

Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
18/0843/NCC 08.10.2018	Bryn Power Ltd Gelliargwellt Uchaf Farm Gelligaer Road Gelligaer Hengoed CF82 8FY	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 Gelliargwellt Uchaf Farm Gelligaer Road Gelligaer Hengoed CF82 8FY

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**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.

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. Access is via a track to the main access point to the site on Gelligaer Road.

Development: The application is for a variation to the permission in respect of the hours permitted for the receipt of material. Condition 08 attached to planning consent reference 18/0085/NCC 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."

Application reference 18/0085/NCC sought to remove condition 17 of the 2015 permission, which permitted the above hours on a temporary trial basis ending on February 28 2018 to allow the hours on a permanent basis. The 2018 application was approved on appeal in September 2018. The inspector concluded:-

"I consider that the effect of the extended hours on the living conditions of residents would not be significant. Breaches of conditions and licences would be capable of control by enforcement powers. I conclude that condition 17 of planning permission reference 18/0085/NCC is unnecessary and should be deleted."

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The current application seeks to vary condition 08 of the 2018 permission so that deliveries from a local authority or its contractors can be made on Sundays, Bank Holidays and Public Holidays between 07.00 and 16.00 i.e. the same hours that are permitted for deliveries of waste from civic amenity sites to the MRF. The applicant states that the amendment is required to provide flexibility to manage the council's 20-year contract and to bring it in line with the hours of operation permitted for the materials recycling facility and green waste composting area.

Increasingly ambitious targets for recycling set by Welsh Government mean that local authorities, including Caerphilly County Borough Council collect food waste from residential properties and businesses on bank holidays and Saturdays. In addition, collections now take place on a limited number of Sundays throughout the year in exceptional circumstances such as delays, breakdowns, adverse weather and the impact of bank holidays on schedules. The application seeks the flexibility to deal with such situations but it is not intended that deliveries will be necessary on all Sundays, bank holidays and public holidays throughout the year.

#### 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.

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.

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18/0085/NCC - Vary condition 08 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) - Granted 19.04.18. Allowed on Appeal 12.09.18.

## POLICY

LOCAL DEVELOPMENT PLAN Caerphilly County Borough Local Development Plan up to 2021 Adopted November 2010.

Site Allocation: The site is outside settlement boundaries but is an established waste management site. It is not allocated for any purpose in the adopted LDP.

Policies: The following LDP policies are relevant to the determination of this application:- SP6 Place Making, CW2 Amenity, CW3 Highways and transportation, CW 4 Natural Heritage Protection, CW15 General Locational Constraints.

NATIONAL POLICY Planning Policy Wales 9 Technical Advice Note 21: Waste 2014.

## ENVIRONMENTAL IMPACT ASSESSMENT

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

Was an EIA required? N/a.

## 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 but no new built development is proposed.

## CONSULTATION

Head Of Public Protection - This department has no adverse comments to make in respect of the above planning application.

Transportation Engineering Manager - No objection is raised based on the assumption that the overall number of vehicle movements to and from the site will not increase.

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Senior Engineer (Land Drainage) - No comment from the drainage department regarding the variation of condition to allow deliveries to take place to the existing AD facility on Sundays.

Landscape Architect - No comments to make in relation to the proposal.

Dwr Cymru - No objection to the variation of condition.

Natural Resources Wales - We have reviewed the planning application submitted to us, and from the information provided this is not an NRW requested condition. In addition, we do not consider that the proposed development affects a matter listed on our Checklist, Development Planning Advisory Service: Consultation Topics (September 2018). We therefore do not have any comment to make on the proposed development.

The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development. The activity proposed in this planning application may require a variation to the environmental permit under The Environmental Permitting (England and Wales) Regulations 2016. An environmental permit or exemption must be in place before any waste activity takes place on site.

Rhondda Cynon Taff Council - Having noted that the proposal would neither result in an intensification of use or likely require refuse vehicles to travel outside of the Caerphilly CBC area, I can confirm that RCT council has no further observations or objections to make.

Merthyr Tydfil County Borough Council - No objections.

Glam/Gwent Archaeological Trust - As the proposal involves changes to the operational hours there will not be an archaeological impact and we have no objection to the proposal.

Blaenau Gwent County Borough Council - No objection is raised to the anaerobic digestion facility receiving waste from local authority contractors under restricted Sunday and Bank/Public holiday hours.

Public Health Wales - Based on the assumption that the information provided is correct, we have no objections to the proposed variation, in terms of public health, as the quantity and nature of the wastes will not change.

The Coal Authority - This current proposal is for variation of Condition 8, which relates to hours of delivery of waste to the site. The Coal Authority has no specific comments to make on the varying of Condition 8 as proposed.

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### ADVERTISEMENT

Extent of advertisement: Site notices were placed in 13 locations in Gelligaer, Penybryn and Nelson and letters were sent to 50 neighbouring properties.

Response: Two letters of objection have been received.

Summary of observations: The grounds for objection are

- Increase in the volume of traffic through Nelson
- Odour concerns
- Constant noise from the plant day and night
- Use of the facility by Caerphilly County Borough Council out of hours.

### 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 material impact on crime and disorder in the local area. The proposed development will not have a material impact 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. No additional floorspace is created.

### ANALYSIS

Policies: Planning applications must be determined in accordance with national policy and the policies in the development plan unless material considerations indicate otherwise. The main considerations and relevant policies in this case are as follows.

National planning policy (PPW9)

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. 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. Cont'd

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The principle of the development (CW15)  
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. The current application seeks to allow deliveries to the facility by a local authority or its contractors on a limited number of Sundays when the normal kerbside collection schedule is disrupted for various unavoidable reasons.”

Design and appearance.

Policy SP6 B requires new development to demonstrate a high standard of design that reinforces attractive qualities of local distinctiveness. No new built development is proposed or any alteration to the existing buildings, tanks and plant at the facility.

Amenity.

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.”

The main consideration in the determination of this application is the degree to which the proposed additional hours of operation would affect the amenity of local residents.

In determining the appeal in respect of planning application reference 18/0085/NCC, the inspector stated

"I consider that the effect of the extended hours on the living conditions of residents would not be significant."

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The proposal would involve limited additional activity at the site above the level that the inspector considered not to be significant. Houses in Gelligaer are located at a distance of some 480 metres and houses on Gelligaer Road are approximately 350 metres from the site. A limited number of vehicles would access the site on Sundays, bank holidays and public holidays when residents are likely to be at home, but the increase in traffic will not be to significant as to cause harm to those residents that would justify a refusal of permission. In terms of traffic further afield, the refuse wagons would be on the road in any event, whether visiting the site or not.

Highways and transportation  
Policy CW3 C states that

“development proposals must have regard to the safe, effective and efficient use of the transportation network.”

No increase in throughput is proposed and, therefore, the proposal would not generate additional traffic. The site has direct access to the main road network in the county borough and the Transportation Engineering Manager has raised no objection.

Natural Heritage

The site is within NH1.3 Mynyddislwyn Special Landscape Area and NH1.2 Gelligaer SLA. Policy CW4 states that

“development proposals will be permitted where they conserve and where appropriate enhance the distinctive or characteristic features of the SLAs.”

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 on a limited number of Sundays 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.

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.

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The proposal would also bring the operating hours of the ADF in line with those of the MRF granted on appeal in 2013, which would have benefits in terms on monitoring and enforcement. The site also plays a key role in receiving food waste collected from residents in the county borough, which contributes to wider sustainability objectives.

On balance the proposal has significant benefits in terms of sustainable waste management and is consistent with national policy and policies in the adopted LDP. Any additional impact on the amenity of local residents and the local area can be made acceptable through the re-imposition of conditions to minimise noise, dust, odour and other matters.

Comments from Consultees: No objection is raised by consultees.

Comments from public: The permission for the AD facility sets limitations on the hours of operation, including deliveries. The AD process itself operates on a 24 hour basis but it is not inherently a noisy activity as it involves a biological process taking place within tanks and the occasional mechanical stirring of the tanks.

The council has a waste management contract with the operator but is bound by the same conditions as others. Planning permission regulates the use of land, irrespective of the owner, operator and users. The application will be determined on the basis of land-use considerations and the policy context.

The site operates under an odour management plan monitored by NRW and the council.

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 1 October 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 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.  
07.00 hours to 16.00 hours on Sundays, 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.
- 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.

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- 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)

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, CW3 Highways and transportation, CW 4 Natural Heritage Protection, CW15 General Locational Constraints.

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

