

Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
18/1081/FULL 15.01.2019	Bryn Recycling Ltd C/o Barton Willmore Mr J Ayoubkhani Greyfriars House Greyfriars Road Cardiff CF10 3AL	Carry out engineering works to provide surface water 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 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 comprises some 5090 square metres of land within the wider farm site.

Site description: The site lies to the south of the new milking parlour and to the north of the quarry entrance and comprises currently unused land.

Development: The proposal relates to the construction of a surface water lagoon with associated works and infrastructure, which is needed to assist with continued dust management and for use in emergencies for fire-fighting. The system would be fed by intercepting a piped field drain and directing the flow to the lagoon. Additional water would be supplied from the roof drainage down pipes from the newly constructed milking parlour.

There would be two discharges from the lagoon at top water level and low water level. The top discharge would be directed back to an existing watercourse while the lower discharge would be directed to a take off valve which can either top up the wheelwash or be available as a source of water for fire suppression in the event of an emergency.

Dimensions: The submitted drawings show a lagoon with maximum dimensions of 65 metres by 13 metres and a storage volume of 755 cubic metres.

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PLANNING HISTORY 2005 TO PRESENT

None.

POLICY

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

Site Allocation: The site is within a Special Landscape Area and within a Sandstone Safeguarding Area but is not allocated for any purpose.

Policies: The following policies are relevant CW15 Locational Constraints, CW2 Amenity, CW4 Natural Heritage Protection, CW 5 Water Environment, CW22 Mineral Safeguarding Areas.

NATIONAL POLICY Planning Policy Wales Ed 10, December 2018, TAN 21 Waste.

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? Yes, the Coal Authority was consulted and the response is set out below.

CONSULTATION

The Coal Authority - The lagoon site falls outside the high risk area and there is no objection in principle subject to an informative note being sent with the decision notice advising of the action the developer should take if coal seams or mine workings are unexpectedly disturbed.

Natural Resources Wales - A full hydrogeological risk assessment should be submitted to demonstrate whether the risk to groundwater can be acceptably managed. Further information should be submitted to demonstrate whether the risk to the Nelson Bog SSSI and wider environment can be acceptably managed.

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Chief Fire Officer - No objection is raised in principle. The developer should consider the need for the provision of:-

- a. adequate water supplies on the site for firefighting purposes; and
- b. access for emergency firefighting appliances.

Rights Of Way Officer - There are public rights of way near the application site and further information is requested to ensure access can be maintained safely.
An advisory note should be applied to any permission granted

Senior Engineer (Land Drainage) - Recommends refusal because the applicant has not demonstrated that they can viably dispose of surface water arising from the proposed development.

Gelligaer Community Council - No objection is raised.

ADVERTISEMENT

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

Response: 124 letters have been received objecting to this proposal.

Summary of observations: The concerns raised are:

- The signatories do not want any more engineering works and lagoons at the site.
- The activities at the site must be dangerous if this facility is required.
- The 'common' has already been ruined by being dug up - what about the impacts on wildlife?
- The public footpaths are becoming more dangerous to use - is there a desire to close all the footpaths?

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 proposal is unlikely to have a significant impact on crime and disorder in the local area.

EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? No.

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COMMUNITY INFRASTRUCTURE LEVY (CIL)

Is this development Community Infrastructure Levy liable? No. The development is exempt.

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 relevant policies in this case are: CW15, SP6, CW2, CW5, CW5, CW22, CW23.

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 site is well within the complex of uses present at this site, and will not have any adverse impacts in those respects.

Natural Heritage

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. The site is well within the complex of uses present at this site, and will not have a significant impact on the surrounding SLA.

Protection of Water Environment

Development proposals should not have an unacceptable impact on the water environment and should not cause an unacceptable risk to the quality of watercourses, groundwater and surface water. The appropriate officers have been consulted in this respect, and further advice will be provided at committee once their comments have been received. The Council's Land Drainage officer's comments are set out above, along with those of NRW. Additional information has been submitted to address their concerns, and further consultations have been carried out.

Mineral Safeguarding Areas

Development proposal that may impact mineral safeguarding areas will be considered against the criteria set out in policy CW22 to ensure that the minerals that society may need in the future are not unnecessarily sterilised. This development would not sterilise this resource.

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Mineral Site Buffer Zones

Policy CW 23 states that development proposals for sensitive development or minerals development will not be permitted within the buffer zones. This development would not fall into one of those categories.

This development is a response to the need for a good water supply at the site in the event of emergency. It will not harm the character of the SLA, and is a sufficient distance at some 400 metres minimum from neighbouring residential properties at Penybryn and Gelligaer for there to be no significant impact on the amenity of the occupants. Ponds and lagoons are often a feature of farms, and there are no planning objections in principle to this development, even though it will service the other uses at this site as well. The concerns raised by the drainage officer and Natural Resources Wales will be addressed further at Planning Committee.

Comments from Consultees: The comments of consultees are set out above. In respect of the comments about public rights of way, the matter will be drawn to the developer's attention, and if any diversion, temporary or permanent, is required, that can be dealt with under the appropriate legislation. Further information about drainage will be provided at Planning Committee.

Comments from public: The concerns raised are as follows and are considered in turn.

- The signatories do not want any more engineering works and lagoons at the site. The application will have to be considered on its planning merits.

- The activities at the site must be dangerous if this facility is required. There is no evidence from consultees to support this view. The development is a reasonable precaution to ensure that there is an adequate water supply at the site in the event of a fire and for dust control.

- The 'common' has already been ruined by being dug up - what about the impacts on wildlife?

This site is within the existing complex of uses, and is not on what is regarded locally as the 'common'.

- The public footpaths are becoming more dangerous to use - is there a desire to close all the footpaths?

There is a public footpath adjacent to the site, but it will not be affected directly by the development. In view of its proximity to the development there may be a need for some form of temporary diversion or closure but this can be controlled under other legislation

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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.

Advisory Note(s)

The applicant is reminded that it is an offence to obstruct a public right of way. There is one public right of way affected by the proposed and further public rights of way in the vicinity of this application. The planning permission does not authorise the stopping up or diversion of the public right of way. The public right of way may be stopped up or diverted by Order under section 257 of the Town and Country Planning Act 1990, provided that the order is made before the development is carried out. If the public right of way is obstructed before the Order is made, the order cannot proceed until the obstruction is removed.

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.

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.

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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 coal mining feature is 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/coalauthority

