

| Code No. and Date Received | Name and Address of Applicant | Description and Location of Proposed Development |
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| 18/0085/NCC 25.01.2018 | Bryn Power Ltd C/o Agent Gelliargwellt Uchaf Farm Gelligaer Road Gelligaer Hengoed | 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) Gelliargwellt Uchaf Farm Gelligaer Road Gelligaer Hengoed CF82 8FY |

APPLICATION TYPE: Development without complying with conds

SITE AND DEVELOPMENT

Location: The site is located at Gelliargwellt Uchaf, a working dairy farm with land between Trelewis, Nelson and Gelligaer. The farmhouse is located approximately 1.2 kilometres north west of Gelligaer.

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Application No. 18/0085/NCC Continued

Site description: The application site is located at the anaerobic digestion facility to the north-west of the farm house. It comprises a collection of tanks and buildings on a hard-surfaced area, surrounded by a landscaped bund. A covered lagoon is located at the base of the bund.

Development: The application is for a variation to the permission in respect of the hours permitted for the receipt of material.

Condition 8 of planning permission reference 15/0488/RET states:

"No delivery of waste to the site and export of digestate from the site shall take place outside the hours of:
07.30 hours to 18.00 hours Monday to Friday.
07.30 hours to 13.00 hours Saturday.

No deliveries or exports shall take place on Saturday after 13.00 hours or on Sundays or Bank Holidays except as indicated below:

The site may receive waste from a Local Authority or its contractors between the following hours until 28 February 2018:

13.00 hours to 16.00 hours on Saturday.
07.30 to 13.00 hours on Bank or Public Holidays.

REASON: To protect the amenities of local residents."

Consent is now sought to operate the weekend hours on a permanent basis.

PLANNING HISTORY 2005 TO PRESENT

09/0968/FULL - Erect building to incorporate anaerobic digestion facility with associated engineering and landscaping works - Refused 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 08.12.11. Approved on Appeal.

13/0393/FULL - Erect nutrient storage lagoon to supply storage capacity for compliance with SSAFO Regulations - Granted 20.02.14.

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14/0422/NCC - Vary condition 6 of planning permission P/04/1912 to extend the hours of operation on Saturdays until 16:00 and on Bank Holidays from 07.30 to 13.00 - Granted 12.02.15.

15/0031/FULL - Install 250kWp roof mounted solar PV system to be sited on a total of 4 existing shed roofs - Granted 27.05.15.

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 - Granted 10.12.15.

POLICY

LOCAL DEVELOPMENT PLAN

Site Allocation: The site is outside settlement boundaries.

Policies: The following policies in the Caerphilly County Borough Local Development Plan up to 2021 adopted November 2010 are relevant to the determination of this application: SP6 Place Making, CW2 Amenity, CW4 Natural Heritage Protection, CW15 Locational Constraints.

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

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 in a high risk area. This was taken into account in the original consent for the development. No new built development is proposed.

CONSULTATION

Head Of Public Protection - No objections.

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Application No. 18/0085/NCC Continued

Transportation Engineering Manager - No objection.

Senior Engineer (Land Drainage) - No comment.

Ecologist - Requests that provision is made for artificial nest sites for birds via a condition.

Landscape Architect - No objection.

Dwr Cymru - No comment.

Rhondda Cynon Taf Council - No objection.

Merthyr Tydfil County Borough Council - No objection.

Nelson Community Council - Objection due to possible increased traffic flows to and from the site in combination with the proposed hours in application reference 18/0087/NCC.

Glam/Gwent Archaeological Trust - No objection on the basis that there will be no archaeological impact from the proposed change in hours.

Blaenau Gwent County Borough Council - No objection.

Rights Of Way Officer - There are five Public Rights of Way: FP166, FP262, FP261, FP180, FP160 in the Parish of Gelligaer in the area of the proposed. These are shown on the attached extract of the Definitive Map (18-0085-NCC-PROW.pdf) and the attached plan which incorporates past public path orders (18-0085-NCC-OS-PROW.pdf).

The proposed development has no direct affect upon the public rights of way.

Public Health Wales - No comments on the basis that the existing environmental control measures remain in place.

The Coal Authority - No comments to make.

CADW - No comments.

Gelligaer Community Council - No comment.

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ADVERTISEMENT

Extent of advertisement: The application has been advertised by means of a site notice, press notice and letters to 50 neighbouring properties.

Response: One letter of objection has been received.

Summary of observations: The grounds for objection relate to a potential increase in quantity of waste and potential increase in traffic.

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 change to the hours of operation 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) No.

Is this development Community Infrastructure Levy liable? No.

ANALYSIS

Policies: Planning applications must be determined in accordance with the policies in the development plan unless material considerations indicate otherwise. The relevant policies in this case are SP6, CW2, CW4 and CW15. The main considerations are the impact of the proposed hours on the amenity of neighbouring land and properties and any impact on the special landscape area. No change is proposed to the built development on the site.

Permission was granted on appeal in March 2013 for an anaerobic digestion facility (ADF) subject to conditions limiting hours of operation. The hours permitted for the delivery of waste to the site and the export of digestate from the site were:

Monday to Friday 07.30 to 18.00.

Saturday 07.30 to 13.00 .

No deliveries on Sundays, Bank Holidays or Public Holidays.

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Application No. 18/0085/NCC Continued

Applications were later made to vary the layout of the facility and to use part of an existing in-vessel composting facility for waste reception, instead of constructing a separate waste reception building shown on the approved plans for the ADF.

Applications were also made to vary the approved hours for deliveries. This was to allow the receipt of waste from civic amenity sites and from municipal kerbside collections that operated outside the approved ADF hours. Permission was granted in December 2015 (15/0488/RET) on a temporary basis until the end of February 2018 for the receipt of waste solely from a local waste authority or its contractors between the additional hours of 13.00 and 16.00 hours on Saturdays and 07.30 to 13.00 hours on Sundays and Bank/Public Holidays.

The current application seeks to retain those additional hours on a permanent basis, subject to the same terms. No change is proposed to throughput of waste at the ADF or to the physical nature of the built structures at the site.

Principle of the development.

Policy CW15 C iv states that outside the settlement limits defined in the adopted LDP new development will only be permitted where it is associated with the provision of public utilities, infrastructure and waste management facilities that cannot reasonably be located elsewhere. The issue of whether the ADF could reasonably be located on an allocated or protected industrial site within the county borough was considered at the appeal into refusal of the proposals in 2013. The inspector allowed the appeal and concluded that reasonable, practical alternative sites did not exist, taking into account the operational interrelationships between the various waste and farming activities at the farm, which represented a sustainable approach to waste management. The principle of the ADF development has, therefore, been established.

National policy.

National waste planning policy is generally supportive of proposals to drive waste up the waste hierarchy and to divert it from landfill. While the proposal does not propose additional waste management capacity it seeks to accommodate changes to municipal food waste collections that have arisen since the ADF was first approved. In addition, it seeks to accommodate the receipt of green waste from civic amenity sites where there is a need to empty containers on some weekends and bank holidays, particularly through the summer months, when the civic amenity sites are most used. The longer opening hours support sustainable waste management objectives by allowing people to recycle more waste and to treat more waste sustainably through the ADF and IVCF.

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Amenity.

The main consideration in the determination of this application is the degree to which the proposed additional hours would affect the amenity of local residents. Permission was granted on a temporary basis in 2015 to assess the impact of the additional hours. Complaints have been received during the last three years generally about the activities at the farm and quarry. Those that could relate to the ADF include concerns about odour and increased traffic movements.

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.

No increase in throughput is proposed so the effect of the extension of hours would mean that existing traffic movements would be spread over seven days instead of 5.5 days in the weeks when the additional hours were used. The site has direct access to the main road network in the county borough and the Transportation Engineering Manager has raised no objection.

The additional hours amount to an additional three hours on Saturday afternoons throughout the year and an additional 5.5 hours on up to eight Bank Holidays a year. The applicant has estimated that 14 HGV trips would take place on a typical Bank Holiday. During the additional hours waste could be received at the facility but not shredded or treated or loaded into the tanks.

An environmental noise assessment was carried out in 2014 which indicated that the additional noise impact would be negligible. Head of Public Protection has raised no objection to the proposal.

Natural Heritage Protection.

The site is within NH1.3 Mynyddislwyn Special Landscape Area. Policy CW4 states that development proposals will be permitted where they conserve and where appropriate enhance the distinctive or characteristic features of the SLA. No additional built development is proposed and no intensification of activities at the site in terms of throughput is proposed. The proposed hours would lead to limited additional activity at the site during weekends and holidays when the footpaths and public areas around the site may be used for recreation and enjoyment of the countryside. This needs to be balanced against the benefits of the proposal in terms of managing waste more sustainably.

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Conclusion.

The proposed variation to the hours for delivery of food waste to the ADF would facilitate the sustainable treatment of waste in line with national policy and policies in the adopted LDP. The additional impact on the amenity of local residents and on the SLA is not considered to be significant and no objection has been raised by the Transportation Engineering Manager or Head of Public Protection.

Comments from Consultees: The comments from consultees are addressed in the report.

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."

Comments from public: The comments relate to potential increase in traffic and in waste. However, no increase in the quantity of waste handled at the site or the vehicle movements generated is proposed in this application.

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.

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- 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.
REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.
- 03) The site shall be used as an anaerobic digestion facility and in-vessel composting facility and for no other purpose whatsoever.
REASON: To adequately control the development of the site.
- 04) The sorting, screening and shredding of waste material on the site shall take place solely within the IVC/AD waste reception building
REASON: In the interests of the amenity of the area.
- 05) The waste types deposited, stored and treated at the site shall be limited to wastes from agriculture, horticulture, aquaculture, forestry, hunting and fishing, food preparation and processing.
REASON: Waste materials other than those specified raise environmental and amenity issues that would require consideration afresh.
- 06) Any material not included within the description in Condition 5 above received at the site or any material otherwise unsuitable for treatment shall be stored in impervious covered containers and removed from the site within 24 hours of its receipt.
REASON: To safeguard the amenity interests of the area.
- 07) No waste material shall be stored outside the buildings and the tanks.
REASON: To safeguard the amenity interests of the area.
- 08) No delivery of waste to the site and export of digestate from the site shall take place outside the hours of:
07.30 hours to 18.00 hours Monday to Friday.
07.30 to 13.00 hours Saturday.
No deliveries or exports shall take place on Saturday after 13.00 hours or on Sundays or Bank and Public Holidays except as indicated below:
The site may receive waste from a local authority or its contractors between the following hours:
13.00 hours to 16.00 hours Saturday.
07.30 hours to 13.00 hours on Bank or Public Holidays.
REASON: To safeguard the amenity of local residents.

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- 09) No operations shall take place at the site other than in full accordance with the mitigation measures set out in the JPCE dust management scheme document reference BQAD-2013-DMS.
REASON: In the interests of safeguarding the amenity of local residents.
- 10) Between the hours of 07.00 and 19.00 the noise levels arising from the development shall not exceed 46 dB (LAeq) (1 hour) free field at any of the noise sensitive properties identified on the plan 3781/SP1 - Noise Sensitive Properties in the Hunter Acoustics report dated 20 July 2015.
REASON: In the interests of safeguarding residential amenity.
- 11) Between the hours of 19.00 and 07.00 the noise levels arising from the development shall not exceed 33 dB (LAeq) (1 hour) free field at any of the noise sensitive properties identified on the plan 3781/SP1 - Noise Sensitive Properties in the Hunter Acoustics report dated 20 July 2015.
REASON: In the interests of safeguarding residential amenity.
- 12) Within two months of the date of this permission details of the construction of the slurry pipeline shall be submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
REASON: To ensure satisfactory drainage.
- 13) A scheme indicating the facilities and or methods to be put in place to ensure mud, debris or other deleterious material is not carried onto any part of the public highway and any remedial measures to be put in place to clear the highway of such material shall be submitted for the approval of the Local Planning Authority within two months of the date of this permission. Once approved, the scheme shall be implemented in full throughout the duration of the development.
REASON: In the interests of highway safety and the amenity of local residents.
- 14) Within two months of the date of this permission a scheme for the management of surface water shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to first use of the development and the development shall thereafter be operated in accordance with the approved scheme.
REASON: To ensure satisfactory surface water management for the development.

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Application No. 18/0085/NCC Continued

- 15) Trees, shrubs and hedges planted in accordance with the approved planting scheme shall be maintained and any plants which, within five years, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species.
REASON: In the interests of the amenity of the local area.
- 16) The AD facility hereby approved shall not be operated other than in accordance with the odour management strategy approved in April 2016 under reference 16/0069/COND which includes inter alia:-
-a closed door management strategy within the waste reception building. Fast closing doors shall be installed and interlocked so that both doors cannot open at the same time,
-the building shall be completely sealed and smoke and pressure tests shall be carried out prior to its use to ensure adequate containment,
-the facility shall be operated in a manner that prevents the build-up of debris in gullies, drainage channels and under equipment,
-all odours generated within the building shall be captured and treated in the odour treatment system and the building shall be maintained under negative pressure to prevent the fugitive release of odours. This system shall be monitored by means of static pressure sensors,
-the anaerobic digester plant shall incorporate a two stage chemical scrubber with secondary treatment using a covered bio-filter with a stack, -the bio-filtration system shall be maintained to ensure adequate and equal air distribution, material shall only be transferred between the anaerobic digester facility and the in vessel composting facility using enclosed containers or conveyors,
-the buildings shall have adequate arrangements to prevent birds and small mammals from entering the reception area.
Thereafter, the development shall be operated in accordance with the approved management scheme.
REASON: In the interests of residential amenity in the local area.

Advisory Note(s)

Please find attached the comments of Rights of Way Officer that are brought to the applicant's attention.

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, CW2, CW4, CW15.

