processing of ferrous and non-ferrous metals hereby approved shall take place only within the confines of the buildings within the site.
REASON: In the interest of the visual amenity and the character of a primary employment location.
- 05) All the loading and unloading of ferrous metals shall take place within the "proposed ferrous metal covered storage" building hereby approved and all the loading and unloading of non-ferrous metals shall ensure that they are transferred directly into or out of any building within the site or shall be carried out entirely within any building within the site.
REASON: In the interest of reducing disturbance to near by occupiers and the visual amenity and the character of a primary employment location.
- 06) All the processing of ferrous metals shall take place behind the closed doors of the "proposed ferrous metal covered storage" building hereby approved.
REASON: In the interest of reducing disturbance to nearby occupiers and the character of a primary employment location.
- 07) There shall be no other external openings of the "proposed ferrous metal covered storage" building other than those hereby approved.
REASON: To retain effective control.

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- 08) Prior to the commencement of the development hereby approved the details of the finish and design of the means of site enclosure/screening (including any planting) shall be submitted to and agreed in writing with the Local Planning Authority, the details to be submitted shall ensure that the less visually attractive view of the enclosure/screening is on the internal elevation and the agreed means of enclosure/screening shall be completed within a period of two calendar months from the date of commencement of the development hereby approved and maintained thereafter as approved.
REASON: In the interest of the visual amenity and the character of a primary employment location.
- 09) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order) with or without modification, no fences, gates, walls, hedges or other means of enclosure whatsoever shall be erected or planted without the approval of the Local Planning Authority other than those indicated on the approved plans.
REASON: To retain the open character of the development 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: CW13 and CW2.
