

Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
17/0971/NCC 13.11.2017	Bryn Aggregates Ltd Mr A Price C/o Barton Willmore Mr J Ayoubkhani Greyfriars House Greyfriars Road Cardiff CF10 3AL	Vary condition 18 of planning permission 12/0570/FULL (Extend existing quarry operations including new drainage system and settlement ponds, landscape bunds and associated works) to enable the variation of the approved restoration scheme details to reflect the positioned earth bund and landscaping Gelliargwelt Farm Gelligaer Road Gelligaer CF82 8FY

APPLICATION TYPE: Development without complying with conds

SITE AND DEVELOPMENT

Location: The site is located at Gelliargwellt Uchaf Farm, Gelligaer Road, Gelligaer. The farm is a dairy farm with land between Treharris, Nelson and Gelligaer. An anaerobic digestion facility, a materials recycling facility and a small quarry are also located within the farm unit.

Site description: The site comprises land at Bryn Quarry, a small sandstone quarry that has been developed at the farm over a number of years. The land has consent for the winning and working of minerals and for the restoration of the site by infilling with inert waste. The approved restoration scheme involved retaining earth bunds on the perimeter of the quarry and creating a domed profile to assist in draining the restored landform.

Permission was recently granted, (Council reference 17/0973/FULL) subject to the successful conclusion of a legal agreement, to realign the bunds around the quarry so that they are located further from the quarry rim. Works have already commenced on the bund construction and that application included land adjacent to the quarry that was previously in agricultural use but which has been disturbed by works to construct an earth bund. The agreement has not been completed yet.

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Development: Permission is sought to vary the restoration scheme for Bryn Quarry to take into account the resolution to grant permission for the realignment of the bund. If that permission is implemented the approved restoration scheme for the quarry (under reference 12/0570) could no longer be achieved. This application seeks to provide a revised restoration scheme to ensure that the restoration of the quarry is consistent with the restoration of the land between the quarry and the realigned bund, and that it is restored to agricultural use in a satisfactory manner.

Dimensions: The site area extends to 19 hectares.

Materials: Not applicable.

Ancillary development, e.g. parking: The application is linked to the proposed re-siting of an earth bund that was approved on 15 August subject to conditions and a legal agreement.

PLANNING HISTORY 2005 TO PRESENT

12/0570/FULL - Extend existing quarry operations including new drainage system and settlement ponds, landscape bunds and associated works - Granted 13.08.13.

17/0973/FULL - Retain and formation of a repositioned approved earth bund, landscaping and associated works - Not yet determined (awaiting the completion of a Section 106 agreement).

POLICY

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

Site Allocation: The site is outside settlement boundaries and is not allocated for any purpose. It is within a Special Landscape Area (SLA) (Policy NH1.3) and a sandstone safeguarding area.

Policies: SP5 Settlement Boundaries, SP6 Place Making, SP8 Mineral Safeguarding, CW2 Amenity, CW4 Natural Heritage Protection, CW5 Water Environment, CW15 Locational Constraints, CW22 Mineral Safeguarding, CW23 Mineral Site Buffer Zones.

NATIONAL POLICY Planning Policy Wales, December 2018.

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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 but no built development is proposed.

CONSULTATION

Transportation Engineering Manager - The following conditions should be attached to any permission granted.

The maximum volume of stone exported from the site shall not exceed 400 tonnes a day. Records of the volume of stone exported from the site shall be kept by the quarry operator shall be made available to the LPA on request.

The maximum volume of waste material for fill imported to the site shall not exceed 200 tonnes a day. Record of the volume of fill imported to the site shall be kept by the quarry operator and shall be made available to the LPA on request.

No vehicle shall enter the public highway unless its wheels and chassis have been cleaned to prevent material being deposited on the highway.

A maximum of 3 vehicles laden with materials extracted under this permission shall leave the site and enter onto the B 4254 during each of the following time periods during school term time:- 08:10-09:10 hours, 11:55-12:55 hours, and 15:15-16:00 hours.

No loaded lorries shall leave the site and travel along the public highway unless sheeted, with the exception of those carrying stone larger than 500mm.

Reasons:

In the interests of highway safety.

Head Of Public Protection - No objection is raised in principle subject to conditions relating to dust mitigation, hours of operation and noise mitigation.

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Senior Engineer (Land Drainage) - The site is within an area susceptible to ground and surface water flooding and within 20 metres of a watercourse. The following condition should be imposed

Prior to the commencement of works on site a scheme of land and surface water drainage within the site shall be submitted to and agreed by the Local Planning Authority. All works that form part of the agreed scheme shall be carried out before any part of the development to which it relates is occupied.

REASON: To ensure that the development is served by an appropriate means of drainage.

Rights Of Way Officer - Four public rights of way in the vicinity and an advisory note should be sent with any consent granted to remind the owner about the requirement to maintain public access and safety at all times.

CADW - Having considered the information provided with this planning application Cadw considers that the proposed development would not cause damage to the setting of any scheduled monument and, therefore, raises no objection.

ADVERTISEMENT

Extent of advertisement: The application has been advertised by means of a press notice, site notices posted in four locations near the site and by letters to 150 properties in Penybryn and Gelligaer.

Response: Two letters of objection and a petition signed by 72 residents of Penybryn, Gelligaer, Cascade, Fleur De Lis, Penpedairheol, Oakdale and Cefn Hengoed have been received.

Summary of observations: The representations raise the following concerns:-

- Dust.
- Disturbance.
- Noise.
- Visual impact.
- Air pollution.
- Landscape impact.
- Blasting.
- Damage to houses.
- Retrospective application.

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- Dirt on roads.
- The bund should be kept close to the quarry.
- No further permissions should be granted without concrete roads for 100m from the entrance and a wheel wash at the exit.
- The entrance should be gated.
- Smells.
- Noise from vehicles on 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?

The proposed development is unlikely to have a material 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)

Is this development Community Infrastructure Levy liable? No. No built development is proposed.

ANALYSIS

Policies: Planning applications must have regard to the development plan unless material considerations indicate otherwise. The main considerations in this case are as follows:

The principle of the development (CW15)

The principle of the winning and working of minerals has been established by the grant of planning permission reference 12/0570/FULL, which is still a valid permission. This application seeks to amend the approved restoration scheme so that it is consistent with changes brought about by the relocation of the perimeter bunds (application reference 17/0973/FULL). Therefore the proposals are acceptable in principle.

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Amenity (CW2)

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 would not result in over-development of the site and would not compromise the viability of existing neighbouring land uses.

The revised restoration proposals would have a positive impact on the amenity of the local area. It would not cause any greater impact in terms of noise and dust on the residential areas of Penybryn and Gelligaer.

Visual and landscape impact (SP6, CW4)

The site lies within NH1.3 SLA Mynydd Eglwysilan. 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 proposed landscaping scheme will help do that.

Impact on nature conservation interests (CW4)

The quarry site area is the same as for the 2012 application but the bund is moved to position approved in respect of the 2017 application. The amendment to the restoration scheme would not have any greater impact on Waun Rhydd Site of Importance for Nature Conservation (NH3.53) to the north east of the site or Nelson Bog SSSI to the south than the approved scheme. The section 106 agreement associated with the consent for the bund is required in order to secure the proposed peat mitigation measures, to secure monitoring of water levels within the SINC and to set trigger levels for further mitigation to protect the characteristic features of the SINC. This may include financial measures, for example a bond, to ensure that the peat mitigation measures can be completed if, for some reason, the operator fails to comply. As the current application relates to the bund in its new position, the recommendation to approve set out below is subject to the same legal agreement being completed. Also, this proposal raises a condition on a previous approval in all of the previously applied conditions are imposed.

Comments from Consultees: The comments from consultees are set out above and have been taken into account in the recommendation and conditions.

Comments from public: The issues raised by local residents have been taken into account in the recommendation where they are material planning considerations.

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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 (A) that the application is DEFERRED to allow the applicants to enter into a Section 106 Agreement as set out above (B) On completion of the Agreement, that planning permission is GRANTED.

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: BAL-NSB-2016-012 Rev A Proposed Revised Screening Bund, BAL-NSB-2016-014 Proposed Revised Screening Bund, BAL-NSB-2016-002 Rev Q Proposed Revised Screening Bund.
REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.
- 02) The development shall be carried out in accordance with the following approved plans and documents: Plans and documents attached to the agent's email of 6 October 2018
REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.
- 03) Extraction of minerals shall cease by 31 December 2022 and restoration shall be completed by 31 December 2030.
REASON: The permission relates to temporary development and to ensure that the site is restored in a timely manner.
- 04) The maximum volume of stone exported from the site shall not exceed 400 tonnes a day. Records of the volume of stone exported from the site shall be kept by the quarry operator and shall be made available to the Local Planning Authority on request.
REASON: In the interests of highway safety and general amenity in accordance with Policy CW2 and CW3 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

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- 05) The maximum volume of waste material for fill imported to the site shall not exceed 200 tonnes a day. Records of the volume of fill imported to the site shall be kept by the quarry operator and shall be made available to the Local Planning Authority upon request.

REASON: In the interests of highway safety and general amenity in accordance with Policy CW2 and CW3 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

- 06) Nothing other than clean, dry, non putrescible waste material shall be deposited at the site.

REASON: To ensure the effective restoration of the site to the proposed aftercare in accordance with Policy CW2, CW4 and CW5 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

- 07) Except in emergencies to maintain safe quarry working the winning and working and processing of stone and the tipping of inert waste shall not be carried out at the site except between the following times:-

07.00 to 19.00 hours Monday to Friday and

07.00 to 13.00 hours Saturdays.

b) No operations other than environmental monitoring and water pumping shall take place at the site on Sundays or Bank or Public Holidays.

c) No blasting shall take place except between the hours of 10.00 and 16.00 hours Monday to Friday.

The site may be open for the tipping of inert waste by utility providers and their contractors outside the stated hours for a maximum of 40 occurrences per calendar month, including those occurrences permitted by Caerphilly County Borough Council planning permission 19/0275/NCC. Records of vehicles entering the site outside the stated hours shall be kept and shall be made available for inspection by the Local Planning Authority upon request. The register shall contain details of the date and hours of operation that have occurred outside of the stated hours.

REASON: To protect the amenity interests of local residents in accordance with Policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

- 08) No vehicle shall enter the public highway unless its wheels and chassis have been cleaned to prevent material being deposited on the highway.

REASON: In the interests of highway safety and to prevent mud being deposited on the highway in accordance with Policy CW3 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

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- 09) A maximum of three vehicles laden with minerals extracted under this permission shall leave the site and enter onto the B4254 during each of the following time periods during school term time:-
08.10 - 09.10 hours, 11.55 - 12.55 hours, and 15.15 - 16.00 hours.
REASON: In the interests of highway safety and general amenity in accordance with Policy CW3 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 10) Blasting shall be designed so that the ground vibration measured as peak particle velocity (PPV) in any one of three orthogonal planes shall not exceed 4mm per second in 95% of all blasts carried out over any six month period and no individual blast shall exceed a PPV of 8mm per second as measured at any sensitive receptor.
REASON: To safeguard amenity interests in accordance with Policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 11) No blasting shall take place except in accordance with a scheme specifying monitoring locations, the monitoring equipment to be used and the presentation of results which shall be submitted to and approved by the Local Planning Authority before the development commences. The results of such monitoring shall be held at the quarry and be made available for inspection by the Local Planning Authority at reasonable times with copies being supplied to the Local Planning Authority upon request.
REASON: To enable the effects of the development to be effectively monitored for the duration of the development in accordance with Policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 12) No quarrying operations shall take place until a scheme and programme for the suppression of dust has been submitted to and approved by the Local Planning Authority. The scheme shall include:-
a) the suppression of dust caused by the moving and storage of soil, overburden, stone and other materials within the site,
b) dust suppression on haul roads,
c) dust arising from blasting.
The scheme shall be implemented and complied with at all times once approved.
REASON: In the interests of amenity in accordance with Policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

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- 13) No quarrying operations shall take place until a scheme and programme for the suppression of dust has been submitted to and approved by the Local Planning Authority. The scheme shall include:-
- a) the suppression of dust caused by the moving and storage of soil, overburden, stone and other materials within the site,
 - b) dust suppression on haul roads,
 - c) dust arising from blasting.
- The scheme shall be implemented and complied with at all times once approved.
REASON: In the interests of amenity in accordance with Policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 14) The development hereby permitted shall not be commenced until such time as a scheme for monitoring of groundwater over a 12 month period has been submitted to and approved by the Local Planning Authority. The scheme shall be supported by detailed calculations and it shall include a maintenance programme and establish current and future ownership of the facilities to be provided. The scheme shall be fully implemented and subsequently maintained in accordance with the timing/phasing arrangements embodied within the scheme or as may be agreed in writing with the Local Planning Authority.
REASON: To obtain a full 12 months of groundwater level monitoring results which should be used to gain an understanding of the seasonal variation of the groundwater levels and the likely volume of dewatered water from the quarry for the design of the surface water treatment and settlement lagoons in accordance with Policy CW5 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 15) The development hereby permitted shall not be commenced until such time as a scheme to agree details of the surface water treatment and settlement lagoon has been submitted to and approved by the Local Planning Authority. The scheme shall be implemented as approved.
REASON: To ensure that the new surface water treatment and settlement lagoons are able to cope with the additional volumes of water from the dewatering of the quarry extension area in accordance with Policy CW5 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

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- 16) The development hereby approved shall not be commenced until such time as a scheme to dispose of surface water has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved.
REASON: The Severn River Basin Management Plan requires the restoration and enhancement of water bodies to prevent deterioration and promote recovery of water bodies. Without this condition the impact could cause deterioration of a quality element to a lower status class and or prevent the recovery of and or cause the deterioration of a protected area namely the Nelson Bog which is considered a SSSI in accordance with Policy CW5 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 17) Site clearance operations that involve the destruction and removal of vegetation, including felling clearing or removal of trees and shrubs or hedgerows shall not be undertaken during the months of March to August inclusive, except when approved in writing by the Local Planning Authority prior to their removal/felling/clearing to ensure that breeding birds are not adversely affected.
REASON: To ensure that breeding birds are protected. All British birds, their nests and eggs (with certain limited exceptions) are protected by law under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000 in accordance with Policy CW4 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 18) Prior to the commencement of any works associated with the development hereby approved, a plan showing details of the provision of bat roosts and nesting provision for birds shall be submitted to the Local Planning Authority for approval. The approved details shall be implemented before the removal of trees and shrubs from the site.
REASON: To provide additional roosting for bats and nesting provision for birds as a biodiversity enhancement, in accordance with paragraph 5.2.8 of Planning Policy Wales (2010), paragraph 1.4.3 of TAN 5 (2009) and Section 40 of the Natural Environment and Rural Communities Act 2006 in accordance with Policy CW4 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 19) The site shall be restored in accordance with the details set out in the application subject of this approval within 12 months of the completion of tipping operations to final contours or their earlier permanent cessation.
REASON: To ensure the satisfactory restoration of the site in accordance with Policy CW4 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

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- 20) Within three months of the completion of operations or their earlier permanent cessation, an aftercare scheme detailing such steps as may be required to bring the land to a condition suitable for the proposed agricultural after use shall be submitted to and approved by the Local Planning Authority. The scheme shall include details of
- a. tree planting,
 - b. cultivation, seeding and management of grassland in accordance with the rules of good husbandry,
 - c. fertiliser and lime application based on soil analysis,
 - d. grazing management,
 - e. field water supplies,
 - f. ditch, water course and piped ditch systems to control surface run-off and prevent erosion,
 - g. provision for an annual formal review to consider the operations that have taken place during the preceding 12 months and the programme of management for the next 12 months. The parties to this review shall include the mineral operator, the site owner, the Local Planning Authority and the Welsh Government Agriculture Department,
 - h. at least four weeks before the date of each review the operator shall provide the Local Planning Authority with a record of the management and operations covered by the review.
- REASON: To ensure satisfactory aftercare takes place in accordance with Policy CW4 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 21) Aftercare shall be carried out in accordance with the scheme approved under Condition 19) above for a minimum period of five years.
REASON: To provide for satisfactory aftercare in accordance with Policy CW4 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 22) Prior to the commencement of the development a landscaping scheme, including planting details, shall be submitted to and agreed in writing by the Local Planning Authority. The agreed details shall be carried out in the first planting and/or seeding season following the commencement of the development. Any trees or plants which within a period of 5 years from the completion of the development die or are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.
REASON: In the interests of the visual amenity of the area in accordance with Policy CW4 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

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- 23) Within three months of the commencement of the development hereby approved, a Landscape Management Plan shall be submitted for the approval of the Local Planning Authority. The Landscape Management Plan shall set out details of:
- a) long term design objectives,
 - b) management responsibilities, and
 - c) maintenance schedules.

The approved Landscape Management Plan shall be implemented throughout the development.

REASON: To ensure the satisfactory maintenance of the phased and final restored landscape in accordance with Policy CW4 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

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: SP5 Settlement Boundaries, SP6 Place Making, SP8 Mineral Safeguarding, CW2 Amenity, CW4 Natural Heritage Protection, CW5 Water Environment, CW15 Locational Constraints, CW22 Mineral Safeguarding, CW23 Mineral Site Buffer Zones.

The applicant is reminded that it is an offence to obstruct a public right of way. There are several public rights of way in the area of this application which must remain available for use and the safety of users of the footpath must be maintained at all times.. The planning permission does not authorise the stopping up or diversion of the rights of way. The rights 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 right of way is obstructed before the Order is made, the order cannot proceed until the obstruction is removed.

